

**Review Article****ANALYSIS OF STATE FINANCIAL LOSS RETURNS BY VILLAGE GOVERNMENT APPARATUS IN LABUHANBATU UTARA DISTRICT;****Hengki Syahyunan¹, Khairuddin Hasibuan², Edy Pane³, Suwito⁴, Muhammad Salim Fauzi Lubis⁵****Article History**

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Abstract: The development of law in Indonesia is caused by changes in behavior patterns or culture in society, so that it causes values and morals to change too. What was originally an ordinary action, as a result of this cultural change, can become a crime, such as technological developments that gave birth to the Electronic Information and Transaction Law. Likewise, from the perspective of corruption, which was originally an extraordinary crime, now it seems as if it is an ordinary crime that can be carried out restoratively by returning state losses caused by corruption. The crime of corruption has been structured and reaches the lowest level of government, namely at the village government level. The management of state finances has always been aimed at maximizing personal and group benefits in order to enrich themselves and prepare ammunition for the next village head election contestation. The issuance of a regulation that allows Village Apparatuses to return state losses within a 60-day limit after an inspection by the Regional Inspectorate or the Audit Board of the Republic of Indonesia has become a major capital for Village Apparatuses in committing acts of corruption in their respective villages. Whereas it is considered that the regulation is a shield to protect him from criminal prosecution, because if proven, it can be returned, but if it is not known or an examination is not carried out, it will become a source of wealth for the village apparatus itself. This is a very interesting problem to carry out an in-depth study of whether the regulations issued do not contradict or actually violate the regulations above, such as Law Number 31 of 1999 Jo. Law Number 20 of 2001 Concerning the Eradication of Corruption Crimes..

Keywords: *Corruption, Recovery of State Losses, Village Apparatuses;*

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INTRODUCTION

According to Fockema Andreae, the word corruption comes from the Latin corruptio or corruptus. The word Corruptio comes from the word corrumpere, an older Latin word. from Latin it descended into many European languages such as English namely corruption, corrupt; France is corruption; and the Netherlands, namely corruptie, korruptie. It is from the Dutch language that the word descends into Indonesian, namely corruption.¹

Corruption is a criminal act, the meaning of which is a criminal act is an act that is threatened by laws and regulations with criminal sanctions and/or action.²

Criminal acts of corruption are regulated in Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning Eradication of Corruption Crimes. The criminal act of corruption is an extraordinary crime which has a negative impact on the occurrence of sustainable poverty at the middle to lower level of society.

By definition, the criminal act of corruption in The Contemporary English-Indonesian Dictionary is defined as dishonest, rotten, bribing, bribing and corrupting morale while corruption is defined as bribery, corruption and moral damage.³ Corruption in Indonesia has been classified as an extraordinary crime, according to Romli Atmasasmita because:⁴

1. Corruption in Indonesia is deeply rooted in the life of the nation and state. It turns out that one of the Gotong Royong Cabinet's programs is consistent law enforcement and eradication of Corruption, Collusion, Nepotism.
2. Corruption that grows so rapidly is not only a legal problem but is actually a violation of the economic and social rights of the Indonesian people.
3. It turns out that law enforcement against corruption has been applied in a discriminatory manner, both based on social status and based on the political background of the suspect or defendant.
4. Corruption in Indonesia is already a collaboration between actors in the public sector and the private sector which is actually a type of corruption that is difficult compared to corruption that only occurs in the public sector.

When examined from a doctrinal perspective, Romli Atmasasmita argues "By paying attention to the development of corruption in terms of quantity and quality, and after studying it in depth, it is only fitting that corruption in Indonesia be said to be an extraordinary crime (crime)".⁵

Criminal acts of corruption have occurred a lot from the central government layer to the regional government layer. This happened due to many factors, including the lack of firmness of law enforcers in eradicating criminal acts of corruption, besides that there were rules that could weaken law enforcement in eradicating criminal acts of corruption such as the issuance of rules that allow perpetrators of criminal acts of corruption at the regional level to return state losses to the local government. regional cash account and/or village cash account.

