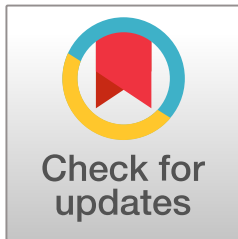


ARTICLE

The Role of Investigation Audit for the Calculation of State Losses in Governor Corruption Cases Handled by the Corruption Eradication Commission for 2013–2022 Period

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Abstract: Since the Corruption Eradication Commission (KPK) was established in 2003-2022, KPK has handled 20 Governors involved in corruption cases. This study took a sample of 10 governors, or 50% of the number of governors handled by the Corruption Eradication Commission, taking into account the availability of court decision data on the Supreme Court website and population representation from 2013 to 2022. A total of six governors were convicted on charges of bribery-receiving corruption related to local budget management. In handling these cases, it is necessary to calculate state losses by the BPK RI auditors due to the acts of corruption committed. Law Number 15 of 2004 and Law Number 15 of 2006 emphasize the need to examine state financial losses in corruption cases to determine the amount of state losses. These two provisions are not yet binding on Corruption Eradication Commission investigators to ask the Audit Board of the Republic of Indonesia to calculate state financial losses because it is considered that the provisions for requesting an audit are not strictly regulated in Law Number 31 of 1999. This requires harmonization of the regulations governing acts of corruption with those governing the calculation of state losses. Analysis of the charges against the court decision indicates that the calculation of state financial losses by the Audit Board of the Republic of Indonesia (BPK RI) or Finance and Development Supervisory Agency (BPKP) is not used in determining the real and definite amount of state financial losses. The judge fully relied on the amount of bribes received or the amount of corruption enjoyed by the defendant in the indictment as a loss to the state, which must be returned as replacement money. In the indictment, there was no argument for using bribes received as losses to the state, which is an obligation to return to recover the said state losses regulated in Law Number 1 of 2004.

Keywords: investigative audits; criminal acts of corruption; state loss; calculation of state losses; compensation money.

1. Introduction

The existence of the Corruption Eradication Committee, formed by Law Number 30 of 2002 concerning the Corruption Eradication Commission, is an answer to public demands for a clean government free from corruption, collusion, and nepotism. This is in line with the research of [Hamilton-Hart \(2001\)](#) that anti-corruption reforms during 1999–2000 appear to have been less successful in reducing levels of corruption. The presence of the KPK gives great hope for dignified law enforcement in eradicating corruption. The public's appreciation for the performance of the Corruption Eradication Committee (KPK), which was able to bring several state officials to the Red and White House, is proof of this Ad Hoc institution ([Umar, 2016](#)). Even though since its formation, the Corruption Eradication Committee has been hunting down corruptors, research by [Isra et al. \(2017\)](#) found corruptors using illegal means to bend or obstruct the legal process to escape punishment for their crimes.

The Lexicon-Webster Dictionary, 1978 defines corruption as depravity, dishonesty, immoral, or deviation from purity. Transparency International defines corruption as the behavior of public officials, both politicians and civil servants, who unreasonably and illegally enrich themselves or those close to them by abusing public power ([Priantara, 2013](#)). In accordance with Article 2 of Law 20 of 2021 concerning Amendments to Law 31 of 1999 concerning the Eradication of Corruption Crimes, corruption is an unlawful act to enrich oneself or another person or a corporation, which can harm state finances or the state economy. In this sense, three elements must be fulfilled when someone is accused of committing corruption, namely unlawful acts, enriching oneself or another person or a corporation, and causing harm to state finances or the state economy.

Since its formation, the Corruption Eradication Commission (KPK) has arrested 20 governors involved in criminal acts of corruption from 2004 to 2022. These are the Governor of Aceh, the Governor of South Kalimantan, the Governor of East Kalimantan, the Governor of Riau, the Governor of South Sumatra, the Governor of West Java, the Governor of Riau Islands, the Governor of North Sumatra, the Governor of Riau, Governor of Banten, Governor of Papua, Governor of Riau, Governor of Southeast Sulawesi, Governor of North Sumatra, Governor of Bengkulu, Governor of Aceh, Governor of Jambi, Governor of the Riau Islands, Governor of South Sulawesi, and Governor of Papua.

