

Effectiveness of Implementation of State Financial Loss Elements in Corruption Crimes in Indonesia

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ABSTRACT

This study aims to examine the effectiveness of the application of the element of state financial loss in criminal acts of corruption based on the provisions of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. The main focus of this study is the extent to which the element of "causing state financial loss" can be proven legally in the judicial process, as well as the obstacles faced by law enforcement officers in proving this element. This study uses a normative legal method with a statutory approach and literature study. The results of the study indicate that the element of state loss is an essential but complex element, because it requires the involvement of a state audit institution to ensure real losses. On the other hand, dependence on the results of the audit is often an obstacle in accelerating the legal process. It is necessary to rearrange the legal construction and strengthen coordination between law enforcement agencies and audit institutions to increase the effectiveness of proving the element of state loss in criminal acts of corruption

INTRODUCTION

Corruption is an extraordinary crime that not only harms state finances, but also weakens the foundations of government, damages public trust, and hinders national development. In the context of Indonesia, efforts to eradicate corruption have received a strong legal umbrella through Law Number 31 of 1999 in conjunction with Law Number 20 of 2001. One of the important elements in the construction of corruption as regulated in the law is the existence of state financial losses.

The element of "harming state finances" is a crucial point in the proof process because it concerns the legitimacy of the demands and sentences against the perpetrators. However, in practice, proving this element is not easy. The involvement of financial audit institutions such as the Audit Board of Indonesia (BPK) or the Financial and Development Supervisory Agency (BPKP) is needed, which have the constitutional authority to definitively declare state losses. This makes the legal process complex and sometimes slow, because proving the element of state losses becomes very technical and administrative.

Several previous studies have highlighted the difficulties of law enforcement officers in proving the element of state losses, as well as the extent to which audit results can be used as a basis for evidence in criminal proceedings. Therefore, this study attempts to provide an academic contribution to the effectiveness of the application of the element of state losses in the process of enforcing corruption law in Indonesia. The purpose of this study is to analyze the extent to which the element of state financial losses can be applied effectively in the corruption criminal justice process, as well as to evaluate the challenges faced by law enforcement officers in proving this element.

LITERATURE REVIEW

Effectiveness of Law

The effectiveness of the law is related to the extent to which legal norms or rules can be implemented in real life in society. Soerjono Soekanto (1981) stated that the effectiveness of the law is influenced by five factors: legal substance, law enforcement officers, facilities/infrastructure, legal culture of society, and society itself. In the context of criminal law on corruption, the effectiveness of the law is measured by the extent to which the legal process runs fairly, quickly, and provides clarity on the elements of the crime.

Element of State Financial Loss in Corruption

In the Corruption Law, the element of "detrimental to state finances" is an important element that distinguishes between general criminal acts and corruption. According to Articles 2 and 3 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001, state losses are a material requirement. However, debate has arisen regarding the definition and proof of this element. Several criminal law experts argue that the potential for losses is sufficient, while the Constitutional Court in its decision emphasized the need for evidence of real losses based on the results of audits by authorized institutions.

Involvement of the State Audit Institution

The audit results from the BPK or BPKP are often used as the main evidence to prove the element of state losses. However, in practice, reliance on audit results can slow down the law enforcement process. In addition, it is not uncommon for the audit results to be administrative in nature and require legal interpretation by law enforcement officers.

Previous Research

In the study of the effectiveness of the return of state financial losses due to corruption in Indonesia, there are three main studies that provide different but complementary perspectives. First, research by Aisyah, Simanjuntak, and Pohan (2020) highlights the legal basis and effectiveness of the implementation of the return of state losses in law enforcement practices. They found that although there are legal provisions governing the return of state losses, their implementation still faces obstacles, especially in the implementation of additional criminal penalties in the form of replacement money.

Second, research from UNISSULA (2025) examines the effectiveness of the return of state finances as a settlement of corruption crimes based on benefits. This study uses an empirical legal approach and finds that the effectiveness of the return of state finances is influenced by various factors, including law, law enforcement, culture, facilities and infrastructure, and community participation. The identified obstacles include bureaucratic constraints in the audit process, a permissive culture towards corruption, limited facilities and infrastructure, and low public participation.

