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DOI: 10.46924/jihk.v7i2.380



Construction of Criminal Liability in Single Indictment of Obstruction of Justice under the Corruption Law

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How to cite

Ramdhani, Dwi Sukma., & Adhari, Ade. 2026. Construction of Criminal Liability in Single Indictment of Obstruction of Justice under the Corruption Law. *Jurnal Ilmu Hukum Kyadiren*. 7(2), 1163-1180. <https://doi.org/10.46924/jihk.v7i2.380>

Original Article

Abstract

This study examines obstruction of justice in Indonesia's positive law as well as criminal liability in the application of single charges based on the Corruption Law. With normative juridical methods through legislative and case approaches, the research analyzes primary, secondary, and tertiary legal materials. The results of the study show that Indonesian law does not yet have a comprehensive definition of obstruction of justice, thus opening up a wide space for interpretation. The application of a single indictment in corruption cases also creates legal uncertainty, especially in proving the element of "obstructing the legal process" when the act is closely related to the main offense. This study emphasizes the need for harmonization of norms and a clearer formulation of criminal offenses to increase the effectiveness of obstruction of justice as an instrument for eradicating corruption.

Keywords: *Implementation, Licensing, Management of Hazardous and Toxic Substances*

Abstrak

Penelitian ini mengkaji obstruction of justice dalam hukum positif Indonesia serta pertanggungjawaban pidana dalam penerapan dakwaan tunggal berdasarkan UU Tipikor. Dengan metode yuridis normatif melalui pendekatan perundang-undangan dan kasus, penelitian menganalisis bahan hukum primer, sekunder, dan tersier. Hasil kajian menunjukkan bahwa hukum Indonesia belum memiliki definisi komprehensif mengenai obstruction of justice, sehingga membuka ruang interpretasi luas. Penerapan dakwaan tunggal pada perkara korupsi juga menimbulkan ketidakpastian hukum, terutama dalam pembuktian unsur "menghalangi proses hukum" ketika perbuatan terkait erat dengan delik pokok. Penelitian ini menegaskan perlunya harmonisasi norma dan perumusan delik yang lebih jelas untuk meningkatkan efektivitas obstruction of justice sebagai instrumen pemberantasan korupsi.

Kata kunci: *Obstruction of Justice; Pertanggungjawaban Pidana; Dakwaan Tunggal*

1. INTRODUCTION

The eradication of corruption is one of the most important legal agendas in Indonesia, considering that corruption has become a phenomenon that is rooted and has a wide impact on various aspects of the life of the nation and state. Conceptually, corruption is a form of crime committed through the abuse of authority or position to gain personal or group benefits. The term “corruption” itself comes from the Latin *corruptus*, which means damage, rot, or fraudulent acts that in practice are often associated with the management of finances and power.¹ The etymological definition emphasizes that corruption is not only a violation of the law, but also an act that damages good governance and the moral integrity of public officials.

Currently, corruption is seen as an extraordinary crime because of its very widespread, complex, and systemic impact.² Corruption not only causes state financial losses, but also creates distortions in the system of government, damages social order, and lowers public trust in law enforcement agencies. In Indonesia, the phenomenon of corruption is developing dynamically and becoming more sophisticated over time. It is not uncommon for corruption crimes to involve a network of actors with great influence and use power structures to secure their interests.³

Even so, the achievements of eradicating corruption still show fluctuations. Based on the 2024 Corruption Perceptions Index (CPI) report, Indonesia obtained a score of 37 and is ranked 99th out of 180 countries. This achievement increased compared to 2023, when Indonesia only obtained a score of 34 and was in 115th position. This increase in scores indicates a better perception of corruption eradication efforts in Indonesia, although major challenges remain in strengthening the integrity of the legal system and ensuring the accountability of public officials.⁴

Corruption is a form of crime that has a destructive impact on the order of life of the nation and state. Corruption not only harms state finances, but also damages the integrity of law enforcement agencies, hinders development, and weakens public trust in the government. Indonesian national law has established a special legal framework as stipulated in Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning the Eradication of Corruption Crimes (“Corruption Law”). The law regulates nine categories of corruption crimes, including bribery, embezzlement, extortion, nepotism,

¹ Franky Damanik, Finish Masa Derita Gea, and Rosmalinda Rosmalinda, “The History of the Development of Corruption Regulations in Indonesia,” *Journal of Science Student Research* 2, no. 5 (2024): 287–98.

² Ade Adhari, Sherryl Naomi, and others, “The Background and Development of Corruption Crimes in Indonesia (The Meaning and History of the Development of Corruption Crimes and the Establishment of the Corruption Eradication Commission),” *Serina Abdimas Journal* 1, no. 3 (2023): 1251–57.

³ Mohammad Al Faridzi and Gunawan Nachrawi, “Qualification of Extraordinary Crimes against Corruption Crimes (Supreme Court Decision Number 301 K/PID. Sus/2021),” *Journal of Citizenship* 6, no. 2 (2022): 3014–19.

⁴ “Skor IPK 2024 Meningkat, KPK Dorong Penguatan Pemberantasan Korupsi,” 2025.

cronyism, patronage, state capture, and political corruption.⁵ The context of law enforcement classifies the Corruption Law as giving special attention to other acts that are closely related to corruption crimes, one of which is obstruction of justice or acts of obstructing the law enforcement process. The regulation of corruption in the Corruption Law does not only include core corruption, but also acts that obstruct the law enforcement process against these criminal acts. One of them is contained in Article 21 of the Corruption Law, which is known as the offence *of obstruction of justice*.

