

Maladministration and Corruption in Village Fund Management: Legal Boundaries and Protection for Village Heads

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ABSTRACT

Village funds were designed to accelerate local development, yet their management has become a recurrent source of criminal cases against village heads. The line between maladministration, which calls for administrative correction, and corruption, which calls for criminal sanction, remains unclear, and existing studies rarely connect that line to the legal protection owed to village heads suspected of corruption. This article aims to analyze the forms of unlawful acts constituting maladministration and corruption in village fund management policy and the legal protection available to village heads. It employs normative legal research with statute, conceptual, and philosophical approaches, using primary, secondary, and tertiary legal materials collected through document study and analyzed descriptively and qualitatively through deductive reasoning. The findings show that corruption is distinguished from maladministration by deliberate and concealed diversion of authority for personal benefit that causes real state loss, whereas deviations without these features call for administrative correction. Protection for village heads operates through preventive, procedural, and administrative layers, but gaps remain in the availability of administrative court testing, the procedural scope of pretrial review, and the dual role of inspectorate audits. The article offers a clearer doctrinal basis for regulators, law enforcement agencies, and village governments to separate administrative error from criminal conduct while safeguarding the rights of suspected officials.

Keywords: *Corruption, Legal Protection, Maladministration, Village Fund, Village Head*

Maladministrasi dan Korupsi dalam Pengelolaan Dana Desa: Batas Hukum dan Perlindungan bagi Kepala Desa

ABSTRAK

Dana desa dirancang untuk mempercepat pembangunan lokal, tetapi pengelolaannya menjadi sumber berulang perkara pidana terhadap kepala desa. Batas antara maladministrasi, yang menuntut koreksi administratif, dan korupsi, yang menuntut sanksi pidana, masih belum jelas, dan kajian yang ada jarang mengaitkan batas tersebut dengan perlindungan hukum bagi kepala desa yang diduga melakukan korupsi. Artikel ini bertujuan menganalisis bentuk perbuatan melawan hukum yang berwujud maladministrasi dan korupsi dalam kebijakan pengelolaan dana desa serta perlindungan hukum yang tersedia bagi kepala desa. Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan, konseptual, dan filosofis, memakai bahan hukum primer, sekunder, dan tersier yang dikumpulkan melalui studi dokumen dan dianalisis secara deskriptif kualitatif dengan penalaran deduktif. Hasil penelitian menunjukkan bahwa korupsi dibedakan dari maladministrasi oleh pengalihan kewenangan yang disengaja dan ditutupi demi keuntungan pribadi sehingga menimbulkan kerugian negara yang nyata, sedangkan penyimpangan tanpa ciri tersebut memerlukan koreksi administratif. Perlindungan bagi kepala desa bekerja melalui lapisan preventif, prosedural, dan administratif, tetapi masih terdapat celah pada ketersediaan pengujian di peradilan tata usaha negara, cakupan prosedural praperadilan, dan peran ganda audit inspektorat. Artikel ini menawarkan dasar doktrinal yang lebih jelas bagi pembuat regulasi, aparat penegak hukum, dan pemerintah desa untuk membedakan kesalahan administratif dari perbuatan pidana sekaligus menjaga hak pejabat yang disangka.

Kata kunci: *Dana Desa, Kepala Desa, Korupsi, Maladministrasi, Perlindungan Hukum*

INTRODUCTION

Village governance in Indonesia now enjoys its own autonomy under Law Number 6 of 2014 concerning Villages (hereinafter the Village Law), whereas it was previously regulated together with regional government under Law Number 32 of 2004.¹ Village finance covers all rights and obligations that can be valued in money, together with village assets connected to the exercise of those rights and obligations. Under Law Number 17 of 2003 concerning State Finance, village finance forms part of state finance, which is understood in terms of its objective, subjective, process, and purpose aspects.²

Village government is regulated by the Village Law and Government Regulation Number 43 of 2014, which grant authority to administer governance, development, community development, and community empowerment on the basis of community initiative, origin rights, and customs. Every village is equipped with facilities, infrastructure, and an organizational structure that supports its duties and functions.

To support village development, the central government allocates approximately IDR 1 billion per village in accordance with the Village Law and Government Regulation Number 60 of 2014, which governs the distribution of village funds. Regulation of the Minister of Villages Number 21 of 2015 further sets the priorities for the use of these funds and strictly regulates their distribution, withdrawal, and use.

This large fiscal transfer, however, has been accompanied by indications of misuse and potential corruption in village fund management. The Corruption Eradication Commission (KPK) recorded problems in the management of village funds, particularly in relation to the regulatory change from Government Regulation Number 60 of 2014 to Government Regulation Number 22 of 2015. The former established a transparent formula weighted across 32 variables to determine the amount of village funds, whereas the latter changed the allocation to 90 percent based on the number of villages and 10 percent based on population, poverty rate, area, and geographic difficulty. Monitoring by Indonesia Corruption Watch, as reported by Salmon and Saimima (2023), recorded 17 village corruption cases in 2015, 41 in 2016, and 96 in 2017. The same study notes that misuse of village funds may be deliberate

¹ Republic of Indonesia, “Law of the Republic of Indonesia Number 6 of 2014 Concerning Villages” (2014); Republic of Indonesia, “Law of the Republic of Indonesia Number 32 of 2004 Concerning Regional Government” (2004).

