

Analysis of Decision Number 51/PID.SUS-TPK/2024/PN MKS Regarding Proof of State Financial Losses in Corruption Criminal Acts

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Abstract

This study aims to analyze the application of law in proving the element of state financial loss in Decision Number 51/Pid.Sus-TPK/2024/PN Mks regarding corruption in the implementation of government procurement projects. The study was conducted using normative juridical research methods through an analysis of laws and regulations, doctrine, and the judge's legal considerations in the decision. The results of the study indicate that the panel of judges has applied the legal construction of proving state financial loss appropriately by adhering to the actual loss approach as a material offense. State losses are proven through valid investigative audits, physical verification of work, expert testimony, and documentary evidence showing discrepancies in the quantity of work that does not meet specifications but is still paid. In addition, the element of abuse of authority in Article 3 of the Corruption Law is proven through the defendant's actions in agreeing to full payment despite knowing that there is a discrepancy in the work, so there is a causal relationship between the defendant's actions and the state loss. This decision makes an important contribution to the practice of corruption justice in Indonesia, especially in strengthening the model of evidence based on forensic audits and real recovery of state finances. This study also emphasizes the urgency of harmonizing the methodology for calculating state financial losses in order to create legal certainty in the process of enforcing corruption laws.

Keywords: Corruption; State Financial Losses; Investigative Audit; Article 3 of the Corruption Law; Judge's Considerations

Introduction

Corruption is a fundamental problem weakening governance and development in Indonesia. The impact of corruption is not only moral and social, but primarily financial: real and significant losses to the state. Corruption through abuse of authority, budget manipulation, collusion in procurement of goods/services, and mark-ups on government projects often results in the evaporation of public funds, hampering the provision of public services and development programs.

According to Indonesian regulations, the element of state financial loss is a material

element that must be proven in corruption crimes, as stipulated in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption (the Corruption Law), specifically Articles 2 and 3. In law enforcement practice, proving state losses is key: without convincing evidence through financial audits, technical reports, contracts, and supporting documents, corruption charges can be weakened.

The process of proving state financial loss faces a number of practical and technical challenges. These include differences in audit methodology between institutions, debates over the scope of what constitutes "state financial loss" versus "state economic loss," variations in calculation methods (actual loss versus potential loss), and differing interpretations between auditors (e.g., the Supreme Audit Agency/BPKP), investigators, public prosecutors, and judges. This gap creates legal uncertainty that impacts the effectiveness of asset recovery and the imposition of additional penalties (e.g., restitution).

The Supreme Audit Agency's Audit Report (LHP) or other investigative audit findings are often used as primary evidence to determine the extent of losses, although judges ultimately have the authority to assess the evidence and issue judicial decisions. Academic debate exists over whether the Supreme Audit Agency alone has the authority to "declare" state losses and the extent to which judges' decisions should refer to specific audit methods. Recent literature and empirical studies emphasize the need for harmonization of audit methodologies and evidence evaluation guidelines to ensure more consistent and accountable decisions.

In this context, analyzing court decisions plays a crucial role in understanding how proving state losses is carried out in the courtroom. Decision Number 51/Pid.Sus-TPK/2024/PN Mks (PPK case for the continued hoarding of Pratama Hospital in the 2020 fiscal year) was chosen as a case study in this research because it contains detailed judge's considerations related to contract evidence, RAB, implementation reports, transfer evidence/bank statements, receipts, and references to the BPK LHP in calculating the state loss position. The study of this decision allows for an evaluation of whether the judge's considerations are in line with audit practices and relevant legal provisions.

Methods

This research employs a normative juridical legal research method. This research method focuses on literature review to find important data related to the cases, relying on primary data sources through qualitatively analyzed journal articles and books. The approach used is a statutory approach, examining all laws and regulations and analyzing the legal issues being discussed based on related regulations.

Results and Discussion

Legal Construction of Proving State Financial Losses in Corruption Crimes

Proving the element of state financial loss is a fundamental part of law enforcement against corruption in Indonesia. Articles 2 and 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption require evidence that an act of enriching oneself or another person results in actual state financial loss. This provision demonstrates that state loss is an essential element of a material crime; therefore, without concretely quantifiable losses, the elements of a corruption crime are not met.

The definition of state loss has also undergone significant developments. Constitutional Court Decision Number 25/PUU-XIV/2016 explicitly emphasized that the element of loss must be interpreted as actual loss, not merely potential loss. This decision emphasizes that law enforcement is not sufficient to simply prove the detrimental impact of an act; it must also be able to prove the exact value of the loss with certainty and accountability in court. In practice, authorized auditing institutions such as the Supreme Audit Agency (BPK) and the Financial and Development Supervisory Agency (BPKP) play a role in conducting State Financial Loss Calculation Audits (PKKN Audits) by tracing the flow of funds, contracts, and physical implementation of work to identify discrepancies that significantly contribute to losses. The audit results are used as the legal basis for the Public Prosecutor's indictment and as documentary evidence in corruption trials in court.

