

COURT DECISION NUMBER 6/PID.SUS-TPK/PN PGP IN THE PERSPECTIVE OF THE JUSTICE THEORY ESPECIALLY ACCORDING TO THOMAS HOBBS

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Article	Abstract
Article History: Submitted: September 2024 Reviewed: October 2025 Accepted: October 2025 Published: October 2025 Keywords: Justice Theory; Obstruction of Justice; Thomas Hobbes.	<i>This study raises the problem that the Pangkalpinang District Court Decision Number 6/Pid.Sus-TPK/PN Pgp against the crime of obstruction of justice in the crime of corruption is considered contrary to the value of justice, because the sanctions imposed on the defendant with the losses suffered by the state are not balanced. Based on the gap between legal norms and legal facts that have been stated, this research aims to criticize the decision through the perspective of the theory of justice according to Thomas Hobbes, in addition to discussing it from the perspective of social justice theory and the purpose of punishment, especially integrative theory. This research used normative juridical legal research methods with a conceptual approach that is connected based on secondary legal materials, namely the theory of justice put forward by Thomas Hobbes. The results of this research stated that the Pangkalpinang District Court Decision Number 6/Pid.Sus-TPK/PN Pgp did not fulfill the criteria of the theory of justice stated by Thomas Hobbes, which states that the judge must consider the public interest harmed by Toni Tamsil's actions. The decision also contradicts the integrative theory, which emphasizes that punishment aims to avenge the perpetrator's actions of the crime and a preventive effort so that the crime does not recur. On the other hand, the decision also hurts the social justice aspect in society and is contrary to the state foundation of Pancasila, namely social justice for all Indonesian people.</i>

A. Introduction

Corruption cases in Indonesia continue to show an increase from year to year so that it becomes a concern in itself as stated by the Legal and Judicial Monitoring Division of Indonesia Corruption Watch (ICW) in May 2024 that in 2021 there were 533 corruption cases, the number then increased to 579 cases in 2022 and jumped rapidly in 2023 where there were 791 corruption cases in Indonesia. ICW also explained that there are two reasons why the number of corruption cases in Indonesia always increases every year, firstly because the corruption eradication measures taken by the government are not optimal and secondly because there is no optimal corruption prevention strategy, especially in government institutions. Corruption cases that continue to increase will become an obstacle to the implementation of development in various sectors in Indonesia, especially now that the Government of Indonesia has echoed the vision of the Golden Indonesia 2045, one of the pillars of which is strengthening

national resilience and governance through strengthening the national legal system and anti-corruption.¹

The corruption case that attracted the most public attention in 2024 was the corruption case committed by a number of figures from PT Timah Tbk. which caused state losses of Rp. 300,000,000,000 (Three Hundred Trillion Rupiah),² so far the Attorney General's Office of the Republic of Indonesia has named 21 people as suspects in the case. One of the suspects is Toni Tamsil who obstructed the investigation process or obstruction of justice carried out by the Attorney General's Office. Although he was not a key figure in the corruption case, but his actions have violated the provisions of Article 21 of Law Number 31 of 1999 concerning the Eradication of Corruption or hereinafter referred to as the Law on the Eradication of Corruption.³

Toni Tamsil, who is a supplier of milk and rice in the tin mining smelter CV Venus Inti Perkasa, has obstructed the Prosecutor's Office when they wanted to find documents in the form of company data for CV Venus Inti Perkasa and PT Menara Cipta Mulia, both companies that are active in the field of tin mining in Riau Islands Province. In an effort to make it difficult for the Prosecutor's Office, he hid the documents of the two companies in a car parked behind his house. In addition to committing the acts as mentioned, Toni Tamsil also deliberately escaped from the call of investigators, he also locked the door of his pearl shop, making it difficult for investigators from the Prosecutor's Office to search the pearl shop.⁴

In connection with the corruption case committed by a number of PT Timah Tbk. Figures, Toni Tamsil also committed acts of obstruction of justice by avoiding the order of the Prosecutor's Office investigators to be present at his residence during the search process, Toni Tamsil also damaged his mobile phone so that investigators could not obtain electronic evidence to find the material truth of the corruption case. Toni Tamsil also gave false testimony in relation to the investigator's question whether he knew Tamron, the owner of CV Venus Inti Perkasa, by saying that he did not know Tamron, even though he was a supplier of milk and rice at the CV Venus Inti Perkasa tin mining smelter.⁵

¹ Anantawikrama Tungga Atmadja, and Nengah Bawa Atmadja, *Sosiologi Korupsi: Kajian Multiperspektif, Integralistik dan Pencegahan*, (Jakarta: Prenadamedia Group, 2019), 296-311.