Obstruction of justice is a legal term that refers to any act that is deliberately taken to obstruct, thwart, or obstruct the judicial process.⁶ Law enforcement of corruption this act has an important position because it is often carried out to cover up or protect the main perpetrators from legal snares. Acts of obstructing legal proceedings can appear in various forms, such as eliminating evidence, providing false information, hiding suspects, pressuring witnesses, and compiling case engineering.⁷

Despite their various forms, all such actions have one goal: to undermine the integrity of the judicial process. Obstruction of justice has a very important position because the practice of obstructing legal processes is often used as a tool to protect the main perpetrators or networks of corrupt perpetrators. When a person consciously takes action to prevent law enforcement from digging up the real facts, then not only is the process of seeking the truth hampered, but also substantive justice becomes difficult to realize. Therefore, the regulation of this criminal act is a crucial part of efforts to close the legal loophole that can be exploited by corrupt actors. Therefore, the existence of Article 21 of the Corruption Law is a fundamental element in maintaining substantive justice and the effectiveness of corruption eradication.

In law enforcement practice, the prosecutor has a central role in determining the type of indictment regulated in the indictment. The selection of indictments, especially when the prosecutor chooses to compile a single charge or single indictment, is not a simple action. A single indictment is a form of indictment that contains only one type of criminal act, so that the entire focus of proof is directed to the fulfillment of the elements of one particular article. The single indictment obstruction of justice case shows that the Prosecutor sees the defendant's actions as an act that fully fulfills the elements of Article 21 of the Corruption Law, regardless of the possibility of other criminal acts that can be constructed. The Prosecutor's approach in drafting a single indictment based on Article 21 of the Corruption Law shows that there is a belief that the defendant's actions were consciously carried out to obstruct the course of legal

⁵ Eka Nanda Ravizki and L L M SH, *Anti-Corruption Education: Building Integrity in Fighting Corruption* (Makassar: Nas Media Pustaka, 2024).

⁶ Difia Setyo Mayrachelia and Irma Cahyaningtyas, "Characteristics of Advocates' Actions That Include Criminal Acts of Obstruction of Justice Based on Criminal Provisions," *Journal of Indonesian Legal Development* 4, no. 1 (2022): 121–32.

⁷ Prisma Yoga, "Pertanggungjawaban Hukum Terhadap Tindak Pidana Obstruction of Justice Dalam Tindak Pidana Korupsi" (Universitas Bhayangkara Surabaya, 2023).

proceedings against the main perpetrators of the corruption crime. The selection of a single indictment is not only a technical policy, but also a juridical choice that has a direct impact on the construction of the defendant's criminal liability. This is because the indictment is the basis that determines the direction of evidence in the trial, including in assessing whether the elements of guilt, deeds, and criminal liability have been met.

Some cases show that the prosecutor chose to use a single indictment based on Article 21 of the Corruption Law without adding other articles that may be relevant such as participation or assistance as stipulated in Articles 55 and 56 of the Criminal Code. The choice of indictment as in case No.30/Pid.Sus-TPK/2023/PNBdg is certainly based on certain legal considerations, but at the same time it creates room for analysis of the suitability between the defendant's actions, the form of his involvement, and the construction of criminal liability built by the public prosecutor. This problem is even more crucial when the defendant's actions do not stand alone, but are closely related to the criminal acts of corruption committed by the main perpetrators.

Criminal liability is a fundamental principle that requires a relationship between prohibited acts (*actus reus*) and accountable wrongs (*mens rea*). Criminal liability does not only focus on whether there is an unlawful act, but also on the perpetrator's ability to understand and desire the consequences of his actions. Criminal liability for the crime of obstruction of justice requires a more in-depth analysis considering that this act is often tied to the perpetrator's position, power relations, and hierarchical organizational structure, especially if the perpetrator is a law enforcement officer or state official.

The academic debate on obstruction of justice highlights the issue of the boundary between obstruction of justice and other forms of criminal acts that have similar elements, such as participation, aid, or providing false information. Many cases of actions committed by defendants have wedges with other criminal acts outside of obstruction of justice, so the Prosecutor must have a solid argument in determining the formulation of the indictment. Thus, the selection of a single indictment under Article 21 of the Corruption Law is not only a matter of the simplicity of proof, but also a reflection of the prosecutor's juridical analysis of the construction of the defendant's criminal liability.⁸

The regulation of obstruction of justice in Indonesia's positive law is also still considered not as broad as the concept known in the common law legal system. Article 21 of the Corruption Law specifically targets acts of obstructing investigation, prosecution, and examination in court hearings in cases of corruption crimes. Unlike the United States or British federal laws which include obstruction of witnesses, juries, public investigation processes, and other administrative actions, the Anti-Corruption

⁸ Lambertus Josua Tallaut and Ade Adhari, "Kepastian Hukum Penerapan Kriteria Kewenangan Penyidikan Perkara Tindak Pidana Korupsi Oleh Komisi Pemberantasan Korupsi Republik Indonesia," *Jurnal Analisis Hukum* 5, no. 1 (2022): 26–39.

Law actually limits obstruction of justice in the context of corruption. This restriction has certain juridical consequences related to the application of articles, evidentiary standards, and the scope of criminal liability.

Furthermore, the discussion of obstruction of justice in the Corruption Law also cannot be separated from the doctrine of criminal responsibility, especially regarding the element of intentionality. Article 21 of the Anti-Corruption Law requires that the perpetrator must “intentionally” obstruct an investigation or examination. The element of intentionality in this context does not only mean knowing and willing his actions, but also knowing that his actions are aimed at hindering the course of the legal process. This involves a special analysis of the perpetrator’s psychological condition, motives, and the context of his actions.

