

Calculation of State Financial Losses as Evidence Against Corruption Crimes

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ABSTRACT

States losses can occur due to violations of law or negligence of state officials or civil servants. The high number of state losses will have a negative impact on the national economy, for this reason, efforts to recover from state losses are very necessary in saving the country's economy. State Losses Handled by the Corruption Eradication Commission (KPK) 2015-2020. Indonesia Corruption Watch (ICW) recorded the value of state losses due to corruption handled by the Corruption Eradication Commission (KPK) of Rp. 805 billion in 2020. This figure decreased by 87% from the previous year of Rp. 6.2 trillion. In Indonesia, the existence of state financial losses or the state's economy is an element of corruption offenses as regulated in Articles 2 and 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption (UU Tipikor). In accordance with Article 10 of Law Number 15 of 2006 concerning the Supreme Audit Agency (BPK Law) it is stated that the one who assesses or determines the existence of state losses is the State Audit Board (BPK). The purpose of this research is to find the right steps in mandating the government to maintain the balance of state finances as an effort to realize a transparent and responsible government system. This research uses descriptive analytical research methods, The approach used is normative and legal. The approach used in this study is the legal approach.

KEYWORDS

losses; finance; evidence; corruption

INTRODUCTION

Since the 1999 General Election, the Reformation era has begun to be organized in terms of politics, law, and security, as evidenced by the separation of the Indonesian National Armed Forces (TNI) and the Indonesian National Police (INP) (POLRI). Abdurrahman Wahid (GUSDUR) State Gazette of the Republic of Indonesia Number 137 of 2002. (Mansar, 202). Corruption is all actions or actions that are threatened with sanctions as regulated in Law no. 31 of 1999 concerning the Eradication of Corruption and Law no. 20 of 2001 concerning Amendments to the Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption. State losses can occur due to violations of law or negligence of state officials or civil servants who are not treasurers in the implementation of administrative authority. In general, corruption cases have 4 (four) elements, namely acts against the law; abuse of authority, opportunity, or means; enrich oneself, others or corporations; detrimental to state finances or the state economy.

Corruption crimes in the period January 2020 to December 2020. As a result, the total state losses caused by corrupt practices throughout 2020 reached IDR 56.7 trillion. An increase of four times compared to 2019, in 2019, the state lost around Rp. 12 trillion. ICW highlights the imposition of additional criminal penalties which are still minimal. If the state

losses are large, the additional penalty for replacement money must also be large. But what happened in 2020, with a total state loss of Rp. 56.7 trillion, but the additional penalty for compensation was only Rp. 8.9 trillion. Practically only about 12% or 13% of it returned to the country through additional criminal verdicts regulated in Article 18 of the Law on eradicating corruption

Calculating potential state financial losses means calculate a potential loss which means that new state financial losses will occur in the future. Of course, it is very necessary to know how to calculate and what kind of calculation method is right to be used to calculate the potential state losses. Cases of criminal acts of corruption have a huge impact on Indonesia. Apart from reducing the quality of life of the people and disrupting economic stability in Indonesia. Corruption also results in state losses for Indonesia.

Cases of criminal acts of corruption do not only occur at the center of government, regional centers and villages also have many cases of corruption. The problem in this study is how to calculate state financial losses as evidence against the crime of corruption, how do investigators obtain state financial calculations in corruption crimes. The urgency in this study is that the return of state losses after the results of the examination conducted by the BPK does not necessarily mean that the BPK does not need to report it to the authorized agency. Thus, any finding of state losses by BPK from the results of the audit it has carried out must be reported to the competent authority.

RESEARCH METHODS

This analytical descriptive research method describes legal issues related to the implementation of calculating state financial losses as evidence against corruption. The approach used is normative juridical. The approach used in this study is a legal approach. Secondary data includes primary and secondary and tertiary legal material. The primary legal material is in the form of statutory regulations. Secondary legal materials consist of textbooks, legal journals, results of previous research, opinions of scholars, and other publications. Tertiary Legal Materials that provide instructions or explanations for primary and secondary legal materials such as law dictionaries and encyclopedias (Johnny Ibrahim, 2005: 295-296). Conclusions are drawn in a deductive way, namely drawing conclusions from a general problem to a concrete problem.

