

Unimplemented of Audit Board Recommendation: Legal Review and Asset Recovery

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Abstract

Recommendations of BPK in 2019 in the form of depositing money to Lampung Province, just 70% of it has been completed. The Government Internal Supervisory Apparatus does not encourage the continuity of recommendations. This study will focus on examining law enforcement on BPK recommendations related to regional financial findings that have not been acted by regional entities, analyzing obstacles to law enforcement and analysing ideal law enforcement through recommendations. This study uses empirical juridical approach. The results show that law enforcement on BPK recommendations related to regional financial findings that have not been acted upon by regional entities. Regional entities do not follow up on BPK recommendations fully, BPK will submit the disobedience to law enforcement. Furthermore, the recommendations should have improvements to the material of sanctions norms. Hence, improving the mentality of law officers, improving a commitment, maximizing the supervisory function, evaluating and monitoring the progress of the entity.

Keywords: The Audit Board; law enforcement; asset recovery

Abstrak

Rekomendasi BPK di tahun 2019 terhadap penggunaan dana di Provinsi Lampung tercatat hanya 70 % yang ditindaklanjuti dan dipenuhi oleh Pemerintah Daerah. Aparat Pengawasan Internal Pemerintah tercatat tidak menindaklanjuti hasil rekomendasi dari BPK. Studi ini akan fokus pada menganalisis penegakan hukum terhadap rekomendasi yang tidak diimplementasikan oleh Pemerintah terkait, menganalisa segala hambatan dan tantangan serta merekomendasikan kebijakan ideal berkenaan dengan rekomendasi dari BPK. Studi ini menunjukkan bahwa tidak dilanjutkannya rekomendasi dari BPK tidak dilakukan sepenuhnya dan hampir terjadi di sebagian besar wilayah provinsi Lampung, BPK mengambil langkah untuk meneruskannya ke pihak yang berwajib. Rekomendasi BPK di kemudian hari harus mempunyai unsur sanksi. Selanjutnya pihak terkait harus meningkatkan mental penegak hukum, meningkatkan komitmen, memaksimalkan fungsi supervisor, mengevaluasi dan memonitor kemajuan dari sebuah entitas.

Kata kunci: BPK; penegakan hukum; pengembalian aset.

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Introduction

The character of a country called Indonesia is not only based on Pancasila, but of course, always prioritizes legal norms. The position of Pancasila is used as the source of all laws in Indonesia. Over time, these characters were eliminated due to the corrupt actions of the officials. This is the task or homework that must be completed (Rampengan, 2009). Corruption eradication strategies have been carried out in various ways, namely with the existence of Law (UU) No. 31 of 1999 concerning the Eradication of Corruption Crimes,

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Law No. 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning Eradication of Corruption Crimes, Law No. 30 of 2002 concerning the Corruption Eradication Commission (KPK), Law No. 15 of 2006 concerning the Audit Board (BPK), Law Number 15 of 2004 concerning the Audit and Management of State Financial Responsibilities, Law No. 1 of 2004 concerning the State Treasury (Hartanti, 2007). Corruption is a phenomenon that is difficult to define rigidly and universally. The definition of corruption can be seen from various opinions of legal experts. Complex phenomena that are very diverse give rise to cause and effect and can take many forms and contexts (Ijewereme, 2015). The issue of corruption in Indonesia (collusion and nepotism are part of corruption) is a very complex one. Almost all lines of life have been affected by the corruption epidemic. The fierce attitude of law enforcement officials is not strong enough to restrain the rate of corruption. Corruption seems to have become a culture, besides that public doubts about the government's seriousness in eradicating corruption, add to the problem for law enforcement officials (Setiadi, 2000).

The limitation of the definition of corruption initiated by The United Nations Global Program Against Corruption is to focus on acts of abuse of power that aim to provide personal benefits. In addition Waziri see the phenomenon of corruption as a form of persuasion of a rule for purely personal gain (Edited) Restore original (Setiadi, 2000). Meanwhile, the World Bank sets limits on the definition of corruption as well, they define corruption as a form of misappropriation of office for beneficial personal gain. The occupied public office is used to receive, solicit and extort bribes (Setiadi, 2000).

The disclosure of various corruption cases in the regions provides a sufficient illustration that the problem of regional financial management is still not running well based on the principles of state governance that is clean and free from corruption, collusion, and nepotism, therefore an institution that can calculate and audit the state finances is needed (Amiq, 2017) for instance; In the past, at the end of 2012 alone, 173 regional heads who came from autonomous regions were entangled in corruption cases. Based on the number of cases, the percentage of court decisions that found the regional head guilty was 70% percent. In addition, it can be seen that the number of reports of corruption cases has reached 3,423 cases. The comparisons that exist nationally of each regional leader have contributed 20 cases of corruption. The types of corruption crimes that occur are related to the procurement of goods and services (Labolo, 2020).