¹Andi Hamzah 2006, *Pemberantasan Korupsi Melalui Hukum Pidana Nasional dan Internasional*, PT. Raja Grafindo Persada, Jakarta hal. 4

²Kementerian Pendidikan dan Kebudayaan RI Direktorat Jenderal Pendidikan Tinggi, *pendidikan anti korupsi untuk perguruan tinggi* (Jakarta: 2011), hal. 23

³ Maulana. M.S.R., *Tindak Pidana Korupsi sebagai kejahatan Luar Biasa*, Al'adl, 13(3), 1576-1580, <https://doi.org/10.31602/al-adl.v9i3.1047>.Diakses 25 Februari 2023.

⁴*Loc. Cit.*,

⁵*Ibid.*,

This perception is inappropriate and very contrary to the spirit of bureaucratic reform and is also an opportunity for regional and village officials to engage in massive corruption, because the consequence of returning state losses is only carried out if there is an inspection by an authorized agency such as the Government's Internal Supervisory Apparatus or Audit Board of the Republic of Indonesia.

It can be emphasized that corruption always begins and develops in the government sector (public) and state-owned companies. With clear evidence, public officials and state-owned companies can suppress or extort people who need services from them. government and State Owned Enterprises (BUMN).⁶

State losses can occur due to law violations or negligence by state officials or non-treasurer civil servants in the context of implementing administrative authority or by the treasurer in the context of implementing treasury authority.⁷

Incidents of returning state losses by village government officials have occurred a lot, this is due to suggestions or recommendations from the authorized examining agency even though these actions actually fulfill the elements of a criminal act of corruption, one example of which occurred in Kuala Bangka Village, Kualuh Hilir District, Labuhanbatu Regency North, North Sumatra Province.

In the 2018 Fiscal Year, based on the inspection report from the North Labuhanbatu District Inspectorate, 4 categories of errors were found that caused state losses and were recommended by the Inspectorate to be returned to the state. So that as a result of the loss, the Inspectorate of North Labuhanbatu Regency recommended that the Kuala Bangka Village government apparatus in accordance with their authority to return the funds to the Village treasury Account, and after returning the funds, the action referred to above was considered completed and was not a crime.

Based on these legal events, the author strongly disagrees with the Inspectorate's policy above, because the rules regarding returning state losses can only be carried out if the mistakes made by village government officials are administrative errors that cause state losses, not those that meet the elements of a criminal act of corruption, so that the writer is interested in conducting scientific research entitled "**Analysis of State Financial Losses Returns by Village Government Apparatuses in North Labuhanbatu Regency**".

RESEARCH METHODS

The research method used in this research is normative legal research method,⁸ namely by analyzing the problems based on the analysis of legal principles and norms, as well as laws

⁶ Romli Atmasasmita, 2004, *Sekitar Korupsi Aspek Nasional dan Aspek Internasional*, CV. Mandar Maju, Bandung hlm. 1

⁷ [http://jurnal.untad.ac.id/jurnal/index.php/Katalogis/article/oleh : Karel Antonius Paeh., Pengembalian Kerugian Keuangan Negara Berdasarkan Rekomendasi BPK dan hubungan Dengan Unsur Kerugian Negara dalam Tindak Pidana Korupsi/viewFile/8490/6759](http://jurnal.untad.ac.id/jurnal/index.php/Katalogis/article/oleh%3AKarel%20Antonius%20Paeh.,%20Pengembalian%20Kerugian%20Keuangan%20Negara%20Berdasarkan%20Rekomendasi%20BPK%20dan%20hubungan%20Dengan%20Unsur%20Kerugian%20Negara%20dalam%20Tindak%20Pidana%20Korupsi/viewFile/8490/6759). diakses 25 Februari 2023

