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Legal Certainty Regrading the Authority to Calculate State Losses in Corruption Cases

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Abstract

This study aims to examine legal certainty concerning the authority to calculate state financial losses in corruption cases, while also assessing the implications arising from overlapping institutional mandates within judicial practice. The central issue lies in regulatory inconsistencies and differing interpretations regarding which institutions are authorized to determine state losses, often involving the Audit Board of Indonesia (BPK), the Financial and Development Supervisory Agency (BPKP), as well as independent experts. This research employs a normative legal method, utilizing statutory and conceptual approaches, supported by an analysis of court decisions and relevant legal literature.The findings reveal that the absence of clear and consistent regulations governing the authority to assess state losses contributes significantly to legal uncertainty in the evidentiary process of corruption cases. Divergent perspectives between law enforcement agencies and auditing institutions lead to inconsistent judicial decisions, thereby undermining the principles of legal certainty and justice. Furthermore, reliance on loss calculations produced by different institutions without uniform standards raises doubts regarding the validity and reliability of the quantified state losses used as the basis for criminal sentencing. In conclusion, regulatory harmonization and a clear delineation of institutional authority are urgently required to ensure legal certainty in the enforcement of anti-corruption laws. Such measures are essential to promote a fair, transparent, and accountable judicial system.
Keywords: *Authority, Calculation, Corruption, Legal Certainty, State Financial Loss.*

Abstrak

Penelitian ini bertujuan untuk mengkaji kepastian hukum terkait kewenangan penghitungan kerugian keuangan negara dalam kasus tindak pidana korupsi, serta menilai implikasi yang timbul akibat tumpang tindih mandat kelembagaan dalam praktik peradilan. Permasalahan utama terletak pada ketidakkonsistenan regulasi dan perbedaan penafsiran mengenai lembaga mana yang berwenang menetapkan kerugian negara, yang sering kali melibatkan Badan Pemeriksa Keuangan (BPK), Badan Pengawasan Keuangan dan Pembangunan (BPKP), serta ahli independen. Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan konseptual, yang didukung oleh analisis terhadap putusan pengadilan dan literatur hukum terkait. Hasil penelitian menunjukkan bahwa ketiadaan regulasi yang jelas dan konsisten mengenai kewenangan penilaian kerugian negara berkontribusi signifikan terhadap ketidakpastian hukum dalam proses pembuktian kasus korupsi. Perbedaan pandangan antara aparat penegak hukum dan lembaga audit menyebabkan putusan pengadilan yang tidak konsisten, sehingga mencederai prinsip kepastian hukum dan keadilan. Selain itu, ketergantungan pada

perhitungan kerugian yang dihasilkan oleh berbagai lembaga tanpa standar yang seragam menimbulkan keraguan mengenai validitas dan reliabilitas nilai kerugian negara yang digunakan sebagai dasar penjatuhan pidana. Sebagai kesimpulan, harmonisasi regulasi dan pembagian kewenangan kelembagaan yang jelas sangat diperlukan untuk menjamin kepastian hukum dalam penegakan hukum tindak pidana korupsi. Langkah-langkah tersebut sangat penting untuk mewujudkan sistem peradilan yang adil, transparan, dan akuntabel.
Kata Kunci: Kepastian Hukum, Kewenangan, Kerugian Keuangan Negara, Korupsi. Penghitungan.

Introduction

From a social science perspective, crime is understood as a social phenomenon that arises from conditions of injustice as well as from patterns of human behavior shaped by socio-economic circumstances (Katimin, H., Herman, F., & Farida, I,2024). Individuals or groups experiencing economic hardship, weakened moral values, or limited critical thinking may be driven to engage in various actions—often disregarding legal or ethical considerations—in order to sustain their livelihoods. (Rahmayanti, 2023).

The evolution of the global legal system, from the colonial era to the modern period, has significantly influenced the formation and development of Indonesia's legal system. (Nurdjana, 2010). This influence is reflected in the direction of national legal policy, particularly in relation to legal substance, institutional structures, and legal culture in combating corruption (Amin, M., Widagdo, S., & Madjid, A, 2024). From a substantive perspective, Indonesian criminal law has incorporated various provisions regulating corrupt conduct along with corresponding sanctions. In addition, a range of sectoral regulations—such as those in taxation, forestry, and environmental law—also contain provisions addressing modern crimes that intersect with corrupt practices. These provisions complement the specific regulations contained in anti-corruption legislation. (Riza, 2024).

