

THE HARMONIZING INSTITUTIONAL AUTHORITY TO DETERMINE STATE FINANCIAL LOSSES IN CORRUPTION CASES

Dian Devananda Akbar^{1*}, Prija Djatmika², Nurini Aprilianda³

¹Master of Law Program, Faculty of Law / Universitas Brawijaya, Malang

²Faculty of Law / Universitas Brawijaya, Malang

³Faculty of Law / Universitas Brawijaya, Malang

E-mail: devanandaakbar@student.ub.ac.id^{1*}, prija.djatmika@ub.ac.id², nurini.aprilianda@ub.ac.id³

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Abstract

The disharmony in authority among various institutions including the Supreme Audit Agency (BPK), the Government Internal Supervisory Apparatus (BPKP), the Corruption Eradication Commission (KPK), Inspectorates, Regional Apparatus Work Units (SKPD), Public Accountants, and Judges in calculating state financial losses in corruption crime cases has led to legal uncertainty and debates over which institution holds the legitimate authority to determine such losses. Through juridical, philosophical, and sociological analysis, this study finds that the source of disharmony lies in the ambiguous norms of the Corruption Crime Law, which does not explicitly designate a single institution authorized to determine state losses. Based on its constitutional position, this research asserts the urgency of establishing BPK as the sole institution authorized to calculate state losses, accompanied by vertical harmonization of the roles of other institutions, strengthening of BPK's institutional capacity, standardization of audit methodologies, and a reaffirmation of corruption as a serious crime requiring evidentiary certainty. This study concludes that harmonizing authorities is an urgent step to strengthen the effectiveness and integrity of corruption law enforcement while enhancing public trust in Indonesia's anti-corruption mechanisms.

Keywords: *Corruption Eradication; State Financial Loss; Harmonization of Authority; Criminal Justice System*

INTRODUCTION

Corruption constitutes a crime with multidimensional impacts on state governance. Beyond undermining public administration, corruption erodes public trust, causes state financial losses, and impedes the achievement of national development goals. This complexity elevates corruption eradication to an urgent and strategic legal agenda, inherently linked to the fulfillment of the principles of a rule of law state. One of the most critical aspects in proving corruption crimes is the determination of state financial losses, an essential element for proving the offenses under Article 2 and Article 3 of the Law on the Eradication of Corruption Crimes (*Undang-undang Pemberantasan Tindak Pidana Korupsi*). However, to date, Indonesia's legal framework has failed to provide certainty regarding the single institution authorized to calculate state losses, thereby creating room for interpretation and disharmony of authority among state institutions.

This disharmony is evident in the emergence of various institutions calculating state losses, such as the Supreme Audit Agency (BPK), the Government Internal Supervisory Apparatus (BPKP), Inspectorates, the Corruption Eradication Commission (KPK), public accountants, and even judges. The lack of explicit affirmation in the Corruption Crime Law regarding the "authorized institution" has led to inconsistencies in law enforcement practices, discrepancies in loss figures among institutions, and potential conflicts of authority. On the other hand, the 1945 Constitution and the BPK Law actually position BPK as the sole state auditor with a constitutional mandate to audit state financial management. However, the reality of the positive laws beneath it is not entirely consistent with these provisions, giving rise to legal issues concerning the supremacy of norms and legal certainty in proving corruption crimes. These conditions create an urgent need for legal harmonization to clarify and affirm which institution is legally granted the authority to calculate state losses. This harmonization is not only a juridical necessity but also a philosophical and sociological one. Philosophically, certainty and justice are the foundations of a rule of law state, which cannot be achieved if the element of state loss is calculated by different institutions with non-uniform methodologies. Sociologically, overlapping authorities result in slow corruption law enforcement, create uncertainty,

and diminish public trust in law enforcement institutions. Furthermore, the national policy through President Prabowo's *Asta Cita*, which places corruption eradication as a strategic priority, further reinforces the importance of reforming and strengthening the structure of the state audit institution. It is within this framework that this research examines two main problem formulations: first, What are the juridical implications of the disharmony among institutions authorized to calculate state financial losses in corruption criminal cases from a legal certainty perspective. Second, How the harmonization of regulations among institutions authorized to calculate state financial losses in corruption criminal cases be modeled to ensure legal certainty in the future, particularly through five pillars: affirming BPK as the sole state auditor through amendments to the Corruption Crime Law, strengthening BPK's institutional capacity, vertical harmonization and restructuring the roles of other institutions, standardizing audit methodologies, and reaffirming corruption as a serious crime requiring a single, strong authority structure. Therefore, the researcher is compelled to address this issue in a journal entitled "The Harmonizing Institutions Authorized to Calculate State Financial Losses in Corruption Crime Cases," with the expectation that this research can provide theoretical and practical contributions to the reform of corruption eradication law in Indonesia.