Law Number 1 of 2004 concerning State Treasury defines "loss" in Article 1 paragraph (22) of this law, which reads "State/Regional Loss is a shortage of money, securities and goods, which is real and definite in amount as a result of unlawful acts whether intentional or negligent. State/regional losses arising from circumstances beyond human capability (force majeure) cannot be punished. State/regional losses as a result of unlawful acts can be prosecuted in accordance with Article 1365 of the Civil Code, reflected in State/Regional Losses that can be prosecuted.

The definition of state financial losses must be real and definite in amount, meaning that state losses must be concrete and clear and based on concrete evidence, not the result of interpretation. In trials of corruption cases in court, two stages of the evidentiary process are required. The first stage is the area of legal experts to determine whether unlawful acts result in state financial losses or formulate criminal acts of corruption. Meanwhile, the second stage is the area of accountants or auditors to ascertain whether or not there are state financial losses and calculate the amount of these losses or determine the amount of state losses ([Noor, 2022](#)).

For the 20 gubernatorial corruption cases handled by the Corruption Eradication Commission, in terms of the time of occurrence, 10 cases occurred within a period of 10 years from 2013 to 2022. These consisted of the Governor of Riau, the Governor of Banten, the Governor of Riau, the Governor of Southeast Sulawesi, the Governor of North Sumatra, the Governor of Bengkulu, the Governor of Aceh, the Governor of Jambi, the Governor of Riau Islands, and Governor of South Sulawesi. Meanwhile, the Governor of Papua, who has been named a suspect since September 14, 2022, is not included in this research because he has not been named a defendant or convict, so the state losses in his corruption case have not been presented in the court decisions for criminal acts of corruption.

This research is needed to determine whether, in the Governor's corruption case, an investigation was carried out into the calculation of state losses. In this research, an analysis was also carried out on Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes for requests for investigative audits from the BPK regarding Alleged Corruption Cases of Governors and the Audit Board of the Republic of Indonesia (BPK RI) regulations on accepting requests for investigative audits from the Corruption Eradication Committee regarding Governor's Alleged Corruption Case. This research is considered to be beneficial for both the community, the Corruption Eradication Commission and the Audit Board of the Republic of Indonesia (BPK RI) with the following descriptions:

1. For the public, this research is useful for providing ideas and breakthroughs in interpreting definite and real state losses related to the Corruption Eradication Commission's handling of the Governor's corruption case.
2. For The Corruption Eradication Commission it is an input for pro-Justitia work in handling the alleged corruption case of the Governor in question.
3. For the Audit Board of the Republic of Indonesia (BPK RI), this is an input to the BPK's role in calculating state financial losses through free, independent and competent investigative audits.

2. Methods

This research used qualitative research with a case study approach. According to [Sugiyono \(2015\)](#), qualitative research is to understand and explore the object's main phenomena to gain a deep understanding and discover something unique. The steps or process of qualitative research are artistic, so they are not standard and will depend on the research objectives. Qualitative research steps aim to construct new phenomena. The results of qualitative research methods only apply to the case of social situations, which can be transferred or applied to social problems (other places) if the social situation has similarities or similarities with the social situation being studied.

This research aims to reveal facts from the results of primary and secondary data processing. In this research, the facts found are related to the indictment in the Corruption Court decision, whether there is a role for the Audit Board of the Republic of Indonesia (BPK RI) in investigative audits and policies that regulate the business process of handling corruption cases and the implementation of investigative audits. In this way, an analysis can be carried out to reveal the facts about whether the business process of handling corruption cases by the Corruption Eradication Commission (KPK) related to state losses in the governor's corruption case involves the role of the Audit Board of the Republic of Indonesia (BPK RI) investigative audit in accordance with the regulations that govern it.