The success of efforts to combat corruption in Indonesia is largely determined by the role of law enforcement authorities in implementing and enforcing legal provisions, both formal and substantive. The application of these legal norms must be aligned with the established elements of criminal offenses, so that the imposition of criminal sanctions on perpetrators of corruption can be carried out accurately, fairly, and in accordance with prevailing legal principles. (Ismaidar, 2018). In this context, one of the key law enforcement institutions is the Prosecutor's Office, a government body entrusted with primary responsibility in the field of prosecution. In addition to this principal function, the Prosecutor's Office also exercises other powers as stipulated in statutory regulations. As part of the state institutional framework, the Prosecutor's Office of the Republic of Indonesia performs a strategic role in upholding the rule of law and realizing justice, particularly through the execution of its prosecutorial authority in criminal cases. (Nugraha, 2024).

Furthermore, the Prosecutor's Office is authorized to bring charges against individuals suspected of corruption once the stages of inquiry and investigation have been completed by competent authorities, such as the police or the Corruption Eradication Commission. Accordingly, its role is essential in ensuring that the criminal justice process operates effectively and provides legal certainty (Dian Devananda Akbar, Prija Djatmika, & Nurini Aprilianda,2025).

Corruption is classified as an extraordinary crime, requiring equally extraordinary measures for its prevention and suppression, as stipulated in Article 37 of Law Number 31 of 1999, as amended by Law Number 20 of 2001 concerning the Eradication of Corruption.

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Within the judicial process, if a defendant is unable to demonstrate the lawful origin of their assets, such assets may be presumed to have been derived from corrupt activities. (Fitra, 2025).

Corruption offenses represent a category of extraordinary crimes that exert broad impacts on state finances, economic stability, and public trust in governance (Hadi Prayitno, A., Wahyono, D., & Bagaskoro, M. R,2025). Therefore, the handling of corruption cases requires legal mechanisms that are not only stringent but also capable of ensuring legal certainty for all parties involved in judicial proceedings. One of the essential elements in proving corruption is the existence of actual state financial loss that can be calculated in a reliable and accountable manner. (Andi, 2019). State financial loss occupies a central position in corruption cases, as it forms the basis for determining whether the elements of the offense have been fulfilled and directly influences the degree of criminal liability imposed (Hartati, Hafrida, Erwin, Arizyanto, R., & Beny Saputra, 2024). In the absence of a valid and legally accountable calculation of such losses, the evidentiary process risks losing its juridical legitimacy. Consequently, the authority of institutions responsible for calculating state financial losses becomes a fundamental legal issue (Br Sembiring, T., Ismaidar, & Ismed, 2025).

In the practice of law enforcement in Indonesia, a fundamental issue arises from the lack of clarity regarding which institution holds the authority to calculate state financial losses. Constitutionally, the authority to audit the management and accountability of state finances is vested in the Audit Board of Indonesia (BPK). However, in practice, the process of calculating state losses is not carried out exclusively by this institution. Other entities, such as the Financial and Development Supervisory Agency (BPKP), inspectorate bodies, and even investigators within the law enforcement process, are also involved. This situation gives rise to differing interpretations, which ultimately lead to legal uncertainty (M. A. Wachid,2015).

This issue becomes increasingly evident in judicial decisions on corruption cases, which demonstrate variations in the sources of state loss calculations used as evidence. In some cases, audit findings issued by the Audit Board of Indonesia serve as the primary basis for proof, while in others, panels of judges also accept calculations prepared by the Financial and Development Supervisory Agency or internal auditors of the relevant institutions. This variation reflects the absence of a standardized and uniform framework regarding which institution possesses definitive authority to determine the amount of state financial loss.

One notable example illustrating this issue is the corruption case related to the Hambalang project. In this case, a dispute arose concerning which institution was authorized to calculate state losses, particularly due to discrepancies between the audit results issued by BPK and the calculations relied upon in the law enforcement process. This divergence led to juridical debates at both the investigation and trial stages. (BPK RI, 2018). Similar issues frequently arise in corruption cases involving public procurement at the regional level. In several instances, defendants have raised objections to the calculation of state losses conducted by BPKP or regional inspectorates, arguing that these institutions lack a constitutional basis for such authority. This argument is often utilized as part of a defense strategy to challenge the fulfillment of the element of state financial loss in the case at hand.