Furthermore, looking at state losses incurred by criminal acts of corruption in the regional government ranks the highest according to a report issued by the Indonesian Corruption Watch (ICW). The details of the total state losses arising from acts of corruption in the regions were Rp. 5.6 trillion, while in the bribery sector it reached Rp. 134 billion. The sectors that committed criminal acts of corruption were the district government with a total loss of Rp 833 billion, the village government with 104 cases with a value of Rp 1.2 trillion in state losses and the city government sector experiencing state losses of Rp 122 billion, then the provincial government. as many as 20 cases which caused losses to the state amounting to Rp. 7.9 billion rupiah (Guntara, 2020).

Article 23 E Paragraph (1) of the 1945 Constitution explains that the institution authorized to prove irregularities in state finances is the BPK. This institution is an institution that is specialized by the state to conduct an examination of the extent to which state financial management and responsibility are carried out by these state entities. The audit results are contained in the Audit Results Report (LHP) which will later become a reference for evidence regarding the existence of irregularities or not so far against state finances as stated in Attachment IV of the BPK Regulation Number 1 of 2017. The LHP is meant to maintain transparency in the management of state finances by state and regional entities, and also to assist law enforcement officials in proving state losses due to budget irregularities committed by irresponsible individuals (IAI, 2007).

In terms of settling state/regional losses, BPK has the authority to assess and/or determine the number of state losses caused by illegal or negligent acts committed by the treasurer, managers of State-Owned Enterprises/Regional-Owned Enterprises, and other institutions or entities which organize the management of state finances (Taghupia, 2017). In essence, the monitoring carried out by the Audit Board is aimed at optimizing the settlement or implementation of state financial losses, so that disclosure efforts must truly be used as a measure of success (Musahib, 2015). The results of the monitoring, which were successfully communicated to the House of Representatives (DPR), indicated that the BPK provided information on the management and responsibility of state finances carried out by the government for supervision (Rampengan, 2014).

According to BPK, in order to prove the existence of state losses, it must be proven as accurately as possible, starting from the input and output. The audit includes financial audits of regional entities proving irregularities and also illegal acts that have the potential to harm state finances, therefore the only institution that has the authority to calculate state losses and determine the existence of such state losses is BPK (Sucipto, 2017). With regard to the implementation of audits, BPK has freedom and independence in the three stages of the examination, namely planning, implementing, and reporting the results of the audit (Jasa, 2017). Freedom in the planning stage includes freedom in determining the objects to be examined, except for examinations whose objects have been separately regulated in law or examinations based on special requests from representative institutions (Pontoh, 2013).

The assessment and calculation of state losses carried out by BPK is not merely a subjective assessment but rather is an assessment of facts which is judged by the accounting expertise possessed by its employees so that the calculation is objective. At this time, the presence of the BPK is fundamental in order to assist law enforcers and also in order to meet the demands of the community who are demanding for financial transparency managed by the government (Saidi, 2011).

To determine the existence of state financial losses, it is necessary to have clarity in the juridical definition of the definition of state finance. The State Finance Law defines: "State finance is all the rights and obligations of the state that can be valued in money, as well as everything in the form of money or goods that can be used as state property due to

the implementation of these rights and obligations (Paeh, 2017). State financial losses occur due to negligence in the use of excessive budgets that are not in accordance with the main tasks and objectives (Safitri, 2019). The BPK's efforts in proving the existence of state financial losses are increasingly showing progress. In this case, many BPK audit reports led to several bureaucratic agencies as well as many of the KPK's catches are due to the assistance of the BPK, which has been able to reveal irregularities in state finances both as evidence at the level of investigation and also in court examinations (Tuanakotta, 2010). The follow-up activities for recommendations on the results of BPK audit on Regional Government Financial Reports (LKPD) are an order of the 1945 Constitution, particularly Article 23 E paragraphs (2) and (3), and Law Number 15 of 2004 concerning Management and Responsibility Audit State finances, particularly article 21 paragraph (1). In Law Number 15 of 2006, BPK is instructed to provide recommendations on the results of its investigations, so that if irregularities are suspected, the local government can take care of it (Purba, 2014). The fact that the BPK Representative of Lampung Province so far in the last quarter has carried out an examination of regional finances that have the potential for state losses as outlined in the LHP and issued recommendations to be followed up by the regional government. However, in reality, local government entities are still not optimal in implementing the follow-up results on BPK's recommendations.