The data collection techniques used in this research are interviews, observation, documentation studies or a combination of the three, called triangulation. The informants in this interview were the Deputy Chair of the Corruption Eradication Committee, the Corruption Eradication Committee Director, the Main Auditor for Investigations at the Audit Board of the Republic of Indonesia (BPK RI), and the Head of the Auditorate at the Audit Board of the Republic of Indonesia (BPK RI). Activities in qualitative data analysis are carried out interactively and continue continuously until completion so that the data is saturated. The procedure for processing the data that has been collected is as follows: (1) Collection of information related to the management of research objects, (2) Analysis of the data used in this research using content analysis. Content analysis begins with coding the terms or use of relevant words and sentences that appear most frequently in communication media, (3) Testing the validity of the data is carried out by comparing the data source with other data, namely data obtained from interviews, observation and documentation studies, (4) Drawing conclusions from research results based on data analysis whose validity has been tested (Indriantoro & Supomo, 2016).

The data types collected and analyzed in this research include primary and secondary data. Primary data consists of data from interviews and written descriptions from the participants, namely two KPK officials as one unit, namely the Deputy Chair of the KPK, Alexander Mawarta, and the Director of the Corruption Eradication Commission, Eko Marjono, and two officials of the Audit Board of the Republic of Indonesia (BPK RI) namely the Main Auditor of BPK Investigations Hery Subowo and the Head of BPK Auditorate I Kadek Suartama. The data collected were 12 files, consisting of two interview files and 10 court decision files. The research data was obtained from court decisions regarding the Governor's corruption case handled by the Corruption Eradication Commission for 10 years from 2013 to 2022. The data collected is in accordance with the underlying facts according to the chronology of the research events.

This research did not use research applications or software because there were no hypothesis-testing activities. The analysis was conducted to determine whether the documents or facts in the Corruption Court decision related to the amount of state losses were based on the results of the Audit Board of the Republic of Indonesia (BPK RI) investigative audit. Furthermore, the results of interviews with KPK and BPK officials are to ascertain whether investigative audits have a role in determining suspects or in prosecution at the Corruption Court. The steps in the data analysis carried out were analysis of the Corruption Court's decision to determine the relationship between the indictment and state financial losses based on the BPK's investigative audit, analysis of interview results from KPK and BPK officials to determine the role of the investigative audit in the indictment at the Corruption Court and analysis of handling policies of criminal acts of corruption by the KPK to determine requests for investigative audits by the Corruption Eradication Commission (KPK) to the Audit Board of the Republic of Indonesia (BPK RI).

3. Results and Discussion

3.1. Overview of Corruption Cases in Regional Government

A study conducted by Prabowo (2019) found that implementing regional autonomy was not completely successful, as shown by many regional heads involved in legal cases and poor financial management. According to Ferza and Aulia (2020) and Kabullah et al. (2020) Direct regional head elections (Pilkada) open space for political dowry transactions, while campaign finance regulations are still

problematic. [Sihaloho and Herlan \(2020\)](#) stated that from the report of the State Civil Apparatus Commission there were violations of neutrality by the State Civil Apparatus in the Regional Elections during the 2015-2018 period. A study conducted by [Rienks \(2023\)](#) shows Dutch voters punish parties whose politicians show incompetence or are involved in incidents of corruption. Even though regulations prohibit this practice, in reality political dowries are difficult to prove. According to [Fatoni \(2020\)](#), direct regional elections in Papua are considered to cause quite a lot of political costs. The case of corruption in Papua's special autonomy funds was caused by demands for political costs that could not be funded from the personal pockets of the regional head candidates.

The spirit of regional autonomy to produce regional heads who are trustworthy, have integrity and are far from corrupt behavior has found a dead end. Regional autonomy emphasizing decentralization is inversely proportional to the centralized regional election political process. Apart from that, individual candidates will almost certainly be able to enter the Regional Election arena after obtaining the blessing of the Central Leadership of the supporting Political Party. According to [Aminah \(2020\)](#) state that the goal of reform in realizing local democracy through ideal regional elections is still far from expectations because there is no synergy between regional autonomy and regional elections. The root of the problem is the lack of synergy between regional autonomy and regional elections because the concept of decentralization is dominated by an administrative decentralization perspective rather than a political decentralization perspective. Research conducted by [Zarmaili \(2012\)](#) government authority and power are misused by Jambi Provincial Government officials, resulting in corrupt practices in development projects, personnel placement, permits, and official travel.

