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Eradicating public official corruption Indonesia: a revolutionary paradigm focusing on state financial losses

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Abstract

This research explores additional ways to eliminate corruption caused by authority abuse that hurts public finances. The present paradigm of corruption eradication in Indonesia still focuses on punishment, disregarding one of the Anti-Corruption Law's goals, state financial loss restitution. This research is normative, statutory, conceptual, and case-based. The results show that the administrative law approach to eradicating criminal acts of corruption due to government official abuse of authority focuses more on returning state losses through initial supervision by internal government agencies, such as the Government Internal Supervisory Apparatus. APIP has direct prosecution and compensation powers. The Supervisory Agency (BPK) finds state financial losses, and it is better to take administrative action to recover them by communicating with APIP for time efficiency in eradicating corruption and recovering state losses. Third, sanctions in the authority that result in state financial losses only provide administrative sanctions of dismissal and do not require government officials to return state financial losses.

1. Introduction

In response to diverse societal advancements, it is imperative to establish regulations on government administration, encompassing legal actions undertaken by the government. These regulations should encompass aspects such as the exercise of authority,[1] The various legal actions and the fundamental principles underpin government administration.[2] Specifically, these principles include the General Principles

[1] Hendi Yogi Prabowo, 'Re-Understanding Corruption in the Indonesian Public Sector through Three Behavioral Lenses Hendi', *Facilities*, 35.6 (2015), 925–45 <https://doi.org/10.1108/JFC-08-2015-0039>.

[2] Ratna Juwita, 'Good Governance and Anti-Corruption: Responsibility to Protect Universal Health Care in Indonesia', *Hasanuddin Law Review*, 4.2 (2018), 162–80 <https://doi.org/10.20956/halrev.v4i2.1424>.

of Good Governance and the necessary forms and types of supervision that must be implemented.

Law Number 30 of 2014, often known as the AP Law, is a recent rule in state administrative law on government administration. This legislation is a recent development in state administrative law, serving as a foundational framework for decision-making processes undertaken by state administrative bodies and/or officials.[3] The governance of government administration prior to the enactment of the AP Law was grounded not only in relevant legislation and regulations but also in established norms and principles of state administrative law. The absence of explicit norms and principles in state administration law gives rise to significant ambiguity and unpredictability in the execution of governmental functions.[4] Formulating positive legislation is necessary to provide concrete expression to the rules and principles of state administration law, establishing a solid foundation for effective government.

The growing involvement of the government in various aspects of public life, driven by the objective of providing public service and enhancing public welfare, frequently presents government officials with complex and time-sensitive challenges.[5] These circumstances often necessitate the exercise of situational power, as officials are compelled to make decisions or take actions that are not explicitly regulated by existing legislation. In such circumstances, Government Officials often have challenges in declining to take action based on the absence of controlling regulations or the anticipation of forthcoming regulations (referred to as rechtvacuum).

The ambiguous realm of governance can give rise to illicit activities involving corruption. Such occurrences frequently arise when public employees encounter ambiguous regulations, exploiting them with the purpose of personal gain, hence resulting in financial losses for the state.[6] The aforementioned observation made by the author frequently occurs, and it is undeniable that a significant number of government officials have been implicated in corruption offenses due to their judgments and acts.[7] Within the realm of law enforcement procedures, it is frequently seen that the presence of the elements denoting actions contrary to legal statutes and the misuse of authoritative powers, along with the consideration of the magnitude of financial losses incurred by the state, serve as adequate grounds for initiating legal proceedings against a Government

[3] Muhammad Bagus Adi Wicaksono and Rian Saputra, 'Building The Eradication Of Corruption In Indonesia Using Administrative Law', *Journal of Legal, Ethical and Regulatory Issues*, 24.Special Issue 1 (2021), 1–17.

[4] Hendi Yogi Prabowo, Jaka Sriyana, and Muhammad Syamsudin, 'Forgetting Corruption: Unlearning the Knowledge of Corruption in the Indonesian Public Sector', *Journal of Financial Crime*, 25.1 (2018), 28–56 <https://doi.org/10.1108/JFC-07-2016-0048>.

[5] Zico Junius Fernando and others, *Deep Anti-Corruption Blueprint Mining, Mineral, and Coal Sector in Indonesia*, *Cogent Social Sciences*, 2023, IX <https://doi.org/10.1080/23311886.2023.2187737>.

[6] Hendi Yogi Prabowo, 'To Be Corrupt or Not to Be Corrupt: Understanding the Behavioral Side of Corruption in Indonesia', *Journal of Money Laundering Control*, 17.3 (2014), 306–26 <https://doi.org/10.1108/JMLC-11-2013-0045>.

[7] Musa Darwin Pane and Diah Pudjiastuti, 'The Legal Aspect of New Normal and the Corruption Eradication in Indonesia', *Padjadjaran Jurnal IImu Hukum*, 7.2 (2020), 181–206.

Official, thereby implicating them in the potential commission of a criminal crime involving corruption.

The provision mentioned can be found in Article 3 of Law Number 31 Year 1999 in conjunction with Law Number 20 Year 2001 on the Eradication of Corruption, often known as the Anti-Corruption Law: "Every person who with the aim of benefiting himself or herself or another person or a corporation, abuses the authority, opportunity or means available to him or her because of position or position that may harm the state finances or the state economy, shall be punished with life imprisonment or imprisonment for a minimum of 1 (one) year and a maximum of 20 (twenty) years and or a fine of at least Rp. 50,000,000.00 (fifty million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah)".

The aforementioned article is founded upon the Constitutional Court Decision Number 25/PUU-XIV/2016, which stipulates that the term "must" can be omitted, thereby necessitating the occurrence of state losses prior to any legal action. Consequently, this decision has resulted in a modification of Article 3 of the Anti-Corruption Law, shifting the focus from formal offenses to material offenses, with the aim of ensuring legal certainty.[8] The author initially clarifies that following the establishment of the AP Law, specifically in Article 21 of said legislation, the process of substantiating instances of authority abuse involves Government Agencies and/or Officials initiating a petition to the Court for the purpose of evaluating the presence or absence of elements indicative of such abuse in Decisions and/or Actions. The inclusion of this clause within the AP Law has generated both positive and negative perspectives among legal scholars, particularly those specializing in Criminal Law and State Administration Law.[9] These experts have engaged in debates concerning the measure's suitability and its impact on the jurisdiction of the Corruption Court. According to Guntur Hamzah, a Professor of Administrative Law at Hasanuddin University, the implementation of the Government Administration Law will enhance and bolster the efficacy of anti-corruption endeavors. The establishment of the Administrative and Bureaucratic Reform Inspectorate (APIP) enables the early detection of potential instances of authority misuse, thereby serving as a preventive measure in combating corruption.

However, an alternative viewpoint was articulated by Krisna Harahap, a Supreme Court Judge at the Supreme Court, who explicitly asserted that the Government Administration Law impedes endeavors to eliminate corruption due to the evident incongruity between the provisions outlined in the Government Administration Law and the Corruption Eradication Law, particularly Article 3. Moreover, the requirements outlined in the Government Administration Law have the potential to diminish the

[8] Salsabila Salsabila and Slamet Tri Wahyudi, 'Peran Kejaksaan Dalam Penyelesaian Perkara Tindak Pidana Korupsi Menggunakan Pendekatan Restorative Justice', *Masalah-Masalah Hukum*, 51.1 (2022), 61–70 <https://doi.org/10.14710/mmh.51.1.2022.61-70>.

[9] Nicken Sarwo Rini, 'Penyalahgunaan Kewenangan Administrasi Dalam Undang Undang Tindak Pidana Korupsi', *Jurnal Penelitian Hukum De Jure*, 18.2 (2018), 257 <https://doi.org/10.30641/dejure.2018.v18.257-274>.

jurisdiction of the Corruption Court in evaluating the element of "abuse of authority" in cases of corruption.[10] The aforementioned observation can be derived from President Jokowi's directive to the Attorney General and Chief of Police, emphasizing the importance of adhering to the Government Administration Law in the initial stages of investigating public reports concerning potential instances of authority misuse. This directive particularly emphasizes the significance of this approach in relation to the execution of National Strategic Projects.