² Public Prosecution Service of Indonesia, "Jaksa Agung: Kerugian Negara akibat Korupsi Komoditas Timah yang semula Rp271 Triliun sekarang jadi Rp300 Triliun", <https://story.kejaksaan.go.id/berita-utama/jaksaagung-kerugian-negara-akibat-korupsi-komo-ditas-timah-jadi-rp300-triliun-141575-mvk.html>, accessed 13 September 2024

³ Pangkalpinang District Court Decision No. 6/Pid.Sus-TPK/PN regarding The Crime of Obstruction of Justice With the Convicted Person Toni Tamsil.

⁴ *Ibid.*

⁵ *Ibid.*

As a result of his actions, the Panel of Judges of the Pangkalpinang District Court in decision number 6/Pid.Sus-TPK/PN Pgp imposed a sanction in the form of imprisonment for three years against Toni Tamsil, because Toni Tamsil was proven to have committed acts of obstruction of justice or obstruction of investigations against law enforcement officials, in this case the Attorney General's Office of the Republic of Indonesia, who wanted to collect evidence in the case. Based on Article 21 of the Law on the Eradication of Corruption which stipulates that anyone who commits an act of obstruction of justice is punishable with a minimum imprisonment of 3 years (three years) and a maximum of 12 years and can also be imposed a fine with a minimum amount of Rp150,000,000.00- (one hundred and fifty million rupiah) and the maximum amount is Rp600,000,000 (six hundred million rupiah)⁶ these provisions are the basis for the imposition of punishment against Toni Tamsil. The sanction imposed on Toni Tamsil is lighter than the demands of the Public Prosecutor who demanded that Toni Tamsil be sentenced to three years and six months imprisonment and a fine of Rp200,000,000 (two hundred million rupiah).⁷

The verdict number 6/Pid.Sus-TPK/PN Pgp caused various reactions from the public, many parties considered that the verdict did not reflect justice, especially the sanctions imposed were not proportional to the state losses that the Attorney General's Office of the Republic of Indonesia was trying to save, whose process was obstructed by Toni Tamsil. The Judicial Commission, which is responsible for upholding the code of ethics for judges, took the initiative to investigate the verdict against Toni Tamsil. When referring to the sanction of imprisonment stipulated in Article 21 of the Law on the Eradication of Corruption, namely imprisonment for a minimum of 3 years (three years) and a maximum of 12 years (twelve years), the Decision of the Pangkalpinang District Court number 6/Pid.Sus-TPK/PN Pgp which imposed an imprisonment sanction of 3 years (three years) on Toni Tamsil has fulfilled the aspect of legal certainty, meaning that it is in accordance with the provisions of the Law on the Eradication of Corruption, whereas the ideal judge's decision should fulfil the criteria of the main values of law, namely justice, expediency and legal certainty proportionally.⁸ If the judge's decision ignores one of these three values, for example in the decision against Toni Tamsil which only emphasises legal certainty and ignores benefit and justice, then the decision will harm the law itself. According to Gustav Radbruch, because the court is a place for people

⁶ Central Government Indonesia, Law No. 31 of 1999, regarding Corruption Eradication (1999).

⁷ *Ibid.*

⁸ Dwinanda and Dewi, "Dasar Konseptual dan Implementasi Restorative Justice oleh Polri untuk Mewujudkan Tujuan dan Fungsi Hukum (Kepastian, Keadilan dan Kemanfaatan)", *UNES Law Review* 6, no. 2 (2023): 4198, <https://doi.org/10.31933/unesrev.v6i2.1025>.

to seek justice, the judge's decision must also be able to create a sense of justice.⁹ Based on Gustav Radbruch's view, this research seeks to assess Decision Number 6/Pid.Sus-TPK/PN Pgp using the theory of justice, especially with regard to the public interest, in this case the state, which is harmed as a result of the actions of others. Based on the criteria of public interest, Thomas Hobbes, an English philosopher, argued that the judge's decision should not only consider the interests of the defendant, but must also pay attention to the public interest that was harmed as a result of the defendant's actions.¹⁰ This research also criticises the decision from the aspect of the theory of the purpose of punishment, especially the integrative theory which states that punishment aims to repay the defendant's actions that violate the law, as well as prevent such actions from recurring in the future.

Previous studies that take the topic of obstruction of justice are as follows, M. Sutri Mansyah & La Ode Bunga Ali (2019) discuss the act of removing evidence,¹¹ Difia Setyo Mayrachelia and Irma Cahyaningtyas (2022) in their research focus on the characteristics of advocate actions that can be said to be obstruction of justice,¹² Arfiani, Syofirman Syofyan & Sucy Delyarahmani (2023) in their research discuss the problematics of law enforcement against obstruction of justice in Law Number 31 of 1999 concerning Eradication of Corruption,¹³ Orin Gusta Andini, *et al.* (2023) in their research focuses on the lack of clarity in the formulation of the offence of obstruction of justice in the Law on the Eradication of Corruption,¹⁴ M. Ridwan, *et al.* (2024) in their research focuses on the position of advocates who are considered to have committed obstruction of justice.¹⁵ In principle, the difference between this research and previous research is that this research takes the point of view of legal theory to analyse a decision on a concrete case. Meanwhile, the previous research focuses on

⁹ Peter Mahmud Marzuki, *Teori Hukum* (Jakarta: Kencana, 2020), 57.

