

JUDGE'S CONSIDERATION OF THE RECIPIENT'S CRIMINAL ACT BRIBERY FOR NEW STUDENT ADMISSIONS IN COLLEGE (Study of Decision Number: 1/Pid.Sus-TPK/2023/PN Tjk)

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DOI: <http://dx.doi.org/10.33603/responsif.v17i1.10742>

Received: 24 January 2026; Revised: 6 February 2026; Published: 17 February 2026

Abstract

One of the main factors causing this corruption is the opportunities provided by parents or families who want their children or family members to graduate from a particular faculty or university. In the fierce competition for a place at a prestigious college, some parents feel depressed and anxious that the prestige of the family or the child's future depends on their success in gaining admission to the faculty of choice.

The research method used is an empirical juridical approach, with data collected through field and literature studies. Data is processed through identification, classification, and compilation. The data analysis used is qualitative descriptive.

The results of the study are: (1) The factors in the occurrence of criminal acts of bribery recipients in the admission of new students in higher education are the existence of greed factors, opportunity factors, need factors, and disclosure factors, which of these four factors does occur in the criminal act of accepting bribes in the admission of new students in higher education. (2) Then, in giving consideration, the judge analyzes three aspects to give a verdict based on justice, namely the juridical aspect, the philosophical aspect, and also the social aspect, where these three aspects are closely related in helping the judge to decide the case of the recipient of bribes in the admission of new students at state universities.

The suggestion for all law enforcement officials and also state civil servants is to carry out their obligations and authority as they should without having to deviate from their positions and authority, as well as prioritizing justice in providing punishment for perpetrators of crimes that produce a deterrent effect for the perpetrators and prevent similar incidents in the future.

Keywords: *Bribe Recipients, New Student Admissions, Corruption Crimes.*

I. INTRODUCTION

Indonesia is a country of law, as provided in Articles 1 Paragraph (3), 27 Paragraph (1), and 28D of the 1945 Law, namely that all people who commit criminal acts must be held accountable for their actions through a series of legal processes. Law is a system of punishment: criminal acts are prohibited by legal regulation, and sanctions or penalties follow the prohibition. In this case, there is a relationship with the principle of legality stated in Article 1, Paragraph 1, of the Criminal Code, namely that no act can be punished except as stipulated by law. The perpetrator will be sanctioned in accordance with the rules that govern it.

All levels of society must uphold and comply with the applicable rules. Still, in reality, people intentionally or unintentionally violate them, and they need to be accountable for their actions in accordance with existing regulations. A criminal act is an unlawful act committed by a person and should be punished by a fine tailored to the act, in line with the applicable rules or regulations.

Generally explained, a criminal act is an act or human act formulated in the law, deviating from the law, for which forgiveness must be given for the mistakes made. Every person who commits a criminal act must be held accountable for their actions with the existing punishment if it is legally proven that they committed a wrong act, a person has a mistake if, at the time of making a mistake, it is witnessed by the community, normatively related to the culpability that he has committed.¹

Various criminal acts that take place around us, for example, are corruption. Corruption is the misappropriation or misuse of state money (companies, organizations, foundations, and so on) In fact, there are many corruption cases with various modes that show the increasing level of crime that occurs, of the many criminal cases that happen, one example of the case is the bribery case of new student admissions at one of the universities in Lampung Province.

The Faculty of Medicine is in high demand among many prospective students worldwide. The existence of this faculty has its own attraction for many people because it provides opportunities for a career in the noble medical profession and has a positive impact on society. The Faculty of Medicine is in high demand among many prospective students because it offers noble career potential, exciting intellectual challenges, vast career opportunities, high earning potential, and a strong social reputation. The existence of doctors

¹ Adami Chazawi. 2014. *Experimentation and Participation: A Lesson in Criminal Law*. Rajawali Press, Jakarta, p. 99.

is essential in the world of health and has a positive impact on society; therefore, the Faculty of Medicine is an attractive choice to pursue a meaningful career and contribute to humanity.

The occurrence of Corruption in student admissions is a serious problem faced by many higher education institutions worldwide. One of the main factors driving this corruption is the opportunities offered by parents or families who want their children or family members to graduate from a particular faculty or university. In the fierce competition for a place at a prestigious college, some parents feel depressed and anxious that the prestige of the family or the child's future depends on their success in gaining admission to the faculty of choice. Economic pressures can also affect their decisions, leading some parents to resort to unethical means to ensure their child's acceptance. Social status plays an essential role in encouraging corruption in student admissions. Some parents want their child to get into a reputable university or faculty because it is considered a proud achievement and can improve the family's social status. Sometimes, there is pressure from the social and family environment to ensure a child graduates from a reputable institution, regardless of the child's academic ability. This encouragement can lead parents to look for shortcuts, such as bribes or cheating, in the admissions process.

