



STATE LOSSES DUE TO CORRUPTION

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Abstract

Corruption is a criminal act in Indonesia which is still classified as a very high crime and no way has been found to overcome it. So the author is interested in conducting research using library research methods by studying and examining various sources such as books related to state losses due to corruption. And the conclusions from writing this journal are (1) corruption is deviant behavior carried out by someone with the aim of gaining financial gain and generally the term corruption is used for someone who likes to take money for personal gain, (2) carrying out corruption of course results in losses the state becomes quite large, state financial losses are a shortage of money, securities and also real and definite amounts of goods as a result of unlawful acts whether intentional or unintentional, (3) the efforts made in the process of returning state financial losses are by through three channels including criminal, civil and administrative or political channels, (4) and the role of the Attorney General's office in recovering state financial losses is by carrying out investigations, prosecutions and also executions in criminal cases, where the execution here is as executor in implementing court decisions .

Keywords: Corruption, State Financial Losses, Attorney General's Office

INTRODUCTION

Corruption is a criminal act in Indonesia which is still classified as a very high crime and no way has been found to overcome it. Where this criminal act of corruption has quite a bad impact on people's lives and the national economy of the government itself. People who occupy high positions and positions are basically accustomed to carrying out criminal acts of corruption, this is because in high positions there are many heads of government who commit corruption and money laundering. The existence of this corrupt practice creates serious problems for law enforcement, especially in Indonesia.

From year to year there is a significant increase in corruption cases, this increase in corruption cases is not only in terms of quantity or what is called state financial losses but also quality which has been carried out in a modern and systematic manner, and has even penetrated the borders of the country itself. Therefore, in handling corruption, there needs to be a new breakthrough and an approach that is also integral and can also be carried out through international cooperation itself (Lilik, 2008).

Frequent acts of corruption not only make society miserable but also cause quite large losses as a result of the acts of corruption themselves. In connection with state losses that arise as a result of corruption, this has been regulated in Law Number 31 of 1999 concerning the eradication of criminal acts of corruption, where this law has put forward a concept of returning state financial losses, and in this concept it can also help to restore losses to the state due to criminal acts of corruption and the perpetrators of this corruption will also be subject to criminal sanctions. Apart from that, there are also additional sanctions for perpetrators of corruption crimes, namely in the form of replacement money in

an amount equal as much as possible to the nominal value and assets obtained from the proceeds of the criminal act of corruption (Marwan, 2009).

The crime of corruption is a part of special criminal law which has certain specifications and is quite different from other criminal laws. From various parts of the world, corruption always receives quite high attention compared to other criminal acts. This is understandable because basically this criminal act has a very bad impact on national economic life. In Indonesia itself, corruption is a social disease that is endemic and difficult to cure, and what is most worrying is the seizure and management of state finances carried out collectively by several groups, especially economic and political elite circles, which occurs in almost all regions of Indonesia. According to Law Number 31 of 1999, state financial loss is a reduction in state assets caused by an unlawful act, abuse of power or authority and also the opportunities or means available to a person because of a high position. as well as negligence from related agencies (Sudarto, 2009).

In the 2022 corruption prosecution trend report by Indonesia Corruption Watch, one of the general findings that has been highlighted is the existence of state losses worth IDR. 42,747 trillion Rupiah. This figure is quite significant and very large and this comes from monitoring various corruption cases, both those that have occurred and those that have not, during the period 1 January to 31 December 2022. This data is processed from corruption cases that were prosecuted by several related agencies, namely as follows:

1. Attorney
2. Police
3. And also the Corruption Eradication Commission (KPK)

Corruption cases that were recorded as causing significant state losses occurred in the forestry sector, where this case was a case of grabbing state land for an oil palm plantation covering an area of 37,095 hectares in Indragiri Hulu Regency, Riau province. This is in the form of land that was cultivated without permission by the Duta Palma Group from 2003 to 2022 last year. And in this case the state suffered a loss of Rp. 104.1 trillion. According to the results of a joint inspection from the financial and development supervisory agency, this figure is Rp. 4.9 trillion which is a state loss and Rp. 99.2 trillion is the result of losses to the country's economy. In this case, the country's economic losses are very broad in scope so they can trigger high values.

