

The Role Of The Investigative Audit Report Of The Supreme Audit Agency In Proving Corruption

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ABSTRACT

This study aims to analyze the factors that influence corruption in Indonesia, as well as the role of the Supreme Audit Agency (BPK) in law enforcement and state financial management. Using a qualitative approach and normative legal analysis, this research finds that corruption has various forms and typologies regulated in Law No. 31 of 1999. BPK plays an important role in identifying state losses through the Audit Report (LHP), which serves as evidence in handling corruption cases. This research recommends improvements in the legal system and capacity building of the BPK as well as cooperation with law enforcement officials to effectively achieve the goal of eradicating corruption.

Keywords: Corruption, Supreme Audit Agency, Law Enforcement, State Losses.

Introduction

Indonesia as a state of law based on Pancasila and the 1945 Constitution, mandates that every government administration must be based on the law (*wetmatigheid van bestuur*) (Mulyadi, 2020; Kurnia, 2020; Yustina & Budisarwo, 2020). Law has a vital role in regulating the life of society, nation and state. In an effort to achieve just and prosperous national development, Indonesia needs the rule of law to be upheld, including in the prevention and eradication of Corruption Crime (*Tipikor*). This is affirmed in Article 5 Paragraph (1) and Article 20 Paragraph (1) of the 1945 Constitution as well as MPR Decree Number XI/MPR/199.8.

Corruption, which comes from the Latin words *corruption* and *corrumpere*, refers to rottenness and moral deviation that has the potential to harm society. As a "white collar crime" and "economic crime," corruption has a serious impact on the country's economy, resulting in financial losses and increased poverty (Priambodo, Falah & Silaban, 2020; Yunus, et al, 2021; Riyadi, 2024). Corruption can lead to absolute poverty, where individuals are unable to meet basic needs, as well as relative poverty due to inequities in income distribution. To address this problem, the Indonesian government has established the Corruption Eradication Commission (KPK) and stipulated the following Law No. 31/1999 as amended by Law No. 20/2001 on the Eradication of Corruption Crime (UUPTPK).

Corruption crimes that cause state financial losses are subject to severe sanctions, considering the function of state finances for the welfare of the people. To prove state financial losses, Article 2 and Article 3 of the UUPTPK stipulate that every action that harms state finances must be proven (Amrullah, et al, 2024). The calculation of state financial losses is important in the legal process, serving as the basis for prosecutors in indictments and judges in determining sanctions. However, the determination of the amount of loss is often disputed, due to different interpretations among law enforcement officials regarding the institution authorized to conduct the calculation.

In this context, the Audit Report (LHP) from the Supreme Audit Agency (BPK) has a crucial role in handling Corruption cases. The LHP serves as valid evidence, providing an evaluation of financial management and recommendations for improvement. Follow-up of the LHP by DPRD and OPD ensures the implementation of recommendations, improving transparency and accountability in budget management. Therefore, understanding the

position of the LHP in this context is important to analyze its role in proving corruption that harms state finances. Based on the context that has been explained, the problem formulations that will be studied in this research are: how is the position of the Audit Report of the Supreme Audit Agency in the case of Corruption Crimes that harm state finances?. This study aims to collect empirical evidence regarding the role of the Audit Report (LHP) issued by the Supreme Audit Agency (BPK) in the context of proving corruption crimes. Specifically, the purpose of this study is to analyze the implementation of the calculation of state financial losses carried out by the BPK in corruption cases, as well as to assess the effectiveness of the BPK investigative LHP in determining state financial losses. Thus, this research is expected to provide an in-depth understanding of the position and contribution of BPK in law enforcement against corruption cases in Indonesia.. In this qualitative research, the hypothesis proposed is that the Audit Report (LHP) prepared by the Supreme Audit Agency (BPK) has a significant role in proving the occurrence of state financial losses in the context of corruption crimes. In addition, this hypothesis also includes the assumption that the implementation of the calculation of state financial losses by BPK has a positive impact on the effectiveness of the law enforcement process in corruption cases, which in turn can increase the accountability of government institutions and encourage transparency in state financial management.