LITERATURE REVIEW

This research possesses strong originality as it addresses the aspect of legal certainty and the urgency of harmonizing institutions authorized to calculate state financial losses in corruption crime cases, a focus not previously central in prior studies. The research by Yuni et al. (2020) emphasizes the analysis of judges' considerations regarding the calculation and determination of state financial losses conducted by BPK and BPKP in different cases. Similarly, the study by Prastika et al. (2022) examines the determination of state losses by non-BPK institutions based on Supreme Court Circular Letter (*Surat Edaran Mahkamah Agung/SEMA*) Number 4 of 2016. The research by Dewi et al. (2024) specifically explores the authority of judges in calculating state financial losses in corruption crime cases.

Consequently, this research differs significantly by offering a new scientific contribution through a broader examination of the urgency of institutional harmonization to achieve legal certainty in handling corruption crimes. This research focuses on filling the gap in previous academic studies, specifically regarding how disharmony among authorized institutions in calculating state financial losses in corruption cases occurs, and what the regulatory concept for authorities responsible for calculating state financial losses in corruption cases should be. To support the analysis, the theories of state financial loss and criminal law harmonization are used as conceptual approaches to promote comprehensive institutions in calculating state financial losses in corruption reform.

METHOD

This research uses a normative juridical legal research method, also often referred to as doctrinal legal research, which focuses on the analysis of secondary legal materials such as legislation, court decisions, legal doctrines, and the views of legal scholars. The approaches utilized in this research include the conceptual approach, the statute approach, and the comparative approach. These three approaches are applied synergistically to examine the aspect of legal certainty concerning the urgency of harmonizing institutions authorized to calculate state financial losses in corruption crime cases.

RESULTS AND DISCUSSION

Disharmony Among Institutions Authorized to Calculate State Financial Losses in Corruption Crime Cases

Law enforcement in corruption crime cases in Indonesia possesses a unique complexity, particularly in proving the element of state financial loss. **State Financial Loss** is a fundamental element in establishing the existence or non-existence of a corruption crime pursuant to Article 2 and Article 3 of the Corruption Crime Law (UU Tipikor). This issue becomes increasingly intricate because the Corruption Crime Law, as the primary regulation for eradicating corruption crimes, does not explicitly designate which institution is authorized to calculate state financial losses. However, practical conditions emerging in the field indicate a disharmony or misalignment between law enforcement practices and the normative regulations stipulated in legislation, namely as regulated in the Corruption Crime Law, the Constitutional Court Decision No. 31/PUU-X/2012, and Supreme Court Circular Letter (SEMA) No. 2 of 2024. Based on this, the author will discuss which institution holds the authority to calculate state financial losses, as follows:

1. Supreme Audit Agency (BPK), The authority of the Supreme Audit Agency (BPK) is grounded in the 1945 Constitution Article 23E, Law No. 15 of 2006 concerning BPK, and Law No. 31 of 1999 concerning the Eradication of Corruption Crimes. BPK employs the State Financial Loss Calculation (SPKN) method,

which focuses on assessing actual loss. Its primary strengths lie in its constitutional mandate, which grants it the highest legitimacy and a position of independence. However, its process is often criticized for being time-consuming, rigid, and inflexible.