² Chabib Soleh and Heru Rochmansjah, *Pengelolaan Keuangan Desa* (Bandung: Fokusmedia, 2015); Republic of Indonesia, “Law of the Republic of Indonesia Number 17 of 2003 Concerning State Finance” (2003).

or unintentional, the latter stemming from limited understanding of how to use the funds and complete their administrative reporting.³

Although a policy itself cannot be criminalized, a state official or village head who adopts a policy in order to unlawfully benefit himself or herself or another party may be categorized as committing corruption. This proposition marks the analytical boundary of this article and requires closer elaboration. In administrative law, a policy decision falls within discretionary power (*freies Ermessen*), which is limited by the General Principles of Good Governance, and Darmawan and Pattiasina (2023) argue that an official's violation of law in exercising authority is, in the first place, a breach of administrative norms that should be resolved through administrative mechanisms. Articles 17 and 18 of Law Number 30 of 2014 concerning Government Administration classify abuse of authority into three forms, namely exceeding authority, mixing authority, and acting arbitrarily, while Articles 20 and 21 entrust supervision to the Government Internal Supervisory Apparatus and the testing of abuse of authority to the State Administrative Court.⁴ Criminal liability, in contrast, arises under Articles 2 and 3 of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption, which require unlawful conduct or abuse of authority aimed at enriching or benefiting oneself or others in a way that may harm state finances. The substance of these two articles has been reformulated in Articles 603 and 604 of Law Number 1 of 2023 concerning the Criminal Code, which has been in force since 2 January 2026.

The boundary between these two regimes remains unsettled. Sijabat et al. (2025) show that the differing elements of abuse of authority in the Anti-Corruption Law and the Government Administration Law create legal uncertainty and overlapping authority, and may expose officials who act in good faith to unnecessary criminalization.⁵ Darmawan and Pattiasina (2023) add that Article 3 of the Anti-Corruption Law does not define abuse of authority, which has produced divergent interpretations.⁶ The problem is sharper for village heads, who hold the authority to manage village finances and, as reported in the Maluku context, may lack sufficient

³ Harly Clifford Jonas Salmon and Judy Marria Saimima, "Tindak Pidana Korupsi Dan Alokasi Dana Desa," *MATAKAO Corruption Law Review* 1, no. 2 (November 16, 2023): 106–15, <https://doi.org/10.47268/matakao.v1i2.11130>.

⁴ Dicky Darmawan and Lidia Priscilla Pattiasina, "Konstruksi/Karakter Hukum Penyalahgunaan Wewenang Dan Menyalahgunakan Kewenangan Dalam Tindak Pidana Korupsi," *MATAKAO Corruption Law Review* 1, no. 1 (May 28, 2023): 46–64, <https://doi.org/10.47268/matakao.v1i1.9050>.

⁵ Very Pahala Sijabat et al., "Analisis Perbedaan Unsur Penyalahgunaan Kewenangan Dalam Undang-Undang Tipikor Dan Undang-Undang Administrasi Pemerintahan: Implikasi Terhadap Penegakan Hukum," *Jurnal Hukum Lex Generalis* 5, no. 7 (February 8, 2025), <https://doi.org/10.56370/jhlg.v5i7.797>.

⁶ Darmawan and Pattiasina, "Konstruksi/Karakter Hukum Penyalahgunaan Wewenang Dan Menyalahgunakan Kewenangan Dalam Tindak Pidana Korupsi."

legal and administrative understanding.⁷ The studies reviewed for this article tend to address either the prevalence and prevention of village fund corruption or the general doctrine of abuse of authority among public officials.⁸ None of them examines, in an integrated way, where maladministration in village fund policy ends and corruption begins, or how village heads suspected of corruption should be protected in that process. This is the research gap addressed here.

The question is also pertinent to the wider concern about concentrated power at the village level that has been raised in *De Recht*. Alfarabi (2024) notes that the 1945 Constitution does not specifically limit the tenure of village heads and that a longer period of power heightens the risk of abuse of power.⁹ Law Number 3 of 2024, the second amendment of the Village Law, has since set the tenure of village heads at eight years with a maximum of two terms (Article 39), which arguably makes clear accountability rules for village fund management more urgent. Dewi and Santoso (2025), also writing in *De Recht*, find that a policy formulated without transparent selection mechanisms and accountability procedures creates governance and oversight risks.¹⁰ By analogy, village fund policy needs clearly defined legal limits before criminal sanctions are invoked, so that sanctions fall on genuine corruption rather than on administrative error.

Accordingly, this article aims to analyze the forms of unlawful acts, in the shape of maladministration and corruption, that arise in village fund management policy, and to analyze the legal protection available to village heads suspected of corruption in that context. Two research questions guide the analysis. First, what forms of unlawful acts constituting maladministration and corruption arise in the context of village fund management policy? Second, what legal protection can be given to village heads suspected of committing corruption related to village fund management? The novelty of this article lies in treating these two questions together, by locating the boundary between maladministration and corruption in village fund policy and then examining how that boundary shapes the protection owed to village heads. The article contributes a clearer doctrinal basis for law enforcement officials, village governments, and

⁷ Salmon and Saimima, “Tindak Pidana Korupsi Dan Alokasi Dana Desa.”

⁸ Salmon and Saimima; Darmawan and Pattiasina, “Konstruksi/Karakter Hukum Penyalahgunaan Wewenang Dan Menyalahgunakan Kewenangan Dalam Tindak Pidana Korupsi”; Sijabat et al., “Analisis Perbedaan Unsur Penyalahgunaan Kewenangan Dalam Undang-Undang Tipikor Dan Undang-Undang Administrasi Pemerintahan: Implikasi Terhadap Penegakan Hukum.”

⁹ Muchlisin Alfarabi, “The Problem of Constitutionalism of Village Head Tenure in the Dimension of the State of Law and Democracy,” *DE RECHT (Journal of Police and Law Enforcement)* 2, no. 2 (May 31, 2024): 15–32, <https://doi.org/10.55499/derecht.v2i2.219>.

¹⁰ Cicik Sulfa Dewi and Bagus Teguh Santoso, “Irregularities in Indonesian Government Policy on Authorizing Religious Mass Organizations in Mining Concessions,” *DE RECHT (Journal of Police and Law Enforcement)* 3, no. 3 (September 12, 2025): 1–16, <https://doi.org/10.55499/derecht.v3i3.406>.

legislators in distinguishing administrative deviations that call for administrative correction from acts that warrant criminal sanction.