⁸ Penelitian hukum normatif dapat juga disebut dengan penelitian hukum kepustakaan, yang mencakup: (1) penelitian terhadap asas-asas hukum, (2) penelitian terhadap sistematik hukum, (3) penelitian terhadap taraf sinkronisasi vertikal dan horizontal, (4) perbandingan hukum, (5) sejarah hukum. Soejono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif*, (Jakarta: Raja Grafindo Perkasa, 2010), hal. 13-14. Penelitian hukum normatif, adalah penelitian hukum yang meletakkan hukum sebagai sebuah bangunan sistem norma. Sistem norma yang dimaksud adalah mengenai asas-asas, norma-norma, dan kaidah dari peraturan perundangan, putusan pengadilan, perjanjian, serta doktrin (ajaran). Mukti Fajar dan Yulianto Achmad, *Dualisme Penelitian Hukum; Normatif dan Empiris*, (Yogyakarta: Pustaka Pelajar, 2010), hal. 34

and regulations. This research is focused on library research. Literature research is carried out by examining those related to the Position of the Deed in Providing Legal Protection and Legalizing the Registration of Transfer of Land Rights, laws and regulations, literature books, references, documents and results of research reports related to the subject matter studied.

RESULTS AND DISCUSSION

1. Analisis Regulasi Pengembalian Kerugian Negara terhadap Tindak Pidana Korupsi di Indonesia

Returning state losses is an action to return money or property lost or misused by certain parties which results in state losses. in Indonesia, the recovery of state losses is regulated in several different laws and regulations. Law No. 20 of 2001 concerning Corruption Crimes (Tipikor Law) The Corruption Law regulates criminal acts of corruption and sanctions given to perpetrators of corruption. In addition, the Corruption Law also regulates the recovery of state losses caused by criminal acts of corruption. In this case, the perpetrators of corruption are required to return state losses caused by their crimes.

Law No. 17 of 2003 concerning State Finance (State Finance Law) The State Finance Law regulates the management of state finances, including regarding the return of state losses. In this case, the State Finance Law contains provisions that anyone who causes state losses must be responsible and repay these losses.

Government Regulation No. 71 of 2010 concerning Input Cost Standards for the 2011 Fiscal Year This Government Regulation regulates the use of the state budget in every government program and activity. In this case, this regulation also regulates the recovery of state losses if there is use of the budget that is not in accordance with the stipulated provisions. Government Regulation no. 60 of 2008 concerning Procedures for Implementing Compensation in the Context of Management of State Property This Government Regulation regulates procedures for managing state property, including in terms of returning state losses caused by acts of negligence or errors in managing state property.

Refunds for state losses can be made through several mechanisms, including through criminal law processes, civil lawsuits, and administrative processes. Returns for state losses that have been made can be reused for the benefit of the state, such as for infrastructure development or social programs. However, the process of recovering state losses in Indonesia still faces several obstacles, such as weaknesses in law enforcement and a lack of coordination between institutions involved in the process of recovering state losses. therefore, more serious and systematic efforts are needed to increase the effectiveness of recovering state losses in Indonesia.

In addition to those stated above, it is also regulated regarding the return of state financial losses in the Cooperation Agreement between the Ministry of Home Affairs of the Republic of Indonesia and the Attorney General's Office of the Republic of Indonesia and the National Police of the Republic of Indonesia regarding the coordination of the government's internal supervisory apparatus with law enforcement officials, especially in handling reports or public complaints that indicate corruption in the administration of regional government. As stated in Article 7 paragraph 5 letter b that the first party, namely the Government Internal Supervisory Apparatus in carrying out investigative investigations, found an administrative error that caused state/regional losses and has been processed through claims for compensation or demands for treasury no later than 60 days after the report on the results of the inspection The Government's Internal Supervisory Apparatus or the Audit Board of the Republic of Indonesia is received by officials or has been followed up or declared completed by the Government's Internal Supervisory Apparatus and/or the Audit Board of the Republic of Indonesia.