2. Government Internal Supervisory Apparatus (BPKP), The authority of the Government Internal Supervisory Apparatus (BPKP) is derived from Presidential Regulation No. 192 of 2014 concerning BPKP, Government Regulation No. 60 of 2008 concerning the Government Internal Control System (SPI), and Constitutional Court Decision No. 31/PUU-X/2012. BPKP utilizes an SPI analysis based on price and volume. Its main advantages are speed, responsiveness, and flexibility in conducting examinations. A significant weakness is the ongoing debate regarding its independence, and its findings frequently conflict with those of BPK.
3. Public Accountant, The authority of a Public Accountant is based on Law No. 4 of 2011 concerning Public Accountants and Law No. 31 of 1999. Their methodology adheres to the Public Accountant Professional Standards (SPAP). The strengths of using public accountants include their high professionalism, flexibility, and strong technical audit capabilities. A key limitation is that they work based on appointment by a client (employing party) and are restricted to the data provided by the audited entity, which may not be comprehensive.
4. Corruption Eradication Commission (KPK), The authority of the Corruption Eradication Commission (KPK) stems from Law No. 30 of 2002 as amended by Law No. 19 of 2019 concerning the KPK, and Constitutional Court Decision No. 31/PUU-X/2012. The KPK employs audit methods involving the analysis of seized documents, money trails (to determine economic loss), and the reconstruction of project values. Its strengths include speed, comprehensiveness, and the production of complete audit documentation. However, the credibility of its data is sometimes questioned because the KPK also acts as the Public Prosecutor tasked with proving the defendant's guilt, creating a potential conflict of interest.
5. Inspectorate (Internal Auditor), The authority of government Inspectorates (internal auditors) is based on Government Regulation No. 60 of 2008 concerning the Government Internal Control System and Supreme Court Circular Letter (SEMA) No. 2 of 2024. Their method involves internal audits and administrative inspections. A primary advantage is their proximity to the object of examination, allowing for quick and early assessments. A critical weakness is their low level of independence, as these auditors are structurally under the leadership of the institution they are auditing.
6. Regional Apparatus Work Unit (SKPD), The authority of Regional Apparatus Work Units (SKPD) is founded on Government Regulation No. 12 of 2019 concerning Regional Financial Management and Supreme Court Circular Letter (SEMA) No. 2 of 2024. SKPDs conduct internal audits and identify discrepancies. Their main strength is direct access to data and a deep understanding of the technical aspects of local projects. Conversely, their independence is notably low because they are directly subordinate to the regional head (mayor/regent).
7. Judge, The authority of Judges to assess state losses is based on the Criminal Procedure Code (KUHAP) and Supreme Court Circular Letter (SEMA) No. 2 of 2024. The method used is a judicial assessment, where the judge evaluates all evidence presented and interprets the loss figures based on the facts proven at trial. The key strength of this mechanism is the judge's independence and impartiality, which allows them to resolve discrepancies between different audit reports. A significant drawback is that judges generally lack specific technical expertise in accounting or forensic audit, and their calculations can vary between different judicial panels, leading to inconsistency.

Based on the foregoing analysis, it can be concluded that the authority to calculate state financial losses in corruption crime cases does not reside in a single institution but is dispersed across various bodies with differing legal bases, methodologies, and levels of legitimacy. This condition creates a pluralistic system, where each institution plays a specific role in the evidentiary process of corruption crimes. However, this pluralism also has the potential to generate disparate assessments and a lack of synchronization, primarily because no norm explicitly designates which institution holds the exclusive authority to determine the final figure for state losses. One of the most critical issues in enforcing corruption crimes in Indonesia is the disharmony of authority in determining state financial losses. The preceding comparative analysis encompassing BPK, BPKP, Public Accountants, KPK, Inspectorates, SKPD, and Judges clearly demonstrates that each institution possesses distinct legal foundations, methods, strengths, and weaknesses. This irregularity not only creates overlapping authority but also fosters acute legal uncertainty. Yet, a fundamental principle in criminal law is *nullum crimen sine lege certa*, which demands clarity not only regarding the prohibitive norm but also concerning the authorized actor who can determine the elements of the offense, including the element of state loss. It is at this point that the urgency of harmonization

becomes an imperative that can no longer be postponed. In this context, it is not difficult to see that the current disharmonious system not only undermines the effectiveness of corruption eradication but also erodes the integrity of the criminal justice system. Fragmented authority gives rise to forum shopping, both by law enforcement officials and litigants. This situation amplifies the potential for manipulation, as different institutions can produce different figures. The fragmentation of authority, as illustrated in the preceding comparative summary, ultimately reveals a clear pattern: the greater the number of authorized institutions, the higher the degree of legal uncertainty. From a legal perspective, the most fundamental criticism is that only BPK holds constitutional legitimacy as an independent institution mandated by the 1945 Constitution to audit state financial management and accountability. No other institution in the summary possesses an equivalent constitutional standing. BPK is not subordinate to the President, ministries, or regional heads. This is the minimum requirement for safeguarding the objectivity of loss calculations, as corruption often involves executive officials. In other words, assigning loss calculation authority to institutions under the executive branch (such as BPCKP or inspectorates) opens the door to structural conflicts of interest that can damage the credibility of the judicial process.