¹⁰ M.Syariffuddin, *Prinsip Keadilan dalam Mengadili Perkara Tindak Pidana Korupsi: Implementasi Perma Nomor 1 Tahun 2020*, (Jakarta: Kencana, 2020), 24-25.

¹¹ M. Sutri Mansyah and La Ode BungaAli, "Menghilangkan Alat Bukti oleh Penyidik Tindak Pidana Korupsi sebagai Upaya Obstruction of Justice", *Ekspose: Jurnal Penelitian Hukum dan Pendidikan* 18, no. 2 (2020): 877, <https://doi.org/10.30863/ekspose.v18i2>.

¹² Difia and Irma, "Karakteristik Perbuatan Advokat yang termasuk Tindak Pidana Obstruction of Justice berdasarkan Ketentuan Pidana", *Jurnal Pembangunan Hukum Indonesia* 4, no. 1 (2022): 121, <https://doi.org/10.14710/jphi.v4i1.121-132>.

¹³ Arfiani, *et.al.*, "Problematika Penegakan Hukum Delik *Obstruction of Justice* dalam Undang-Undang Pemberantasan Tindak Pidana Korupsi", *UNES Journal of Swara Justisia* 6, no. 4 (2023): 516, <https://doi.org/10.31933/ujsj.v6i4.294>.

¹⁴ Orin Gusta Andiri, *et.al.*, "Problematika Delik Obstruction Of Justice dalam Tindak Pidana Korupsi di Indonesia", *Alauddin Law Development Journal (ALDEV)* 5, no. 3 (2023): 553, <https://doi.org/10.24252/aldev.v5i3.37894>.

¹⁵ M. Ridwan, *et.al.*, "Judges' Legal Considerations Obstacles Of Justice by Advocates Make It Difficult in Investigations, Prosecutions and Judicial Processes Against Defendants in Corruption Crimes", *Jurnal Hukum Sehasen* 10, no. 1 (2024): 339, <https://doi.org/10.37676/jhs.v10i1.6005>.

the laws and regulations that have been enacted in Indonesia, in this case the Law on the Eradication of Corruption.

Based on the gap between legal facts and legal norms that have been stated, this research aims to criticise the Decision of the Pangkalpinang District Court Number 6/Pid.Sus-TPK/PN Pgp based on the criteria of justice, especially those proposed by Thomas Hobbes. On the other hand, the theory of justice will also be strengthened with integrative theory in the purpose of punishment and the theory of social justice, so that it is expected to deepen the analysis.

B. Method

This research uses a juridical normative legal research method, namely a method of research method that examines the law as a social norm that includes laws and regulations, customary law, customary law, and decisions from judicial institutions. Normative research uses data sources in the form of secondary data consisting of primary legal materials and secondary legal materials and secondary legal materials.¹⁶ Normative research aims to answer problems that occur based on secondary data consisting of primary legal materials and secondary legal materials and secondary legal materials.¹⁷ Primary legal materials used in this research are laws and regulations. In this case, specifically Law Number 31 of 1999 concerning the Eradication of the Crime of Corruption and Court Decision Number 6/Pid.Sus-TPK/PN Pgp. Corruption Eradication and Court Decision Number 6/Pid.Sus-TPK/PN Pgp, while the secondary legal materials used in this research are legal theories that will be used in analysing, especially the theory of justice legal theories that will be used in analysing, especially the theory of justice according to Thomas Hobbes. The data collection technique used is through literature study. Approach method method used to analyse data is the conceptual approach method or legal theory by linking between legal facts, namely Court Decisions. By connecting the legal facts, namely Court Decision Number 6/Pid.Sus-TPK/PN Pgp with the theory of justice put forward by Thomas Hobbes. Pgp with the theory of justice proposed by Thomas Hobbes.¹⁸

¹⁶ Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020), 47 - 48.

¹⁷ Chrysantus Kastowo, *et.al.*, "Chat GPT From Educational, Legal and Ethical Perspectives in Indonesia", *Revista de Gestao Social e Ambiental* 18, no. 7 (2024): 5, <https://doi.org/10.24857/rgsa.v18n7-071>.

¹⁸ Muhaimin, *Op.Cit.*, 57.