LITERATURE REVIEW

Conceptual Foundations

Village funds are funds from the state budget transferred to villages through district or city budgets to finance governance, development, community development, and community empowerment. Under Government Regulation Number 60 of 2014, their allocation considers a basic allocation together with population, poverty rate, area, and geographic difficulty. Village financial management covers planning, implementation, administration, reporting, and accountability within one fiscal year, guided by transparency, accountability, participation, and budget discipline (Minister of Home Affairs Regulation Number 20 of 2018). The village head, as holder of power over village financial management, sets policy, delegates authority to the technical implementers, and approves expenditure in the village budget. This concentration of decision-making power explains why a village head's policy choices, and not only the handling of money, come under legal scrutiny.

Maladministration, under Article 1 number 3 of Law Number 37 of 2008 concerning the Ombudsman, covers unlawful conduct, exceeding authority, using authority for purposes other than those for which it was granted, and negligence in public services that harms the community. Sadjijono (2008) describes it as administrative action that deviates from legal norms and involves abuse of authority, producing loss and injustice.¹¹ This definition already contains "exceeding authority" and "using authority for another purpose", which are also the vocabulary of abuse of authority in Articles 17 and 18 of Law Number 30 of 2014 and of Article 3 of the Anti-Corruption Law. This review reads that overlap as one source of the difficulty in drawing the line between administrative and criminal wrongdoing.¹²

Corruption derives from the Latin *corruptus* and denotes dishonest conduct that harms, especially in financial matters, through deviation from public interest for personal or group gain. Hamzah and Sudarto, as discussed by Hartanti (2005), identify its elements as unlawful conduct, personal or group benefit, and loss to state finances or the state economy, which must be established by objective evidence.¹³ In civil law,

¹¹ Sadjijono, *Memahami Bab Pokok Hukum Administrasi Negara* (Yogyakarta: Laksbang Presindo, 2008).

¹² Edy Basuki, "Implikasi Hukum Kewenangan Pengadilan Tata Usaha Negara Dalam Pengujian Unsur Penyalahgunaan Wewenang Yang Terkait Dengan Tindak Pidana Korupsi," *Jurnal Hukum Dan Kenotariatan* 6, no. 2 (August 7, 2022): 1270–96, <https://doi.org/10.33474/hukeno.v6i2.17638>; Darmawan and Pattiasina, "Konstruksi/Karakter Hukum Penyalahgunaan Wewenang Dan Menyalahgunakan Kewenangan Dalam Tindak Pidana Korupsi."

¹³ Evi Hartanti, *Tindak Pidana Korupsi* (Jakarta: Sinar Grafika, 2005).

an unlawful act under Article 1365 of the Civil Code requires a violation of law or of another's rights, loss, and fault.¹⁴ The criminal concept works differently. Darmawan and Pattiasina (2023) and Basuki (2022) treat abuse of authority as a species of the genus unlawful act, which arises when authority is deliberately diverted from its purpose for a negative personal interest.¹⁵ Law Number 30 of 2014 classifies abuse of authority as exceeding authority, mixing authority, and acting arbitrarily (Articles 17 and 18).

Debate One: The Boundary between Maladministration and Corruption

Two positions structure this debate. The first gives primacy to administrative law. Darmawan and Pattiasina (2023) argue that a policy is not a matter for criminal assessment and that a violation committed in exercising authority is first of all a breach of administrative norms.¹⁶ Basuki (2022) adds that Article 21 of Law Number 30 of 2014 and Supreme Court Regulation Number 4 of 2015 let the State Administrative Court test for abuse of authority after the internal supervisory apparatus has reported and before any criminal process begins.¹⁷ Under Article 20, that report may find no error, an administrative error, or an administrative error causing state loss, with different consequences for each. Criminal judges, on this view, assess legality (*rechtmatigheid*) and not the appropriateness of policy (*doelmatigheid*).

The second position stresses the limits of the administrative route. Basuki (2022) notes that returning state losses does not erase criminal liability under Article 4 of the Anti-Corruption Law, and that a finding of abuse of authority opens the door to criminal process where intent is proven.¹⁸ Sijabat et al. (2025) warn that the administrative path can become a loophole for officials, while excessive repression discourages officials from taking necessary decisions.¹⁹ They propose that a violation of the General Principles of Good Governance without malicious intent be treated as administrative, and that intent to benefit oneself or others, together with significant state loss, mark the criminal. Good faith, they stress, must not become a shield.

¹⁴ Djaja S. Meliala, *Hukum Perdata Dalam Perspektif BW* (Bandung: Nuansa Aulia, 2014).

¹⁵ Darmawan and Pattiasina, "Konstruksi/Karakter Hukum Penyalahgunaan Wewenang Dan Menyalahgunakan Kewenangan Dalam Tindak Pidana Korupsi"; Basuki, "Implikasi Hukum Kewenangan Pengadilan Tata Usaha Negara Dalam Pengujian Unsur Penyalahgunaan Wewenang Yang Terkait Dengan Tindak Pidana Korupsi."

¹⁶ Darmawan and Pattiasina, "Konstruksi/Karakter Hukum Penyalahgunaan Wewenang Dan Menyalahgunakan Kewenangan Dalam Tindak Pidana Korupsi."

¹⁷ Basuki, "Implikasi Hukum Kewenangan Pengadilan Tata Usaha Negara Dalam Pengujian Unsur Penyalahgunaan Wewenang Yang Terkait Dengan Tindak Pidana Korupsi."

¹⁸ Basuki.

¹⁹ Sijabat et al., "Analisis Perbedaan Unsur Penyalahgunaan Kewenangan Dalam Undang-Undang Tipikor Dan Undang-Undang Administrasi Pemerintahan: Implikasi Terhadap Penegakan Hukum."