From a national policy perspective, this disharmony is profoundly misaligned with President Prabowo Subianto's governance vision, which includes corruption eradication as a primary priority within the Asta Cita. This policy direction demands regulatory simplification, institutional strengthening, and measurable law enforcement. Achieving this goal is impossible if the element of state financial loss—a central element in anti-corruption offenses—is still determined by multiple institutions with non-uniform standards. The President has emphasized the need for institutional transformation towards effectiveness and efficiency, making the harmonization of authority both a normative and practical prerequisite. Corruption is a serious crime, as affirmed in the United Nations Convention Against Corruption (UNCAC). As a serious crime, its standard of proof must not be tainted by institutional uncertainty. Any variation in determining losses not only weakens the adjudication process but also worsens public perception of law enforcement integrity. Sociologically, the public has grown accustomed to witnessing corruption defendants evade accountability by questioning the legality or methodology of loss calculations. This creates social frustration and erodes the public's sense of justice. Harmonizing authority by establishing BPK as the sole official institution would render the process simpler, clearer, and more accountable.

The implications for law enforcement are significant. If only BPK is authorized to calculate state losses, certainty regarding the element of the offense would increase. Law enforcement agencies would no longer need to spend time debating the validity of calculations from other institutions, as reflected in the comparative analysis. Judicial decisions would also become more consistent by relying on a single authoritative source. Furthermore, BPK's robust institutional capacity—including certified auditors, internationally-aligned audit standards, and inspection authority independent of the government—guarantees the quality and objectivity of the calculation. This directly impacts the effectiveness of corruption eradication by yielding more robust court decisions that are less susceptible to legal challenges and efforts at delegitimization. Thus, the prevailing disharmony of authority has accumulated juridical, philosophical, and sociological problems. The preceding analysis of institutions authorized to calculate state financial losses clearly demonstrates that only BPK possesses constitutional legitimacy, the strongest audit standards, and the most independent institutional position. Therefore, harmonizing legislation to establish BPK as the sole institution for calculating state losses is not merely a technocratic step but an urgent necessity to ensure legal certainty, strengthen public trust, realize the vision of Asta Cita, and make corruption eradication truly effective as a response to a serious crime that threatens the collective welfare of the nation.

The Concept of Regulating Institutions Authorized to Calculate State Financial Losses in Corruption Crime Cases To Ensure Legal Certainty In The Future

An ideal future concept for regulating institutions authorized to calculate state financial losses in corruption crime cases must be constructed based on juridical, philosophical, and sociological considerations.

In the context of juridical considerations, the urgency for harmonizing the institutions authorized to calculate state financial losses stems from the ambiguous norms within the Corruption Crime Law (UU Tipikor), particularly Articles 2, 3, 32, and their elucidation, which do not explicitly designate a single institution with the authority to perform such calculations. This normative vacuum has opened a wide space for interpretation and spawned a multi-institutional practice where each body claims the competence to calculate losses. Normatively, Article 23E (1) of the 1945 Constitution and the BPK Law grant an explicit constitutional mandate that BPK is the sole state auditor empowered to examine state financial management and accountability. The misalignment between this constitutional norm and various sub-constitutional regulations creates a disharmony that threatens the principles of legality, legal certainty, and *lex superior derogat legi inferiori*. Harmonization is required to realign the structure of authority with

constitutional mandates and to eliminate the space for conflict among law enforcement institutions. In the context of philosophical considerations, restructuring the authority to calculate state losses is tied to the fundamental foundations of a rule of law state: justice, certainty, and utility. Legal certainty cannot be achieved if the identification of state losses is produced by different institutions with varying methodologies, audit standards, and human resource competencies. Certainty regarding which institution is legally authorized to issue loss findings is part of the due process of law and protects citizens from the potential for criminalization. Furthermore, substantive justice demands that criminal decisions can only be based on loss calculations that are objective, independent, and free from conflicts of interest. Philosophically, this authority inherently belongs to BPK as a high state institution that is independent and not part of the executive circle, thereby providing a stronger guarantee of impartiality compared to government internal audit bodies. Harmonization by establishing BPK as the sole state auditor is not merely a technical simplification but a restoration of the core values of justice and certainty that form the philosophical aims of criminal law and corruption eradication.