Irrespective of the advantages and disadvantages associated with these specialists, the author posits that such a perspective is not particularly astonishing, given that corruption has historically garnered greater scrutiny than other forms of criminal misconduct in different regions across the globe. This phenomena can be comprehended in light of the adverse consequences resulting from the perpetration of this illicit act.[11] The identified repercussions can have implications across multiple domains of human existence. The recognition of corruption as a significant issue is imperative, as this illicit behavior poses a threat to the stability and security of society, as well as the advancement of socio-economic and political spheres. Moreover, it has the potential to undermine democratic norms and moral principles, as it progressively becomes ingrained within the cultural fabric. Corruption poses a significant challenge to the notion of an equitable and thriving society. According to Romli Atmasasmita, it is not an overstatement to assert that corruption in Indonesia has pervaded the government since the 1960s and continues to persist, with efforts to eliminate it proving ineffective.[12]

The Anti-Corruption Law serves the dual purpose of imposing sanctions on individuals engaged in corrupt practices and seeking to recover state damages resulting from corruption. Furthermore, the prevailing political climate and the collective appeals from the community prompted the government to address the issue of corruption in Indonesia promptly, resulting in the enactment of the Anti-Corruption Law.[13] Nevertheless, the present predicament demonstrates the ineffectiveness of this objective, with enforcement measures appearing to be applied selectively. Additionally, the ratio between the state's expenditure on combating corruption and the resulting reduction in financial losses is disproportionately large. According to reports in 2012, the allocated funding for combating corruption during the period of 2001-2009 amounted to Rp. 73.1 trillion, while the recovered state financial losses within the same timeframe was Rp. 5.3 trillion.[14]

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[10] Wicaksono and Saputra.

[11] Mas Putra Zenno Januarsyah, 'Penerapan Asas Ultimum Remidium Terhadap Tindak Pidana Korupsi Yang Terjadi Di Lingkungan BUMN Persero', *Wawasan Yuridika*, 1.1 (2017), 24–34.

[12] Syahril Syahril, Mohd Din, and Mujibussalim Mujibussalim, 'Penerapan Undang-Undang Pemberantasan Tindak Pidana Korupsi Terhadap Kejahatan Di Bidang Perbankan', *Syiah Kuala Law Journal*, 1.3 (2017), 16–28 <https://doi.org/10.24815/sklj.v1i3.9635>.

[13] Wicipto Setiadi, 'Korupsi Di Indonesia (Penyebab, Bahaya, Hambatan Dan Upaya Pemberantasan, Serta Regulasi)', *Jurnal Legislasi Indonesia*, 15.3 (2018), 249–62.

[14] Mas Putra Zenno Januarsyah, 'The Implementation of Ultimum Remedium Principle in Criminal Case of Corruption', *Jurnal Yudisial*, 10.3 (2017), 257–76 <https://doi.org/10.29123/jy.v10i3.266>.

The lack of efficacy in the measures implemented for eradication is shown by the Corruption Perception Index in Indonesia, which remains somewhat elevated with a score of 40 (forty), ranking the country at position 85 out of 180 nations globally. The author already elucidated the convergence between Article 21 of the AP Law and Article 3 of the Anti-Corruption Law jo. In the realm of legal discourse, the juxtaposition of Article 5 and Article 6 within Law Number 46 of 2009, which pertains to Corruption Courts, has been a subject of scholarly analysis.[15] Specifically, the convergence of Article 21 from the Administrative Procedure Law (AP Law) and Article 3 of the Corruption Court Law has been identified in certain academic literature as a conflicting norm, thereby giving rise to a predicament concerning the coexistence of the respective legal frameworks.[16] Law enforcement officers frequently evaluate an action that is against the principles of good governance (AUPB) solely by considering the criteria of unlawful activities as defined by criminal law.

During the course of this study, the researchers identified multiple scholarly articles that addressed the problem of combating corruption in Indonesia. In order to demonstrate the originality of this research article, the author employs a narrative approach to convey its content, encompassing the following aspects: The present paper, titled " Discourse on Legal Expression in Arrangements of Corruption Eradication in Indonesia", examines the efficacy of state administrative justice in Indonesia in combating corruption perpetrated by public officials, as well as the jurisdictional conflicts that arise in the adjudication of corruption cases within the Indonesian judiciary. The findings indicate that there exist various manifestations of PTUN competencies, including the exercise of factual authority, administrative authorisation, the issuance of positive fictional decisions, and discretionary trials. The implications of the Government Administration Law on corruption are commonly referred to as corruption offences, a fact that is widely acknowledged. In this particular context, there exist a minimum of two issues that warrant attention. Firstly, it pertains to the scenario wherein the state government initiates legal proceedings concurrently in both the State Administrative Court and the District Court in relation to a corruption case. If a decision has been given by the PTUN declaring that it lacks authorization, but there is also a party who takes the case to the District Court on charges of corruption. What is the stance of the District Court on the acceptance or overriding of the PTUN ruling in the case? According to the author's perspective, there is a fear that the situation described may introduce complications in the process of prosecuting or eliminating instances of corruption, specifically in cases involving misuse of authority by government employees. [17]

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[15] Yulius Yulius, 'Perkembangan Pemikiran Dan Pengaturan Penyalahgunaan Wewenang Di Indonesia (Tinjauan Singkat Dari Perspektif Hukum Administrasi Negara Pasca Berlakunya Undang-Undang Nomor 30 Tahun 2014)', *Jurnal Hukum Dan Peradilan*, 4.3 (2015), 361 <https://doi.org/10.25216/jhp.4.3.2015.361-384>.

[16] Rini.

[17] Shubhan Noor Hidayat, Lego Karjoko, and Sapto Hermawan, 'Discourse on Legal Expression in Arrangements of Corruption Eradication in Indonesia', *JOURNAL of INDONESIAN LEGAL STUDIES*, 5.2 (2020), 391–418 <https://doi.org/10.15294/jils.v5i2.40670>.

Furthermore, artikel with the title “The Legal Aspect of New Normal and the Corruption Eradication in Indonesia”, this article examines the legal implications of the "New Normal" phenomenon and its impact on the efforts to combat corruption in Indonesia within the Covid-19 pandemic. The findings of this study elucidate the extensive ramifications of the Covid-19 pandemic across diverse sectors, including a notable reduction in societal economic capability. To enhance oversight, the Corruption Eradication Commission (KPK) has released Circular Number 8 of 2020 regarding the Allocation of Budget for the Execution of Goods/Services Procurement in the context of Expediting the Management of the Covid-19 Crisis, as well as Circular Number 11 of 2020 concerning the Utilization of Integrated Social Welfare Data (DTKS) and Non-DTKS Data for the Provision of Social Aid to the General Public. The KPK is entrusted with the responsibility of fulfilling its obligations as outlined in the Law Number 19 of 2019, which pertains to the Second Amendment of Law Number 30 of 2002 concerning the Corruption Eradication Commission. In response to the emergence of a new era characterized by a "new normal," the Government has taken measures to mitigate the transmission of Covid-19 in various sectors. These measures are outlined in the Decree of the Minister of Health Number HK.01.07/MENKES/328/2020, which provides guidelines for preventing and controlling Covid-19 in office and industrial workplaces. The objective of these guidelines is to support business sustainability during pandemic situations. The notion of the "new normal" should foster an understanding of a robust legal culture, wherein government policies adhere to established legal norms and principles, such as those pertaining to the judiciary and legality. Several variables contribute to the occurrence of corruption, including the presence of possibilities inside companies, agencies, and society, as well as the motivations of greed and necessity. Moreover, the issue of exposing instances of corruption and the failure to pursue legal measures, coupled with inadequate social repercussions, might contribute to the perpetuation of corrupt practices. The challenges encountered in the realm of law enforcement pertaining to corruption encompass various dimensions, namely structural, cultural, instrumental, and management difficulties. Efforts aimed at addressing corruption, an internationally recognized criminal offense, necessitate more than a mere reliance on domestic legal frameworks. Instead, effective measures should encompass collaborative endeavors with other nations, encompassing both bilateral and multilateral collaboration. The eradication of corruption in Indonesia during the Covid-19 pandemic and the implementation of the new normal era necessitate the reform of criminal law, specifically through the reconstruction or reformulation of legislation pertaining to the penalties imposed on individuals involved in corrupt activities. Sanctions encompass measures aimed at restoring state finances through the implementation of accountability mechanisms, sometimes referred to as the impoverishment of corrupt individuals. The enforcement of liability is achieved through the conviction of corrupt individuals, with a focus on ongoing engagement in work rather than resorting to incarceration or capital punishment. In order to deter corruption, perpetrators are mandated to compensate for state financial losses by providing