C. Analysis and Discussion

1. Pangkalpinang District Court's Decision Number 6/Pid.Sus-TPK/PN

Based on Court Decision Number 6/Pid.Sus-TPK/PN Pgp, it was found that Toni Tamsil, who is a supplier of milk and rice at the tin mining smelter CV Venus Inti Perkasa, had taken several actions aimed at obstructing the Attorney General's Office of the Republic of Indonesia when it wanted to find documents in the form of company data for CV Venus Inti Perkasa and PT Menara Cipta Mulia, both of which are companies engaged in tin mining activities in Riau Islands Province. To make it difficult for the AGO, he hid the documents of the two companies in a car parked behind his house. In addition to committing the acts mentioned, Toni Tamsil also deliberately fled from the investigator's summons. He also locked the door of his pearl shop, making it difficult for investigators from the Prosecutor's Office to search the pearl shop.¹⁹

This is in connection with the corruption case several PT Timah Tbk committed. Figures, Toni Tamsil also committed acts of obstruction of justice by avoiding the order of the Prosecutor's Office investigators to be present at his residence during the search process; Toni Tamsil also damaged his cellphone so that investigators could not obtain electronic evidence to find the material truth of the corruption case. Toni Tamsil also gave false testimony regarding the investigator's question whether he knew Tamron, the owner of CV Venus Inti Perkasa, by saying that he did not know Tamron, even though he was a supplier of milk and rice at the CV Venus Inti Perkasa tin mining smelter.²⁰

As a result of his actions, the Panel of Judges of the Pangkalpinang District Court in decision number 6/Pid.Sus-TPK/PN Pgp imposed a sanction in the form of imprisonment for three years against Toni Tamsil because Toni Tamsil was proven to have committed acts of obstruction of justice or obstruction of investigations against law enforcement officials; in this case, the Attorney General's Office of the Republic of Indonesia, who wanted to collect evidence in the case. Article 21 of the Law on the Eradication of Corruption stipulates that anyone who commits an act of obstruction of justice is punishable with a minimum imprisonment of 3 years (three years) and a maximum of 12 years (twelve years) and can also be imposed a fine with a minimum amount of Rp150,000,000.00- (one hundred and fifty million rupiah). The maximum amount is Rp.600,000,000 (six hundred million rupiah); these provisions are the basis for punishing Toni Tamsil.²¹ The sanctions imposed on Toni Tamsil

¹⁹ Pangkalpinang District Court Decision No. 6/Pid.Sus-TPK/PN regarding The Crime of Obstruction of Justice.

²⁰ *Ibid.*

²¹ Central Government Indonesia, Law No. 31 of 1999, regarding Corruption Eradication, (1999).

are lighter than the demands of the Public Prosecutor, who demanded that Toni Tamsil be sentenced to three years and six months imprisonment and a fine of Rp200,000,000 (two hundred million rupiah).²²

2. Theory of Justice

Thinking about the theory of justice has developed since Ancient Greece, which began with the concept of justice according to Aristotle, namely commutative justice and distributive justice. Commutative justice is understood as general justice, meaning everyone is given the same rights without differentiating the size of the responsibility.²³ Distributive justice is the justice given to legal subjects based on the services or achievements they contribute.²⁴ The concept of justice, according to Aristotle, can be understood as everyone having the same rights regardless of the responsibilities of each person; justice is also associated with a gift to the subject for the services and achievements that the subject has provided. St Thomas Aquinas then developed the thoughts of Aristotle by proposing the concept of general justice and particular justice, which contains commutative justice, vindicative justice, and distributive justice.

The concept of general justice, according to St Thomas Aquinas, is justice given based on the command of laws and regulations aimed at achieving *bonum commune* or common good among fellow citizens. Particular justice, which includes commutative justice and distributive justice, is the same as what has been stated by Aristotle but added with one more concept, namely vindicative justice related to sanctions or punishment that a person who commits a criminal offense will be considered fair if the severity of the sanctions given is balanced with the actions committed by the defendant.²⁵ Justice, according to St Thomas Aquinas, generally emphasizes that justice is based on rules that have the purpose of good for society while specifically emphasizing the existence of vindicative justice.

John Rawls also contributed his thoughts in expressing the concept of justice. There are three main points of John Rawls' thoughts on the concept of ideal justice:²⁶

²² *Ibid.*

²³ Rudri Musdianto Saputro, "Penegakan Hukum Lingkungan di Indonesia ditinjau dari Teori Keadilan Aristoteles", *Jurnal Ilmu Sosial dan Pendidikan (JISIP)* 7, no. 1 (2023): 29, <http://dx.doi.org/10.58258/jisip.v7i1.3970>.

²⁴ Sufyan Assauri, *et.al.*, "Teori Keadilan dan Moralitas", *Pendas : Jurnal Ilmiah Pendidikan Dasar* 9, no. 4 (2024): 216, <https://doi.org/10.23969/jp.v10i02.20482>.