Three theoretical lenses sharpen the debate. Aristotle's proportional equality, as explained by Huijbers,²⁰ requires giving each what is due according to ability and achievement, which supports treating an administrative error and a deliberate enrichment differently, while numerical equality means no official is immune merely because the act was labeled a policy. Goldstein's concepts of total, full, and actual enforcement show that enforcement is always selective because of limits of time, personnel and procedure.²¹ Choosing between an administrative and a criminal response is therefore an exercise of discretion that needs explicit criteria. Finally, punishment theory holds that retributive aims, preventive aims, and their combination all have a place, and that lawmakers, prosecutors, and judges need a comprehensive grasp of them rather than adherence to one.²² Basuki (2022) reads this as treating criminal law as the last resort (*ultimum remedium*),²³ and Darmawan and Pattiasina (2023) call for reviewing the habit of using repression as the first remedy.²⁴ Preventive aims fit administrative correction and restitution for non-culpable error, whereas retribution and deterrence fit deliberate enrichment.

The sources reviewed discuss public officials in general. None squarely addresses whether the Article 20 and 21 mechanism is available to village heads, whose financial supervision rests on district-level supervisory bodies. That question frames the analysis in this article.

Debate Two: Legal Protection for Village Heads Suspected of Corruption

Legal protection, in Rahardjo's (2014) sense, is the protection of rights, especially human rights, from harm caused by others, so that people can enjoy the rights the law gives them.²⁵ Hadjon (1987) distinguishes preventive from repressive protection.²⁶ Applied here, preventive protection includes clear boundaries between administrative and criminal liability, supervisory review before prosecution, and the principle of good faith.²⁷ Basuki (2022) describes the administrative court mechanism

²⁰ Hyronimus Rhiti, *Filsafat Hukum Edisi Lengkap (Dari Klasik Ke Postmodernisme)*, 5th editio (Yogyakarta: Universitas Atma Jaya, 2015).

²¹ Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana*, 2nd editio (Bandung: PT Citra Aditya Bakti, 2002).

²² Andi Hamzah, *Asas-Asas Hukum Pidana* (Jakarta: Rineka Cipta, 1994); Wirjono Prodjodikoro, *Asas-Asas Hukum Pidana Di Indonesia*, 3rd editio (Bandung: Eresco, 1981).

²³ Basuki, "Implikasi Hukum Kewenangan Pengadilan Tata Usaha Negara Dalam Pengujian Unsur Penyalahgunaan Wewenang Yang Terkait Dengan Tindak Pidana Korupsi."

²⁴ Darmawan and Pattiasina, "Konstruksi/Karakter Hukum Penyalahgunaan Wewenang Dan Menyalahgunakan Kewenangan Dalam Tindak Pidana Korupsi."

²⁵ Satjipto Rahardjo, *Ilmu Hukum*, 8th editio (Bandung: Citra Aditya Bakti, 2014).

²⁶ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Di Indonesia*, 1st editio (Surabaya: Bina Ilmu, 1987).

²⁷ Sijabat et al., "Analisis Perbedaan Unsur Penyalahgunaan Kewenangan Dalam Undang-Undang Tipikor Dan Undang-Undang Administrasi Pemerintahan: Implikasi Terhadap Penegakan Hukum."

as giving officials legal protection space, because they can have their decisions tested before a criminal case proceeds.²⁸ Repressive protection comprises the rights of suspects and defendants, such as the presumption of innocence, legal assistance, and pretrial review, which are examined in the Discussion.

Protection cannot be separated from accountability. Rawls's justice as fairness holds that justice depends on the integrity of the procedure and not only on the outcome,²⁹ which supports fair and sequenced testing procedures for any official. Hobbes's view that justice consists in keeping agreements, including regulations made for public welfare, suggests that the village budget framework works as a covenant between the state, the village government, and the community, so protection presupposes that the covenant has been kept.³⁰ Salmon and Saimima (2023) show that limited legal understanding among village officials contributes to misuse and recommend training, which indicates that preventive protection also means building capacity.³¹ De Recht scholarship on prolonged village head tenure points in the same direction: longer power raises the risk of abuse.³²

Debate Three: The Reach of Reversal of the Burden of Proof

The Anti-Corruption Law provides for reversal of the burden of proof in Articles 12B paragraph (1), 37, 37A, 38A, and 38B, which require the defendant to prove two kinds of matters. First, where the offence is bribery involving gratification worth IDR 10 million or more, the defendant must prove that the gratification is not a bribe. Second, under Article 38B, the defendant must show that property not yet charged does not originate from unlawful activity. Krishna et al. (2021) place this device within the logic of corruption as an extraordinary crime that justifies extraordinary evidentiary rules.³³

Its reach is limited for the present problem. The provisions address gratification and unexplained assets, so the prosecution still carries the burden of proving the core elements of unlawful conduct, abuse of authority, and state loss. Reversal therefore does little to resolve whether a village head's policy decision crossed the boundary discussed above. It matters more for the protection debate, because shifting the burden

²⁸ Basuki, "Implikasi Hukum Kewenangan Pengadilan Tata Usaha Negara Dalam Pengujian Unsur Penyalahgunaan Wewenang Yang Terkait Dengan Tindak Pidana Korupsi."

²⁹ Rheti, *Filsafat Hukum Edisi Lengkap (Dari Klasik Ke Postmodernisme)*.

³⁰ Muhammad Syukri Albani Nasution et al., *Hukum Dalam Pendekatan Filsafat*, 2nd editio (Jakarta: Kencana, 2017).

³¹ Salmon and Saimima, "Tindak Pidana Korupsi Dan Alokasi Dana Desa."

³² Alfarabi, "The Problem of Constitutionalism of Village Head Tenure in the Dimension of the State of Law and Democracy."

³³ Made Mahadwiva Surya Krishna, I Nyoman Gede Sugiartha, and Ni Made Sukaryati Karma, "Sistem Pembuktian Terbalik Dalam Pemberantasan Tindak Pidana Korupsi," *Jurnal Interpretasi Hukum* 2, no. 2 (2021), <https://www.ejournal.warmadewa.ac.id/index.php/juinhum/article/view/3409>.

onto defendants must remain balanced against their rights. This reading is the authors' own analysis of the statutory text.