In this regard, as reflected in the corruption case decided under Pretrial Decision Number 6/Pid.Pra/2022/PN.Kbj, differing views emerged concerning the authority to calculate state financial losses. The calculation was conducted by an auditor from the Swasra Public Accounting Firm at the request of investigators from the Karo District Prosecutor's

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Office, while the judge held the view that the institutions authorized to perform such calculations are BPK and/or BPKP.

The pretrial application was subsequently decided through Decision Number 6/Pid.Pra/2022/PN.Kbj dated August 15, 2022, in which the court granted the applicant's motion in its entirety. The ruling declared that the respondent's action in designating the applicant as a suspect was unlawful and devoid of binding legal force. Furthermore, the Suspect Designation Letter Number: Pds-02/L.2.19/Fd.1/07/2022 dated July 21, 2022, was also declared invalid and non-binding, and the court ordered the applicant's release from detention. Such inconsistency in practice demonstrates the existence of a normative gap in regulating the authority to calculate state financial losses. On the one hand, the Anti-Corruption Law requires the existence of state loss as an essential element of the offense; on the other hand, it does not explicitly determine which institution holds exclusive authority to conduct such calculations. This normative vacuum creates room for multiple interpretations and inconsistent application of the law.

The Constitutional Court, in several of its decisions, has also highlighted the importance of legal certainty in proving state financial losses. For instance, Constitutional Court Decision Number 25/PUU-XIV/2016 emphasizes that state loss must be established in a real and definite manner. However, the decision does not explicitly resolve the ongoing debate concerning which institution holds the authority to calculate state financial losses. (Constitutional Court Decision, 2016). In addition, the Supreme Court, through its various decisions, has demonstrated inconsistency in accepting sources of state financial loss calculations. In some rulings, the Court has recognized calculations prepared by BPKP as admissible evidence, while in others it has emphasized the significance of audit findings issued by BPK. This variation further reinforces the indication that the issue of authority in calculating state financial losses has yet to attain legal certainty.

Such uncertainty does not only affect law enforcement authorities but also has direct implications for the rights of suspects or defendants. The reliance on state loss calculations produced by institutions whose authority remains contested may potentially violate the principle of due process of law as well as the doctrine of legal certainty, both of which constitute fundamental principles within a state governed by the rule of law. (Jimly, 2017). From the perspective of rule of law theory, legal certainty requires both clarity of norms and consistency in their application. When the authority to calculate state financial losses is not clearly regulated, the law loses its predictive function. As a result, the adjudication of corruption cases risks being perceived as inconsistent and unjust.

This issue also affects the effectiveness of anti-corruption efforts. On the one hand, the state is expected to act firmly against perpetrators of corruption; on the other hand, law enforcement must remain within a clear and legitimate legal framework. Uncertainty regarding authority may instead be exploited as a legal loophole by certain parties to evade criminal liability.Accordingly, a comprehensive legal study is required to analyze the certainty of authority in calculating and determining state financial losses in corruption cases. Such an analysis is essential to assess whether the current regulatory framework fulfills the principle of legal certainty or, conversely, perpetuates ongoing ambiguity.

This research is significant not only because it addresses normative aspects, but also because it bridges the gap between legal regulation and evolving judicial practice. By examining statutory provisions, legal doctrines, and judicial decisions, this study is expected to identify the root causes of the problem (Sudikno, 2007) and to propose clearer and more systematic normative solutions.Based on the foregoing, the study entitled *"Legal Certainty in the Authority to Calculate State Financial Losses in Corruption Cases"* is both relevant and

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necessary. It is expected to contribute academically and practically to strengthening legal certainty, improving the quality of evidentiary processes, and supporting fair and law-based enforcement of anti-corruption law. Based on the background of the problem described above, the following issues will be discussed in this research:

1. How is the legal framework governing the authority to calculate state financial losses in corruption cases regulated?
2. How do judges assess and utilize the calculation of state financial losses in adjudicating corruption cases?

Methods Research

This research adopts a descriptive-analytical approach, aiming to systematically and comprehensively describe the legal provisions governing the authority to calculate state financial losses in corruption cases, while also analyzing the legal issues arising from both the regulatory framework and its implementation. The descriptive aspect is employed to present applicable legal norms, whereas the analytical aspect is intended to examine the consistency, clarity, and normative implications of such regulations in relation to legal certainty. (Soerjono, 2014).