restitution to the third party involved.[18]

Thrid, in this scholarly article titled " Mining Corruption and Environmental Degradation in Indonesia: Critical Legal Issues" the authors delve into the intricate relationship between corruption and environmental degradation within the context of Indonesia's mining sector. The findings of the study indicate that in Indonesia, in order to address the issues of mining corruption and environmental pollution, the implementation of Law No. 32/2009 on environmental protection necessitates the fulfillment of specific prerequisites prior to obtaining a license and initiating any activity connected to the environment. The aforementioned requirements are applicable to spatial planning, environmental quality standards, environmental impact assessment (EIA), and licensing. Nevertheless, despite the presence of such processes, as well as a multitude of laws and regulations aimed at safeguarding the environment and combating corruption, Indonesia continues to experience instances of pollution and various other forms of environmental degradation. The endeavor to eliminate corruption in environmental protection encounters obstacles stemming from several principles, including subsidiarity in criminal law and lex specialis derogaat legi generali, which denotes that provisions of specific laws take precedence over those of general laws. There exists a necessity to undertake reforms in the domain of environmental legislation, specifically through enhancing the subsidiarity principle and making revisions to Article 14 of the Corruption Eradication legislation. The necessity arises for the Environmental Protection Law to incorporate the provisions outlined in Article 14 of the Corruption Eradication Law, wherein any violation of environmental legislation that involves the exchange of bribes or illicit payments is to be regarded as an act of corruption. The inclusion of the new rule should also address the difficulty of lex specialis derogaat legi generali.[19]

Based on the aforementioned publications, the authors posit a claim that this study encompasses a revitalization of the legal matter pertaining to the eradication of corruption perpetrated by public officials, namely through the restitution of state financial losses incurred as a result of corrupt practices. This paper is anticipated to provide legal experts with insights into the broader objectives of combating corruption, which extend beyond the mere prosecution of corrupt individuals. It aims to shed light on the potential of utilizing legal technicalities to facilitate the recovery of financial losses incurred by the nation. The author's argument regarding the current criminal strategy employed in Indonesia to combat corruption, as well as the exclusion of the objective of recovering state financial losses as a core goal in eradicating corruption, is further supported by the implementation of Supreme Court Regulation 4/2015. This regulation provides procedural guidelines for evaluating instances of abuse of authority. According to Article 2 Paragraph (1) of this regulation, the Administrative Court is empowered to exercise jurisdiction over petitions that seek to evaluate whether there has been any abuse of authority in the decisions and actions of government officials, prior to the

[18] Pane and Pudjiastuti.

[19] Hilaire Tegnan and others, 'Mining Corruption and Environmental Degradation in Indonesia: Critical Legal Issues', *Bestuur*, 9.2 (2021), 90–100 <https://doi.org/10.20961/bestuur.v9i2.55219>.

initiation of criminal proceedings. The court is responsible for receiving, examining, and issuing decisions on such petitions. Undoubtedly, this specific paradigm has exhibited its lack of efficacy in efforts to address the financial harm caused by corrupt practices, an objective that is consistent with the broader objectives of eliminating corruption and enforcing the Anti-Corruption Law.

2. Research Method

This study is a normative legal research that focuses on positive norms within the statutory system, namely those that have a prescriptive nature.[20] The legal research conducted in this study employs the historical approach, the statutory approach, and the conceptual approach as appropriate methodologies. The laws and regulations utilised in this research encompass the following: a. Law Number 1 of 2004 pertaining to the State Treasury; b. Law Number 30 of 2014 addressing Government Administration; c. Law Number 23 of 2014 concerning Regional Government; d. Law Number 15 of 2004 regarding the Examination of State Financial Management and Responsibility; e. Law No. 31 of 1999 focused on the Eradication of Corruption; and f. Law Number 17 of 2003 concerning State Finances. The deductive method is employed by researchers in this work for the analysis of legal materials.[21]

3. Results and Discussion

The implementation of internal anti-corruption measures within the Indonesian government

The determination of state losses in practical application is conducted by multiple entities, specifically the Supreme Audit Agency (BPK) in accordance with the BPK Law of 2006 (Law No. 15/2006) and the Government Internal Supervisory Apparatus / APIP (BPKP, Inspectorate General, and Provincial and Regency / City Inspectorates) in accordance with the Government Regulation No. 60 of 2008 on the Government Internal Control System (PP SPIP).[22] The establishment of BPK is derived from the constitutional mandate outlined in the 1945 Constitution. The functions and authorities of the BPK are stipulated in Article 6 through Article 11 of the BPK Law. According to Article 6, paragraph (1), the responsibility assigned to the BPK entails the examination of the management and accountability of state finances conducted by various entities, including the Central Government, Regional Governments, other State Institutions, Bank Indonesia, State-Owned Enterprises, Public Service Agencies, Regional-Owned Enterprises, and other institutions or agencies involved in the management of state finances. The jurisdiction of the BPK, as stated in Article 10 paragraph (1) letter a, involves the evaluation and determination of the financial losses incurred by the state due to

[20] Rian Saputra, M Zaid, and Silaas Oghenemaro, 'The Court Online Content Moderation : A Constitutional Framework', *Journal of Human Rights, Culture and Legal System*, 2.3 (2022), 139–48 <https://doi.org/10.53955/jhcls.v2i3.54>.

[21] Rian Saputra, 'Pergeseran Prinsip Hakim Pasif Ke Aktif Pada Praktek Peradilan Perdata Perspektif Hukum Progresif', *Wacana Hukum*, 25.1 (2019), 10–18.

[22] Muhammad Imron Rosyadi, 'Wewenang Badan Pemeriksa Keuangan Dan Badan Pengawasan Keuangan Dan Pembangunan Dalam Menilai Kerugian Keuangan Negara', *Mimbar Keadilan*, 2016, 26 <https://doi.org/10.30996/mk.v0i0.2206>.

illicit activities carried out by treasurers, managers of state-owned enterprises, regional-owned enterprises, and other entities responsible for the administration of state finances.[23]

The primary focus of this debate does not revolve on the BPK institution. This is in accordance with the Government Administration Law, which pertains to the oversight of abuse of authority within government agencies and/or people who have been granted authority. The responsibility for this oversight lies with the Government Internal Supervisory Apparatus (APIP). The examination of BPK should only occur when deemed required or as a supplementary measure in relation to the jurisdiction of APIP. It is imperative to acknowledge that APIP, in certain instances, possesses the jurisdiction to assess state financial losses alongside BPK. As per the provision outlined in Article 20, paragraph (2) of the Government Administration Law, it is explicitly mentioned that the outcomes of APIP (Internal Audit and Public Oversight Agency) oversight may indicate the presence of administrative errors leading to financial losses incurred by the state.[24]

The APIP can be classified as an internal functional supervisor due to its presence within the monitored institution, specifically within the government context. The supervision conducted by each APIP agency is governed by distinct regulations, specifically Presidential Regulation No. 192 of 2014 on the Financial and Development Supervisory Agency, Presidential Regulation No. 7 of 2015 on the Organization of State Ministries, and Government Regulation No. 18 of 2016 on Regional Apparatus.[25] According to the elucidation provided in Article 116 of Presidential Regulation No. 54/2010, the purpose of supervision and examination is threefold: firstly, to enhance the effectiveness of the Government apparatus by fostering a professional, ethical, and accountable workforce; secondly, to eliminate instances of authority abuse and corrupt practices; and thirdly, to ensure compliance with relevant regulations and safeguard state finances.