Synthesis and Research Gap

The literature converges on three points. The line between administrative and criminal liability turns on deliberate diversion of authority for personal benefit, accompanied by state loss. Both over-criminalization of good-faith officials and an administrative loophole for corrupt ones are real risks. Reversal of the burden of proof operates at the margins of this problem. What remains unexamined is how these criteria apply to village heads managing village funds and how their legal protection should be organized in that process. The Results and Discussion apply four criteria drawn from this review: deliberate diversion of purpose for personal benefit, conformity to the General Principles of Good Governance and to regulation, state loss and its restitution, and procedural safeguards for the suspected official.

RESEARCH METHODOLOGY

This study is normative legal research, understood as a process of finding legal rules, principles, and doctrines in order to answer the legal issues at hand,³⁴ with its focus on positive legal norms, legal principles, and the systematics of law.³⁵ This design is appropriate because both research questions concern the content, limits, and coherence of legal norms: where maladministration ends and corruption begins in village fund management, and what legal protection is owed to a village head suspected of corruption. The study is descriptive and analytical in its specification and uses three approaches. The statute approach examines the laws and regulations related to the issue, namely the Village Law, the Anti-Corruption Law, the Government Administration Law, the Ombudsman Law, Government Regulation Number 60 of 2014, and Minister of Home Affairs Regulation Number 20 of 2018, with attention to their consistency and hierarchy.³⁶ The conceptual approach draws on legal doctrines of abuse of authority, maladministration, unlawful acts, and legal protection to clarify concepts that statutes leave undefined, such as the meaning of abuse of authority in Article 3 of the Anti-Corruption Law. The philosophical approach examines the values underlying the legal rules, using theories of justice to assess whether the boundary between administrative and criminal liability, and the protection given to village heads, are just.

³⁴ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2017), https://books.google.co.id/books?id=CKZADwAAQBAJ&printsec=copyright&utm_source=chatgpt.com#v=onepage&q&f=false.

³⁵ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, 1st edition (Jakarta: Rajawali Pers, 2015).

³⁶ Marzuki, *Penelitian Hukum*.

The legal materials consist of three types. Primary legal materials are binding sources, namely the statutes and regulations listed above, Supreme Court Regulation Number 4 of 2015 on the assessment of abuse of authority, and court decisions concerning corruption in village fund management and the testing of abuse of authority. Secondary legal materials are books and scholarly journal articles on abuse of authority, village fund corruption, legal protection of public officials, and reversal of the burden of proof, with priority given to articles published between 2021 and 2025. Tertiary legal materials are legal dictionaries, the Indonesian dictionary, and encyclopedias used to clarify terms. The materials were collected through document study, that is, by identifying, inventorying, and classifying statutes, decisions, and literature according to the two research questions, and by selecting sources for their relevance and authority.

The analysis is descriptive and qualitative and proceeds through deductive reasoning. General legal norms and principles serve as the major premise, the facts and problems of village fund management serve as the minor premise, and the conclusion is drawn by applying the former to the latter.³⁷ The analysis is guided by four criteria derived from the literature review: whether authority was deliberately diverted from its purpose for personal benefit, whether the act conformed to the General Principles of Good Governance and to regulation, whether state loss occurred and was restored, and whether procedural safeguards were available to the suspected official. These criteria allow the findings to be verified against the materials cited and keep the analysis tied to the research questions.

RESULT AND DISCUSSION

Forms of Unlawful Acts: Maladministration and Corruption in Village Fund Management Policy

Corruption, according to Transparency International, is the act of public officials, such as politicians and civil servants, who abuse power for personal gain or to benefit related parties in violation of the law.³⁸ In village fund management, this means that funds meant for public needs are diverted to personal or group interests. Data on the village sector reported by Databoks show 129 cases in 2020 with potential state loss of IDR 50.1 billion, 154 cases in 2021 (IDR 233 billion), 155 cases in 2022 (IDR 381 billion), and 187 cases in 2023 (IDR 162 billion), as cited in Aisah, Anwar, and Suradi (2025).³⁹ Because these funds finance local development directly, the harm extends

³⁷ Marzuki.

³⁸ Harianto, Mudji Rahardjo, and Bambang Martin Baru, *Pengelolaan Dana Desa Dan Tindak Pidana Korupsi* (Surabaya: UD Dalle Nurul Utama, 2022).

³⁹ Putri Maharani Rahma Aisah, Syahrul Anwar, and Suradi, "Analisis Pertanggungjawaban Pidana Kepala Desa Dalam Tindak Pidana Korupsi Dana Desa (Studi Putusan Nomor

beyond financial loss to public services and trust in village government.⁴⁰ Non-legal drivers such as electoral costs and greed are widely discussed, but this article is doctrinal and therefore concentrates on legal factors.

Legal factors appear in three forms. First, regulatory ambiguity: Article 3 of the Anti-Corruption Law does not define abuse of authority, and its meaning differs from that in Law Number 30 of 2014, which leaves room for divergent interpretation.⁴¹ Ambiguous rules also make corruption harder to uncover, and Sudarto's reminder that clean government cannot depend on criminal regulation alone applies here.⁴² Second, weak internal control: in the Cibentang case discussed below, the village head centralized disbursement decisions without the village consultative body and controlled the village treasurer, so no effective check operated.⁴³ Transparency and a system of checks and balances reduce such opportunities.⁴⁴ Third, limited capacity: misuse may be unintentional and arise from limited understanding of how funds are used and reported.⁴⁵

The decisive question is when a deviation in village fund management stops being maladministration and becomes corruption. Under Law Number 30 of 2014 and Government Regulation Number 48 of 2016, a village head who breaches legality or the General Principles of Good Governance faces administrative consequences. Where internal supervision finds only an administrative error, the follow-up is administrative improvement, and where it finds an error causing state loss, the loss must be returned within ten working days (Law Number 30 of 2014, Article 20, as discussed in Basuki 2022).⁴⁶ The village head holds the authority to manage village finances and is responsible administratively and legally for deviations (Minister of Home Affairs Regulation Number 20 of 2018). Criminal liability requires more. Article 2 paragraph

32/Pid.SusTPK/2021/PN.Bdg),” *Integrative Perspectives of Social and Science Journal* 2, no. 6 (2025): 8945–55, <https://ipssj.com/index.php/ojs/article/view/1049>.