The analytical approach is directed toward evaluating the conformity between legal norms and judicial practice, particularly in the use of state financial loss calculations as evidentiary instruments. Through this approach, the research seeks to provide a comprehensive understanding of legal uncertainty resulting from differing interpretations of institutional authority. This study constitutes normative legal research (juridical-normative), focusing on the examination of written legal norms, legal principles, legal doctrines, and relevant court decisions. It positions law as a normative framework governing the authority of state institutions in calculating state financial losses in corruption cases. (Peter, 2019).

Within this framework, the analysis encompasses statutory regulations related to corruption offenses, institutional authority, and evidentiary rules in criminal law. Additionally, this research examines decisions of the Constitutional Court and the Supreme Court that are relevant to the issue of authority in calculating state financial losses, in order to evaluate consistency and the development of legal interpretation. The data utilized in this study consist of secondary data, encompassing primary, secondary, and tertiary legal materials. (Bambang, 2016). Primary legal materials include statutory regulations governing corruption offenses, the authority of state institutions, and criminal procedural law, as well as court decisions related to the calculation of state financial losses.

Secondary legal materials comprise a wide range of literature sources, including textbooks, scholarly journal articles, research reports, and expert opinions that examine issues of legal certainty, institutional authority, and evidentiary aspects in corruption cases. Meanwhile, tertiary legal materials are employed as supporting references, such as legal dictionaries and legal encyclopedias, which provide additional clarification of the terms and concepts used in this study. The method of data collection applied in this research is library research, which involves gathering data through the identification and examination of legal materials relevant to the subject matter. (Zainuddin, 2021). This approach includes the systematic inventory of statutory regulations, legal doctrines, and court decisions concerning the authority to determine the extent of state financial losses in corruption cases.

In addition, data collection is supported by the exploration of academic journal databases and official legal sources to obtain scholarly perspectives and recent developments in legal practice. This method is considered appropriate given the normative nature of the research, which emphasizes the analysis of legal norms and doctrines.

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Data analysis in this study is conducted using a qualitative normative approach, involving the systematic and logical interpretation of the collected legal materials. The analysis is carried out by correlating legal provisions with relevant legal theories and principles, particularly the principles of legal certainty and legality. (Johny, 2013). The processed data are then presented through a narrative and argumentative exposition to address the research questions and to formulate prescriptive conclusions. Through this analytical process, the study is expected to provide recommendations for a more coherent regulatory framework governing the authority to calculate state financial losses, thereby enhancing legal certainty in the adjudication of corruption cases.

Results and Discussion

Legal Framework Governing the Authority to Calculate State Financial Losses in Corruption Cases

The legal regulation concerning the authority to calculate state financial losses in corruption cases constitutes a crucial aspect in determining whether the element of state financial loss—an integral component of corruption offenses—has been fulfilled. In practice, such losses represent one of the primary elements that must be proven by the public prosecutor during trial proceedings. However, to date, there is no single normative provision that explicitly designates which institution holds absolute authority to conduct such calculations. This has created a broad scope for interpretation among law enforcement authorities. (Soerjono, 2018). The lack of clarity has consequently led to differing perspectives, ranging from the investigation stage to the evidentiary process in court.

From a normative standpoint, the legal basis for state financial loss can be found in various statutory regulations. Among these, the Anti-Corruption Law emphasizes that state financial loss constitutes an essential element that must be proven. Additionally, the State Finance Law defines state loss as a reduction in money, securities, or goods whose value is definite and measurable. Nevertheless, these regulations do not explicitly designate a single institution as the exclusive authority responsible for conducting such calculations. This has led to differing interpretations between law enforcement agencies and state auditing institutions. Such a condition indicates the existence of a normative gap, which ultimately results in legal uncertainty in practice.

From an institutional perspective, the Audit Board of Indonesia (BPK) is generally regarded as the body whose authority is constitutionally grounded in conducting audits on the management and accountability of state finances, based on constitutional provisions that establish BPK as an independent and autonomous state institution. Consequently, audit findings issued by BPK are frequently used as the basis for determining state losses in corruption cases. However, law enforcement authorities often also rely on calculations prepared by the Financial and Development Supervisory Agency (BPKP). The use of BPKP is typically justified by considerations of efficiency and technical necessity during the investigative process. This situation reflects a form of dualism in authority that is not explicitly regulated under statutory law.