In efforts to prevent corruption in local governments, the active role of non-governmental organizations (NGOs), which function as watchdogs for local governments, is needed to prevent corrupt behavior. In this regard, the results of research conducted by [Khairi \(2018\)](#) show that the role of NGOs in investigating corrupt practices has been carried out by almost all NGOs in the field of eradicating corruption in North Bengkulu. Still, follow-up efforts to push this into the realm of law have not been optimal. Therefore, [Prabowo \(2020\)](#) offering supervision must be carried out appropriately, as in the Danish experience, where the central government will find it easier to determine interventions for regions better prepared to anticipate regional distrust of the central government. Corruption cases in local governments also involve relationships with companies, such as [Zhang's research \(2023\)](#) which stated attempts to interfere with court decisions by corrupt local politicians providing political favors to politically connected companies.

The Regional Budget (APBD) is a source of corruption, reaching 40%, according to [Paranata's research \(2022\)](#) which quotes the official KPK report, so this research needs to examine the effectiveness of corruption eradication measures that can stop regional government budget leaks. In relation to preventing corruption, a study conducted by [Sihal et al. \(2023\)](#) discovered the relationship between E-Government (EGOV) and controlling corruption by thoroughly investigating and revealing the relative effectiveness of EGOV in controlling corruption. To see the impact of the corrupt behavior of local officials on the allocation of transfer funds, research by [Chu et al. \(2023\)](#) proves there is no relationship between local government fiscal pressure and Chinese judges' decisions on official corruption criminal convictions. The relationship between corruption and the tenure of public officials, according to [Tsur's research \(2022\)](#), shows that stricter term limits increase the frequency of corruption incidents. Direct elections should be able to reduce corrupt behavior,

according to Tukina's research (2020), giving the community the role of choosing leaders, producing government checks and balances as a form of direct accountability.

3.2. Analysis of KPK Regulations for Requests for Investigative Audits to the BPK Regarding Alleged Corruption Cases of the Governor

The process of investigating criminal acts of corruption carried out by KPK investigators is based on Law Number 30 of 2002 concerning the Corruption Eradication Commission. Article 43, paragraph (2) states that investigators carry out the function of investigating criminal acts of corruption. Meanwhile, Article 44, if an investigator during an investigation finds sufficient initial evidence of an alleged criminal act of corruption within a period of no later than 7 (seven) working days from the date sufficient initial evidence is found, the investigator reports it to the Corruption Eradication Committee Commissioner.

Sufficient preliminary evidence is deemed to exist if at least 2 (two) pieces of evidence have been found, including but not limited to information or data spoken, sent, received, or stored either normally, electronically or optically. If the Corruption Eradication Committee Commissioner believes the case should be continued, the Corruption Eradication Commission Commissioner will carry out his own investigation or delegate the case to police investigators or the prosecutor's office. If the investigation is delegated to the police or prosecutor's office, the police or prosecutor's office is obliged to coordinate and report the progress of the investigation to the Corruption Eradication Committee Commissioner.

From the provisions above, the inquiry and investigation process does not regulate requests for investigative audits to the BPK to calculate state financial losses if the corruption case handled is related to misuse of State Budget/Regional Budget funds or state assets/regional assets. For cases of gratification or bribery that are not related to APBN/APBD funds and misappropriation of state/regional assets, there is no need to calculate state financial losses as intended in Article 1 point 22 of Law Number 1 of 2004.

Furthermore, article 46 of Law 31 of 2002 states that if a person is determined to be a suspect by the Corruption Eradication Commission, starting from the date of the determination, the special procedures that apply in the context of examining suspects as regulated in other statutory regulations, do not apply under this Law. This stage determines someone as a suspect but does not regulate the request for an investigative audit to calculate state losses.

Compared to the Attorney General's Office practice, requests for investigative audits to calculate state financial losses are generally not carried out by the Corruption Eradication Commission. Investigators can usually request an investigative audit to calculate indications of state financial losses during the investigation process. These results cannot yet be fully used for the prosecution process in court due to limitations in the litigation aspect. For this reason, at the investigation stage, requesting another investigative audit to calculate state financial losses is necessary.