Family expectations and certain traditions also influence corruption in student admissions. Some families may have special expectations or traditions that require the child or their family members to attend a particular faculty or university. This encouragement can create additional pressure on prospective students and their families to find ways to secure admissions, regardless of their actual academic qualifications. This practice involves significant risks, as it not only harms the integrity of the education system but also endangers the reputations of prospective students involved in these corrupt practices.

The Faculty of Medicine is in high demand among many prospective students. The high interest in this faculty has a positive impact, such as increased competition and enthusiasm to achieve better academic results. However, this phenomenon also poses serious challenges related to corruption in student admissions. As in the case of new student admissions at Pergruan Tinggi, some individuals have engaged in several acts together that must be seen as independent acts, namely receiving gifts. The Crime of Corruption committed by the Defendant, as well as the Person in Charge of the State University Admission Team in Lampung in 2022 has graduated several Prospective New Students of the Faculty of Medicine through the SBMPTN Pathway and the Faculty of Medicine, Faculty of Pharmacy, Faculty of Mathematics and Natural Sciences, Department of Computer Science, Faculty of Engineering,

Department of Architectural Engineering in 2022 through the Independent Selection Pathway for State University Entrance (SMMPTN).

Based on the background of the problem, the author conducted a study entitled "Judge's Consideration of the Crime of Receiving Bribes for New Student Admissions in Higher Education (Study of Decision Number: 1/Pid.Sus-TPK/2023/PN Tjk)."

The problems to be discussed are: What are the factors that cause the crime of accepting bribes for new student admissions in universities (Study on Number: 1/Pid.Sus-TPK/2023/PN Tjk). And what is the judge's consideration of the perpetrator of the crime of accepting bribes for new student admissions at universities (Study on Number: 1/Pid.Sus-TPK/2023/PN Tjk)?.

II. RESEARCH METHODS

The problem approach in this study uses both a normative and an empirical juridical approach. The normative juridical approach is an approach based on library research, involving reading, citing, and analyzing legal theories, laws, and regulations related to the problems in the study. The empirical juridical approach is an effort to obtain clarity and understanding of research problems based on the results of interviews, existing realities, or case studies.

III. RESEARCH RESULTS

Factors Causing the Crime of Accepting Bribes in New Student Admissions in Higher Education

Corruption comes from the English word "corrupt," which means damage, while Black's Law Dictionary defines "Corruption" as Illegality; a vicious and fraudulent intention to evade the prohibitions of the law; something against or forbidden by law; moral turpitude or exactly opposite of honesty involving intentional disregard of law from improper motives.²

The definition of corruption began to develop into an act legally prohibited in the context of efforts that benefit oneself and others. In Indonesia, corruption is an act that takes advantage of a position or authority held, but the profit is still in the context of "state-owned profits". In Article 2 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, it is explained what is meant by corrupt practices as follows: "Anyone who unlawfully commits an act of enriching himself or others or a corporation that can harm the state finances or the state

² Henry Campbell Black, 1968, Black's Law Dictionary, West Publishing, Minnesota (USA), p. 414.

economy." Although corruption is not explained in general provisions, Article 2 has described what exactly is meant by corruption crimes that apply in Indonesia.

Corruption also has a different meaning when viewed from another perspective. One of the viewpoints used is sociology, which considers nepotism part of corruption. This is specifically explained by Syed Hussein Alatas in his book, *The Sociology of Corruption*.

Corruption is also defined as an act of violating the law that undermines everything agreed upon and included in the agreed cases, namely, government, management, or administration.³ Fuady classifies corruption as a form of crime, which means a tied crime. What distinguishes this crime from ordinary crimes is that it is systematically structured, involving many parties with positions and interests through its modus operandi, making it very difficult to commit and detect. Apart from the criminal acts of corruption, one occurred in the realm of education, especially in universities, where there was also a practice of accepting bribes to admit new students. Fraud in the process of accepting new students is an attempt to manipulate that aims to gain personal or group advantage by violating applicable norms and morals.⁴

In this case, one of the universities involved in corruption by accepting bribes in the admissions process is the University of Lampung. Lampung State University is suspected of engaging in fraudulent practices during the 2022 new student admission process, an issue that has increasingly drawn public attention to the importance of integrity and transparency in education. This kind of practice can damage the reputation of educational institutions and harm prospective students who compete fairly. Previous research shows that corruption not only occurs in the financial sector but also permeates the education system, including the admissions process for new students. Factors such as psychological pressure, corrupt culture, and system weaknesses are the primary triggers of such fraud. Therefore, stricter preventive measures and law enforcement are needed to maintain the integrity of educational institutions. Universities, as higher education institutions, must uphold the principles of integrity and honesty at every stage of selection to maintain their reputation. Thus, the problem of cheating in new student admissions is not only internal but also affects the education system as a whole. In a more in-depth analysis, cheaters are often driven by a compelling reason that underlies their actions. The primary motivations for cheating can be divided into financial incentives, opportunities to cheat, and rationalizations that make the perpetrator feel their actions are justified.⁵

³ Edy Suandi Hamid and Muhammad Sayuti (ed.), *Revealing Corruption, Collusion and Nepotism in Indonesia*, (Yogyakarta: Aditya Publishers, 1999), p. 19.