On the other hand, criminal liability is also closely related to the position of the perpetrator in a particular organizational structure. If the perpetrator is a subordinate or employee who acts based on a superior order, it becomes relevant to assess whether the order can release or mitigate criminal liability. In the case that became the focus of the research, the prosecutor charged the defendant with a single charge of obstruction of justice based on Article 21 of the Corruption Law on the grounds that the defendant’s actions were knowingly carried out to obstruct the legal process against the main suspect. This shows that there is a construction of criminal liability that is directed strictly: that the perpetrator has full awareness of his actions and knows the purpose of the act. Thus, it is important to examine whether the single indictment has reflected the fulfillment of the intentional element and other elements of criminal liability.

The study of the construction of criminal liability in a single charge of obstruction of justice becomes increasingly important when it is associated with the principle of legality, the principle of legal certainty, and the principle of proportionality. A single indictment must be believed not to ignore the possibility of other criminal acts that may be more appropriate, not narrow the meaning of the defendant’s actions, and remain in accordance with the principles of justice. Thus, the analysis must consider whether the Prosecutor has made appropriate legal reasoning in drafting a single indictment and whether the construction of criminal liability has been aligned with criminal law theories. Based on this description, this research is important to be conducted in order to provide an in-depth understanding of obstruction of justice in Indonesian positive law, as well as examine how the construction of criminal liability is applied in a single indictment based on Article 21 of the Corruption Law. This research not only makes a theoretical contribution to the development of criminal law studies, but also has practical value in improving the quality of law enforcement against corruption crimes in Indonesia. Based on the description as above, in this case several problem formulations can be formulated. The following is a formulation of problems that can be formulated:

- 1) Obstruction of Justice and its regulations in Indonesian Positive Law
- 2) Construction of Criminal Liability Applied in the Single Charge of Obstruction of Justice Based on the Corruption Law for Obstruction of Legal Process

2. RESEARCH METHODOLOGY

This research uses normative legal research methods, which are research that focuses on the study of written legal norms and doctrines that develop in legal science. This method was chosen because the research was directed to analyze the construction of criminal liability in a single charge of obstruction of justice based on Article 21 of the Corruption Law, so that an in-depth study of the provisions of laws and regulations, legal principles, criminal liability theory, and juridical interpretation in judicial practice is needed. Normative legal research allows the author to examine how the law should be applied, as well as evaluate the consistency of the application of norms in concrete cases.

This study uses several approaches. The legislative approach is carried out by examining various relevant legal provisions,⁹ especially Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning the Eradication of Corruption, the Criminal Code, the Code of Criminal Procedure, and other regulations that regulate the criminal acts of corruption and obstruction of justice. The case approach is through the analysis of court decisions related to the criminal act of obstruction of justice, especially the case that is the object of the study, to assess the application of positive law in practice and its consistency with legal theory.¹⁰

The source of legal materials in this study consists of primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations and court decisions that are the basis for the analysis. Secondary legal materials include books, journal articles, expert opinions, and other scientific publications that provide interpretation and explanation of primary legal materials. The tertiary legal materials are in the form of dictionaries, encyclopedias, and indexes that assist the author in tracing relevant legal sources. All of these legal materials are collected through literature studies in university libraries, national legal databases, journal repositories, and other official sources.¹¹

The technique of analyzing legal materials is carried out qualitatively, namely by studying, interpreting, and relating legal regulations to theories and facts that occur in concrete cases. This analysis begins with an inventory of relevant legal rules, then

⁹ Mahmud Marzuki, *Legal Research: Revised Edition* (Jakarta: Prenada Media Group, 2017).

¹⁰ I Made Pasek Diantha and M S Sh, *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum* (Prenada Media, 2016).

¹¹ Rayhan Fiqi Fansuri and Juan Matheus, "Enforcement of Human Rights through Criminal Law Against Environmental Destruction Due to Batik Industry Activities," *Indonesian Journal of Criminal Law Studies* 7, no. 2 (2022): 291–316, <https://doi.org/https://doi.org/10.15294/ijcls.v7i2>.

examines the meaning of articles related to obstruction of justice and criminal liability. Furthermore, the analysis is carried out by comparing the legal provisions with the construction of a single indictment prepared by the prosecutor in the case under review, so that the suitability or inconsistency of its application in practice can be assessed. This qualitative research emphasizes legal arguments that are logical, systematic, and scientifically accountable. The research is carried out through literature studies in a period of time adjusted to the needs of the preparation of scientific articles. With normative legal research methods and a comprehensive approach, this research is expected to be able to provide a clear picture of how obstruction of justice is applied in Indonesia's positive law, as well as how criminal liability is constructed in a single indictment based on the Corruption Law.

3. RESEARCH RESULT AND DISCUSSION

3.1. Obstruction of Justice and Its Regulation in Indonesian Positive Law

Obstruction of justice is one of the concepts in modern criminal law that has a strategic position in ensuring that the law enforcement process can run effectively, transparently, and free from the intervention of any party. This term basically refers to various actions that are carried out deliberately to obstruct, complicate, or thwart the law enforcement process, starting from the stage of investigation, investigation, prosecution, to trial.¹² The existence of provisions on obstruction of justice is becoming increasingly important because the characteristics of corruption as a structured and organized crime often involve actors with strategic positions who have the ability to manipulate the law enforcement process. Therefore, the regulation of obstruction of justice in Indonesia cannot be separated from broader efforts to secure the integrity of the criminal justice system.