In order to comprehend the aforementioned three regulations, it is necessary to consult the State Treasury Law, Law No. 15 of 2004, which pertains to the Examination of State Financial Management and Responsibility, as well as the PP SPIP. These three regulations collectively establish the framework for the three agencies referred to as APIP. In accordance with the tasks, powers, or authorities held by the APIP (Academic Program Improvement Panel).[26] The aforementioned institution serves as an overseer of government agencies' responsibilities and operations, including the oversight of state financial accountability. This is achieved by various actions such as auditing, reviewing, assessing, monitoring, and other supervisory endeavors.[27] In practical application, it is common for law enforcement personnel to collaborate in the coordination of APIP in order to assess the financial losses incurred by the state. Furthermore, apart from the utilization of the Anti-Public Intoxication

[23] Salsabila and Wahyudi.

[24] Gilang Prama Jasa and Ratna Herawati, 'Dinamika Relasi Antara Badan Pemeriksa Keuangan Dan Dewan Perwakilan Rakyat Dalam Sistem Audit Keuangan Negara', *Law Reform*, 13.2 (2017), 189 <https://doi.org/10.14710/lr.v13i2.16155>.

[25] Ade Paranata, 'The Miracle of Anti-Corruption Efforts and Regional Fiscal Independence in Plugging Budget Leakage: Evidence from Western and Eastern Indonesia', *Heliyon*, 8.10 (2022), e11153 <https://doi.org/https://doi.org/10.1016/j.heliyon.2022.e11153>.

[26] Salsabila and Wahyudi.

[27] Beni Kurnia Illahi and Muhammad Ikhsan Alia, 'Pertanggungjawaban Pengelolaan Keuangan Negara Melalui Kerja Sama BPK Dan KPK', *Integritas*, 3.2 (2017), 37 <https://doi.org/10.32697/integritas.v3i2.102>.

Program (APIP), law enforcement authorities have the potential to collaborate with external auditors or public accountants to determine the extent of financial losses incurred by the state.[28]

In the context of Public Procurement in the French Interministerial Procurement Service (PP SPIP), the Agency for Public Procurement (APIP) has the ability to utilize the audit methodology as part of its responsibilities.[29] The audit process in question is inherently synonymous with the examination outlined in the State Treasury Law. The inclusion of Article 48 and Article 50 in the PP SPIP can be regarded as a direct replication of the content included in Article 4 of Law No. 15 of 2004. In this particular instance, the presence of the following PP SPIP may be observed. a. According to Article 48 paragraph (2), APIP carries out internal supervision through various activities such as audit, review, evaluation, monitoring, and other forms of supervisory activities. b. Article 50 paragraph (1) specifies that the audit mentioned in Article 48 paragraph (2) includes two types: performance audits and audits with specific objectives. c. Article 50 paragraph (2) explains that the performance audit mentioned in paragraph (1) letter a focuses on examining the management of state finances and the execution of duties and functions by Government Agencies. This audit assesses aspects such as savings, efficiency, and effectiveness.[30]

The explanation outlines that performance audits conducted on state financial management encompass three key areas: a) audits pertaining to budget development and implementation, b) audits pertaining to the receipt, distribution, and utilization of money, and c) audits pertaining to the management of assets and liabilities. The performance audit pertaining to the execution of tasks and functions encompasses an examination of activities undertaken to accomplish predetermined goals and objectives. According to paragraph (3) of Article 50, audits with specified objectives, as mentioned in paragraph (1) letter b, encompass audits that are distinct from the performance audit described in paragraph (2). Audits that possess distinct purposes encompass investigative audits, audits pertaining to the implementation of the SPIP, and audits concerning various aspects within the financial sector.[31]

Similarly, the provisions outlined in Law No. 15 of 2004 align with the contents included in PP SPIP. Hence, Article 4 of Law No. 15 of 2004 demonstrates this point in the following manner: a. According to Article 4, paragraph (1), the audit of state financial management and responsibility encompasses financial audit, performance audit, and audit with specific objectives. b. Article 4, paragraph (2), specifies that financial audit pertains to the examination of financial statements. c. Article 4, paragraph (3), outlines that performance audit involves the assessment of both economic and efficiency aspects, as well as effectiveness aspects, of state financial management. d. Article 4, paragraph (4), defines examination with a specific purpose as an assessment that falls outside the scope of the examinations

[28] Wicaksono and Saputra.

[29] Rr Halimatu Hira, Yolanda Savira, and Yunika Tresia, 'Pemberantasan Tindak Pidana Suap Di Sektor Pertambangan Melalui Penguatan Kerja Sama Lembaga Penegak Hukum Di Indonesia', *Jurnal Anti Korupsi*, 3.2 (2021), 1–20 <https://doi.org/10.19184/jak.v3i2.32300>.

[30] Rosyadi.

[31] Halimatu Hira, Savira, and Tresia.

mentioned in paragraph (2) and paragraph (3).[32]

The provided explanation outlines that the examination with a specific aim encompasses several aspects within the financial sector, such as the evaluation of additional matters, investigative examination, and assessment of the government's internal control system.[33] This pertains specifically to investigative examinations, particularly those conducted to uncover evidence of state or regional losses as well as criminal involvement. Hence, it can be observed that both APIP and BPK share a similarity in their respective definitions of audit and examination. APIP's audit encompasses financial examination, performance examination, and examination with a specific purpose, while BPK's examination covers similar areas. However, a potential issue arises when APIP, an institution established under the PP SPIP, undertakes the function of calculating state losses. This is because BPK, established under the 1945 Constitution Jo. Law (Law No. 15 of 2004 and BPK Law), holds greater authority in calculating state losses, as per the principles of lex specialist and lex superior.[34]

According to the provisions stated in Article 9, paragraph (3) of Law No. 15 Year 2004 in conjunction with Article 9, paragraph (1), letter g of the BPK Law, the Audit Board of the Republic of Indonesia (BPK) is authorized to engage the services of external examiners and/or experts. These individuals are appointed from outside the BPK organization and perform their duties on behalf of and under the supervision of the BPK.[35] According to the mandate, the Audit Board of the Republic of Indonesia (BPK) has the authority to seek the collaboration of external entities in order to facilitate the computation of losses incurred at the state or regional level. Examiners and/or experts from outside the BPK refer to individuals who possess expertise in specific subjects and are not affiliated with the BPK. These individuals may include professionals within the government internal control apparatus, as well as examiners and/or other experts who match the predetermined conditions set by the BPK.[36] The utilization of examiners from the government's internal control apparatus must adhere to official responsibilities, specifically requiring an assignment from the relevant agency's director.[37]

In order to address any potential debate regarding the authorization of APIP to assess state losses, this discussion will outline the legal framework commonly utilized by APIP in its assessment of state financial losses. These legal bases include: a. Law No. 30 of 2002 Concerning the Corruption Eradication Commission (Article 6); b. Government Regulation No. 60 of 2008 Concerning the Government Internal Control System (Article 50 paragraph (1) letter b); c. Presidential Regulation No. 192 of 2014 Concerning the Financial and Development Supervisory Agency (Article 27); d. Constitutional Court Decision No. 003/PUU-

[32] Rosyadi.