In addition to BPK and BPKP, judicial practice also recognizes the involvement of independent experts in calculating state financial losses. The engagement of such experts is generally based on the need for more specific and in-depth evidentiary analysis in particular cases. These experts may come from academic backgrounds or serve as auditors within Public Accounting Firms with expertise in auditing or state finance. The absence of binding and standardized guidelines often leads to variations in the results produced by different

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experts. Such discrepancies have the potential to create doubt within the evidentiary process during court proceedings.

Another issue that arises is the existence of differing interpretations among law enforcement authorities regarding which institution is authorized to calculate state financial losses. Investigators, public prosecutors, and judges frequently hold divergent views concerning the validity of certain audit results. In some cases, audit findings issued by BPK are considered to possess stronger legal standing compared to calculations prepared by BPKP. However, in other instances, courts have accepted BPKP calculations as admissible evidence. This divergence demonstrates the lack of uniformity in the application of the law, thereby making the achievement of legal certainty difficult.

As illustrated in the corruption case based on Pretrial Decision Number 6/Pid.Pra/2022/PN.Kbj, differing views emerged regarding the authority to calculate state financial losses. The calculation was carried out by an auditor from the Swasra Public Accounting Firm at the request of investigators from the Karo District Prosecutor's Office, whereas the judge held the view that the institutions authorized to perform such calculations were the Audit Board of Indonesia (BPK) and/or the Financial and Development Supervisory Agency (BPKP).

In response to the pretrial application, the panel of judges granted the applicant's motion in its entirety, as reflected in the operative part of the decision: (1) granting the pretrial application in full; (2) declaring that the respondent's action in designating the applicant as a suspect in the alleged corruption case concerning the management of a public cemetery area in Salit Village, Tiga Panah District, Karo Regency, Fiscal Year 2019, with a budget ceiling of IDR 3,030,322,600 under the Regional Office of Housing and Settlement Areas of Karo Regency, was unlawful and devoid of legal force; and (3) ordering the respondent to immediately terminate the investigation against the applicant by issuing an Order for Termination of Investigation (SP3).

The annulment of the suspect designation in this decision was primarily based on the findings derived from the overall calculation of state financial losses conducted by a private auditor. In its reasoning, the court referred to the provisions of Supreme Court Circular Letter Number 4 of 2016, particularly within the criminal chamber formulation, which affirms that the authority to determine the existence of state financial loss lies with BPK as an institution with constitutional authority. Meanwhile, other entities such as BPKP, inspectorates, and regional government bodies continue to play roles in examining and auditing the management of state finances, but are not vested with the authority to formally declare the existence of state losses. Nevertheless, under certain circumstances, judges may consider facts revealed during trial proceedings to assess both the existence and the magnitude of state financial losses. Normatively, several institutions—both external and internal—are involved in calculating state financial losses, including BPK, BPKP, and Government Internal Supervisory Apparatus (APIP). However, within judicial proceedings, judges retain the authority to independently assess state financial losses, with calculations produced by BPK and BPKP functioning as evidentiary instruments to support judicial conviction.

The establishment of state financial loss based on calculations prepared by public accountants is closely linked to the fulfillment of the elements of the offense as stipulated in Article 3 of Law Number 31 of 1999, as amended by Law Number 20 of 2001 concerning the Eradication of Corruption. Any individual who causes harm to state finances or the national economy may be subject to criminal sanctions, provided that sufficient legally admissible evidence is established.

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The elucidation of Article 32 paragraph (1) of Law Number 31 of 1999, as amended by Law Number 20 of 2001 concerning the Eradication of Corruption, explains that an act is considered to have caused actual state financial loss when the amount of such loss can be determined with certainty. This determination is based on audit findings conducted either by authorized institutions or by duly appointed public accountants. Based on the foregoing, it can be observed that the Anti-Corruption Law—particularly Articles 2 and 3, which establish state financial loss as an essential element of corruption offenses—does not explicitly specify which institution or party is authorized to determine such losses. The elucidation of Article 32 merely provides that state financial loss refers to a loss whose amount has been quantified based on findings issued by an authorized institution or an appointed public accountant.