Eddy O.S. Hiariej explained that the criminal act of obstruction of justice is basically any action, either in the form of active or passive acts, that is carried out with the aim of delaying, interfering, or influencing the course of legal proceedings in a case. The explanation emphasized that from the beginning the perpetrator's actions had been based on a will or motive to hinder the law enforcement mechanism. Thus, obstruction of justice can be understood as any form of behavior, both by law enforcement officials and by other parties outside state institutions, that is consciously intended to obstruct, obstruct, or manipulate the legal process. The scope of the legal process in question is not limited to criminal justice procedures, but also includes various government activities related to the function of law enforcement in general.¹³

¹² Saldi Isra et al., "Obstruction of Justice in the Effort to Eradicate Corruption in Indonesia," *International Journal of Law, Crime and Justice* 51 (2017): 72–83.

¹³ Eddy Os Hiariej, "Obstruction Of Justice Dan Hak Angket DPR," Kompas.com, 2017.

Para pelaku obstruction of justice kerap menggunakan berbagai instrumen kekuasaan atau pengaruh sebagai sarana untuk menghambat proses hukum. Upaya tersebut dapat dilakukan melalui beberapa cara, antara lain:¹⁴

- 1) Mobilizing community groups that have an interest in certain matters;
- 2) Utilizing the authority or influence of law enforcement officials;
- 3) Using the services of legal counsel as a party that can affect the dynamics of evidence or legal proceedings; and
- 4) Relying on political power to suppress, intervene, or influence the judicial process.

Conceptually, obstruction of justice is a form of violation of the principle of due process of law, which is a principle that guarantees that the law enforcement process must take place independently, objectively, and free from actions that can damage the process of searching for material truth. The Anglo-Saxon legal system, this concept has been developed for a long time and has a wide scope, including actions such as destruction of evidence, giving false statements, intimidation of witnesses, to attempts to escape or help the main perpetrator avoid legal trapping. Indonesia as a country with a tradition of civil law adopts this concept through more specific formulations and is limited by the provisions of the law, especially in the Corruption Law.

Provisions regarding actions that hinder or obstruct the law enforcement process have been scattered in various national legal instruments, both general and special. The regulation can be found in the Criminal Code and the New Criminal Code based on Law Number 1 of 2023, as well as in a number of sectoral laws. The offence of obstruction of justice is placed in the Corruption Law in Chapter III concerning “Other Crimes Related to Corruption Crimes”, which covers Articles 21 to 24. In addition, regulations regarding actions that obstruct the course of legal proceedings can also be found in Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons and Law Number 5 of 2018 which amends Law Number 15 of 2003 concerning the Eradication of Terrorism Crimes. Along with the development of laws and regulations, norms regarding acts of obstructing legal proceedings are also accommodated in other special regulations, including the Law on Sexual Violence.¹⁵

The regulation regarding obstruction of justice is expressly contained in Article 21 of the Corruption Law. This article stipulates that every person who deliberately prevents, obstructs, or thwarts directly or indirectly the investigation, prosecution, and examination in court hearings of a suspect or defendant in a corruption crime case can be sentenced to imprisonment for a minimum of 3 years and a maximum of 12 years

¹⁴ Isra et al., “Obstruction of Justice in the Effort to Eradicate Corruption in Indonesia.”

¹⁵ Yukiatiqa Afifah and Dewi Yulsita Julianis, “Criminal Liability for Perpetrators of Obstruction of Justice in Cases of Sexual Violence,” *Lex Renaissance* 8, no. 1 (2023): 91–112.

and a fine of between Rp150,000,000, 00 to IDR 600,000,000.00. This provision emphasizes that obstruction of justice is a stand-alone criminal act, not just a form of participation or assistance to the principal criminal act.¹⁶

This provision was born in response to the challenges of law enforcement in corruption cases, where perpetrators often use their power or influence to undermine the course of the legal process. The existence of this article is very relevant because there are not a few corruption cases in Indonesia involving public officials or individuals who have close ties to power, so that the act of obstructing the legal process is a commonly used strategy to avoid criminal liability. Thus, Article 21 of the Corruption Law is a form of state protection against the law enforcement process, ensuring that every step in the criminal process takes place correctly and without intervention.

If examined normatively, the elements of criminal acts in Article 21 include three forms of acts, namely preventing, obstructing, and defeat. These three terms indicate a broad spectrum of behaviors and allow prosecutors to judge the defendant's actions based on their influence on the judicial process. "Preventing" refers to actions taken in the first place to prevent a legal process from occurring. "Obstructing" means an action that slows down or complicates an ongoing process. Meanwhile, "thwarting" is the most serious form because it negates the legal process that should take place. These three forms of acts are alternative, so the fulfillment of one of the elements is enough to ensnare the perpetrator.

In addition to the element of deed, another important element of obstruction of justice is the element of intentionality. A person can only be held liable under Article 21 if he consciously knows that his actions will obstruct the legal process and still chooses to commit the act. This element of intentionality is very important because obstruction of justice is basically a material offense that requires the occurrence of consequences or at least actions that have a real potential to affect the course of the legal process. Thus, Article 21 not only punishes actions that succeed in thwarting the legal process, but also actions that have a significant potential to disrupt the process.

Obstruction of justice can be seen as a threat to the integrity of the functions of law enforcement officials, ranging from investigators, public prosecutors, to judges. Any effort directed at intervening in the process will reduce the state's chances of finding material truth and bringing justice to society. This threat is heightened because corruption is often carried out by actors who have access to power, resources, and a wide network of influence, so their ability to intervene in the legal process tends to be greater.