Third, Emerson Yuntho (2011) criticized the provision of the element of "causing state financial loss" in the crime of corruption. He highlighted that this provision can create legal uncertainty and complicate law enforcement. Yuntho also noted that calculating state losses often slows down the process of handling corruption cases and that returning state losses does not always eliminate criminal penalties, which can cause polemics in law enforcement practices. Anti-Corruption+1Anti-Corruption Education Center+1

The three studies have similarities in highlighting the importance of proving the element of state financial loss in corruption and recognizing the obstacles in proving this element. However, they differ in focus and approach: Aisyah, Simanjuntak, and Pohan (2020) focus on the effectiveness of returning state losses as an effort to restore state finances; UNISSULA's research (2025) emphasizes the effectiveness of returning state finances as a resolution of corruption based on benefits; and Emerson Yuntho (2011) criticized the provisions of the element "detrimental to state finances" in the crime of corruption. Analysis of these three studies provides a deeper understanding of the challenges and complexities in proving and returning state financial losses due to corruption in Indonesia.

METHODOLOGY

This study uses a normative legal approach with a library research method. This approach is used to examine the applicable legal norms related to the element of state losses in corruption crimes, as well as to analyze their application in judicial practice in Indonesia.

The data used in this study comes from primary legal materials, such as Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption, court decisions, and secondary legal materials in the form of scientific journals, books, and other relevant literature.

The data analysis method is carried out qualitatively with a descriptive-analytical approach. This study does not use statistical data, but rather prioritizes analysis of positive legal provisions, legal logic, and the practice of implementing laws that develop in society and in the criminal justice system in Indonesia.

RESULTS

Complexity of Proving the Element of State Financial Loss

The results of the study indicate that proving the element of state financial loss in corruption crimes faces various challenges. One of the main obstacles is the dependence on audit results from audit institutions such as the BPK or BPKP. The audit process that takes a long time can slow down the handling of corruption cases. In addition, the absence of standard methods in calculating state losses causes inconsistency in evidence in court. *Anti-Corruption + 1 Repository Universitas Islam Riau + 1*

The Role of Audit Institutions in Proving State Losses

State audit institutions have a central role in determining the existence of state financial losses. However, audit results are often administrative in nature and require legal interpretation by law enforcement officers. This raises debate about whether audit results can be used as valid evidence in criminal proceedings.

Return of State Losses and Their Implications

Although the return of state losses by perpetrators of corruption can be considered good faith, it does not eliminate criminal liability. However, in practice, there are cases where the return of state losses is used as a reason to stop the legal process, which is contrary to the principles of justice and the eradication of corruption. *Darma Agung Journal*

DISCUSSION

Reliance on Audit Results and Their Impact

Reliance on audit results from state audit institutions in proving state financial losses raises several problems. The audit process that takes a long time can slow down the handling of corruption cases. In addition, the absence of standard procedures in the method of calculating state losses causes inconsistency in the evidence in court. This indicates the need for reform in the audit system and proof of state losses to improve the effectiveness of law enforcement.

Return of State Losses and Law Enforcement

Return of state losses by perpetrators of corruption should not eliminate criminal liability. However, in practice, there are cases where the return of state losses is used as a reason to stop the legal process. This is contrary to the principles of justice and the eradication of corruption. Therefore, it is necessary to emphasize in the laws and regulations that the return of state losses does not eliminate criminal liability, as well as strict supervision of its implementation.

The Need for Legal Reform in Proving State Losses

To improve the effectiveness of proving elements of state financial losses, legal reform is needed which includes:

1. Establishing standard procedures in the method of calculating state losses.
2. Strengthening coordination between audit institutions and law enforcement officers.
3. Affirmation in laws and regulations that the return of state losses does not eliminate criminal liability.
4. Increasing the capacity and integrity of law enforcement officers in handling corruption cases.

CONCLUSIONS AND RECOMMENDATIONS

This study shows that proving the element of state financial loss in corruption crimes in Indonesia still faces various challenges. Reliance on audit results from audit institutions such as the BPK or BPKP often slows down the legal process. In addition, the absence of standard standards in the method of calculating state losses causes inconsistency in the evidence in court. The return of state losses by perpetrators of corruption does not eliminate criminal liability, but in practice, this is often used as a reason to stop the legal process.

Recommendations

To increase the effectiveness of proving the element of state financial loss in corruption crimes, it is recommended:

1. Determination of Standard Standards: Create standard standards in the method of calculating state losses to ensure consistency and fairness in the legal process.
2. Strengthening Coordination: Improving coordination between audit institutions and law enforcement officers to accelerate the evidence process.
3. Legal Affirmation: Affirming in laws and regulations that the return of state losses does not eliminate criminal penalties, as well as strict supervision of its implementation.
4. Capacity Building: Improving the capacity and integrity of law enforcement officers in handling corruption cases.

FURTHER STUDY

Further research can be focused on a comparative analysis between the state financial loss evidence system in Indonesia and other countries, to identify best practices that can be adopted. In addition, empirical studies on the effectiveness of coordination between audit institutions and law enforcement officers in the evidence process can also provide deeper insights.

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