²⁵ Alon Maemanah, *et.al.*, "Relevansi Filsafat Hukum dalam Pemahaman Konsep Keadilan", *Jurnal Bimbingan & Konseling Keluarga*. 6, no. 3 (2024): 231-233, <https://doi.org/10.47467/as.v6i3.6516>.

²⁶ M. Syarifuddin, *Op.Cit.*, 24-25.

- a. The principle of greatest equal liberty, which means that justice must guarantee the greatest possible freedom, is then reflected in several fundamental human rights, namely the right to freedom of opinion, freedom of religion and belief, political rights, and the right to defend private property.
- b. The difference principle means that distinctions are allowed to ensure that the poor and vulnerable can benefit from utilizing resources and economic activity, for example, through social assistance and affirmative scholarships.
- c. The principle of fair equality of opportunity, the right to equal opportunity, is widely translated into the right to work, education, and development of one's potential.

John Rawls' argument emphasizes that justice has to guarantee the freedom of every human being and is embodied in human rights. The distinctions are only allowed to ensure that benefits are obtained for every human being in terms of economic, social, and other. Thus, every human being must have the same rights as every individual.

Thomas Hobbes also plays a vital role in finding the concept of ideal justice by taking the concept of agreement known in civil law. Based on Thomas Hobbes' explanation, justice arises from the consensualism of the parties who bind themselves to each other in an agreement. The agreement is then developed not only limited to private law but also public law. The agreement in public law means that when judges hear and decide cases, it must be based on the applicable laws and regulations and not favor the interests of the defendant alone but must also consider the interests and welfare of the public.²⁷ The theory put forward by Thomas Hobbes is closely related to the theory of vindicative justice put forward by St Thomas Aquinas that the imposition of punishment will be considered fair if it is balanced with the impact caused by the defendant's actions, significantly if the defendant's actions harm the public at large. According to Thomas Hobbes, justice emphasizes that judges in deciding cases must be inclined to the public interest and not favor private interests by taking sides with specific interests for profit. The importance of judges' considerations in making decisions must be based on the interests and welfare of the public in order to realize decisions that are inclined to the public interest and the imposition of sanctions that are genuinely by the impact that has been caused by actions that have harmed the state.

The theory of justice proposed by Thomas Hobbes is very relevant to analyze Court Decision Number 6/Pid.Sus-TPK/PN Pgp, especially from the perspective of justice that considers the existence of harmed public interests as a result of a criminal act or crime. The

²⁷ *Ibid.*

public interest aspect cannot be separated from the context of corruption offenses because corruption is an act that harms state finances, which can hamper development efforts. Corruption can also be accompanied by other criminal acts, which in this case is the crime of obstruction of justice. However, not an act that harms state finances, the crime of obstruction of justice can also be categorized as an act that harms the public interest because the perpetrators of the crime of obstruction of justice indirectly support the actions of the main suspects in the crime of corruption.

The theory of justice used in this research is the theory of social justice, a concept of justice closely related to the philosophy of the life of the nation and state in Indonesia, namely Pancasila, especially the fifth principle. There is no official definition of social justice, but several experts have tried to provide an understanding of how to approach the concept of social justice. Jost and Kay define social justice as a tool of the social and political system that reflects two different conditions. The first condition is that the principles of justice distribute rights and obligations in society; this concept is closely related to the concept of justice proposed by Aristotle, namely distributive justice. The second condition is formal justice, which relies on procedures, norms, and laws that regulate political decisions to defend the fundamental rights, freedoms, and rights of individuals and groups; this characteristic is closely related to the concept of procedural justice.²⁸

3. Integrative Theory

Just as the development of the theory of justice has always evolved from time to time, Likewise, the development of thoughts related to the purpose of punishment, one of which is integrative theory. To find out the foundation of integrative theory, it is necessary to trace the theories that emerged before. theories that appeared before. The earliest theory put forward in relation to the purpose of punishment is the retributive theory or the theory of punishment. is retributive theory or retaliation theory or absolute theory. The initial premise of retributive theory is that a crime committed by a person causes loss or suffering to other parties who become suffering for the other party who is the victim of his actions, then to bring satisfaction to the person who has been harmed, the punishment should be imposed on the victim. satisfaction for the person who has been harmed, the suffering must be avenged on the perpetrator of the crime. the perpetrator of the crime. This theory is ignorant of whether the

²⁸ Clara Sabbagh, Manfred Schmitt (Editor), *Handbook of Social Justice Theory and Research* (New York: Springer, 2016), 275-276.

sanctions imposed on the perpetrator of the crime will also cause harm to the community or not. Will also cause harm to society or not.²⁹ According to Johanes Andenaes, the purpose of retributive punishment is, in principle, to fulfil a sense of justice, as demanded by society as a demand from society.³⁰