The results of this research are expected to make a meaningful contribution to various parties. For the government, the findings of this research can contribute constructive ideas in the field of criminal law, especially related to the authority of institutions in calculating state financial losses in accordance with applicable laws and regulations. For law enforcers, it is hoped that the results of this study can encourage increased accuracy in handling corruption cases, especially those related to the authority of institutions to calculate state financial losses. For the public, this research aims to increase understanding and knowledge about institutions authorized to calculate state financial losses. For the author, this research is expected to broaden insight into the issues studied, as well as provide a clearer picture of the effectiveness of the BPK LHP. Finally, for other parties, the results of this study are expected to provide valuable input for further research and a deeper insight into the BPK's LHP. The conceptual framework in this study serves to illustrate the flow of thought that links various concepts relevant to proving corruption crimes. First, the Supreme Audit Agency (BPK) as a state institution that has the responsibility to examine the management and accountability of state finances, as stipulated in Article 23 paragraph (5) of the 1945 Constitution of the Republic of Indonesia. The audit process carried out by BPK includes problem identification, analysis, and evaluation independently and objectively to assess the truth and credibility of information regarding the management of state finances. The results of this examination process are outlined in the Audit Report (LHP), which serves as evidence in handling corruption cases. State financial losses, which are determined based on examination evidence, reflect the consequences of unlawful acts, whether committed intentionally or as a result of negligence. Thus, this conceptual framework will guide the research in explaining the role and effectiveness of the BPK LHP in the context of proving corruption crimes that harm state finances.

The Legal Theory of State Finance is a discipline that focuses on the legal aspects and legal framework underlying state financial management (Sutedi, 2022). According to Law Number 17 Year 2003, state finances are defined as all state rights and obligations that can be valued in money, as well as all forms of money and goods that can be owned by the state in the context of implementing these rights and obligations. In this context, state financial law does not only discuss the technical aspects of management, but also prioritizes the legal basis that regulates the process of planning, stipulating, implementing, recording and reporting the budget. One important aspect of this theory is the transformation of state finance law into legal

entity finance (Yunus & Nasution, 2021). This idea has sparked debate among academics and legal practitioners regarding its implications for state financial management. In addition, the separation of state finances from business entities is evident in Government Regulation No. 72/2016, which states that state equity participation in State-Owned Enterprises (SOEs) is no longer counted as state assets, but as capital of the business entity.

State financial management is governed by various principles divided into classical and new principles (Siahaan, 2022; Lintang, 2021; Sazali, 2020). Classical principles include the principles of annuality, universality, unity, and specialty, which aim to ensure all government expenditures are under parliamentary oversight. On the other hand, the new principles reflect best practices in state financial management, including results-oriented accountability, professionalism, proportionality and openness. The application of these principles is expected to improve the quality of state financial management. The impact of the application of the Legal Theory of State Finance on public policy and budget management is significant. With a clear legal framework, state financial management is expected to be carried out in a transparent, accountable and efficient manner, thereby minimizing the risk of corruption and abuse of authority. Therefore, the role of the Supreme Audit Agency (BPK) investigative examination report is very important in the context of proving corruption, because the report provides a strong foundation to encourage accountability and transparency in state financial management.

Methods Research

This research uses a normative juridical approach that places law as a norm regulating social behavior (Santoso & Habib, 2023). The method applied is library research, which includes the study of legal literature, laws and regulations, legal articles, and other written sources. This approach follows the view of Soerjono Soekanto (1976), which states that research is conducted by examining library materials or secondary data as a basis for analysis. In this case, the research utilizes primary legal materials, such as the 1945 Constitution of the Republic of Indonesia and the Criminal Code (KUHP), as well as relevant secondary and tertiary legal materials. Legal material collection techniques are carried out through inventory and identification of positive legal rules and literature searches related to the legal issues studied.