Looking at the development of judicial practice in Indonesia, there are a number of cases that show how obstruction of justice is carried out in various forms. Starting from efforts to order his subordinates to delete or amend reports, to hide CCTV

¹⁶ "Undang-Undang Nomor 20 Tahun 2001 Tentang Pemberantasan Tindak Pidana Korupsi" (n.d.).

footage, to giving directions to witnesses to provide certain information, to using power to influence law enforcement officials. In certain cases, the act of obstruction of justice is even more systematic because it involves coordination between several parties, both from internal institutions and external networks, so that the evidentiary process becomes increasingly complex. This phenomenon shows that obstruction of justice cannot be seen as an additional or secondary action, but rather as one of the main strategies used to protect perpetrators of corruption.

On the other hand, the existence of the criminal procedure law has actually provided a number of provisions that can ensnare actions that obstruct the legal process, such as Article 221 of the Criminal Code which regulates the concealment of perpetrators of criminal acts and Article 231 of the Criminal Code regarding the destruction of evidence.¹⁷ However, these provisions are considered insufficient to deal with the complexity of corruption crimes. This is because corruption involves a power structure, hierarchical relationships, and the potential for abuse of authority that is broader than conventional criminal acts. Therefore, the legislator considers it necessary to have a special provision through Article 21 of the Corruption Law which explicitly regulates acts of obstruction of justice within the scope of corruption crimes.

When viewed from a legal political perspective, the obstruction of justice regulation in the Corruption Law reflects the state's efforts to strengthen the integrity of the criminal justice system. The existence of this article is a reflection of the principle of equality before the law, where all people, including public officials, must be subject to the law and cannot use their position to obstruct the law enforcement process. Thus, Article 21 not only serves as a prohibition norm, but also as a guarantee that the criminal justice process will run according to the principles of justice.

Overall, the regulation of obstruction of justice in Indonesia's positive law shows the state's high attention to the protection of the law enforcement process in corruption crimes. This provision is an important instrument that ensures that any act that undermines the judicial process can be criminally accountable. More than just a norm, Article 21 of the Anti-Corruption Law is a concrete manifestation of the state's commitment to maintaining the integrity of the criminal justice system and ensuring that the mechanism for eradicating corruption runs effectively and is protected from any influence that can damage it.

3.2. Construction of Criminal Liability Applied in the Single Charge of Obstruction of Justice Based on the Corruption Law for Obstruction of Legal Process

¹⁷ Febby Mutiara Nelson, "An Examination of Obstruction of Justice and Contempt of Court in the Case of Hotman Paris Vs Razman Nasution," Hukumononline.com, 2025, <https://www.hukumononline.com/berita/a/telaah-obstruction-of-justice-dan-contempt-of-court-dalam-perkara-hotman-paris-vs-razman-nasution-lt67a6491f2f4a1?page=1>.

Criminal liability in English terminology is known as criminal liability, which consists of two elements of the word, namely criminal and liability. Roscoe Pound defines liability as a condition when a person is entitled to a legal liability, while the other party is obliged to meet the demand. Pound's perspective, criminal liability is understood as the perpetrator's obligation to receive retribution or legal consequences for the harm he causes to others.¹⁸

In essence, criminal liability is a mechanism built in the criminal law system to respond to violations of prohibitions or norms that have been mutually agreed.¹⁹ In simple terms, criminal liability describes a person's capacity to account for actions, especially actions that qualify as criminal acts. Consequently, a person can be criminally charged or released depending on the evidence related to the actions he committed.

Sudarto emphasized that in order for a person to be held criminally responsible or sentenced, there are several elements that must be met.²⁰ First, there must be a criminal act (*actus reus*) committed by the perpetrator. A person can only be held accountable if he or she commits an act that is unlawful, which is contrary to the provisions of laws and regulations. Chairul Huda added that the existence of a new criminal act can be recognized if it meets the principle of legality.²¹ Second, there must be an element of error in the form of intentionality or forgetfulness (*mens rea*). Mistakes arise when a criminal act is committed in a situation where the perpetrator, according to the size of society, deserves reproach for being able to understand the consequences of his actions and should be able to avoid the act.²² The main principle in criminal law states that a person cannot be convicted without error, either in the form of intentional or negligent.

Third, the perpetrator must have the ability to be responsible. The assessment of this ability is carried out by looking at the psychological condition of the perpetrator at the time of committing the act, whether he is in a healthy and normal mental state so that he can control his behavior according to the standards that apply in society.²³ The Criminal Code then mentions several conditions that eliminate this ability, such as legal incompetence due to age, or the existence of justification or forgiving reasons. Fourth, there should be no excuse for forgiveness that eliminates the faults of the perpetrators. The excuse of forgiveness eliminates the mistake even though the act is still against the law, so the perpetrator cannot be punished.²⁴ Examples of excuses include inability to be responsible, the existence of coercion, forced defenses that exceed the limit, or actions taken for carrying out office orders without authority.

¹⁸ Romli Atmasasmita, "Perbandingan Hukum Pidana," *Bandung: Mandar Maju*, 2000.

¹⁹ Chairul Huda, *from No Crime Without Fault, to 'No Criminal Responsibility Without Fault'* (Kencana, 2015).

²⁰ Hanafi Amrani and Mahrus Ali, "Criminal Accountability System Development and Implementation," *Jakarta: Rajawali Press*, 2015.

²¹ Huda, *from no crime without fault, to 'no criminal liability without fault'*.