As an antithesis to the thoughts put forward by the adherents of the purpose of criminal law, there is a theory of punishment objectives called relative theory or goal theory. As an antithesis to the thoughts put forward by the adherents of retributive criminal law objectives, a theory of punishment objectives is put forward which is called the relative theory or goal theory. According to the adherents of the relative theory, the imposition of punishment that is carried out only to retaliate against the perpetrator's crime has no value the perpetrator's crime has no value. Therefore, as an antithesis to the retributive theory, theory the idea is put forward that the purpose of punishment is not because there is a community that has committed a crime, but how to make the community more aware of the crime society has committed crimes, but how to prevent the society from committing crimes. When viewed characteristics of the relative theory, it can be concluded that the purpose of punishment according to the theory This is nothing but a deterrent. Johanes Andenaes later argued that this theory theory is intended to protect the public.³¹

Th. W. Van Veen argues that there are three general functions of deterrence, firstly that punishment is intended to maintain the authority of the sovereign government, without the criminal law, the sovereign government will not be respected by its people. Without criminal law, the sovereign government will not be respected by its people, Therefore, criminal offences are formulated that aim to maintain the dignity of the government. Government, for example offences of crimes against public authorities, offences of rebellion, offences of subversion, and offences of defamation subversion, and offences against the head of state and/or other state officials. Second, that punishment aims to uphold legal norms that are reflected in every offence regulated in every criminal law. offences regulated in each criminal law, and therefore, formal criminal law or criminal procedural law is needed to enforce legal norms. Formal criminal law or criminal procedural law so that each offence can be used to

²⁹ Michael Adyhaksa Padang, *et.al.*, "The Favouritism of Criminalisation in Law Number 1 Year 2023", *Locus: Journal of Legal Science Concepts* 4, no. 2 (2024): 67-69, <https://doi.org/10.56128/jkih.v4i2.348>.

³⁰ Elloynoor Mangiring Tua Sitorus, *et.al.*, "Analysis of Judges' Consideration in the Crime of Insult (Case Study of the Cilacap Court Decision Number 159/PID.B/2021/PN CLP)", *Diponegoro Law Journal* 13, no. 2 (2024): 3, <https://doi.org/10.14710/dlj.2024.43674>.

³¹ Muhammad Ramadhan and Dwi Oktafia Ariyanti, "The Purpose of Punishment in the Policy on the Renewal of Indonesian Criminal Law", *Rechten: Legal Research and Human Rights* 7, no. 5 (2023): 4-6, <https://doi.org/10.52005/rechten.v5i1.114>.

examine, try and decide a criminal offence case. Third, that the formation of criminal law norms are intended to emphasise which actions are allowed and which are not allowed. Which are not allowed.³²

As a synthesis of the retributive theory and the relative theory, the integrative theory is proposed or commonly known as the combined theory. Based on the explanation of Pellegrino Rossi (1787-1818), the integrative theory recognises retaliation as one of the principles of punishment. Integrative theory recognises the existence of retaliation as one of the principles of punishment where the severity of criminal sanctions imposed should not exceed a retaliation. The severity of criminal sanction imposed should not exceed a fair retaliation. Criminal punishment has the concept of the main balance, namely the protection of interests of society and the protection or guidance of .³³ Therefore, a person who someone who commits a criminal offence must be punished or fostered so that he does not commit a crime that causes greater harm to society. Hugo de Groot argues that it is reasonable for the perpetrator of a crime to receive suffering within certain limits, the severity of which should be imposed on him for social benefit, namely maintaining order in society. Retribution is needed as an effort to ensure obedience to the law and maintain a balance of interests in society. Simons argues that integrative theory focuses on community protection or prevention, which consists of general prevention and special prevention, general prevention of criminal acts in the form of threats that are frightening to the community and special prevention, namely improving the behaviour of criminal offenders.³⁴ Based on the opinions that have been stated, it can be concluded that the essence of the purpose of punishment according to the integrative theory is to repay the actions of the perpetrators of the crime and as a means to prevent the community from committing acts that have been prohibited under criminal legislation.

4. Analysis of Pangkalpinang District Court Decision Number 6/Pid.Sus-TPK/PN Pgp in the Perspective of Thomas Hobbes' Theory of Justice

The Pangkalpinang District Court in Decision Number 6/Pid.Sus TPK/PN Pgp has imposed a criminal sanction on the defendant Toni Tamsil with a prison sentence of 3 years (Three years) and an obligation to pay court costs of Rp5,000 (Five Thousand Rupiah) for his

³² Marli Candra, M. Jazil Rifq, "Castration Sanctions in Penological Perspective", *al-Jinâyah: Journal of Law* 7, no. 2 (2021): 12-18, <https://doi.org/10.15642/aj.2021.7.2.436-462>.

³³ Nur Azisa, *et.al.*, "Sistem Pemidanaan Tindak Pidana Narkotika dalam Perspektif Hukum Pidana Nasional", *Unes Law Review* 6, no. 3 (2024): 9023-9024, <https://doi.org/10.31933/unesrev.v6i3.1840>.