Although it does not strictly require an investigative audit, the explanation of Article 32 paragraph 1 of Law Number 31 of 1999 states that a state loss is real and certain if the loss can be calculated based on the findings of the authorized agency or an appointed public accountant. This provision can mean that the auditor's calculation of state financial losses is necessary to ensure that state losses meet real and certain criteria. However, this provision is not mandatory in Law Number 30 of

2002, which regulates the working mechanisms and procedures of the Corruption Eradication Committee in the process of investigating and investigating criminal acts of corruption.

3.3. Analysis of BPK Regulations Receiving Requests for Investigative Audits From the Corruption Eradication Committee Regarding the Governor's Alleged Corruption Case

Two conditions trigger an investigative audit: the results of developing a financial or compliance audit and requests from the Corruption Eradication Committee and other law enforcement officials. Investigative audits resulting from the development of financial audits are an initiative of the BPK as an attributive authority granted by law. Investigative audits upon request are carried out independently, and free from influence from other parties so that the authority to accept requests for investigative audits rests with the BPK.

According to Law Number 15 of 2004 concerning Audits of Management and Responsibility of State Finances, audits with specific objectives are audits other than financial audits and performance audits. Furthermore, according to Article 13 of Law Number 15 of 2004, examiners can carry out investigative examinations to reveal indications of state/regional losses and/or criminal elements.

Furthermore, the Republic of Indonesia BPK Regulation Number 1 of 2020 concerning Investigative Examinations, Calculating State/Regional Losses, and Providing Expert Statements, among other things, regulates investigative examinations by the BPK. Concerning investigative audits based on requests, law enforcement officials must comply with the provisions of this BPK regulation. When the Corruption Eradication Commission (KPK) escalates case handling to the investigation stage, the Corruption Eradication Committee (KPK) should ask the BPK to conduct an investigative audit of the calculation of state losses. The same request can be made after determining a Governor as a suspect in a criminal corruption case for the calculation of state losses used by the prosecutor in the indictment at the corruption criminal court.

3.4. Audit Analysis Investigating Calculation of State Losses in the Governor's Corruption Case

A study conducted by [Abdul-Baki et al. \(2022\)](#) emphasizes the role of accounting in preventing corruption if the audit report reveals accounting irregularities that can potentially cause corrupt practices. BPK auditors in several cases of regional heads who were entangled in corruption but received an unqualified opinion from the BPK have been presented in research by [Lino et al. \(2022\)](#) related to public sector audit organizations that are expected to fight corruption, but may also be involved in and contribute to corruption. The independence of state audit institutions in new democratic countries, according to research by [Melo et al. \(2009\)](#) influenced by changes in national leadership. Although evidence shows that public sector audits help eradicate corruption, there is still a gap in understanding, especially regarding the functional role of public sector audits in detecting and preventing corruption in developing countries ([Assakaf et al., 2018](#)).

Furthermore, a study conducted by [Khan \(2006\)](#) found it difficult for auditors, who generally work with documents, to effectively fight corruption because corruption differs from fraud, which leaves no trace. For this reason, [Flasher et al. \(2022\)](#) concluded that state efforts in fighting corruption appear to be more effective where the state audit function is responsible for fraud investigation audits.

There is a relationship between unlawful acts and the losses caused and proof of the causal relationship. At this stage, the main question is, what are the legal facts? With these legal facts, law enforcers formulate criminal acts of corruption, determine whether or not there are state financial losses, and the form of state financial losses. Even though this stage is related to state financial losses, in practice, law enforcers do not limit their research to Articles 2 and 3 of Law Number 31 of 1999 only (Tuanakotta, 2018).

Corruption originating from bribery and gratification at state losses does not require an auditor to calculate it. The court decision ordered the defendant to return the money he had received as replacement money. In this regard, the replacement money is commensurate with the state losses incurred based on the bribes and gratuities received by the defendant. Of the 10 governors who were caught by the Corruption Eradication Commission (KPK) committing criminal acts of corruption, six people committed criminal acts partly or wholly related to corruption in the management of the Regional Budget.