⁴⁰ Aisah, Anwar, and Suradi.

⁴¹ Basuki, “Implikasi Hukum Kewenangan Pengadilan Tata Usaha Negara Dalam Pengujian Unsur Penyalahgunaan Wewenang Yang Terkait Dengan Tindak Pidana Korupsi”; Darmawan and Pattiasina, “Konstruksi/Karakter Hukum Penyalahgunaan Wewenang Dan Menyalahgunakan Kewenangan Dalam Tindak Pidana Korupsi”; Sijabat et al., “Analisis Perbedaan Unsur Penyalahgunaan Kewenangan Dalam Undang-Undang Tipikor Dan Undang-Undang Administrasi Pemerintahan: Implikasi Terhadap Penegakan Hukum.”

⁴² Kristian and Yopi Gunawan, *Tindak Pidana Korupsi: Kajian Terhadap Harmonisasi Antara Hukum Nasional Dan The United Nations Convention Against Corruption (UNCAC)* (Bandung: Refika Aditama, 2015).

⁴³ Aisah, Anwar, and Suradi, “Analisis Pertanggungjawaban Pidana Kepala Desa Dalam Tindak Pidana Korupsi Dana Desa (Studi Putusan Nomor 32/Pid.SusTPK/2021/PN.Bdg).”

⁴⁴ Kristian and Gunawan, *Tindak Pidana Korupsi: Kajian Terhadap Harmonisasi Antara Hukum Nasional Dan The United Nations Convention Against Corruption (UNCAC)*.

⁴⁵ Salmon and Saimima, “Tindak Pidana Korupsi Dan Alokasi Dana Desa.”

⁴⁶ Basuki, “Implikasi Hukum Kewenangan Pengadilan Tata Usaha Negara Dalam Pengujian Unsur Penyalahgunaan Wewenang Yang Terkait Dengan Tindak Pidana Korupsi.”

(1) of the Anti-Corruption Law requires unlawful conduct that enriches oneself or others and harms state finances, while Article 3 requires abuse of authority, opportunity, or means arising from office, with the purpose of benefiting oneself or others, and harm to state finances. Because abuse of authority is a species of the unlawful act in Article 2,⁴⁷ Article 3 is the natural fit for a village head acting through the authority of office. These articles have been reformulated in Articles 603 and 604 of the Criminal Code, in force since 2 January 2026, and the decisions discussed here were rendered under the earlier text.

Two developments sharpen the line. First, Constitutional Court Decision Number 25/PUU-XIV/2016 removed the word “may” from Articles 2 paragraph (1) and 3, so that state loss must be real and certain and not merely potential. The description of these offences as formal offences in Basuki (2022) therefore no longer holds.⁴⁸ Second, state loss in village cases may be established by an audit from the inspectorate, as the decision below accepted by referring to Constitutional Court Decision Number 31/PUU-X/2012.⁴⁹ The same inspectorate audit can thus lead either to administrative correction or to evidence in a criminal case. In the authors’ analysis, what separates the two routes is not the audit itself but intent, diversion of purpose, and personal benefit.

The decision of the Bandung District Corruption Court in Case Number 32/Pid.Sus-TPK/2021/PN.Bdg, as analyzed by Aisah, Anwar, and Suradi (2025),⁵⁰ shows where a court drew the line. The village head of Cibentang disbursed village funds and village allocation funds for 2018 and 2019 without proper procedure and drew money through repeated receipts presented as temporary loans. He produced fictitious accountability reports for activities that were incomplete or not carried out, and withheld village land rent of IDR 19,990,000 and IDR 66,000,000 from the village treasury. The inspectorate audit calculated a loss of IDR 401,014,954. The court found the primary charge under Article 2 paragraph (1) not proven and convicted under Article 3. It held that the conduct was not mere administrative negligence but a conscious abuse of office, rejected the loan defense because the withdrawals lacked procedure, approval by the village consultative body, and accountability, and treated the return of money only as a mitigating factor and not as removing guilt.⁵¹

Read against the four criteria used in this study, the case lies clearly on the criminal side. The diversion of purpose was deliberate and concealed, as the falsified reports and the splitting of withdrawals show. The village head benefited personally,

⁴⁷ Basuki.

⁴⁸ Basuki.

⁴⁹ Aisah, Anwar, and Suradi, “Analisis Pertanggungjawaban Pidana Kepala Desa Dalam Tindak Pidana Korupsi Dana Desa (Studi Putusan Nomor 32/Pid.SusTPK/2021/PN.Bdg).”

⁵⁰ Aisah, Anwar, and Suradi.

⁵¹ Aisah, Anwar, and Suradi.

the conduct disregarded Minister of Home Affairs Regulation Number 20 of 2018, and the loss was real. The pattern also persisted across two budget years, which Aisah, Anwar, and Suradi (2025) read as showing intent and not mere procedural error.⁵² The forms of misuse in this decision map onto the statutory elements: fictitious reports and falsified administration are an abuse of the means and opportunity that come with office, withdrawals for personal needs show the purpose of benefiting oneself, and unrealized activities and undeposited income produce the loss. The earlier draft described misuse as spending that does not match the budget plan. The decision shows that such a mismatch alone does not suffice, and that concealment, personal benefit, and real loss are the decisive features.

The administrative side of the line covers deviations without personal benefit or concealment, such as incomplete reporting or spending outside the approved budget without following the amendment procedure. These often stem from limited understanding of utilization and reporting rules.⁵³ A violation of the General Principles of Good Governance without malicious intent calls for administrative treatment, whereas intent to benefit oneself or others together with significant loss marks the criminal.⁵⁴ Proportional justice and the treatment of criminal law as a last resort point the same way.⁵⁵ The decision reviewed here does not itself present such an administrative case, so this contrast is the authors' analysis. Whether the testing mechanism of Articles 20 and 21 of Law Number 30 of 2014 is available to village heads remains open, and it is taken up in the next section.