³⁴ Aldi Firmansyah, *et al.*, "Imposition of Criminal Sanctions on Perpetrators of Book Copyright Copying as an Effort to Eradicate Book Copying in Indonesia", *Journal of Legal Essence* 4, no. 2 (2022): 188-189, <https://doi.org/10.35586/esh.v4i2.170>.

actions in violation of Article 21 of the Law on the Eradication of Corruption which regulates the act of obstruction of justice.³⁵ From the perspective of the theory of justice, the theory put forward by Thomas Hobbes that judges in adjudicating and deciding cases must be based on applicable laws and regulations and must not favor the interests of the defendant alone but must also consider the interests and welfare of the public.³⁶ If it is based on public welfare or the public interest, namely the community, of course, this is not in line because Toni Tamsil's actions have denied the public interest, namely seeking the truth of the tin corruption case, which cost the state Rp. 300,000,000,000,000 (Three Hundred Trillion Rupiah). By obstructing the investigation of the tin corruption case, Toni has indirectly supported the suspects' actions in the corruption case and against the public interest.

For comparison, decisions in criminal cases of obstruction of justice as stipulated in Article 21 of the Law on the Eradication of Corruption are presented. First, the Corruption Court at the Central Jakarta District Court convicted Fredrich Yunadi, an advocate who was proven to have obstructed the investigation in the E-KTP corruption case with Setya Novanto as the main defendant, causing state losses of IDR 2,300,000,000,000 (2.3 trillion Rupiah). He, who was then the legal advisor of Setya Novanto, had obstructed investigators from meeting his client by ordering Setya Novanto to evade and hide to avoid arrest. Fredrich Yunadi was charged with twelve years imprisonment, and by the Corruption Court at the Central Jakarta District Court on 28 June 2018, he was sentenced to 7 (seven) years and six months imprisonment and a fine of Rp500,000,000.00 (five hundred million Rupiah).³⁷

Secondly, the Decision of the High Court of Corruption at the Bengkulu High Court Number 10/Pid.Sus-TPK/2024/PT Bgl against Bambang Surya Syahputra was proven to have thwarted the investigation in a corruption case because he intended to seek the termination of the investigation of the corruption case of the Implementation and Management of Health Operational Assistance Funds at sixteen Puskesmas in Kaur Regency T.A. 2022. He also never admitted his actions frankly. For his actions, Bambang Surya Syahputra was charged with imprisonment for 4 (four years) and was sentenced by the Bengkulu District Court on 22 April 2024 to 4 (four years) imprisonment.³⁸

³⁵ Pangkalpinang District Court Decision No. 6/Pid.Sus-TPK/PN regarding The Crime of Obstruction of Justice.

³⁶ M. Syarifuddin, *Loc.Cit.*

³⁷ Corruption Court at the Central Jakarta District Court Decision Number 9/Pid.Sus-TPK/2018/PN Jkt.Pst on The Criminal Act of Obstruction of Justice.

³⁸ High Court of Corruption at the Bengkulu High Court Decision Number 10/Pid.Sus-TPK/2024/PT Bgl regarding The Criminal Case of Obstruction of Justice.

By comparing Court Decision Number 6/Pid.Sus-TPK/PN Pgp had two previous decisions in cases that tried the criminal offense of obstruction of justice in similar cases, namely Supreme Court Decision Number 3315 K/Pid.Sus/2018 and Bengkulu High Court Decision Number 10/Pid.Sus-TPK/2024/PT Bgl, there is a very high disparity in decisions even though the value of losses in the case under investigation is much lower than that in the tin corruption case. Based on this comparison and analysis, it can be concluded that the Pangkalpinang District Court Decision Number 6/Pid.Sus-TPK/PN Pgp against the defendant Toni Tamsil on 29 August 2024 does not meet the criteria of justice because it does not pay attention to the public interest, and there is a high disparity with previous judges' decisions on similar cases.

5. Analysis of Pangkalpinang District Court Decision Number 6/Pid.Sus-TPK/PN Pgp in the Perspective of Integrative Theory

Based on the purpose of punishment in integrative theory, which is a synthesis of retributive theory that emphasises retribution and relative theory that emphasises prevention, the criminal sanctions imposed on Toni Tamsil in Court Decision Number 6/Pid.SusTPK/PN Pgp are not in line with the integrative theory of punishment. Integrative theory first emphasises retaliation for the defendant's actions, meaning that the severity or lightness of the sanction is assessed based on whether or not the defendant's actions caused great harm. In this case, Toni Tamsil's actions clearly caused a big impact, because by obstructing investigators in obtaining evidence to find the truth in the PT Timah Tbk. Corruption case which resulted in state losses of Rp. 300,000,000,000,000 (three hundred million Rupiah) he indirectly approved the actions of the main suspects in the case, therefore Toni Tamsil should be punished with even heavier sanctions.