[33] Jasa and Herawati.

[34] Luthfi Widagdo Eddyono, 'Penyelesaian Sengketa Kewenangan Lembaga Negara Oleh Mahkamah Konstitusi', *Jurnal Konstitusi*, 7.3 (2016), 001 <https://doi.org/10.31078/jk731>.

[35] Yoyo Arifardhani, 'Country Independence Of State-Owned Enterprises: Relationship Between Private Law And Public Law', *Veteran Law Review*, 1.1 (2018), 50–71.

[36] Nelvia Roza, 'Problematika Penentuan Status Keuangan Negara Dalam Badan Usaha Milik Negara Persero', *Jurnal Lex Renaissance*, 7.1 (2022), 41–54 <https://doi.org/10.20885/jlr.vol7.iss1.art4>.

[37] Rian Saputra and Silaas Oghenemaro Emovwodo, 'Indonesia as Legal Welfare State : The Policy of Indonesian National Economic Law', *Journal of Human Rights, Culture and Legal System*, 2.1 (2022), 1–13 <https://doi.org/10.53955/jhcls.v2i1.21>.

IV/2006, as promulgated by the Constitutional Court. The legal framework governing the audit standards for government internal supervisory apparatus in Indonesia includes various regulations and decisions. These include Constitutional Court Decision No. 003/PUU-IV/2006, enacted on 25 July 2006, and Constitutional Court Decision No. 31/PUU-X/2012, enacted on 23 October 2013. Additionally, the Regulation of the Minister of State for Administrative Reform No. PER/05/M.PAN/03/2008 on Audit Standards for Government Internal Supervisory Apparatus, as outlined in the appendix of the aforementioned regulation, is also relevant. Furthermore, the Memorandum of Understanding between the Attorney General's Office of the Republic of Indonesia, the National Police, and BPKP, with No. KEP-109/A/JA/09/2007, No. Pol-B/2718/IX/2007, No. KEP1093/K/D6/2007, dated 28 September 2007, pertaining to cooperation in handling cases of irregularities in state financial management that indicate corruption, including non-budgetary funds, is another pertinent document. Lastly, the Indonesian Government Internal Audit Standards, issued by the Association of Indonesian Government Internal Auditors (AAIPI), are also applicable in accordance with Article 53 of PP SPIP and Permen PAN No. PER/05/M.PAN/03/2008.

If APIP lacks the jurisdiction to evaluate state financial losses, then the outcomes of APIP's oversight as outlined in Article 20 of the Government Administration Law hold no significance. Nevertheless, the findings of APIP regarding the calculation of state losses diverge from those of BPK. The distinction can be observed in the following criteria: a. The findings of APIP remain within the administrative domain as they pertain to supervision rather than encompassing the calculation of state losses in conjunction with pro justicia, which is commonly requested by law enforcement officials. b. APIP lacks the authority to directly prosecute, such as BPK's ability to make a compensation claim to the Treasurer. c. APIP is also unable to initiate a claim for compensation against the Treasurer. d. APIP does not possess the capability to file a claim for compensation against the Treasurer. e. APIP is not authorized to file a claim for compensation against the Treasurer. The APIP is not authorized to file compensation claims against non-treasurer civil servants and other officials. This authority lies with the President, Minister of Finance as BUN, Minister/Head of Institution (delegated to the Head of Work Unit), and Governor/Regent/Mayor (delegated to the Head of Regional Financial Management Work Unit as BUD). This is in accordance with Article 12 of Law No. IX. The implementation of the State Internal Control System (SPIP) and the Internal Audit Unit (APIP) is a subject of examination for the State Audit Board (BPK) and the State Financial Settlement Officer (PPKN/D), in accordance with the provisions stated in Article 12 of Law No. 15 of 2004 and Article 4 letter b of Government Regulation No. 38 of 2016. These regulations pertain to the procedures for claiming state or regional compensation for non-treasurer state employees or other officials.

At what point does this APIP become aware of a decline in state financial resources? The supervision conducted by APIP, as previously noted, include audits, reviews, assessments, and monitoring. Within the realm of supervision, the APIP framework facilitates the identification of state financial losses by means of comprehensive evaluations and audits.[38] APIP conducts a comprehensive examination of the Financial Statements of the Central Government, Ministries/Institutions, and Local Governments. This examination takes place

[38] Ifrani Ifrani, 'Grey Area Antara Tindak Pidana Korupsi Dengan Tindak Pidana Perbankan', *Jurnal Konstitusi*, 8.6 (2016), 993 <https://doi.org/10.31078/jk866>.

prior to the Minister of Finance's submission to the President, the Minister/Head of the Institution's submission to the Minister of Finance, and the Governor/Regent/Mayor's submission to BPK. Identifying state financial losses through a review poses challenges due to the limited scope of examination, which primarily focuses on finalized financial statements.[39] Consequently, the process necessitates a high degree of precision, proficiency, and competence from the Audit Board of the Republic of Indonesia (APIP), along with the availability of supplementary data pertaining to the financial statements. In the event that APIP harbors uncertainties regarding the evaluation it has undertaken, it may opt to pursue an audit as a means of ascertaining any potential financial detriment to the state.

One effective method for identifying signs of state financial losses is through the implementation of audits, which can take the form of performance audits or investigation audits with specified objectives. The audits conducted by the APIP serve the purpose of evaluating the veracity, precision, reliability, efficacy, and efficiency of financial management and the execution of governmental responsibilities and functions.[40] The examination of audits provides insight into the extent of state financial revenue and spending, as well as the evaluation of government performance in terms of budgetary effectiveness and efficiency. According to the Audit Standards of the Government Internal Supervisory Apparatus, the objective of a performance audit is to evaluate the extent to which the auditee has conducted its activities in an economical, efficient, and effective manner. Therefore, a performance audit entails an examination of both the financial and operational aspects of the auditee.[41] In contrast to performance audits, investigative audits are utilized to unveil instances of misconduct that have led to financial losses at the state or regional level. The scope of examination in investigative audits encompasses the factual details and procedural aspects of the incident, the underlying causes and consequences of the irregularities, as well as the identification of the parties involved or accountable for the said irregularities.

Hence, in cases where activities possess limited scope and necessitate a small apparatus, yet a substantial budget is allocated, but subsequently expended under the pretext of optimizing budget absorption, it becomes imperative to question the efficacy and efficiency of budgeting and budget absorption practices in these activities.[42] Methods utilizing administration as a tool have been widely implemented in various countries across the globe. The author initially cites Mexico as an example and subsequently draws comparisons with countries characterized by robust preventive measures and limited opportunities for corruption. These nations, including Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Luxembourg, Malta, the Netherlands, Sweden, and the United Kingdom, have made

[39] Subanrio and Arie Elcaputra, 'Penataan Kedudukan Dan Kewenangan Majelis Permusyawaratan Rakyat Republik Indonesia', *Supremasi Hukum: Jurnal Kajian Ilmu Hukum*, 30.1 (2021), 66–79.

[40] Prakrit Silal and Debashis Saha, 'Impact of National E-Participation Levels on Inclusive Human Development and Environmental Performance: The Mediating Role of Corruption Control', *Government Information Quarterly*, 38.4 (2021), 101615 <https://doi.org/https://doi.org/10.1016/j.giq.2021.101615>.

[41] Robin Nunkoo and others, 'Public Trust in Mega Event Planning Institutions: The Role of Knowledge, Transparency and Corruption', *Tourism Management*, 66 (2018), 155–66 <https://doi.org/https://doi.org/10.1016/j.tourman.2017.11.010>.