The memorandum of understanding between the Minister of Home Affairs, the Attorney General's Office of the Republic of Indonesia and the Police of the Republic of Indonesia is a form of policy and renewal of methods in handling supervision of the financial management of Regional Governments and/or Village Governments, this provides an explanation that if there is a state/regional financial loss caused by administrative errors, then within 60 days from the report on the results of the inspection of the Government Internal Supervisory Apparatus and/or the Supreme Audit Agency, the village head or village government apparatus can return the loss to the state or regional treasury account, so it is no longer categorized as a criminal act of corruption and of course this rule apply on a national scale.

However, it is also explained in Article 7 paragraph (3) if in carrying out an investigative examination finds allegations of corruption, the Government's Internal Supervisory Apparatus and/or the Supreme Audit Agency submits them to the prosecutor's office or the Indonesian National Police.

In preparing the audit results report by the Government's Internal Supervisory Apparatus and/or the Supreme Audit Agency, it must be formulated whether the findings of the state losses indicate a criminal act of corruption or were simply due to an administrative error so that they can provide an explanation regarding the follow-up of the Audit Results Report whether it is submitted to Law Enforcement Officials or carry out claims for compensation to the official concerned in this case the village head or village government apparatus.

The above is in line with Article 4 of law number 31 of 1999 concerning the eradication of criminal acts of corruption which states that returns for state losses that fulfill the elements of criminal acts of corruption do not eliminate the punishment of the perpetrators of these criminal acts of corruption..

2. Analisis Kasus Pengembalian Kerugian Negara yang dilakukan Oleh Kepala Desa di Desa Kuala Bangka, Kecamatan Kualuh Hilir, Kabupaten Labuhanbatu Utara.

As a case study in this study, a sample of cases that occurred in Kuala Bangka Village, Kualu Hilir District, North Labuhan Batu Regency, North Sumatra Province for the 2018 fiscal year, resulted in a state financial loss of Rp. 327,580,185, based on the report on the results of the village financial audit dated 15 August 2019 number: 700/903/INSP.IW.II/VIII/2019, with the following details:

1. There is a cash balance as of December 31 2018 at the Kuala Bangka village treasurer with a value of Rp. 87,672,216.
2. There are shopping expenses in the village of Kuala Bangka, Kualuh Hilir District, amounting to Rp. 188,546,200 which has not been completed with proper and orderly administration of supporting evidence.
3. There is a tax of Rp. 31,861,765 which has not been deposited by the Kuala Bangka Village Government to the state treasury.
4. There was an excess of payment for physical work for the 2018 fiscal year in the village of Kuala Bangka with a total value of Rp. 19,500,004.⁹

Based on the Audit Results Report from the North Labuhanbatu District Inspectorate, the village head returns all of the state's financial losses in 2021 and for this return, the Inspectorate states that the above actions have been followed up based on the Inspectorate's recommendation.

⁹Laporan hasil pemeriksaan Inspektorat Kabupaten Labuhanbatu Utara atas pengelolaan keuangan Desa Kuala Bangka, 15 Agustus 2019.

According to the author, what was done by the Inspectorate and the Village Head of Kuala Bangka was not in accordance with what was regulated in Article 4 of Law Number 31 of 1999 concerning eradicating corruption and was not in accordance with the cooperation agreement between the Government's Internal Supervisory Apparatus and law enforcement officials (APH) as previously described.

If we take a closer look at point 1 regarding the existence of cash balances that are under the control of the Village Treasurer for a very long time of approximately 30 months, it can be categorized as an act indicating the existence of a criminal act of corruption. There is an act (*actus reus*) which is detrimental to state/regional financial losses, and it can also be seen that there is an intention (*mens rea*) to misuse/ misappropriate state finances, so that the element of corruption has been fulfilled and a follow-up examination should be carried out by Law Enforcement Officials (APH) to carry out investigations and/or investigations.