RESULTS AND DISCUSSION

Corruption is a crime that negatively impacts government finances and can affect government finances and the government's economy, hindering the growth and continuation of national development and must be eradicated. This requires high efficiency. Widespread and systematic corruption crimes are a violation of the social and economic rights of the community, so corruption can no longer be classified as a normal crime and is an anomalous crime. Therefore, comprehensive law enforcement is needed. The crime of corruption in Indonesia is still very high, corruption is even more widespread, starting from the center to the regions. The increasing practice of corruption has become a serious problem for law enforcement efforts in Indonesia (Ferdian, 2018: 231). Corruption crimes result in state financial losses so that the state loses its economic capacity to prosper its citizens. Corruption as a matter that must receive serious attention. (Purnawing M. Yanuar, 2007:10).

State losses can occur due to violations of law or negligence of state officials or civil servants who are not treasurers in the context of implementing administrative authority or by treasurers in the context of implementing the treasurer's authority (Paeh, 2017: 50). Regarding state losses, there is an institution that has the authority to assess it. In accordance with Article 10 of Law Number 15 of 2006 concerning the Supreme Audit Agency (BPK

Law) it is stated that the one who assesses or determines the existence of state losses is the State Audit Board (BPK). Meanwhile, regarding the definition of state losses, it is formulated in Article 1 paragraph 1 of the BPK Law states that a government loss is a real clear lack of money, securities and commodities as a result of either intentional or negligent misconduct. There are three elements in corruption, namely harming state finances, violating the law, and malicious intent. Regarding the element of harming state finances, law enforcement officers are indeed collaborating with related institutions, namely the BPK and BPKP, which assist investigators in calculating state losses. Thus, the results of audits carried out by BPK and BPKP must be reported to the competent authorities, including the Prosecutor's Office and the National Police regardless of whether state losses have been returned or not, because to see whether the occurrence of state losses resulted in unlawful acts or not is the authority of the investigators, which in a "dominis tilis" ex-Article 139 of the Criminal Procedure Code, the prosecutor determines whether or not the case can be transferred to the court.

Judging from the area of Indonesia, the total state loss of Rp. 203.9 trillion came from 2,321 cases involving 3,109 defendants. This country's losses have not yet calculated the social costs of corruption. With a fine of Rp. 21.26 trillion, it means that there is still a hole that must be subsidized by Rp. 182.64 trillion. The impact of corruption will be much greater if it is calculated based on the social costs of corruption rather than state losses alone. Estimates of the social costs of corruption can be done by multiplying state losses by a multiplier of 2.5 times.

The International Transparency Number recorded Indonesia's Corruption Perception Index (CPI) in 2020, namely 37. This index puts Indonesia in the 102nd rank. This ranking decreased from the previous year, which was ranked 86th with an index of 40. Indonesia's position was previously taken by Timor Leste, which was ranked 86th with an index of 40. At the ASEAN level, Indonesia was ranked 5th. (RA). Every year Transparency International, a global non-governmental organization, publishes a survey on corruption. The survey results released annually are known as the Corruption Perception Index (commonly referred to as the Corruption Perception Index, hereinafter referred to as CPI). The trend of the number of disaster occurrences in total for both types of groups is relatively steadily increasing. The number of disaster events in 2005-2015 was the highest in 2010 at almost 2000 events.

State financial losses due to corruption have also increased. In semester 1 2020, the value of state losses from corruption cases amounted to Rp. 18.173 trillion, then in semester 1 of 2021 the value reached Rp. 26.83 trillion. In other words, there was an increase in the value of state losses due to corruption by 47.6 percent. In the past four years, the value of state losses has always shown an increasing trend, while the number of prosecutions for corruption cases has fluctuated. the number of prosecution cases is far from the target set. Overall, the target for prosecution of corruption cases by law enforcement officers in the first semester of 2021 is 1109 corruption cases, aka only 19 percent were achieved. The prosecution of corruption cases was 763 cases with a budget of IDR 290.6 billion during the first semester of 2021.

Community participation in efforts to prevent and eliminate corruption criminal activity are manifested in, among other things, the right to responsibly make suggestions and opinions regarding the retrieval, acquisition, provision, and prevention and elimination of data or information regarding corruption criminal activity. ..of the criminal act of corruption. Article 41 (5) and Article 42 (5), Law No. 31 of 1999 on the Eradication of Corruption Crimes, states that the implementation and awards of community participation in the prevention and eradication of corruption crimes regulated by government regulations. It

emphasizes the need for awarding procedures. Participation in the community aims to realize the rights and obligations of the community in the governance of a state free of corruption.

CONCLUSION

The calculation result of state financial loss with the process of proving through evidence against criminal acts of corruption and finding ways for investigators to obtain a calculation of state financial losses resulting from acts of corruption. Acts of corruption have been regulated in Law no. 31 of 1999 in conjunction with Law no. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. In the act of corruption before and after committing the crime, it is necessary to prevent the occurrence of corruption which is detrimental to state financial losses.

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