However, the involvement of expert auditors does not automatically bind the judge. Based on the principle of judicial truth, judges are still required to objectively assess all evidence to

ensure that a causal relationship between the defendant's actions and the state losses is legally and convincingly proven. Therefore, the construction of evidence for state losses in corruption crimes must proceed simultaneously across two evidentiary domains: proof of the criminal offense and proof of losses through an audit mechanism.

Analysis of Decision Number 51/Pid.Sus-TPK/2024/PN Mks

Decision Number 51/Pid.Sus-TPK/2024/PN Mks presents a comprehensive construction of evidence for state financial losses: the panel of judges did not rely solely on administrative documents or unilateral statements, but rather combined the results of investigative audits, field expert examinations, evidence of transfers/receipts, and witness testimony to form a legal belief regarding the actual loss and the causal relationship between the defendant's actions and the loss. The decision documented the defendant's identity (Drs. H. Nasruddin, SKM) and his role as the PPK (Commissioner of Inspection) for the Pratama Hospital hoarding activity in the 2020 fiscal year, which served as the basis for his official responsibilities.

The panel of judges set a specific loss figure of Rp. 914,214,285 (as part of a total calculation of Rp. 939,413,936, broken down by job/component), after reviewing the Investigative Examination Report (LHP), which verified financial documents, physical realization reports, and expert examinations to calculate the difference in embankment volume (contract volume 16,262.80 m³ vs. actual volume 13,495.58 m³ → difference 2,767.22 m³) — a factor that formed the basis for calculating the monetary loss. This figure was determined based on an audit methodology for calculating losses that identifies “state expenditures that should not have been incurred” and causally links them to irregularities in project implementation.

Legally, this decision is consistent with the understanding of material offenses following Constitutional Court Decision No. 25/PUU-XIV/2016, which emphasized that the element of “causing state financial loss” must be proven as a real and quantifiable loss. The judge in this case applied this standard by demanding physical evidence and audit calculations, not simply indications of potential losses. The Constitutional Court's ruling demands quantitative certainty, placing a greater burden on law enforcement officials to present accountable audit evidence;

decision 51/PN.Mks demonstrates how this demand is translated in court practice.

From an evidentiary perspective, the panel of judges emphasized three main points in this case: (1) the integration of documentary evidence, audit evidence, and physical examinations must be mutually supportive; (2) a transparent audit methodology; the audit report (LHP) explains the calculation method (the difference between net payments after tax minus actual expenses) so that the final figure can be traced; and (3) the judge's authority to evaluate the auditor's findings and issue a judicial decision, rather than simply copying the audit results as a final decision. This approach aligns with the audit practice for calculating state losses formulated by the Financial and Development Supervisory Agency (BPKP/BPK): the auditor prepares an opinion and methodology, but the judge determines the value for which the defendant is responsible in the verdict.

From a forensic accounting theory and auditing practice perspective, this verdict follows guidelines recommended by contemporary literature: the calculation of losses must be based on qualitative and quantitative evidence, including verification of contracts, payment documents, proof of work handover, and field inspections by technical experts; the methods used must be explained in the audit report so they can be tested in court. Academics emphasize that without transparency of methods, audit results are easily misinterpreted or challenged by the defense; therefore, the audit report used by the panel of judges in this case (which contains the calculation methods) provides a strong foundation for the judges' considerations and verdict.

A closer analysis shows that the judges also considered the elements of intent/negligence and the defendant's job-related relationship. The verdict documents that the defendant, as the PPK, signed the 100% Payment Report even though field verification revealed discrepancies in the volume and quality of work. This action fulfills the element of abuse of authority as referred to in Article 3 of the Corruption Law because it involved the use of official authority to authorize inappropriate payments. Here, the panel linked administrative facts (signatures on payment documents) with technical evidence (expert results and photographs/field verification) to prove causality. Comparing this ruling with empirical studies on disparities in judicial decisions in cases

of state losses, it is clear that the key to consistency lies in the availability of a clear audit report (LHP) and the appropriateness of the audit methodology. Studies examining the application of the state loss element indicate that disputes often arise not over the existence of irregularities, but over how they are calculated and which institution has the authority to declare them. Therefore, ruling 51/Pid.Sus-TPK/2024/PN Mks serves as an example of how the involvement of forensic auditors and the judge's affirmation of audit methods can address these concerns. Recent literature recommends standardizing PKKN guidelines to make audit results more easily accepted in court; this is reflected in the ruling, which refers to the investigative LHP and clarifies the calculation method.

Beyond the evidentiary aspect, this ruling also uncovers aspects of procurement practices that often become opportunities for corruption: lack of technical oversight, weak handover documentation, and the practice of full disbursement before quality/quantity verification is complete—practices identified in the literature as risk factors for corruption in construction projects. Therefore, the judge's verdict not only decides the criminal case but also sends an important signal to public financial managers about the need to strengthen procurement procedures and field verification mechanisms before paying recommendations based on legal analysis and forensic accounting.

Finally, from a criminal justice perspective, the verdict defines the defendant's responsibility both in terms of the principal crime and the compensation/restitution (the panel referred to Supreme Court Regulation No. 5/2014 in determining the compensation aspect). The assertion that compensation and the principal punishment run parallel underscores the dual purpose of criminal law on corruption: punishing the perpetrator while simultaneously redressing public losses. This is consistent with the literature stating that asset recovery/restitution should not replace the deterrent and punitive functions of the criminal system.