The analysis of legal materials uses qualitative data analysis methods with various types of legal interpretation. Grammatical interpretation looks for the meaning behind the written language in legislation, while official interpretation refers to the definition given by the legislator. Teleological or sociological interpretation adapts the meaning of the law to the current social context, and systematic interpretation relates the regulation to the entire legal system. Finally, historical interpretation understands the meaning of legislation through its historical context. With this approach, the research aims to provide an in-depth understanding of the role of investigative reports in proving corruption.

Result and Discussion

Corruption is an act that is threatened with sanctions in accordance with Law No. 31 of 1999 and the amendments contained in Law No. 20 of 2001. Acts of corruption include various forms, such as against the law to enrich oneself or other parties (Article 2), abuse of authority (Article 3), as well as various practices of bribery, embezzlement, and gratuities (Article 5, Article 8, Article 12). In the legal view, Black's Law Dictionary defines corruption as an act that aims to provide unofficial benefits by abuse of office. Legal experts such as Subekti and Juniadi Suwanto emphasize that corruption involves the abuse of power for personal gain, which in turn harms the interests and finances of the state. In this context,

political factors are the main trigger for corruption, where power is often abused by irresponsible public officials and businessmen. Therefore, efforts to eradicate corruption need to be carried out with an integrated approach that includes harmonized regulations, transparency, and strict supervision.

Article 2 and Article 3 of Law No. 31 of 1999 describe acts that harm state finances, while other articles regulate bribery, embezzlement, and other fraudulent practices. This classification of corruption is very important to understand its characteristics and causes, which are also influenced by the social and cultural structure of society. State financial losses are regulated in several laws and regulations, including:

1. **Law Number 31 Year 1999 jo. Law No. 20/2001** on the Eradication of Corruption, which defines state financial loss as a reduction in state assets due to unlawful acts, abuse of authority, negligence, or circumstances beyond human capacity. The Constitutional Court (MK) Decision Number 25/PUU-XIV/2016 emphasizes that the phrase "may harm state finances" must be proven by actual financial loss, not just an estimate (potential loss). There are four benchmarks that form the basis of this change: (1) *Nebis In Idem* with the previous Constitutional Court Decision; (2) Legal uncertainty in corruption offenses that shift from formal to material approaches; (3) Harmonization between criminal and administrative approaches in the law; and (4) Alleged criminalization of the State Civil Apparatus (ASN).
2. **Law Number 1 Year 2004** on State Treasury defines state loss as a real and certain shortage of money, securities, and goods resulting from unlawful acts, whether intentional or due to negligence. The elements of state losses include the existence of perpetrators, real and certain shortages, unlawful acts, and the causal relationship between these actions and losses. State losses can be divided into those that can be prosecuted, which are the result of unlawful acts, and those that cannot be prosecuted, which arise beyond human ability or force majeure.

The Supreme Audit Agency (BPK) is an independent institution tasked with examining the management and financial responsibility of the state, as stipulated in Law No. 15/2006. As a constitutional institution, BPK has the authority to audit the finances of the central, regional and state-owned enterprises (SOEs), contributing to the fight against corruption. BPK's role in protecting state finances and improving transparency and accountability is crucial, especially when audit findings lead to suspected state losses that must be reported to the relevant authorities in accordance with Article 14 of Law No. 15/2004. BPK's duties include financial, performance, and specific purpose audits based on three related laws: Law No. 17/2003, Law No. 1/2004, and Law No. 15/2004. There are three main functions of BPK: operative, judicial, and advisory, which include examination, prosecution of state losses, and providing considerations regarding state financial management. The synergy between BPK and law enforcement agencies (APH) is critical to the effectiveness of handling corruption crimes in Indonesia.

Although BPK does not have the authority to determine irregularities as a criminal offense, this institution can determine state / regional losses and submit the findings to the authorized agency in accordance with Article 8 paragraph (3) of Law Number 15 Year 2006. In practice, law enforcement agencies often request BPK to conduct a Specific Purpose Audit (PDTT), which can be a compliance or investigative audit when there are indications of fraud. An investigative Audit Report (LHP) is a document that presents conclusions from the results of an audit conducted by BPK. There are three types of examinations carried out by BPK, namely Financial Examination, Performance Examination, and Examination with Specific Purposes (PDTT) (Sianipar & Ardini, 2023; Anggoro, 2018; Kaldera, et al, 2020; Yuliani, et al, 2023).