In this case, the Central Jakarta District Court has issued a verdict in this case where the verdict is as follows (Yanuar, 2006):

1. The verdict against Surya Darmadi, who is the owner of the Duta Palma Group, was that this company used state land illegally, and according to decision No. 62/Pid.Sus-TPK/2022/PN. Jkt. Pst. Surya Darmadi was sentenced to 15 years imprisonment and also a fine of Rp. 1 billion subsidiary 6 months in prison. And also an additional penalty in the form of payment of compensation amounting to Rp. 2.2 trillion and also payment for state economic losses amounting to Rp. 39 trillion.

Apart from corruption, Surya Darmadi has also been named a suspect in a money laundering crime case.

2. Sentence to Raja Thamsir Rachman, one of the former regents of Indragiri Hulu. Where the judge charged Raja Thamsir with the threat of criminal acts of corruption causing loss of state finances, this was because he had helped enrich Surya Darmadi. By passing decision No. 24/PID. SUS-TPK/2023/ PT DKI, Raja Thamsir was sentenced to nine months in prison with a fine of Rp. 500 million, subsidiary to six months in prison.

Apart from Indragiri Hulu, the next corruption case occurred in the oil and gas sector in Tuban, East Java, where this case was a case of direct sales of the state's share of crude oil or condensate from May 2009 to December 2011. In this criminal act of corruption, the state suffered losses amounting to US\$ 2.7 billion or the equivalent of Rp. 35 Trillion. Where in this case the Central Jakarta District Court has appointed Honggo as the main director of PT. TPPI with a prison sentence of 16 years and a fine of IDR 1 billion subsidiary 6 months in prison and payment of compensation to the state of IDR. 97 billion. And Raden Priyono as head of BP Migas and also Djoko Harsono as BP Migas Marketing were sentenced to four years in prison and a fine of Rp. 200 million, subsidiary 2 months in prison.

Based on the description of the introduction above, the problem formulation in writing this journal is as follows:

1. What is meant by corruption?
2. What is meant by state financial losses?
3. What is the procedure for returning state finances resulting from criminal acts of corruption?
4. What is the role of the Attorney General of the Republic of Indonesia in recovering state losses due to corruption?

METHOD

The research used in writing this journal is library research or what is often called library research which is carried out by studying and also examining various sources, including books and previous journals related to state losses due to corruption (Darwan, 2010). Library research is research using book sources, documents and other media to obtain conclusions from the results you want to carry out. Where all the data obtained is collected and then conclusions are drawn (Ronny, 1990).

RESULTS OR DISCUSSION

Definition of Corruption

Corruption is deviant behavior carried out by someone with the aim of gaining financial gain. Generally, the term corruption has been attached to those who like to take money for personal or self-interest. The opinions of experts regarding corruption include the following (Andi Hamzah, 1986):

1. "According to Law Number 31 of 1999 concerning the eradication of criminal acts of corruption", it is not clearly explained what corruption is, but this can be categorized as a criminal act because committing acts with the aim of enriching oneself or other people which can harm the state, committing abuse of authority and opportunity, by giving gifts and promises to civil servants and attempting to assist in criminal acts of corruption
2. "According to Jeremy Pope," corruption is behavior carried out by officials, which is unreasonable or illegal with the aim of causing themselves and others to abuse their authority.
3. "According to Syed Hussein Alatas ," corruption is bribery, extortion, nepotism and abuse of trust for personal gain
4. "According to Robert Klitgaard" Corruption is behavior that deviates from official positions or duties in an agency for the sake of profit and money

The negative impacts of criminal acts of corruption are as follows (Abd, Razak, 2020):

1. It can reduce investment levels, this is because investors will feel worried if they invest in countries with the highest cases of corruption
2. It can create social inequality which can cause people to get poorer and corrupt people to get richer
3. Can create absolute poverty
4. Can hinder the process of developing public facilities, where corruption can cause various development projects and public facilities to be of low quality and not in accordance with proper needs.
5. Can create a culture of corruption where if criminal acts of corruption are carried out continuously it can give rise to a culture of corruption that is deep-rooted and difficult to eradicate

There are so many bad impacts from the perpetrators of this criminal act of corruption, and if it continues it will cause the country to suffer even more losses. Therefore, it is necessary to take action and punishment that is appropriate and has a deterrent effect, where punishment for perpetrators of corruption in Indonesia has been stated in the constitution, for example in Law Number 31 of 1999 and Law Number 20 of 2001 concerning the eradication of criminal acts of corruption where " Any person who unlawfully commits an act of enriching himself or another person or a corporation which can harm the state or the state's economy will be punished with life imprisonment or imprisonment for a minimum of four years and a maximum of 20 years with a maximum fine. a minimum of IDR 200,000,000 and a maximum of IDR 1,000,000,000." . With the existence of punishments in the form of imprisonment, restitution of state losses and also fines, it is hoped that it will be able to prevent perpetrators of

corruption from committing these criminal acts and also the community can provide social sanctions and warnings to other people not to commit corruption (Andi Hamzah, 2012).