Evaluation of the Conformity of the Judge's Considerations with Legal Construction

In Decision No. 51/Pid.Sus-TPK/2024/PN Mks, the panel of judges demonstrated a comprehensive evidentiary approach that was generally consistent with the legal construction of

the element of state financial loss as developed in modern jurisprudence and doctrine. First, the judges demanded concrete evidence of losses in the form of differences in stockpiled volume and payment differences, thus fulfilling the principle of material offenses following Constitutional Court Decision No. 25/PUU-XIV/2016, which emphasizes that losses must be real and quantifiable. This decision specifically refers to the Investigative Examination Report (LHP), which explains the mechanism for calculating the difference between net payments and actual expenditures, so that the loss figure (Rp914,214,285) is not merely an administrative estimate but a measurable and validated audit product. Second, in terms of proving causality, the panel successfully linked the administrative action (signing the 100% Payment Report) with the technical findings (the results of expert examinations and field verification). This is important because modern criminal theory demands a clear causal link between the defendant's actions and the loss of state assets; without a clear causal link, the loss cannot be assigned to a specific entity. The judge's approach, which combines documentary evidence, expert technical evidence, and financial transaction evidence, aligns with forensic audit guidelines, which state that proving losses requires triangulation of evidence from multiple sources.

Third, the judge did not take the audit report results as dogma; instead, he evaluated the accounting methodology and ensured that the method used (the difference between net payments and actual expenses) was technically justified. This approach aligns with the judge's role as the final evaluator of evidence: although the auditor has technical competence, the legal decision remains the judge's domain. Forensic accounting literature emphasizes that transparency in audit methodology, e.g., detailing assumptions, data sources, and verification procedures, is a prerequisite for an audit report to be admissible in court; this decision demonstrates that when the audit report includes an explanation of the method, the judge is more likely to adopt the results into his considerations. Fourth, the verdict's convergence with public procurement norms demonstrates that the judges paid attention to governance and compliance with procurement regulations (e.g., Presidential Regulations/Institutional Regulations regarding HPS and supplier qualifications). By linking procedural procurement irregularities (disbursement without

verification, non-conformity to specifications) to elements of abuse of authority, the panel provided strong normative justification for convicting under Article 3 of the Corruption Law. This is consistent with studies of procurement practices that suggest that procedural gaps are often at the root of construction corruption, and therefore, enforcement efforts must include strengthening administrative and technical procedures.

However, several aspects require criticism and improvement to ensure stronger and more uniform future decisions. First, although the LHP is used appropriately, there remains the issue of standardization of loss calculation methods: empirical literature and BPK/BPKP guidelines recommend more standardized national guidelines regarding methods (e.g., when to use the real cost versus net loss method), including the determination of calculation assumptions that must be disclosed in the LHP to prevent easy rebuttal in the defense. This decision illustrates good practice, but also raises the need to synchronize methodologies between audit institutions and judicial practice to reduce differences in interpretation in other courts.

Conclusion

This study has explored how strategic communication is evolving in the algorithmic age, revealing a paradigm shift from visibility-driven practices toward value-centered communication. The findings demonstrate that communicators today operate at the intersection of human intention and algorithmic mediation, balancing the demands of platform optimization with the imperatives of authenticity, ethics, and trust.

Through interviews and digital content analysis, the research identified three key dynamics shaping this transformation: algorithmic literacy, which redefines professional competence; the authenticity tension, which exposes the emotional and ethical costs of performative self-presentation; and the rise of value-centered frameworks, which privilege meaningful engagement and relational credibility over short-term virality. Together, these dimensions reveal that strategic communication in the digital era is increasingly about negotiating visibility responsibly—using algorithmic systems as tools, not as determinants, of human expression.

Theoretically, the study contributes to contemporary debates in communication and media studies by proposing that virality should be reinterpreted as a transitional phase rather than an endpoint in the communicative process. True success lies not in capturing fleeting attention, but in transforming that attention into trust, resonance, and shared purpose. This reorientation aligns with emerging models of sustainable digital communication, which emphasize long-term relational capital and ethical accountability.

Practically, the study offers actionable insights for communication professionals, educators, and digital strategists. It suggests that cultivating algorithmic literacy, while maintaining a critical ethical compass, is essential for thriving in an environment governed by machine learning and data analytics. Communicators must develop strategies that align algorithmic affordances with human-centered goals—creating content that not only performs well but also contributes meaningfully to public discourse.

Finally, this research underscores an urgent call for future studies to further examine the socio-cultural, emotional, and political consequences of algorithmic mediation in communication. Future work might explore how different cultural contexts, platform types, or audience demographics shape perceptions of authenticity and value. As algorithms continue to evolve, so too must our understanding of how they reconfigure the boundaries between creativity, ethics, and visibility.

In conclusion, this study affirms that in the algorithmic age, attention may be abundant, but trust is scarce. The communicators who will define the future are those who understand that the true measure of success is not how widely one is seen but how deeply one is believed.

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