Furthermore, Constitutional Court Decision Number 31/PUU-X/2012 affirms that investigators in corruption cases have the authority to coordinate with various relevant institutions, including the Audit Board of Indonesia (BPK), the Financial and Development Supervisory Agency (BPKP), as well as other institutions possessing the capacity to calculate state financial losses. The final assessment of such calculations, however, rests entirely within the authority of the panel of judges during trial proceedings. In this regard, the Constitutional Court has also emphasized that any interpretation restricting the authority to determine state financial loss solely to BPK is no longer sustainable.

Moreover, the Constitutional Court's decision reflects an expanded interpretation regarding the range of parties that may be involved in calculating state financial losses. This authority is not limited to BPK and BPKP but may also extend to other institutions through mechanisms such as the engagement of experts or the collection of data from inspectorates general and similar bodies within government institutions. Additionally, non-governmental actors, including private sector professionals, may also be involved, provided that they are capable of contributing to the discovery of material truth concerning the calculation of state financial losses and supporting the evidentiary process in ongoing cases.

In the case under analysis, a significant divergence of views arose between investigators and judges concerning the authority to calculate state financial losses. Investigators maintained that audit findings produced by a Public Accounting Firm constituted valid evidence, particularly as the auditor had been formally appointed based on investigative needs. Conversely, the judge in the pretrial decision held that the authority to calculate state financial losses lies with BPK and/or BPKP. This difference in perspective illustrates the lack of uniform interpretation of applicable legal provisions, resulting in inconsistent application of the law.

The panel of judges in the pretrial proceeding ultimately granted the applicant's motion in its entirety, essentially declaring the suspect designation invalid on the grounds that the calculation of state financial loss had not been conducted by an institution deemed competent. This decision demonstrates that judges tend to adopt a formalistic approach in assessing the admissibility of evidence, particularly concerning the institutional authority of the auditing body. Consequently, audit results produced by Public Accounting Firms—despite their professional competence—may be disregarded from a legal standpoint, thereby potentially hindering the effective enforcement of anti-corruption law.

However, from a normative perspective, the elucidation of Article 32 paragraph (1) of Law Number 31 of 1999, as amended by Law Number 20 of 2001 concerning the Eradication of Corruption, clearly stipulates that state financial loss refers to a loss whose amount can be definitively determined. Such determination must be based on audit findings conducted either by authorized institutions or by duly appointed public accountants. This

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provision explicitly allows public accountants to calculate state financial losses, provided that their appointment is carried out lawfully. Therefore, a judicial interpretation that restricts such authority solely to BPK and BPKP may be regarded as not entirely consistent with the applicable legal norms.

From the standpoint of legal theory, the realization of legal certainty depends on the clarity, precision, and unambiguity of legal rules. In the context of authority to calculate state financial losses, this principle has not been fully achieved. Ambiguity in legal norms grants law enforcement authorities broad discretionary power. While discretion is often necessary in practice, the absence of clear limitations may result in uncertainty. Furthermore, legal certainty is also closely linked to consistency in the application of the law by law enforcement authorities. Divergences in the use of state financial loss calculations undermine such consistency.

In practice, uncertainty regarding the authority to calculate state financial losses also contributes to delays in the handling of corruption cases. Differences of opinion concerning audit results frequently lead to prolonged debates during court proceedings. This not only slows down the judicial process but may also disadvantage the parties involved. Moreover, such uncertainty may be exploited by certain parties to weaken the evidentiary process. It should also be emphasized that state financial loss in corruption cases is not merely administrative in nature but also carries significant criminal implications. Therefore, the calculation of such losses must be conducted with a high degree of accuracy and accountability. Errors in calculation may result in the failure to establish the essential elements of the offense, ultimately affecting judicial outcomes.

On the other hand, harmonization of regulations across various statutory frameworks constitutes an important step in addressing this issue. Such harmonization is necessary to prevent overlapping authority among different institutions and to provide clearer guidance for law enforcement authorities in performing their duties. With coherent and aligned regulations, differing interpretations can be minimized. Legal certainty regarding the authority to calculate state financial losses is thus a fundamental prerequisite for effective law enforcement in corruption cases. Ambiguity in regulation not only affects the evidentiary process but also influences public trust in judicial institutions. Legal certainty therefore serves as a cornerstone in the broader effort to combat corruption.