Integrative theory also emphasises the importance of considering aspects of prevention in addition to aspects of retaliation with the aim that the perpetrator does not repeat his actions and that the community stays away from such unlawful acts. If Court Decision Number 6/Pid.SusTPK/PN Pgp is analysed from the perspective of prevention, the sanctions that are not proportional to the defendant's actions in the case are feared to be unable to provide a deterrent effect for Toni Tamsil so that he does not reoffend in the future and is unable to prevent the public from avoiding obstruction of justice, Court Decision Number 6/Pid.Sus-TPK/PN Pgp does not consider how the social benefits of law enforcement against obstruction of justice committed by Toni Tamsil, namely efforts to maintain order in society. Based on the explanation that has been stated, the decision is not in accordance with the objectives of

punishment in the perspective of integrative theory because the retribution given is not proportional to the actions of the convicted person and cannot be an instrument of prevention so that similar actions are not repeated in the future, either by the convicted person or by other perpetrators.

6. Analysis of Pangkalpinang District Court Decision Number 6/Pid.Sus-TPK/PN Pgp in the Perspective of Social Justice Theory

The decision of the Pangkalpinang District Court Number 6/Pid.Sus-TPK/PN Pgp based on the theory of social justice as a tool of the socio-political system that reflects the existence of two different conditions, including the rights and obligations of society distributed by the principles of justice by the basic principles of justice itself, namely distributive justice proposed by Aristotle. The theory of justice is also closely related to formal justice, which depends on procedures in the form of norms, laws, and regulations to maintain fundamental rights in the form of freedom and rights of individuals and groups related to procedural justice.

When viewed against the decision of the Pangkalpinang District Court Number 6/Pid.Sus-TPK/PN Pgp, the community is entitled to rights that should be distributed and obtained by the community by the principles of justice. Toni Tamsil's actions have a significant impact. The corruption case of PT Timah Tbk resulted in state losses of Rp300,000,000,000,000 (three hundred million Rupiah). Toni Tamsil was sentenced to 3 years imprisonment (Three years) and the obligation to pay court costs of Rp. 5,000 (Five Thousand Rupiah). The decision should be based on the norms, laws, and regulations that apply to maintain the community's fundamental rights, both individuals and groups. The social justice theory is also closely related to the fifth principle of Pancasila, namely social justice for all Indonesian people. When referring to justice for all Indonesian people, it means that every citizen has the right to get justice and feel the people's money, not just specific individuals who enjoy the money themselves. The decision of the Pangkalpinang District Court Number 6/Pid.Sus-TPK/PN Pgp is also contradictory from a social justice perspective. The decision should be based on applicable norms, laws, and laws and regulations to protect the basic rights of the community, both individuals and groups. Social justice theory is also closely related to the fifth precept of Pancasila, namely social justice for all Indonesian people. When referring to justice for all Indonesian people, it means that every citizen has the right to get justice and enjoy the fruits of the people's hard work, not just certain individuals who enjoy it themselves.

D. Conclusion

Based on the analysis that has been stated, the conclusion of this research is that Decision Number 6/Pid.Sus-TPK/PN Pgp must fulfill the criteria in the theory of justice proposed by Thomas Hobbes, specifically that judges, in issuing decisions, must consider public interest aspects—decision Number 6/Pid.Sus-TPK/PN Pgp only considers aspects of legal certainty, whereas, in an ideal decision, a judge must elaborate proportionally between legal certainty, justice, and benefit so that it can reflect the ideals of law.

The enforcement of the criminal offense of obstruction of justice in Decision Number 6/Pid.Sus-TPK/PN Pgp also does not consider the purpose of punishment from the perspective of integrative theory, which emphasizes that punishment aims to enforce legal norms reflected in each offense in criminal legislation, in this case, the Law on the Eradication of Corruption, and the imposition of criminal sanctions as a retaliatory effort to protect public order as well as an effort to prevent similar acts from recurring in the future—the weight of the sanction imposed on Toni Tamsil in Decision Number 6/Pid.Sus-TPK/PN Pgp is too light, so it is feared that it will not deter the perpetrator and can prevent similar acts from recurring in the future.

The decision of the Pangkalpinang District Court Number 6/Pid.Sus-TPK/PN Pgp is also contradictory from a social justice perspective. The decision should be based on applicable norms, laws, and laws and regulations to protect the basic rights of the community, both individuals and groups. Social justice theory is also closely related to the fifth precept of Pancasila, namely social justice for all Indonesian people. When referring to justice for all Indonesian people, it means that every citizen has the right to get justice and enjoy the fruits of the people's hard work, not just certain individuals who enjoy it themselves.

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