In point 2 it is clear that there has been an administrative error, namely the administration of supporting evidence has not been completed correctly and in an orderly manner so that according to the contents of the cooperation agreement between Law Enforcement Officials and Government Internal Supervisory Apparatuses it can be returned within 60 days after the inspection report is received by the official concerned. However, it turns out that the return exceeds the maximum limit set for up to 30 months, so it is appropriate to declare the absence of good faith from the official concerned and can be categorized as a criminal act of corruption.

Furthermore, in point 3, there are state taxes that have not yet been deposited into the state treasury, as a form of its obligation to procure goods and services in the management of the Kuala Bangka Village Fund for the 2018 fiscal year. This is also very detrimental to the state and indicates the existence of criminal acts of corruption and according to the author has met the elements of a criminal act of corruption.

Then Point 4, namely the excess payment for physical work for the 2018 fiscal year, this is due to a lack of volume of building materials according to what has been budgeted. This is also an act that is detrimental to state finances and indicates that it fulfills the elements of a criminal act of corruption.

If we look at different case studies, in Halimbe Plantation Village, Aek Natas District, North Labuhanbatu Regency, based on the results of an inspectorate inspection number: 700/764/INSP.IW.III/VIII/2020, that a state financial loss of Rp. 561,077,598 with details:

1. Cash balance of Rp. 540,905,500. (the remaining spending money that has not been paid by the Village Government)
2. Tax collection Rp. 20,172,098 (tax collected but not yet paid to the state treasury).¹⁰

Whereas as a result of these state losses, the Inspectorate calculated and reported the amount of state losses to Law Enforcement Officials, in this case the Labuhanbatu District Attorney because there were indications of corruption committed by the Halimbe Plantation Village Government Apparatus, to carry out a follow-up process according to the criminal law in force in Indonesia. Then the Halimbe Plantation Village Head was found guilty and sentenced by the Judge of the Corruption Court at the Medan District Court in the form of a sentence of 5 years in prison and a fine of Rp. 200 million subsidiary 3 months in prison, as well as burdening the defendant to pay compensation for the amount of losses suffered by the state, provided that if

¹⁰Laporan hasil pemeriksaan Inspektorat Kabupaten Labuhanbatu Utara atas pengelolaan keuangan Desa Perkebunan Halimbe, 25 agustus 2020.

it is not fulfilled, then the property is confiscated and auctioned off for the state, and if the assets are not sufficient then it is replaced with a prison sentence of 2.5 years.¹¹

That there are similarities between the case that occurred in Kuala Bangka Village and the case that occurred in Halimbe Plantation Village, namely that both there were state financial losses in the form of cash balances in the hands of the respective Village Government Apparatuses which should have been deposited back into the village treasury account as a place to store Village Government money that accommodates all Village revenues and is used to pay all Village expenses at the Bank as stipulated in Article 1 paragraph 19 of the Minister of Home Affairs Regulation number 20 of 2018 concerning village financial management.

Then there are similarities regarding tax collections that have not been deposited into the State treasury, that this is not in accordance with North Labuhanbatu Regent Regulation number 20 of 2015 concerning guidelines for managing village finances article 33 which states that the village treasurer as a tax collector is obliged to deposit all deductions and taxes received collected to the account of the state treasury in accordance with the provisions of the legislation. The similarities that occur in the cases described above, according to the author's analysis, have fulfilled the elements of a criminal act of corruption as stated in article 2 paragraph 1 in conjunction with article 18 of Law number 31 of 1999 concerning eradicating criminal acts of corruption.

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Perjanjian Kerjasama Antara Kementerian Dalam Negeri Republik Indonesia dengan Kejaksaan Republik Indonesia dan Kepolisian Negara Republik Indonesia tentang kordinasi aparat pengawas internal pemerintah dengan aparat penegak hukum dalam penanganan laporan atau pengaduan masyarakat yg berindikasi tindak pidana korupsi pada penyelenggaraan pemerintahan daerah.

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