Legal Protection for Village Heads Suspected of Corruption in Village Fund Management

Legal protection, understood as the protection of rights from harm caused by others,⁵⁶ operates preventively before a violation and repressively after it.⁵⁷ For a village head suspected of corruption, the question is not whether protection should exist but whether it shields against arbitrary process without weakening enforcement. The tension is real. Over-criminalization may deter officials from taking necessary

⁵² Aisah, Anwar, and Suradi.

⁵³ Salmon and Saimima, "Tindak Pidana Korupsi Dan Alokasi Dana Desa."

⁵⁴ Sijabat et al., "Analisis Perbedaan Unsur Penyalahgunaan Kewenangan Dalam Undang-Undang Tipikor Dan Undang-Undang Administrasi Pemerintahan: Implikasi Terhadap Penegakan Hukum."

⁵⁵ Darmawan and Pattiasina, "Konstruksi/Karakter Hukum Penyalahgunaan Wewenang Dan Menyalahgunakan Kewenangan Dalam Tindak Pidana Korupsi"; Basuki, "Implikasi Hukum Kewenangan Pengadilan Tata Usaha Negara Dalam Pengujian Unsur Penyalahgunaan Wewenang Yang Terkait Dengan Tindak Pidana Korupsi."

⁵⁶ Rahardjo, *Ilmu Hukum*.

⁵⁷ Hadjon, *Perlindungan Hukum Bagi Rakyat Di Indonesia*.

decisions, while good faith must not become a shield.⁵⁸ The analysis below therefore asks of each safeguard what it protects and where it stops.

The presumption of innocence is the foundation. Article 8 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, which replaced the Law Number 4 of 2004 cited in the earlier draft, requires that anyone suspected, arrested, detained, prosecuted, or brought before a court be presumed innocent until a final court decision establishes guilt. The new Criminal Procedure Code, Law Number 20 of 2025, in force since 2 January 2026, grounds the rights of suspects and defendants in the same principle.⁵⁹ The burden of proof therefore rests on the accuser. Reversal of the burden under Articles 12B, 37, 37A, and 38B of the Anti-Corruption Law is limited to gratification and unexplained assets. Village fund cases such as the Cibentang case are charged under Articles 2 and 3, so the prosecution must prove the elements and the presumption keeps its full force.

The earlier draft defined a suspect through Article 1 number 14 of the 1981 Code, which required preliminary evidence. That Code has been replaced. Under Article 1 number 28 and Article 90 paragraph (1) of Law Number 20 of 2025, a person may be designated a suspect only on at least two pieces of evidence.⁶⁰ Article 142 gathers the rights of suspects and defendants, including the right to be examined promptly, to be assisted by an advocate from the first examination, and to be free from torture and inhuman treatment.⁶¹ Transitional provisions leave cases already in progress under the old procedure. These rights match what the earlier draft listed, namely examination, legal assistance, and a fair trial, but are now stated more specifically. Their reach has limits. In the Cibentang case, the defendant's cooperative attitude and remorse counted only as mitigating circumstances,⁶² so rights of defense and cooperation operate at sentencing and not as a bar to liability.

Pretrial review is the main repressive safeguard against arbitrary coercive measures. The earlier draft traced it to habeas corpus.⁶³ Under the old Code,

⁵⁸ Sijabat et al., "Analisis Perbedaan Unsur Penyalahgunaan Kewenangan Dalam Undang-Undang Tipikor Dan Undang-Undang Administrasi Pemerintahan: Implikasi Terhadap Penegakan Hukum."

⁵⁹ Deva Karamina Fasha and Si Pokrol, "Perbedaan Tersangka, Terdakwa, Dan Terpidana," Hukumonline, 2026, <https://www.hukumonline.com/klinik/a/perbedaan-tersangka--terdakwa--dan-terpidana-lt66bb8b2f509fe/>; Willa Wahyuni, "KUHP Baru Perkuat Hak Tersangka Dan Wajibkan Bantuan Hukum Sejak Awal Pemeriksaan," Hukumonline, 2026, <https://www.hukumonline.com/berita/a/kuhap-baru-perkuat-hak-tersangka-dan-wajibkan-bantuan-hukum-sejak-awal-pemeriksaan-lt6978608bb7d37/>.

⁶⁰ Wahyuni, "KUHP Baru Perkuat Hak Tersangka Dan Wajibkan Bantuan Hukum Sejak Awal Pemeriksaan."

⁶¹ Wahyuni.

⁶² Aisah, Anwar, and Suradi, "Analisis Pertanggungjawaban Pidana Kepala Desa Dalam Tindak Pidana Korupsi Dana Desa (Studi Putusan Nomor 32/Pid.SusTPK/2021/PN.Bdg)."

⁶³ Djoko Prakoso and Agus Ismunarso, *Hak Asasi Tersangka Dan Peranan Psikologi Dalam Konteks KUHP* (Jakarta: Bina Aksara, 1987).