Understanding State Losses

The definition of state or regional financial losses according to article 1 paragraph 22 of Law Number 1 of 2004 concerning the state treasury is a shortage of money, securities and goods which are real and definite in amount as a result of unlawful acts whether intentional or unintentional. The elements of state losses are as follows (Theodomor, 2012):

1. Reduction of state finances in the form of money and state property from the proper amount
2. It is real and has actually happened in large numbers and can be determined
3. These state losses are the result of unlawful acts, whether intentional or unintentional

The element of harming state finances or the state economy is a core element in articles 2 and 3 of Law No. 31 of 1999 concerning eradicating corruption as amended by Law Number 20 of 2001 concerning PTPK. Where the criminal act of corruption in this article has changed from a formal offense to a material offense.

Procedures for Returning State Losses Due to Corruption Crimes

The process of returning and recovering state losses due to corruption is carried out by the prosecutor. The efforts made in the process of recovering state losses can be carried out through criminal, civil and also administrative or political channels. And the steps that can be taken in the process of returning state losses are as follows (Evi Hartati, 2019):

1. By returning state losses through a criminal process, through this route the prosecutor's office can take action as a framework for returning state losses from criminal acts of corruption committed by a corrupt person, where the action taken is in the form of an investigation up to the stage of executing the judge's decision which is the power fixed law. These actions include the following;
 - a. Search for assets
 - b. Confiscation of assets or assets
 - c. Prosecuting the payment of compensation for state losses
 - d. Carry out execution of court decisions regarding the return of state financial losses
2. By recovering state losses through civil means, where in this case, if a court process is carried out but the defendant dies, but in reality the defendant has committed corruption, then a duplicate of the trial report file is handed over by the public prosecutor to the attorney general. countries and also institutions that experience losses to file civil lawsuits against their heirs
3. By returning state losses by means of state administrative law. There are two forms of settlement in state financial compensation, namely as follows:
 - a. By means of a claim for compensation

b. By means of treasury demands

And in this corruption case, there are several efforts that must be made by law enforcers in the process of recovering state losses caused by corruption, including the following:

1. By maximizing the recovery of state losses by confiscating and tracing the assets belonging to the defendant or convict
2. By convincing the convict to pay replacement money
3. By encouraging the public to support the eradication of corruption
4. By completing the facilities and infrastructure to eradicate corruption

The Role of the Indonesian Attorney General's Office in Recovering State Losses Due to Corruption

The Public Prosecutor's Office has the following functions (Abu Ahmadi, 2004):

1. Provide guidance in the field of work
2. Carrying out planning, carrying out additional examinations and also prosecutions in carrying out legal determinations and court decisions, whether conditional release or other legal conditions and carrying out administration
3. Fostering cooperation and coordinating the process of handling special criminal cases with various agencies and related institutions.

The role of the Prosecutor's Office in efforts to recover financial losses is in accordance with the functions and duties contained in Law Number 16 of 2004 where the Prosecutor's Office plays a role in investigating, prosecuting and also executing criminal cases. Where the executor in question is the executor in implementing the court decision.

CONCLUSION

Corruption is deviant behavior carried out by someone with the aim of gaining financial gain, and generally the term corruption is attached to those who like to take money for personal gain. Meanwhile, state losses are a shortage of money, securities and goods which are real and definite in amount as a result of unlawful acts, whether intentional or not.

The process of recovering state financial losses due to corruption is carried out by the prosecutor. The efforts made in the process of recovering state financial losses are through three channels, including criminal, civil and administrative or political channels. And the role of the Attorney General's Office in recovering state financial losses is by carrying out investigations, prosecutions and also executions in criminal cases, for example corruption. Where the executor here is the executor in implementing the court decision.

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