²² Mahrus Ali, *Fundamentals of Criminal Law* (Jakarta: Sinar Grafika, 2022).

²³ Andi Matalatta, "The Victimology of a Flower of Rampai," *Jakarta: Pusat Sinar Harapan*, 1987.

²⁴ Lukman Hakim, *Principles of Criminal Law Textbooks for Students* (Bandung: Deepublish, 2020).

The regulation of criminal liability in criminal acts obstructing the legal process as stipulated in Article 21 of the Corruption Law occupies a very strategic position in the overall design of corruption eradication in Indonesia. This article not only serves as a rule that criminalizes behavior that hinders, obstructs, or thwarts the legal process, but also serves as a mechanism that ensures that any law enforcement efforts against corruption crimes can take place in an honest, transparent, and free manner from destructive intervention. When prosecutors use the single indictment approach under Article 21, the criminal liability construction applied must be carefully analyzed in order to illustrate the causal relationship between the perpetrator's actions and the obstruction of the legal process as a whole.

Criminal liability in this context cannot be separated from the element of guilt which includes intentionality as a form of the perpetrator's inner attitude. This requires a real will to obstruct investigation, prosecution, or other legal proceedings. Thus, the element of *mens rea* is the main element in building the construction of criminal responsibility. An offender who commits an act of merely providing false information without any awareness that his or her actions may impede the legal process may not be punishable under this article. But if the perpetrator knowingly provides false information, manipulates evidence, or uses his authority to intervene with law enforcement officials, then the intention has met the element of intentionality.

Prosecutors often face a dilemma in determining whether a certain act should be qualified as an act of obstructing the legal process or can be construed as a form of participation or assistance in the main crime of corruption. When a single indictment is used, the prosecutor makes obstruction of legal proceedings the main locus of guilt assessment without comprehensively associating it with the main crime. This strategic choice is often based on evidentiary considerations, especially when the available evidence is stronger to show activity obstructing legal process than direct involvement in the corruption itself. However, this approach has significant normative implications. If the perpetrator actually plays a role in the occurrence of corruption, but is only charged with obstructing the legal process, then there is a potential reduction in the scope of criminal liability of the perpetrator.

From the dogmatic perspective of criminal law, the determination of the guilt of the perpetrator must be analyzed through three main layers, namely the ability to be responsible, the psychological relationship between the perpetrator and the act (intentionality or negligence), and the absence of a forgiving reason. In the context of the ability to be responsible, there is no meaningful issue because the criminal act of obstructing the legal process is generally carried out by the subject who understands the legal consequences of their actions, even often the perpetrators are people with legal knowledge such as public officials, law enforcement officials, or other legal professions. The second element, namely intentionality, is the main focus because Article 21 of the

Anti-Corruption Law emphasizes the element of “deliberately preventing, obstructing, or thwarting directly or indirectly.” The interpretation of the phrase “directly or indirectly” suggests that the law does not only ensnare obvious actions such as the destruction of evidence or witness intimidation, but also includes manipulative and covert actions that have an impact on the obstruction of the legal process.²⁵

Criminal liability in cases of obstructing legal proceedings requires a causal relationship between the actions of the perpetrator and the disruption of the legal process. This causal relationship does not always have to be deterministic, but it is enough to show that the actions of the perpetrator have a significant contribution to the obstacles that occur in the legal process. This is important because Article 21 does not require the successful obstruction, but rather the existence of an effort aimed at obstruction. Thus, the construction of causality in this delicacy is progressive, emphasizing more on the purpose of the action than the resulting result.

If analyzed based on modern criminal liability theory, a single indictment in a case of obstructing the legal process can actually cause a dogmatic problem. An adequate theory of action (*actus reus*) and an adequate mental attitude (*mens rea*) can indeed explain the responsibility of the perpetrator, but when a single indictment is used in the midst of an alleged broader role of the perpetrator in the main crime of corruption, the problem of fragmentation of accountability arises. The perpetrator was only charged with an act that occurred after the main crime took place, even though the act may have started before that. This situation can weaken the deterrent effect because the role of the actual more serious perpetrator can be disguised by the use of a single indictment.

The application of Article 21 of the Corruption Law, the grammatical interpretation of the elements of this article shows that the act of obstructing the legal process must be done deliberately. A systematic interpretation requires that this article be read in relation to other articles in the Corruption Law that aim to ensure the integrity of law enforcement against corruption crimes. Meanwhile, historical interpretation shows that this provision was introduced to overcome various obstacles in handling corruption cases that often involve public officials or law enforcement officials who have a great influence on the course of investigations and prosecutions. The teleological interpretation emphasizes that the purpose of enacting this provision is to protect the legal process from all forms of intervention and ensure that the mechanism for eradicating corruption runs effectively.

Indonesian courts have handled a number of cases involving Article 21 of the Anti-Corruption Law, although not many have been used as a reference for the development of academic doctrine. Some rulings show that courts tend to emphasize the element of intentionality and actual actions that have the potential to hinder the legal process.

²⁵ Puput Lutfiah and Eka Nanda Ravizki, “The Crime of Obstruction of Justice in Handling Corruption Crimes (Study of Decision Number 30/Pid. Sus-TPK/2023/Pn Bdg),” *Rechts Publica* 1, no. 1 (2025).

However, the court also requires a high enough level of proof so that not all acts that are motivated to obstruct the legal process can be categorized as criminal acts.