Judicial Considerations in Assessing and Utilizing State Financial Loss Calculations in Corruption Cases

Corruption constitutes a form of crime with extensive social consequences, as it undermines the foundations of governance and poses a serious obstacle to national development. In many instances, corruption is even perceived as a systemic threat due to its potential to weaken governmental stability and disrupt the continuity of legitimate authority. This phenomenon demonstrates that corruption is not merely an ordinary legal violation but has evolved into a significant threat to the sustainability of state and societal life. Furthermore, the prevalence of corruption continues to increase over time, as reflected in the rising number of cases, the magnitude of financial losses incurred by the state, and the growing complexity of the methods employed.

Indonesia is a state governed by the rule of law (*rechtsstaat*), as enshrined in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This principle implies that all aspects of national, social, and governmental life must be based on law. Accordingly, the state conducts all governmental and societal activities in accordance with applicable legal norms and regulations. The scope of law enforcement extends not only to individuals

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who have clearly violated the law but also to potential legal actions and to the institutional mechanisms designed to ensure that state apparatuses act in compliance with the law. The functioning of law itself represents a manifestation of law enforcement. Criminal law constitutes one of the subsystems within Indonesia's legal system, determining which acts are punishable and what sanctions may be imposed. Thus, legal prohibitions and obligations are accompanied by sanctions, and violations thereof give rise to the state's authority to prosecute, adjudicate, and enforce judgments. (Ricky, 2024). As illustrated in the corruption case discussed earlier, judicial consideration in assessing and utilizing the calculation of state financial losses constitutes a decisive factor in determining whether the elements of the offense have been fulfilled and whether the law enforcement process is legally valid. In judicial practice, judges do not merely act as passive recipients of evidence but actively evaluate its quality, relevance, and admissibility. This includes assessing the calculations of state financial losses submitted by investigators and public prosecutors, which often serve as the primary basis for suspect designation and for proving the element of state loss. (Mahrus, 2017).

In the pretrial decision under discussion, a divergence of views is evident regarding which institution is authorized to calculate state financial losses. Investigators from the Karo District Prosecutor's Office relied on audit results produced by the Swasra Public Accounting Firm as the basis for designating a suspect. However, in the pretrial ruling, the judge held that the authority to definitively determine the existence of state financial loss rests with the Audit Board of Indonesia (BPK). This difference reflects a conflict in the interpretation of applicable legal norms. The judge emphasized the legality of the institutional authority conducting the audit, indicating that the evaluation was not limited to the substance of the calculation but also extended to the legitimacy of the auditing body.The panel of judges granted the pretrial application in its entirety, declaring that the suspect designation against the applicant was invalid and lacked legal force. Furthermore, the court ordered the termination of the investigation through the issuance of an official notice of discontinuation. This decision indicates that the calculation of state financial loss used by the investigators was deemed not to meet the required standard of legal validity. The judge concluded that the use of an auditor from a Public Accounting Firm lacked sufficient legal authority to establish the existence of state financial loss.

In its reasoning, the court referred to Supreme Court Circular Letter (SEMA) Number 4 of 2016, particularly the Criminal Chamber formulation, which stipulates that the institution authorized to declare the existence of state financial loss is BPK. This circular serves as a guideline for judges in evaluating the validity of audit results. Nevertheless, it also allows other institutions, such as BPKP, to conduct audits, albeit without granting them the authority to definitively determine the existence of state losses. This reflects a functional division of authority, with BPK positioned as the primary institution. Such an approach demonstrates an effort to maintain consistency and legal certainty. However, when referring to Article 32 paragraph (1) of the Anti-Corruption Law, it is evident that the amount of state financial loss may be determined based on audit findings conducted by authorized institutions or by duly appointed public accountants. This provision explicitly allows for the involvement of public accountants in calculating state losses. Consequently, this creates a contradiction with the view that places BPK as the sole authority in declaring state financial loss. This inconsistency indicates a lack of harmonization between statutory norms and their interpretation in judicial practice, which in turn contributes to legal uncertainty. Judges are thus faced with the dilemma of choosing between adhering to the textual provisions of the law or following jurisprudential guidelines. On the other hand, judges also possess the

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authority to independently assess the existence of state financial loss based on facts revealed during trial proceedings. This aligns with the principle of judicial independence in evaluating evidence. (Eddy, 2013). However, in practice, judges still require a strong evidentiary basis, typically in the form of audit results from credible institutions. Without such a foundation, it becomes difficult for judges to determine the amount of state financial loss objectively. The pretrial decision annulling the suspect designation demonstrates that errors in the use of audit results may significantly affect the law enforcement process. The invalidation of a suspect designation implies that the entire investigation process is legally defective. This not only undermines the state's efforts in combating corruption but also potentially infringes upon the rights of individuals designated as suspects.