Constitutional Court Decision Number 21/PUU-XII/2014 extended pretrial review to the designation of a suspect. Under Law Number 20 of 2025, designation of a suspect is itself a coercive measure whose lawfulness can be tested (Articles 1 number 14 and 158 letter a), and the petitioner may be the suspect, the family, the victim, the reporter, or an advocate (Article 1 number 15).⁶⁴ Its effectiveness for village heads should be judged soberly. Pretrial tests whether a measure was lawful, for example whether two pieces of evidence existed and procedure was followed, and not whether the conduct was administrative or criminal in nature. The sources reviewed do not show that a pretrial judge may reach that classification, which is why the preventive safeguards below matter. A Supreme Court commentary also notes that petitions on different coercive measures may be filed one after another under Articles 89 and 160, which raises questions about the continuation of the main case.⁶⁵ Whether a prospective suspect must first be examined, as the reasoning of Decision Number 21/PUU-XII/2014 required under the old Code, remains debated under the new one.⁶⁶

Village heads also face protections and burdens specific to their office. Law Number 6 of 2014 provides for temporary dismissal after a village head is declared a defendant facing a minimum penalty of five years, and for permanent dismissal only after a final conviction (Articles 41 and 43). Minister of Home Affairs Regulation Number 82 of 2015, as amended by Regulation Number 66 of 2017, allows temporary dismissal already at the stage of suspect status for corruption, with the village secretary performing the duties in the meantime. A village head who is not convicted is reactivated or, if the term has ended, rehabilitated (Article 42 of Law Number 6 of 2014). This preserves continuity of village governance but imposes a burden before any verdict, which sits uneasily with the presumption of innocence. In the authors' reading, because Articles 2 and 3 carry minimum penalties of four years and one year respectively, the five-year criterion alone would not reach them, which may explain the separate rule for corruption suspects.

Preventive safeguards come from administrative law. Articles 20 and 21 of Law Number 30 of 2014 and Supreme Court Regulation Number 4 of 2015 allow abuse of authority to be assessed by the State Administrative Court before a criminal process, after the internal supervisory apparatus has reported. Basuki (2022) describes this as legal protection space for officials, and holds that a final finding of no abuse bars further examination, while restitution of losses does not remove criminal liability under

⁶⁴ Sunoto, "Haruskah Seseorang Diperiksa Dahulu Sebelum Ditetapkan Sebagai Tersangka?," MARINews Mahkamah Agung, 2026, <https://marinews.mahkamahagung.go.id/artikel/haruskah-diperiksa-sebelum-ditetapkan-sebagai-tersangka-0brn>.

⁶⁵ Adji Prakoso, "Membedah Praperadilan Di KUHAP Baru," MARINews Mahkamah Agung, 2026, <https://marinews.mahkamahagung.go.id/artikel/membedah-praperadilan-di-kuhap-baru-0N9>.

⁶⁶ Sunoto, "Haruskah Seseorang Diperiksa Dahulu Sebelum Ditetapkan Sebagai Tersangka?"

Article 4 of the Anti-Corruption Law.⁶⁷ Cibentang confirms the second point, since the return of money was treated only as mitigating. Two difficulties remain. The sources reviewed do not settle whether village heads may use this route. And the same inspectorate audit that would trigger it supplied the evidence of state loss in Cibentang,⁶⁸ so protection depends on the audit's classification of the finding being made before, and independently of, criminal enforcement. Capacity building is a further preventive measure, because limited understanding of utilization and reporting rules contributes to unintentional misuse.⁶⁹

Protection for village heads therefore exists in four layers. The first is preventive: a clear boundary between administrative and criminal liability, supervisory review, and capacity building. The second is procedural: the presumption of innocence, the two-evidence threshold, advocate assistance from the first examination, and pretrial review. The third is administrative: temporary dismissal with reactivation or rehabilitation. The fourth is a set of limits: restitution and good faith do not shield deliberate abuse. The main gaps are the unsettled availability of the administrative court route to village heads, the procedural focus of pretrial review, the double role of the inspectorate audit, and the uncertainty of the transition to the new procedural code. These gaps, rather than the absence of protection, are where reform is most needed.

CONCLUSION

On the first research question, this article finds that maladministration and corruption in village fund management policy differ in kind and not merely in degree. Maladministration covers deviations from legality or good governance that lack deliberate diversion of authority and personal benefit, and these call for administrative correction. Corruption arises when a village head deliberately and covertly diverts authority for personal benefit and causes real state loss, as shown by fictitious accountability reports, withdrawals without procedure or approval, and withheld village income. Four indicators mark the boundary: deliberate diversion of purpose, personal benefit, conformity with regulation and good governance principles, and actual loss. Because state loss must now be real and certain, and because restitution does not remove criminal liability, the return of funds can mitigate a sentence but cannot turn a corrupt act into an administrative one.

On the second research question, legal protection for a village head suspected of corruption exists in four layers. Preventive protection consists of a clear boundary

⁶⁷ Basuki, "Implikasi Hukum Kewenangan Pengadilan Tata Usaha Negara Dalam Pengujian Unsur Penyalahgunaan Wewenang Yang Terkait Dengan Tindak Pidana Korupsi."

⁶⁸ Aisah, Anwar, and Suradi, "Analisis Pertanggungjawaban Pidana Kepala Desa Dalam Tindak Pidana Korupsi Dana Desa (Studi Putusan Nomor 32/Pid.SusTPK/2021/PN.Bdg)."

⁶⁹ Salmon and Saimima, "Tindak Pidana Korupsi Dan Alokasi Dana Desa."

between administrative and criminal liability, supervisory review, and capacity building. Procedural protection consists of the presumption of innocence, a two-evidence threshold for naming a suspect, advocate assistance from the first examination, and pretrial review. Administrative protection allows temporary dismissal with later reactivation or rehabilitation. The fourth layer is a set of limits, because neither good faith nor restitution shields deliberate abuse. Four gaps weaken this protection: it is unsettled whether village heads may use the administrative court route, pretrial review tests the lawfulness of a measure and not the classification of the conduct, the same inspectorate audit serves both as a safeguard and as criminal evidence, and the transition to the new criminal procedure and criminal codes is still uncertain.

The novelty of this article lies in treating the boundary question and the protection question together, so that protection is tied to the criteria that separate administrative error from corruption. Three policy implications follow. Regulation should state how the assessment of abuse of authority applies to village heads, and inspectorate findings should classify the nature of a deviation before and independently of enforcement. Law enforcement agencies should adopt explicit criteria for choosing between administrative and criminal responses. Village governments should receive sustained training in utilization and reporting rules. Future research should examine how courts have treated pretrial petitions and administrative testing in village fund cases, and how the new procedural code changes the position of village heads in practice.

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