[42] Alvedi Sabani, Mohamed H Farah, and Dian Retno Sari Dewi, 'Indonesia in the Spotlight: Combating Corruption through ICT Enabled Governance', *Procedia Computer Science*, 161 (2019), 324–32 <https://doi.org/https://doi.org/10.1016/j.procs.2019.11.130>.

significant strides in controlling corruption and effectively addressing instances of corrupt practices. These nations effectively mitigate corruption by implementing transparent administrative systems and economies, limiting the number of official jobs, and minimizing discretionary expenditure options.[43]

In the context of the Netherlands, it is evident that perspectives towards corruption have undergone a transformation, primarily attributed to the influence exerted by the nation's Parliament. The aforementioned phenomenon can be attributed to a series of comprehensive inquiries conducted by the Dutch Parliament between 2002 and 2005, with the aim of uncovering the most significant scandal in contemporary Dutch history, commonly referred to as the public building swindle.[44] The initiation of events may be traced back to a televised show whereby a whistle blower disclosed details pertaining to instances of corruption inside government construction and public road projects on the 5th of February, 2002. In response, the Dutch Parliament made the decision to establish a Fact-Finding Committee for the Construction Industry.[45] The Committee reached the determination that a prevalent practice existed wherein numerous irregular and fraudulent tenders occurred, whereby the decision-making of civil workers and politicians was swayed by various forms of presents.

Following this, the Committee made the decision to initiate an investigation into the nature and extent of the reported anomalies. The primary objective of this investigation was to thoroughly analyze all pertinent information pertaining to the construction of the Schiphol railway tunnel. The Committee was greatly surprised by the extent of the anomalies that were uncovered, leading it to the conclusion that the construction sector had been significantly impacted by actions that were in violation of fair economic trade regulations.[46] The initial discussions conducted among enterprises with the objective of establishing agreements pertaining to pricing, market shares, and the adoption of duplicative bookkeeping methods revealed that a majority of prominent construction firms have established organizational frameworks that have the potential to facilitate the formation of cartels. The construction companies incurred fines from the Netherlands Competition Authority (NMa) due to their violation of competition regulations. Ultimately, the government initiated legal proceedings, contending that as a result of the alleged cartel agreement, they had incurred excessive costs for the project, and consequently, they pursued compensation for the losses incurred.[47]

Following this, the Committee made the decision to conduct an investigation into the nature and extent of the reported irregularities, with a particular focus on examining all

[43] Giorgio Locatelli and others, 'Corruption in Public Projects and Megaprojects: There Is an Elephant in the Room!', *International Journal of Project Management*, 35.3 (2017), 252–68 <https://doi.org/https://doi.org/10.1016/j.ijproman.2016.09.010>.

[44] Giuseppe Grossi and Daniela Pianezzi, 'The New Public Corruption: Old Questions for New Challenges', *Accounting Forum*, 42.1 (2018), 86–101 <https://doi.org/https://doi.org/10.1016/j.accfor.2016.05.002>.

[45] Rajeev K Goel and James W Saunoris, 'Corrupt Thy Neighbor? New Evidence of Corruption Contagion from Bordering Nations', *Journal of Policy Modeling*, 44.3 (2022), 635–52 <https://doi.org/https://doi.org/10.1016/j.jpolmod.2022.05.004>.

[46] Yunsen Chen and others, 'Corruption Culture and Accounting Quality', *Journal of Accounting and Public Policy*, 39.2 (2020), 106698 <https://doi.org/https://doi.org/10.1016/j.jaccpubpol.2019.106698>.

[47] Maria-Ana Georgescu, 'Unethical Aspects and the Recent Manifestation of Corruption in Romanian Public Administration', *Procedia Economics and Finance*, 15 (2014), 452–58 <https://doi.org/https://doi.org/10.1016/S2212-5671(14)00480-8>.

pertinent details pertaining to the construction of the Schiphol railway tunnel. The Committee was very astonished by the extent of the irregularities that were uncovered, leading it to reach the conclusion that the construction sector had been significantly impacted by actions that were in violation of fair economic trade regulations.[48] The initial discussions among enterprises with the objective of establishing agreements pertaining to pricing, market shares, and the adoption of duplicative bookkeeping methods revealed that a majority of prominent construction firms have established organizational frameworks that have the potential to facilitate the formation of cartels.[49] The Netherlands Competition Authority (NMa) imposed fines on the construction enterprises due to their violation of competition regulations. Ultimately, the government initiated legal proceedings, contending that as a result of the alleged collusion among cartel members, excessive payments were made for the project. Consequently, the government pursued compensation for the incurred losses.[50]

The provisions of the Netherlands at that time were deficient in terms of fundamental features of administrative law, both in terms of preventative measures and repressive measures, pertaining to corruption. In the context of the administrative law system, administrative authorities has the jurisdiction to make proactive or reactive determinations about corruption within the public sector. Administrative law tools possess a greater potential for efficient and expeditious utilization compared to criminal law processes, which typically entail protracted durations, frequently spanning multiple years. An outcome arising from the examination of the prevailing circumstances in the Netherlands is that solely the most severe instances of corruption will be subjected to legal proceedings. When examining the cases and characteristics of anti-corruption efforts in the Netherlands, it becomes evident that corruption is a pervasive and entrenched issue in nearly all nations worldwide.[51] Historically, the prevailing approach has centered around punitive measures, neglecting the comprehensive understanding of corruption models and types that exist within a broader context. This trend necessitates a comprehensive examination of conventional legal norms, wherein corruption is addressed through punitive measures under criminal law, and proposes that it should instead be addressed through administrative law. There are two distinct developments that can be identified. The focus has been directed towards not only the punitive measures against corruption, but also the formulation of strategies pertaining to the proactive approach in combating corruption. Additionally, significant emphasis has been placed on the restitution of state assets that have been unlawfully acquired through corrupt practices, as this represents a pivotal objective in the global anti-corruption endeavor.

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[48] Dmitry Ryvkin and Danila Serra, 'Corruption and Competition among Bureaucrats: An Experimental Study', *Journal of Economic Behavior & Organization*, 175 (2020), 439–51 <https://doi.org/https://doi.org/10.1016/j.jebo.2017.12.026>.

[49] Stephen P Ferris, Jan Hanousek, and Jiri Tresl, 'Corporate Profitability and the Global Persistence of Corruption', *Journal of Corporate Finance*, 66 (2021), 101855 <https://doi.org/https://doi.org/10.1016/j.jcorpfin.2020.101855>.

[50] Daniel Márquez, 'Mexican Administrative Law Against Corruption: Scope and Future', *Mexican Law Review*, 8.1 (2015), 75–100 <https://doi.org/10.1016/j.mexlaw.2015.12.004>.

[51] G H Addink and J B J M Ten Berge, 'Study on Innovation of Legal Means for Eliminating Corruption in the Public Service in the Netherlands', *Electronic Journal of Comparative Law*, 11.1 (2007), 1–34.

Examining the Elements of External Oversight: Enhancing the Oversight Role of the House of Representatives in Combating Corruption in Indonesia

External supervision refers to the act of overseeing conducted by supervisory organizations or agencies that operate independently from the institution being supervised, such as the government in the context of this discussion. The author asserts the imperative nature of this measure in the pursuit of eliminating corruption in Indonesia, particularly within the governmental sphere.[52] In the context of Indonesia, the Supreme Audit Agency (BPK) is a prominent governmental agency that holds a high position within the state structure. It is characterized by its independence, ensuring its autonomy from any external influence or interference. The BPK, in the execution of its responsibilities, duly acknowledges the findings of the government's internal control apparatus as presented in the audit report. Consequently, it is imperative to have a harmonious relationship between the two entities in order to effectively monitor the financial affairs of the state.[53] The harmonization process in question does not compromise the independence of the BPK, allowing it to maintain its impartiality and objective evaluation of government actions.