Decision Number 30/Pid.Sus-TPK/2023/PN Bdg, the Public Prosecutor builds a juridical construction in detail to show that the Defendant's series of actions meets all elements of obstructing the legal process as formulated in Article 21 of the Corruption Law. The Prosecutor's approach is not only descriptive, but also analytical, by mapping the causal relationship between the Defendant's actions and the obstruction of law enforcement efforts against Suspect Sumardi. With such a method of proof, the Prosecutor seeks to show that the Defendant's actions do not stand alone, but are a series of actions directed to disrupt the smooth running of the ongoing investigation.

First, related to the act of not reporting and participating in concealing Sumardi's whereabouts, the Prosecutor emphasized that the Defendant was not limited to knowing the location of the hiding place, but actively participated in facilitating Sumardi's transfer and protection. This can be seen from the Defendant's trip with Zulfikar to the hiding location in Kemuning, Indragiri Hilir Regency, Riau. The fact that there was an initial meeting at the KM 208 toll rest area is an indicator that the Defendant's actions did not occur spontaneously, but through a series of agreements and coordination. From the point of view of criminal law, the act showed an element of intentionality that was *dolus directus*, because the Defendant knew Sumardi's status as a suspect who had been legally summoned but did not comply with the investigator's summons. The presence of the Defendant in the escape process directly interfered with the effectiveness of the investigation, thus fulfilling the meaning of "obstructing" or "thwarting" the legal process.

Second, the defendant's act of providing financial and logistical support to Sumardi also strengthens the construction of the indictment that the act is a systematic strategy to maintain the continuity of the escape. The provision of Rp3,000,000.00 in cash and the handover of personal ATMs is not only an ordinary form of assistance, but is an effort that materially provides the ability for Sumardi to remain in hiding. In the analysis of criminal law, this kind of assistance confirms the instrumental relationship between the Defendant's actions and Sumardi's goal to avoid legal scrutiny. Without this financial support, Sumardi's ability to survive the escape would be much more limited, so that the Defendant's actions could be assessed as a determining factor that hindered the investigation process. Thus, the element of "complicating the investigation" as referred to in Article 21 of the Corruption Law is clearly fulfilled.

Third, the replacement of Sumardi's Fortuner car license plate from F 1111 M to BK 1755 NP is one of the actions that according to the Prosecutor most shows the Defendant's intention in closing the suspect's tracks. This action not only changed the physical identity of the vehicle, but also eliminated one of the important objects that could connect investigators with Sumardi's whereabouts. In the context of proof, the

change of license plates shows a premeditated plan, because it is impossible to do so without a specific intention to obstruct tracking. If analyzed through the perspective of obstruction of justice, these acts fall into the category of manipulative efforts that directly make it difficult for law enforcement officials to trace evidence and the whereabouts of suspects. Legally, the action is a tangible manifestation of the element of “obstructing” the legal process because it hinders the ability of investigators to identify car tracks that have the potential to become evidence.

The Defendant’s series of acts shows that these acts are not incidental, but are a series of conscious actions that are interconnected and directed to obstruct law enforcement. From the perspective of criminal liability theory, this act shows the fulfillment of the element of intentionality (*mens rea*) and unlawful acts (*actus reus*) simultaneously. The Prosecutor’s construction in this case also shows a juridical approach that emphasizes the causal relationship between the support provided by the Defendant and the increasing difficulty of investigators in finding and examining suspects. The argument in the verdict strengthens the conclusion that the Defendant’s actions meet the legal standards set to ensnare the perpetrators who commit acts of obstructing legal proceedings based on the Corruption Law.

The construction of criminal liability in a single indictment for obstructing the legal process must be carefully constructed so that it not only meets the normative elements of the article, but also reflects the goal of comprehensive corruption eradication. The use of a single indictment can indeed simplify the evidentiary process, but it has the potential to ignore the broader role of perpetrators in the network of corruption crimes. Therefore, prosecutors need to critically consider whether a single indictment can actually achieve a legal purpose or potentially undermine the effectiveness of law enforcement.

3. CONCLUSION

Based on the descriptions in Discussion I and Discussion II, it can be concluded that the act of obstruction of justice in the context of corruption has a very important position in the Indonesian legal system. Obstruction of justice is understood as an act that is carried out deliberately to prevent, obstruct, or thwart the course of legal proceedings at every stage of law enforcement. Indonesia’s positive law, the regulation of such acts is not only contained in the Criminal Code and a number of other special laws, but more specifically regulated in Article 21 of the Corruption Law which provides clear normative limits on the form and qualification of the act that can be punished as an act of obstructing the legal process. The affirmation shows that lawmakers pay serious attention to protecting the integrity of the law enforcement process.

The provisions in the Anti-Corruption Law provide a comprehensive basis for ensnaring various forms of actions that hinder the legal process, whether carried out

through active means such as hiding suspects, moving or falsifying evidence, providing escape facilities, or through actions that are passive but have a significant impact on the inhibition of investigations. The norm also emphasizes that the success of eradicating corruption does not only depend on the ability to find the main perpetrators, but also on the state's ability to protect its legal process from all forms of obstruction efforts.

Analysis of Decision Number 30/Pid.Sus-TPK/2023/PN Bdg shows that the application of criminal liability to perpetrators of obstruction of justice is highly dependent on the ability of the public prosecutor to prove a causal relationship between the perpetrator's actions and the obstruction of the investigation process. In that case, the actions taken by the Defendant ranging from assisting the escape, providing financial facilities, hiding evidence, to changing the identity of the vehicle proved to be not ordinary actions, but a series of acts that were consciously and systematically aimed at preventing investigators from finding suspects and uncovering corruption cases. The element of intentionality is evident from the methods used by the Defendant, while the actus reus can be seen from concrete actions that prolong the escape and complicate law enforcement.