1. **Financial Audit** aims to provide reasonable assurance about the fairness of financial statements in accordance with accounting standards and compliance with regulations.
2. **Performance Audit**, on the other hand, focuses on aspects of economy, efficiency, and effectiveness with the aim of providing recommendations for improvement.
3. **PDTT**, which includes compliance and investigative examinations, aims to uncover indications of state losses and/or criminal elements, with examination results tailored to the objectives set.

The existence of an investigative LHP is very important in the context of handling corruption crimes. In BPK Regulation Number 1 of 2020, it is stipulated that investigative examinations are carried out independently by BPK, either based on requests from related institutions, the results of the development of previous examinations, or evaluation of information received. BPK's LHP can identify misappropriation of funds that result in state losses, thus becoming the basis for conducting further investigative audits. In the judicial process, it is important to prove the existence of unlawful acts and state financial losses. Although the proof of unlawful acts has been changed by the Constitutional Court Decision No. 003/PUU-IV/2006, BPK remains the only institution authorized to calculate state losses.

Therefore, the LHP BPK serves as important evidence in corruption cases, but it must also pay attention to the suitability of the report with the established procedures in order to be legally accepted. In the context of Law No. 31/1999 on the Eradication of Corruption ("Law 31/1999") and its amendments, which require the existence of state financial losses as an important element in the prosecution of corruption, the role of BPK is very strategic.

Conclusion

The results show that corruption in Indonesia, as an illegal act, has various forms and typologies regulated in Law No. 31 of 1999 and its amendments. Effective and integrative law enforcement is essential in efforts to eradicate corruption. The Supreme Audit Agency (BPK) plays a crucial role in auditing state financial management and detecting state losses due to acts of corruption. The BPK Audit Report (LHP) is not only evidence in the judicial process but also serves as the basis for improvement efforts in state financial management. Thus, strengthening the synergy between BPK and law enforcement officials is needed to increase the effectiveness of handling corruption in Indonesia.

Suggestion And Recommendation

In order to increase the effectiveness of corruption eradication, it is recommended that the government and related institutions revise the laws and regulations governing corruption to clarify the definition and typology of corruption crimes. In addition, training and socialization for law enforcement officials on more transparent procedures and monitoring mechanisms are needed. BPK also needs to improve human resource capacity in conducting investigative audits and more rigorous supervision, and strengthen cooperation with international institutions in monitoring suspicious fund flows. Finally, it is important to build an anti-corruption culture in society to support prevention efforts at the root level.

Reference

- Adrian Sutedi. (2022). *Hukum keuangan negara*. Sinar Grafika.
- Amrullah, M. D. F., Kasmarani, Y., & Mustika, D. (2024). Analisis Sifat Melawan Hukum Formil Terhadap Pelaku Tindak Pidana Korupsi Berdasarkan Pasal 2 Dan Pasal 3 Undang-undang Nomor 20 Tahun 2001. *Ta'zir: Jurnal Hukum Pidana*, 8(1), 57-68.
- Anggoro, C. (2018). Kewenangan Pemeriksaan Badan Pemeriksa Keuangan atas Badan Usaha Milik Negara. *Varia Justicia*, 14(1), 40-50.