Legislative supervision refers to the oversight conducted by representative institutions, namely the People's Representative Council (DPR) at the national level and the Regional People's Representative Council (DPRD) at the regional level.[54] The oversight of this entity is mostly influenced by political considerations. communal supervision is a practice that involves the monitoring and oversight of individuals within a communal setting.[55] Nevertheless, of equal significance is the oversight conducted by the general people through designated channels or alternative media platforms. In the context of government policies, the implementation of community supervision is a recurring possibility. It is widely acknowledged that, since the onset of the reform era in May 1998, there persists a perception among many individuals that substantial improvements have not yet become completely apparent.[56]

The existence of state auxiliary agencies, commonly known as The Fourth Branch of Government, throughout the reform era signifies a notable indication of the nation's progression towards substantial transformation.[57] The establishment of various state auxiliary agencies, including the National Human Rights Commission (KOMNAS HAM), the Independent Broadcasting Commission (KPI), the General Elections Commission (KPU), the Corruption Eradication Commission (KPK), the National Ombudsman Commission (KON), the Legal Commission (KHN), the Commission for the Supervision of Business Competition

[52] Márquez.

[53] Addink and Ten Berge.

[54] Sri Nur Hari Susanto, 'Merekonstruksi Sistem Hukum Administratif Menuju Hukum Yang Melayani', *Masalah Masalah Hukum*, 44.2 (2015).

[55] Rian Saputra, Muhammad Khalif Ardi, and others, 'Reform Regulation of Novum in Criminal Judges in an Effort to Provide Legal Certainty', *JILS (Journal of Indonesian Legal Studies)*, 6.2 (2021), 437–82 <https://doi.org/10.15294/jils.v6i2.51371>.

[56] Peng Zhang, 'Anti-Corruption Campaign, Political Connections, and Court Bias: Evidence from Chinese Corporate Lawsuits', *Journal of Public Economics*, 222 (2023), 104861 <https://doi.org/https://doi.org/10.1016/j.jpubeco.2023.104861>.

[57] Kuswanto Kuswanto, 'Consistency of the Presidential System in Indonesia', *Sriwijaya Law Review*, 2.2 (2018), 170 <https://doi.org/10.28946/slrev.vol2.iss2.67.pp170-182>.

(KPPU), and the National Commission for Child Protection (KOMNAS Anak), signifies a notable development in the constitutional practices of the Republic of Indonesia. The emergence of these sampiran institutions can be attributed to various factors. The establishment of the Corruption Eradication Commission, as stipulated in Law Number 30 of 2002 pertaining to the Commission for the Eradication of Corruption Crimes, can be attributed to the ineffectiveness and inefficiency of preexisting governmental entities, namely the prosecutor's office and the police, in addressing corruption-related matters.[58]

The emergence of diverse state-owned institutions can be attributed primarily to a significant level of public mistrust towards existing state institutions, since they are perceived to be inadequately fulfilling their functions, particularly in facilitating the reform agenda. Similar to the proliferation of mushrooms during the rainy season, the state auxiliary organs in Indonesia are seeing growth across several sectors of the state. Several laws are enacted with the purpose of establishing auxiliary organs at the state level. Institutional experimentation takes the shape of various entities, such as councils, commissions, committees, boards, or authorities.[59] In contrast, Andi Mallarangeng articulated a divergent perspective. Andi Mallarangeng argues that the emergence of quasi-state institutions can be seen as a logical reaction to the contemporary constitutional framework's limitations on the separation of powers principle. In the process of state formation, it becomes evident that the mere presence of legislative, executive, and judicial institutions is insufficient. The absence of horizontal accountability mechanisms among these institutions is the underlying cause of this phenomenon.[60]

Certain factions argue that the establishment of auxiliary state organs in Indonesia, primarily tasked with overseeing the performance of state institutions, reflects a lack of confidence in existing supervisory bodies, particularly law enforcement agencies. This sentiment arises from the perception that the government bureaucracy is unable to adequately fulfill the public's growing demand for high-quality, effective, and efficient public services. In order to address and eliminate corruption in Indonesia, particularly within the government sector at both the central and regional levels, it is imperative to establish a robust system of external oversight. Should the Audit Board of the Republic of Indonesia (BPK) identify instances of financial losses resulting from abuse of authority, prompt action must be taken to recover these losses.[61] A relevant comparative case study can be observed in the Netherlands, where the Dutch Parliament conducted extensive investigations between 2002 and 2005 to uncover a major corruption scandal involving fraudulent practices in public construction projects. This investigation ultimately led to the restitution of state funds lost as a consequence of the scandal, marking it as the largest corruption scandal in modern Dutch history.[62]

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[58] Bagus Hermanto, 'Penguatan Pengaturan Kelembagaan Badan Pembinaan Ideologi Pancasila, Perlukah?', *Jurnal Legislasi Indonesia*, 18.2 (2021), 204 <https://doi.org/10.54629/jli.v18i2.742>.

[59] Eddyono.

[60] Mariyadi Faqih, 'Nilai-Nilai Filosofi Putusan Mahkamah Konstitusi Yang Final Dan Mengikat', *Jurnal Konstitusi*, 7.3 (2016), 097 <https://doi.org/10.31078/jk734>.

[61] Sabani, Farah, and Sari Dewi.

[62] Addink and Ten Berge.

Sanctions: A Shift in Perspective Regarding the Application of Sanctions Based on the Return of State Financial Losses

Sanctions have a crucial role within the framework of laws and regulations. The inclusion of sanctions within the legal framework serves the purpose of facilitating the systematic enforcement and prevention of any breaches of the established regulations. Legislative enactments pertaining to administrative law consistently grant government bodies the authority to impose penalties in cases of non-compliance with relevant administrative law norms.[63] Sanctions can be described as regulations that outline the specific repercussions associated with disobedience or breach of norms. Sanctions are employed as mechanisms of authority to ensure adherence to established norms, with the objective of minimizing the adverse consequences resulting from normative transgressions.[64] According to the legal literature of Romania, sanctions are defined as the outcomes or repercussions that arise from the infringement of a code of behavior that is imposed or authorized by the state. The consequence for breaching a rule of conduct that is mandated or sanctioned by the state.[65]

According to Amnesty International, sanctions are defined as "measures, such as legal penalties and disciplinary actions, that are taken in response to undesirable behavior." Sanctions encompass a range of measures, including legal and disciplinary proceedings, which are implemented in response to behavior deemed undesirable.[66] The experts mentioned the significance of sanctions in legislation. However, upon examining the provisions regarding the regulation of abuse of authority leading to state financial losses in Article 20 jo 21 of Law Number 30 of 2014 concerning Government Administration, it is evident that a definitive instrument for imposing sanctions in cases of abuse of authority resulting in state financial losses by government officials has not been provided.[67] In the event that the government internal apparatus is found to have committed administrative errors resulting in financial losses to the state, as outlined in paragraph (2) letter c, the reimbursement of such losses must be made within a maximum of 10 working days from the decision and issuance of the supervision results. If the administrative errors mentioned in paragraph (2) letter c are not a result of an abuse of authority, the reimbursement of state losses, as stated in paragraph (4), will be borne by the Government Agency. Conversely, if the administrative error mentioned in paragraph (2) letter c is due to an abuse of authority, the reimbursement of state losses, as stated in paragraph (4), will be borne by the Government Official.

The imposition of sanctions in cases of abuse of authority is governed by the provisions

[63] Anis Widyawati and others, 'Urgency of the Legal Structure Reformation for Law in Execution of Criminal Sanctions', *Lex Scientia Law Review*, 6.2 (2022), 327–58 <https://doi.org/10.15294/lesrev.v6i2.58131>.

[64] Rian Saputra, Josef Purwadi Setiodjati, and Jaco Barkhuizen, 'Under-Legislation in Electronic Trials and Renewing Criminal Law Enforcement in Indonesia (Comparison with United States)', *JOURNAL of INDONESIAN LEGAL STUDIES*, 8.1 (2023), 243–88 <https://doi.org/10.15294/jils.v8i1.67632>.