REFERENCES

Journals

- Adhari, Ade, Sherryl Naomi, and others. "Latar Belakang Dan Perkembangan Tindak Pidana Korupsi Di Indonesia (Makna Dan Sejarah Berkembangnya Kejahatan Korupsi Dan Berdirinya Komisi Pemberantasan Korupsi)." *Jurnal Serina Abdimas* 1, no. 3 (2023): 1251–57.
- Afifah, Yukiatiqa, and Dewi Yuslita Julianis. "Pertanggungjawaban Pidana Terhadap Pelaku Obstruction of Justice Dalam Perkara Tindak Pidana Kekerasan Seksual." *Lex Renaissance* 8, no. 1 (2023): 91–112.
- Damanik, Franky, Finish Masa Derita Gea, and Rosmalinda Rosmalinda. "Sejarah Perkembangan Pengaturan Tindak Pidana Korupsi Di Indonesia." *Journal Sains Student Research* 2, no. 5 (2024): 287–98.
- Fansuri, Rayhan Fiqi, and Juan Matheus. "Enforcement of Human Rights through Criminal Law Against Environmental Destruction Due to Batik Industry Activities." *Indonesian Journal of Criminal Law Studies* 7, no. 2 (2022): 291–316.
- Faridzi, Mohammad Al, and Gunawan Nachrawi. "Kualifikasi Kejahatan Luar Biasa Terhadap Tindak Pidana Korupsi (Putusan Mahkamah Agung Nomor 301 K/Pid. Sus/2021)." *Jurnal Kewarganegaraan* 6, no. 2 (2022): 3014–19.
- Isra, Saldi, Feri Amsari, Hilaire Tegnan, and others. "Obstruction of Justice in the Effort to Eradicate Corruption in Indonesia." *International Journal of Law, Crime and Justice* 51 (2017): 72–83.

- Lutfiah, Puput, and Eka Nanda Ravizki. "Tindak Pidana Obstruction of Justice Dalam Penanganan Tindak Pidana Korupsi (Studi Putusan Nomor 30/Pid. Sus-TPK/2023/Pn Bdg)." *Rechts Publica* 1, no. 1 (2025).
- Mayrachelia, Difia Setyo, and Irma Cahyaningtyas. "Karakteristik Perbuatan Advokat Yang Termasuk Tindak Pidana Obstruction of Justice Berdasarkan Ketentuan Pidana." *Jurnal Pembangunan Hukum Indonesia* 4, no. 1 (2022): 121–32.
- Tallaut, Lambertus Josua, and Ade Adhari. "Kepastian Hukum Penerapan Kriteria Kewenangan Penyidikan Perkara Tindak Pidana Korupsi Oleh Komisi Pemberantasan Korupsi Republik Indonesia." *Jurnal Analisis Hukum* 5, no. 1 (2022): 26–39.

Thesis

- Yoga, Prisma. "Pertanggungjawaban Hukum Terhadap Tindak Pidana Obstruction of Justice Dalam Tindak Pidana Korupsi." Universitas Bhayangkara Surabaya, 2023.

Books

- Ali, Mahrus. *Dasar-Dasar Hukum Pidana*. Jakarta: Sinar Grafika, 2022.
- Amrani, Hanafi, and Mahrus Ali. "Sistem Pertanggungjawaban Pidana Perkembangan Dan Penerapan." *Jakarta: Rajawali Pers*, 2015.
- Atmasasmita, Romli. "Perbandingan Hukum Pidana." *Bandung: Mandar Maju*, 2000.
- Diantha, I Made Pasek, and M S Sh. *Metodologi Penelitian Hukum Normatif Dalam Justifikasi Teori Hukum*. Prenada Media, 2016.
- Hakim, Lukman. *Asas-Asas Hukum Pidana Buku Ajar Bagi Mahasiswa*. Bandung: Deepublish, 2020.
- Huda, Chairul. *Dari Tiada Pidana Tanpa Kesalahan, Menuju Kepada Tiada Pertanggungjawaban Pidana Tanpa Kesalahan*. Kencana, 2015.
- Marzuki, Mahmud. *Penelitian Hukum: Edisi Revisi*. Jakarta: Prenada Media Group, 2017.
- Matalatta, Andi. "Victimology Sebuah Bunga Rampai." *Jakarta: Pusat Sinar Harapan*, 1987.
- Ravizki, Eka Nanda, and L L M SH. *Anti-Corruption Education: Building Integrity in Fighting Corruption*. Makassar: Nas Media Pustaka, 2024.

Webpages

- Hiariej, Eddy Os. "Obstruction Of Justice Dan Hak Angket DPR." Kompas.com, 2017. <https://www.kompas.id/artikel/obstruction-of-justice-dan-hak-angket-dpr>.

Nelson, Febby Mutiara. "Telaah Obstruction of Justice Dan Contempt of Court Dalam Perkara Hotman Paris Vs Razman Nasution." Hukumonline.com, 2025. <https://www.hukumonline.com/berita/a/telaah-obstruction-of-justice-dan-contempt-of-court-dalam-perkara-hotman-paris-vs-razman-nasution-lt67a6491f2f4a1?page=1>.

"Skor IPK 2024 Meningkat, KPK Dorong Penguatan Pemberantasan Korupsi," 2025. <https://www.kpk.go.id/id/ruang-informasi/berita/skor-ipk-2024-meningkat-kpk-dorong-penguatan-pemberantasan-korupsi>.

Regulations

Undang-Undang Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi (2001).