Furthermore, the divergence in perspectives between investigators and judges reflects a gap in the understanding and interpretation of applicable regulations. Investigators tend to prioritize practical considerations and efficiency, whereas judges emphasize legality and legal certainty. This disparity needs to be addressed through regulatory harmonization and improved inter-institutional coordination. Without a shared understanding, the potential for recurring conflicts remains high, thereby hindering the effectiveness of law enforcement. In addition to normative considerations, judicial reasoning is also influenced by the principle of human rights protection, particularly in relation to the designation of suspects. In pretrial proceedings, judges function as a supervisory authority over investigative actions. In this capacity, judges ensure that all law enforcement measures are carried out in accordance with lawful procedures. The annulment of the suspect designation in this case illustrates the exercise of such supervisory control.

With regard to the elements of the offense under Article 3 of the Anti-Corruption Law, the existence of state financial loss must be established in a concrete and verifiable manner. In the absence of a definite and reliable calculation of such loss, the elements of the offense cannot be deemed fulfilled. Therefore, the calculation of state financial loss plays a crucial role. In this case, the judge determined that the calculation conducted by the public accountant did not meet the required standard to substantiate the element of loss. This indicates that the establishment of criminal elements is highly dependent on the quality and reliability of the evidence presented.

It should be noted that the judge did not entirely reject the role of public accountants, but rather questioned their authority to formally declare the existence of state financial loss. Public accountants may still contribute as expert witnesses or conduct technical audits; however, their findings must be aligned with the authority of institutions recognized under the law. This reflects a functional limitation of roles aimed at preserving the validity of the evidentiary process. From the perspective of legal certainty, the use of state financial loss calculations must be undertaken cautiously and in strict accordance with applicable legal provisions. Legal certainty concerns not only the final outcome but also the process through which that outcome is achieved. A process that does not comply with legal requirements may invalidate the result. Therefore, each stage in handling a case must adhere to the principle of legality. The judicial reasoning in this case reflects an effort to uphold legal certainty through the interpretation of institutional authority. Although such interpretation may give rise to debate, its primary objective is to ensure the legitimacy of the legal process. Judges seek to ensure that every law enforcement action is grounded in a clear legal basis, which is essential to prevent arbitrariness. Ultimately, judicial consideration in assessing state financial loss calculations is not based solely on substantive accuracy but also on the authority and legal legitimacy of the institution conducting the calculation. This case demonstrates that an error in determining the basis of such calculation may result in the invalidation of the entire legal process.

Conclusion

Based on the findings and analysis, it can be concluded that the legal framework governing the authority to calculate state financial losses in corruption cases remains unclear and normatively fragmented. Although various statutory regulations provide a legal basis for certain institutions, such as the Audit Board of Indonesia (BPK) and the Financial and Development Supervisory Agency (BPKP), to conduct audits and calculate state losses, there is no explicit provision designating a single institution as the primary authority. This condition creates room for divergent interpretations among law enforcement authorities, thereby potentially generating legal uncertainty in the evidentiary process of corruption cases, particularly in determining the amount of state financial loss as an essential element of the offense.

In judicial practice, judges' considerations in assessing and utilizing state financial loss calculations tend to be case-specific and largely dependent on their conviction, which is formed based on the evidence presented during trial proceedings. Judges do not rely on a single source of calculation but instead evaluate the validity of the methodology employed, the competence of the institution or expert conducting the calculation, and its relevance to the facts established in court. Variations in sources and methods of calculation often lead to inconsistencies in judicial decisions, both in establishing the element of state financial loss and in determining criminal sanctions. Therefore, to ensure legal certainty, it is necessary to harmonize existing regulations and develop clear guidelines for judges in evaluating state financial loss calculations, thereby fostering consistency and fairness in the enforcement of anti-corruption law.

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