[65] M Zaid and others, 'The Sanctions on Environmental Performances: An Assessment of Indonesia and Brazilia Practice', *Journal of Human Rights, Culture and Legal System*, 3.2 (2023), 236–64 <https://doi.org/10.53955/jhcls.v3i2.70>.

[66] Rian Saputra, M Zaid, and others, 'Reconstruction of Chemical Castration Sanctions Implementation Based on the Medical Ethics Code (Comparison with Russia and South Korea)', *Lex Scientia Law Review*, 7.1 (2023), 61–118 <https://doi.org/10.15294/lesrev.v7i1.64143>.

[67] Rini.

outlined in Article 80, Paragraph (3) of the Government Administration Law. Additionally, Article 81 of the Government Apparatus Law further delineates the sanctions into three distinct categories.a. The light administrative sanctions mentioned in Article 80, paragraph (1) include verbal reprimands, written warnings, or the postponement of promotion, class, and/or position rights. b. The moderate administrative sanctions mentioned in Article 80, paragraph (2) include the payment of forced money and/or compensation, temporary dismissal with the retention of position rights, or temporary dismissal without the retention of position rights. c. The severe administrative sanctions mentioned in Article 80, paragraph (3) include permanent dismissal with financial rights and other privileges, permanent dismissal without financial rights and other privileges, permanent dismissal with financial rights and other privileges accompanied by publication in the mass media, or permanent dismissal without financial rights and other privileges accompanied by publication in the mass media. d. Additionally, other sanctions may be imposed in accordance with the provisions of applicable laws and regulations.[68]

When employing grammatical methodologies to analyze the situation, it becomes evident that in instances where an abuse of authority is identified, regardless of whether it leads to state losses or not, the implicated government official is solely subjected to dismissal without being obligated to reimburse the state for any financial losses incurred as a consequence of their actions. This practice undoubtedly contradicts the principle of reimbursing state financial losses, which is considered one of the fundamental tenets in the global and Indonesian fight against corruption. The scope of Article 21 of the Administrative Procedure Law is limited to the regulation of the State Administrative Court's jurisdiction in assessing instances of abuse of authority perpetrated by government officials, as well as the prescribed procedures for initiating legal actions. According to the author, there is a need to revise the AP Law in order to enhance its substance and prevent the creation of legal uncertainty regarding administrative sanctions in cases where state financial losses occur due to abuse of authority by government officials.[69] This aligns with the perspective of Berndard L Tanya and Theodorus Y Parera, who argue that the legal substance serves as the foundation for the law enforcement process, providing guidance to law enforcement officials in their application of the law. Consequently, the quality of a legal provision plays a significant role in determining the effectiveness of law enforcement procedures.[70]

In their publication entitled "Panorama of Law and Legal Science," Bernard L. Tanya and Theodora Y. Parera assert that a rule of law lacking in quality is susceptible to exploitation within a pathological framework. As to his assertion, the origins of legal pathologies are frequently identified and have been there since the inception of a regulatory framework. Frequently, the establishment of a legal principle is influenced by a transient emotional response, neglecting to assess its applicability and importance within a wider framework. Furthermore, it is not uncommon for academic drafts to be hastily produced, treating them

[68] Reynaldi Dwi Kusuma Akbar and Yeni Widowaty, 'Pertimbangan Hakim Menjatuhkan Sanksi Dalam Tindak Pidana Suap Di Bidang Pengadaan Barang Dan Jasa', *Indonesian Journal of Criminal Law and Criminology (IJCLC)*, 3.2 (2022), 90–102 <https://doi.org/10.18196/ijclc.v3i2.15525>.

[69] Wicaksono and Saputra.

[70] I Putu Sastra Wibawa and Mahrus Ali, 'Ketegangan Hukum Antara Sanksi Adat Kasepekang Dengan Humanisme Hukum Di Desa Adat Paselatan, Kabupaten Karangasem, Bali', *Jurnal Hukum Ius Quia Iustum*, 29.3 (2022), 611–32 <https://doi.org/10.20885/iustum.vol29.iss3.art7>.

merely as legal writing exercises. However, it is important to recognize that the scope and depth of the rules' content are considerably broader and more substantial, necessitating thorough examination and the involvement of numerous relevant specialists.[71]

This paper aims to address the issue of corruption arising from the abuse of authority by government officials by proposing an administrative law approach. It emphasizes the importance of fostering a sense of seriousness within the government and political leadership in order to effectively combat corruption. The concept of eradicating corruption through an administrative law approach is explored in detail. Firstly, it is recommended to enhance the internal supervision mechanisms within the government. Specifically, the Government Internal Supervisory Apparatus (APIP) should be empowered to take action in cases where abuse of authority results in financial losses for the state. APIP should be granted the authority to initiate legal proceedings and seek compensation from non-treasurer civil servants and other officials. Currently, this authority lies with the President, Minister of Finance, Minister/Head of Institution (delegated to the Head of Work Unit), and Governor/Regent/Mayor (delegated to the Head of Regional Financial Management Work Unit).[72]

Furthermore, with regards to external oversight, it is advisable and suitable for the Financial Supervisory Agency (BPK) to implement administrative measures aimed at recovering state financial losses instead of solely relying on repressive methods or criminalization. This can be achieved by establishing effective communication with the Audit Board of the Republic of Indonesia (APIP) to expedite the process of combating corruption and restoring state financial losses. Furthermore, the author highlights the significance of sanctions within legislation.[73] However, upon examining the provisions pertaining to the misuse of authority leading to financial losses for the state, as outlined in Article 20 in conjunction with Article 21 of Law Number 30 of 2014 concerning Government Administration, it becomes evident that there is a lack of explicit punitive measures that can be implemented in cases involving government officials who engage in such abuses of authority resulting in financial losses for the state. A revision is required to incorporate a well-defined punitive mechanism in cases where an abuse of authority is identified, leading to financial losses for the state. This entails imposing not only disciplinary measures, such as dismissal from their positions, on officials who are proven to have committed violations and abused their authority resulting in state financial losses, but also obligating them to reimburse the incurred financial losses to the state.

4. Conclusion

The eradication of corruption, with a specific emphasis on recovering state financial losses, can be achieved through a series of measures. Firstly, it is crucial to enhance internal oversight mechanisms within the government. In this regard, the Government

[71] Rasdi Rasdi and others, 'Reformulation of the Criminal Justice System for Children in Conflict Based on Pancasila Justice', *Lex Scientia Law Review*, 6.2 (2022), 479–518 <https://doi.org/10.15294/lesrev.v6i2.58320>.

[72] Locatelli and others.

[73] Anisah Alfada, 'The Destructive Effect of Corruption on Economic Growth in Indonesia: A Threshold Model', *Heliyon*, 5.10 (2019), e02649 <https://doi.org/https://doi.org/10.1016/j.heliyon.2019.e02649>.

Internal Supervisory Apparatus (APIP) plays a pivotal role. APIP should be empowered to take immediate legal action against instances of authority abuse that result in state financial losses. Additionally, APIP should be granted the authority to seek compensation for such losses. Furthermore, with regards to external oversight, it is advisable and suitable for the Financial Supervisory Agency (BPK) to implement administrative measures aimed at recovering state financial losses, rather than relying solely on repressive methods or criminalization. To ensure efficiency in combating corruption and recovering state financial losses, it would be beneficial to establish effective communication channels with the Audit Board of the Republic of Indonesia (APIP). Furthermore, it can be observed that the inclusion of sanctions in the legislation pertaining to the misuse of authority, specifically in Article 20 Juncto 21 of Law Number 30 of 2014 concerning Government Administration, lacks a comprehensive framework for addressing instances where abuse of authority leads to financial losses incurred by the state. The current provisions solely entail administrative penalties such as dismissal, without mandating the restitution of said financial losses.

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