In the context of sociological considerations, overlapping audit authority leads to deviations in law enforcement practices, slows down investigations, and increases the potential for inter-agency jurisdictional disputes. The public witnesses different state loss figures from different institutions for the same case, triggering distrust in the integrity of the legal process. To achieve systemic goals, society requires an authority structure that is consistent, simple, and accountable. In practice, variations in audit methodologies cause court rulings to often rely on a "choice" of loss figures from the institution deemed most credible, rather than the one legally designated. This creates social tension and widens the gap between public expectation and the reality of law enforcement. Harmonization, particularly by affirming BPK as the sole institution, becomes a pressing social need to restore public trust and ensure that corruption cases are handled effectively, consistently, and without undue delay. Based on the above exposition, at least five (5) crucial pillars are necessary to harmonize the institutions authorized to calculate state financial losses, in order to realize them within Indonesia's future criminal justice system, as follows:

1. Affirmation of BPK's Exclusive Authority through Amendment of the Corruption Crime Law

The affirmation of BPK's exclusive authority through an amendment to the Corruption Crime Law (UU Tipikor) is essential to eliminate normative ambiguity regarding which institution is authorized to calculate state financial losses. The revision of the Corruption Crime Law must explicitly stipulate that state loss calculations can only be issued by BPK as the constitutional state auditor. This will fulfill the principles of legal certainty, due process, and uniformity in law enforcement practice.

2. Strengthening of BPK's Institutional Capacity as the Sole State Auditor

BPK must be strengthened through enhanced human resource capacity, increased budgetary allocations, expansion of regional representative offices, and modernization of technology-based audit systems. This strengthening will enable BPK to respond to investigative needs swiftly, accurately, and comprehensively across all regions of Indonesia.

3. Vertical Harmonization and Restructuring the Roles of Other State Financial Loss Calculation Institutions

Once BPK is established as the sole auditor, derivative regulations—such as Government Regulations (PP), Presidential Regulations (Perpres), Ministerial Regulations (Permen), down to internal institutional SOPs—must be aligned. BPKP, Inspectorates, and SKPDs would no longer perform state loss calculations in a criminal context. Instead, their roles would be refocused on internal auditing, compliance reviews, early detection of irregularities, and governance capacity building.

4. Standardization of State Financial Loss Audit Methodology

Methodology standardization is required to ensure that state loss calculations are performed consistently, measurably, and are scientifically valid. This standardization encompasses audit guidelines, evidence frameworks, loss estimation techniques, and verification mechanisms. With a single standard, judges, prosecutors, and investigators have an objective and measurable basis for evidence.

5. Classification of Corruption Crimes as Serious Crimes in accordance with UNCAC

As per UNCAC, corruption crimes are classified as serious crimes; therefore, their handling requires a strong, consistent, and integrity-based legal system. This classification demands that all aspects of legal process, including the determination of state losses, be conducted through the most credible and unambiguous mechanisms.

CONCLUSION

First, the juridical implications of the disharmony among institutions authorized to calculate state financial losses in corruption criminal cases reveals a misalignment between regulations, institutions, and law

enforcement practices. The multitude of institutions authorized to perform such calculations including BPK, BPKP, Public Accountants, Inspectorates, SKPD, KPK, and even Judges results in uncertainty regarding loss figures, divergent legal interpretations, and weak evidentiary consistency in court. This irregularity contradicts the constitutional mandate affirming BPK as the state auditor and threatens the effectiveness of corruption eradication, which requires certainty, accuracy, and legitimacy in audit results. Second, regulatory harmonization is necessary to ensure that only BPK is authorized to determine state financial losses in corruption cases, while other institutions perform internal oversight functions without overlap. Strengthening BPK's institutional capacity, standardizing audit methodologies, and aligning with the principle of corruption as a serious crime constitute essential pillars for building a more consistent, credible, and publicly recognized law enforcement system. This harmonization not only resolves technical institutional problems but also reinforces the integrity of the rule of law, the effectiveness of corruption eradication in Indonesia and to ensure legal certainty in the future.

RECOMMENDATIONS

For the Government and Policymakers, it is imperative to promptly amend the Corruption Crime Law (UU Tipikor) to explicitly affirm that only the Supreme Audit Agency (BPK) is authorized to determine state financial losses. This affirmation must be followed by the harmonization of all derivative regulations to eliminate any remaining role overlaps between BPK, the Government Internal Supervisory Apparatus (BPKP), Public Accountants, Inspectorates, and Regional Apparatus Work Units (SKPD). The government must also strengthen BPK's capacity—encompassing human resources, audit infrastructure, and its network of regional offices—to ensure BPK can perform state loss calculations swiftly, accurately, and comprehensively across all regions of Indonesia.

For Law Enforcement Officials, including the Corruption Eradication Commission (KPK), the Attorney General's Office, the National Police, and Judges, consistency is required in utilizing BPK's calculation results as the basis for determining state losses. Audit results from other institutions should be positioned as supporting information, not as determinative of the state loss amount. Judges retain their authority to evaluate evidence presented at trial; however, this evaluation must be grounded in objective and accountable audit methodologies. This is essential to safeguard the integrity of court rulings and strengthen public trust the eradicate corruption crimes.

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