- Kaldera, N. X., Aulia, M., & Faza, H. A. (2020). Peran BPK Sebagai Lembaga Pengawas Eksternal Pengelolaan Keuangan Negara. *Jurnal Fundamental Justice*, 13-26.
- Ketetapan MPR RI Nomor XI/MPR/1998 Tentang Penyelenggaraan Negara Yang Bersih Dan Bebas Korupsi, Kolusi, Dan Nepotisme.
- Kurnia, A. E. (2020). Kompetensi Peradilan Tata Usaha Negara dalam Memeriksa Keputusan Menteri Dalam Negeri dan Keputusan Gubernur tentang Hasil Evaluasi Rancangan Peraturan Daerah. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 9(3), 387.
- Lintang, V. A. L. (2021). Analisis Tata Kelola Keuangan Negara di Masa Pandemi Covid-19. *Juripol (Jurnal Institusi Politeknik Ganesha Medan)*, 4(1), 310-319.
- Mulyadi, D. (2020). Konstruksi Pungutan Liar Pada Penyelenggara Pendidikan Dasar. *Journal Presumption of Law*, 2(2), 110-132.
- Peraturan BPK Nomor 1 Tahun 2020 Tentang Pemeriksaan Investigatif
- Peraturan Pemerintah (PP) Nomor 72 Tahun 2016 tentang Perubahan Atas Peraturan Pemerintah Nomor 44 Tahun 2005 Tentang Tata Cara Penyertaan dan Penatausahaan Modal Negara Pada Badan Usaha Milik Negara dan Perseroan Terbatas
- Priambodo, E. R., Falah, M., & Silaban, Y. P. (2020). Mengapa korupsi sulit diberantas. *Jurnal Ilmu Hukum, Humaniora dan Politik*, 1(1), 30-41.
- Riyadi, B. S. (2024). Criminal Behavior Politician During Reform in Indonesia. *International Journal of Religion*, 5(7), 582-598.
- Santoso, A. P. A., & Habib, M. (2023). Relasi Filsafat Ilmu, Hukum, Agama Dan Teknologi. *JISIP (Jurnal Ilmu Sosial dan Pendidikan)*, 7(1), 783-792.
- Sazali, M. (2020). Implementasi pengelolaan keuangan negara dalam perspektif ekonomi islam (studi apbn 2009-2017). *Al-Intaj: Jurnal Ekonomi Dan Perbankan Syariah*, 6(2), 88-107.
- Siahaan, S. P. (2022). Pengawasan Terhadap Pengelolaan Keuangan BPJS Kesehatan Dalam Rangka Mewujudkan Prinsip Akuntabilitas. *Jurist-Diction*, 5(5).
- Sianipar, G. A. E., & Ardini, L. (2023). Pemeriksaan Keuangan Negara pada Masa Pandemi COVID-19. *jurnal sekuritas (Saham, Ekonomi, Keuangan, dan Investasi)*, 4(1), 34-42.
- Soekanto, S. (1976). Penelitian Hukum Dan Pendidikan Hukum. *Jurnal Hukum & Pembangunan*, 6(6), 429-439.
- Undang-undang Dasar Tahun 1945
- Undang-Undang Nomor 1 Tahun 2004 tentang Perbendaharaan Negara.
- Undang-Undang Nomor 17 Tahun 2003 tentang Keuangan Negara.
- Undang-Undang Nomor 31 Tahun 1999 yang diubah dengan Undang-Undang Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi
- Yuliani, E. T., Silitonga, M. S., & Widjayanti, A. (2023). Model Kebijakan Pemeriksaan Tematik atas Agenda Pembangunan Nasional pada Badan Pemeriksa Keuangan Republik Indonesia. *Jurnal Pembangunan dan Administrasi Publik*, 31-50.
- Yunus, N. R., & Nasution, L. (2021). Transformasi Dan Pengawasan Keuangan Negara Pada Bumn Dengan Prinsip Business Judgment Rule. *Jurnal Hukum Samudra Keadilan*, 16(2), 192-203.
- Yunus, N. R., Nasution, L., Romlah, S., & Nurhalimah, S. (2021). Corruption as an extraordinary crime: Elements and eradication efforts in Indonesia. *Journal of Creativity Student*, 6(2), 131-150.
- Yustina, E. W., & Yohanes Budisarwo. (2020). *Hukum jaminan kesehatan: sebuah telaah konsep negara kesejahteraan dalam pelaksanaan jaminan kesehatan*. SCU Knowledge Media.
- Zulfikar, P. (2022). Perspektif Kewenangan Badan Pemeriksa Keuangan (BPK) Kaitan Perjanjian Eksteradisi Indonesia dan Singapore. *Jurnal Ilmiah Penegakan Hukum*, 9(1), 74-86.