⁴ Smith, J. (2020). *Technology Integration in Education: Bridging the Gap*. Technology and Learning Press. p. 5

⁵ Einde Evana, Nairobi, Sumitro & Ernie Hendrawaty, *Corruption Investigation*. Tahta media Group. 2024. p. 46

4 factors affect the occurrence of the crime of accepting bribes in the admission of new students in universities, namely:

a. Greed

This can be seen in the amount of money the Defendants received from carrying out their Corruption. Of all the witnesses examined, many say this has happened since 2010, meaning this act or deed has been happening for a long time and continuously, with a nominal amount that is not a few or even hundreds of millions.

b. Opportunity

This is why the defendants took advantage of the independent new student admission program (PMB), in which students are required to pay the university to enter or study. By utilizing positions and also the authority to take bribes in the process of accepting new students, which makes it an opportunity to get significant profits

c. Needs

To maintain prestige, the rector usually makes large, above-average donations to lecturers or relations who organize events or meet the lifestyle needs of the Defendants, who are civil servants and must commit corruption to cover their expenses.

d. Expose

The actions of the Defendants were revealed through reports from the public who felt strange about the Recipient system, which was carried out without transparency, and about a luxurious lifestyle, even though it is known that a civil servant's salary is not much.

Referring to the outline's explanations of factors, there are internal and external factors; internal factors come from within oneself, namely greed and the desire for more. Then, on the external factors themselves, namely opportunity, a sense of political return of favor, a bad feeling for colleagues because of a relationship of mutual interest, and there is something that has indeed been going on for a long time, so that it has become an action that has been carried out continuously.

Judge's Consideration of the Perpetrator of the Crime of Accepting Bribes in Admission of New Students in Higher Education

In determining or imposing sentences, the judge must examine them in accordance with the applicable procedures, paying attention to the rules, principles, and facts revealed in the trial. The judge must consider some aspects in deciding a case to get a fair verdict.

a. Juridical Aspects

The juridical aspect is a legal thought known as dogmatic juridical and normative thinking whose origin comes from positivism and assumes that the law is a perpetrator that has freedom. Legal certainty requires that the law be implemented and enforced strictly in all circumstances and not deviate from what it should be.⁶

Based on the results of the interview with the judge at the Tanjung Karang District Court Class IA, Lingga Setiawan said that there were several elements Based on the results of the interview with the judge at the Tanjung Karang District Court Class IA, Lingga Setiawan told that there were several elements of Article 12 letter b Jo Article 18 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes as amended by Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to the Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption.

b. Philosophical Aspects

Therefore, the panel of judges hereby considers, that based on the above considerations it is related to the criminal acts that the Defendant has committed, that the acts that the Defendant has committed are seen as capable of damaging public trust in the selection of new student admissions at state universities and have denied the struggle of heroes in the field of education in providing equal opportunities to anyone to receive education without any action discriminatory and manipulative, the length of the sentence imposed on the Defendant as contained in this verdict is considered appropriate and fair in the hope of providing benefits (deterrent and education) to the Defendant not to repeat his actions and to give a domino effect to other officials so that they do not follow the actions committed by the Defendant.

c. Sociological Aspects

As for the incriminating matters, the defendant has betrayed his oath of office as the Rector of the University of Lampung. The defendant has degraded the University of Lampung's green campus assessment. The defendant has abused the university's function, departing from its supposed role as a printer of agents of change, and began with a corrupt attitude. The defendant's actions did not support the government's program to eradicate corruption. The Defendant's actions have injured prospective students of the University of Lampung (UNILA) who have honestly completed the selection process.

⁶ Ahmad Rifai, *Legal Discovery by Judges in the Perspective of Progressive Law* (Jakarta: Rineka Cipta, 1993), p. 75.

As for mitigating factors, the defendant has dedicated himself to the field of education in a short time, so his services must be taken into account and not ignored. The defendant has never been convicted. The defendant admitted all his mistakes.

IV. CONCLUSION

The occurrence of a criminal act of accepting bribes in the admission of new students to higher education involves several factors that can be classified into two categories: internal factors, or factors within the subject, and external factors, or factors from outside the subject. The two factors can be further broken down into several factors: greed factors, opportunity factors, need factors, and disclosure factors.

In a case involving the criminal act of accepting suao during the process of admitting new students to universities, there are several aspects of the decision that the judge must consider, including juridical, philosophical, and social aspects. These three aspects are closely related as a reference or guideline for judges in deciding a case, in order to obtain a decision that is fair and can be accommodated in accordance with the provisions, and also the facts revealed in the trial.

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