Based on a questionnaire submitted to the Main Auditor of the Audit Board of the Republic of Indonesia (BPK RI), an explanation was obtained that the six governors had not received a request from the Corruption Eradication Commission. Thus, there is no role for investigative audits of the Audit Board of the Republic of Indonesia as regulated in BPK Regulation Number 1 of 2020. The state financial losses in the public prosecutor's indictment are not based on the results of BPK or BPKP calculations. The questionnaire was addressed to KPK Commissioner Alexander Marwata through the Director of Corruption Detection and Analysis of the KPK, Eko Marjono, who admitted that the KPK had not asked the BPK to conduct an investigative audit. The reason is that there is no obligation for the KPK to request an investigative audit from the Audit Board of the Republic of Indonesia (BPK RI) or the Finance and Development Supervisory Agency (BPKP). Furthermore, the respondent admitted that the process of determining the governor's suspect was not preceded by an investigative audit process by the BPK or BPKP.

Another consideration in speeding up the trial process is that the results of the investigative audit conducted by the BPK or BPKP are not directly used in the prosecution process at the Corruption Court trial. The results of the investigative audit will be included in the Official Report of Request for Information (BAPK) to related parties. This BAPK will be tested during the trial. Even though the Corruption Eradication Committee admits that corruption cases involve state financial losses, the proceeds of corruption enjoyed by the defendant are generally only a portion of the total value of state financial losses.

In cases of criminal acts of corruption that the police and prosecutor's office handles after legal construction finds that there are unlawful acts, they ask the BPK or BPKP auditing agency to calculate state financial losses. What is different is that a request for an investigative audit of the calculation of state losses to the BPK did not follow the corruption case handled by the Corruption Eradication Commission (KPK). From the description above, it can be seen that there is a problem with synchronization of existing regulations. Law 15 of 2004 and Law 15 of 2006 state the need to audit state financial calculations, but Law Number 31 of 1999 does not state the need for the KPK to request an investigative audit from the BPK.

In this research, the state losses that need to be calculated are acts of corruption originating from regional expenditure, misuse of regional income, and regional wealth. Meanwhile, acts of corruption in the form of bribery and gratification originating from actions outside regional budget management, such as buying and

selling positions and permits, do not require the calculation of state losses. Corruption is related to the management of the Regional Budget and regional assets. In court decisions, there should be a calculation of state financial losses carried out by BPK or BPKP auditors. For this reason, content analysis of the defendants' charges in the Corruption Court Decision determines whether to calculate state financial losses.

According to the Main Auditor for BPK Investigations, Hery Subowo, the BPK has an important role in the law enforcement process regarding cases that cause state losses. The BPK has the authority to calculate state losses and provide expert testimony in the investigation and courtroom. An investigative examination must be conducted before the BPK submits the results of calculating state losses and provides expert testimony at trial. This examination will determine the amount of state losses resulting from a criminal act of corruption or fraud. Efforts to realize collaborative evidence are needed so that the evidence collected is strong and complete before being brought to trial (Warta Pemeriksa, 2021).

To see the role of investigative audits in handling corruption cases involving governors during the research period, especially for calculating state losses, an analysis of the Corruption Court Decision was conducted using the content analysis method. With this analysis, it will be possible to find out whether investigative audits have a role to determine the number of state losses listed in the indictment in the Corruption Court decision. Table 1 presents a summary of the charges from six governors involved in corruption related to state financial losses, receiving bribes, and giving bribes.

Table 1. Summary of Indictments in Corruption Cases of Six Governors for the 2013–2022 Period

No.	Governor	Summary of Indictment
1.	Riau	<ul style="list-style-type: none"> a. Losing state finances amounting to IDR265,912,366,170.20 b. Received prizes in the form of IDR500,000,000.00, IDR852,000,000.00, USD427,700.00, USD200,000.00 from PT Adhi Karya, IDR1,347,500,000.00 from PT Pembangunan Perumahan Tbk, IDR550,000,000.00 from PT Wijaya Karya Tbk, IDR225,000,000.00 from PT Waskita Karya Tbk c. Gave Rp900,000,000.00 to Muhammad Dunir as a member of the Riau Province DPRD for the period 2009–2014
2.	Banten	Enriching the Defendant in the amount of IDR3,859,000,000.00
3.	Bengkulu	Received cash amounting to IDR1,000,000,000 from Jhoni Wijaya as Head of Representative of PT. Mitrasarana-Bengkulu Statics
4.	Aceh	<ul style="list-style-type: none"> a. Received cash in stages, namely IDR120,000,000.00, IDR430,000,000.00 and IDR500,000,000.00, bringing the total to IDR1,050,000,000.00 b. Received gratuity amounting to IDR8,717,505,494.00 c. Received gratuity amounting to IDR32,454,500,000.00
5.	Jambi	<ul style="list-style-type: none"> a. Received gratuities worth IDR37.4 billion, US\$173 thousand and Sing\$100 thousand b. Received 1 unit of Toyota Alphard c. Bribing members and leaders of the Jambi Province DPRD with a total of IDR16.34 billion
6.	South Sulawesi	<ul style="list-style-type: none"> a. Receipt of money by the Defendant from Agung Sucipto in the amount of SGD150,000, - and other receipts b. Received cash in the amount of IDR2,500,000,000.00 or around that amount from Agung Sucipto c. Deficiency note of IDR687,600,000.00 and SGD200,000

Public prosecutors and judges use the determination of the amount of state financial losses to be imposed on corruptors, including basic punishments in the form of imprisonment, fines, and compensation money. Concerning compensation money, the amount is related to state losses caused by the defendant's actions. To ascertain the amount of state losses, it is necessary to calculate them. From court decisions relating to corruption in APBD management, it turns out that it does not include calculations of state financial losses from auditors, both BPK and BPKP. All charges related to state financial losses are based entirely on bribes or gratuities

received by the defendant. Things like this should apply to cases of corruption in accepting bribes or gratuities from permits, as has been done by several governors.

Article 18 paragraph (1) letter b of Law Number 31 of 1999 states that the payment of compensation money in the maximum amount is equal to the assets obtained from criminal acts of corruption. Article 18 paragraph (1) letter b of Law Number 31 of 1999 only states the connection between replacement money and property "obtained" from criminal acts of corruption. To obtain proof of receipt of money originating from state losses, investigators and prosecutors usually use documentary evidence of receipt of money or bribes and testimony from both the recipient and the giver.

The difference between the amount of replacement money and the charges in Table 3.2 shows different figures, where some of the replacement money is below the amount of corruption money received and enjoyed as charged. This reflects that the criminal imposition of replacement money does not fully constitute a return of the amount of state money received as a bribe or gratuity.

This analysis to state financial losses brings two conclusions. First, the actual amount of state losses is formally established from the indictment but materially cannot be known with certainty. Second, the value of state losses is greater than the proceeds of corruption received by the defendant in the indictment. In contrast, the proceeds of corruption are greater than the compensation money. The process of investigating criminal acts of corruption that are carried out without involving calculations of state financial losses from the BPK or BPKP will certainly not obtain maximum results.

4. Conclusion

The calculation of state financial losses differs from state losses received by governors caught in corruption cases because not all state losses completely flow to the governor. Of the 10 cases of gubernatorial corruption, including six cases related to corruption in the regional budget and regional assets, it turns out that the Corruption Eradication Committee (KPK) does not require calculations of state financial losses from the Republic of Indonesia's BPK due to consideration of the schedule for transferring cases to court.

The provisions of Article 1 number 22 of Law Number 1 of 2004 state that the meaning of state financial losses must be real and certain in amount, so if the charges for criminal acts of corruption are calculated from the corruption enjoyed by the governor, it is impossible to determine the exact amount. So that state losses can be maximally recovered, the draft Asset Confiscation Law as a follow-up to Article 10 of the Criminal Code, Article 3 and Article 18 of Law Number 31 of 1999 includes the requirement for an investigative audit of the calculation of state losses before the indictment is submitted to the criminal acts of corruption.

Although the explanation of Article 32 paragraph (1) states that real state losses are state losses whose amount can be calculated based on the findings of the competent authority, the KPK believes there is no obligation to request an investigative audit from the BPK. The request for a calculation investigation audit depends on the investigator's considerations, with the consideration that the Corruption Eradication Committee (KPK) has the authority to carry out corruption enforcement activities from the inquiry, investigation, prosecution, and execution stages. For this reason, it is necessary to synchronize Law Number 31 of 1999 regarding requests for calculating state financial losses and Law Number 15 of 2004 and Law Number 15 of 2006 regarding audits of calculating state losses.

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