The follow-up to these recommendations reaped pros and cons. The pro results are that the follow-up on these recommendations can accelerate the performance of local governments in auditing regional financial management and evaluate irregularities that have occurred during the current year's budget, and the counter attitude is that so far the follow-up of these recommendations has not been fully implemented by the entity. For example, until the third quarter of 2018, there are still entities or local governments that have not completed the follow-up recommendations given upon the BPK Audit Result Report (LHP).

Follow-up on the recommendations on the results of the third quarterly inspection in 16 provincial/district/city governments, there are still 766 recommendations worth IDR 33.752 billion that have not been followed up and have not complied with the recommendations of 1,578 recommendations worth IDR 301.763 billion. In addition, a follow-up to the recommendations given by the BPK (until December 2019) in the form of depositing money to the Regional Treasury, only 69.60% has been completed. This reflects that the government entities being examined are not yet optimal and the Government Internal Supervisory Apparatus (APIP) does not encourage follow-up on the recommendations of the audit results. It seems that government entities and APIP are not yet aware of the criminal sanctions that can be imposed as stated in Law Number 15 of 2004 concerning Audit of State Financial Management and Responsibility.

Based on the description on the background, the authors conducted research focused on: "Review of Criminal Law on The Negligence Towards the Audit Board Recommendation Related to Regional Losses In Lampung Province (Study at the Lampung Provincial BPK Representative)". This study will focus on three legal issues, namely

examining law enforcement on BPK recommendations related to regional financial findings that have not been acted upon by regional entities. Knowing the obstacles to law enforcement based on BPK recommendations, as well as analyzing the ideal law enforcement on BPK recommendations.

Research Problems

There one problem that would be discusses in this article, how is the review of the Criminal Law of Negligence Against Recommendations by the Audit State Financial regarding Regional Losses in Lampung Province (Study at the Lampung Province BPK Representative)?

Research Methods

The type of research in this paper is empirical research. The approach in this research is a statutory approach and case approach. The data analysis used is descriptive qualitative analysis. Data collection used by researchers is the interview method. The data sources used are primary data sources and secondary data sources.

Discussion

1. Law Enforcement on the Audit Board Recommendation Related to Regional Financial Funding that Have Not Been Followed Up by Regional Entities

The existing constitutional system in Indonesia is partially divided into three. First, the branches of legislative, executive and judicial powers. The branches of power are separate and have their respective duties. The three powers are connected through the mechanisms and principles of checks and balances (Rosyadi, 2016). The three branches of power have equal positions and can control each other between institutions based on these principles. The implication is that branches of power can be regulated and given restrictions by that control. Misuse that will be committed by the individuals and institutions concerned can be prevented and handled properly and maximally. BPK is an independent institution that is not under these three powers. These institutions emerged at this time when the Indonesian constitutional system was beginning to develop. The position of an independent institution is useful so that the institution is not intervened by any power. Although the institution is independent, budget issues for the agency are not completely independently regulated. The DPR as the holder of authority in determining the budget continues to coordinate regarding the budget allocations that will be used by the BPK for a year.

The existence of the 1945 Constitution of the Republic of Indonesia in the constitutional system of the Republic of Indonesia is closely related to the grouping of certain state institutions in determining their position. Certain institutions in each branch of po-

wer have their respective powers. If this grouping is related to the theory of state institutions put forward by Jimly Asshiddiqie, it can be seen that the position of an institution or state organ, there are 3 (three) groups of countries based on the legal basis for the formation of state institutions, namely: a) State institutions formed based on orders from the 1945 Constitution of the Republic of Indonesia; b) State institutions established based on statutory orders; c) A state institution formed by order of a presidential decree (Rosyadi, 2016). The BPK is an institution that was formed directly by the order of the Indonesian Constitution. Therefore, its position is different from other institutions established by law.

Prior to the amendment to the 1945 NRI Constitution, the position of BPK was recognized in the constitutional system of the Republic of Indonesia, this can be seen based on the legal basis possessed by the BPK, namely: a) Article 23 paragraph (5) of the 1945 Constitution of the Republic of Indonesia; b) Government Regulation in Lieu of Law Number 6 Year 1964 concerning the Establishment of the Financial Audit Board jo. Law of the Republic of Indonesia Number 17 of 1965 concerning Stipulation of Government Regulations in Lieu of Law Number 6 of 1964 concerning the Establishment of the State Audit Board into Law; c) Law of the Republic of Indonesia Number 5 of 1973 concerning the Supreme Audit Agency (Rosyadi, 2016).

The reforms that took place after 2000 demanded a government system and work mechanism that was more professional, clean, honest and fair. These measures are used to reduce the number of acts of corruption, collusion and nepotism. The goal is very clear to embody the good governance mechanism. The BPK has a big responsibility in the Indonesian constitutional system. The authority to audit the management of state finances is the main responsibility of the BPK institution (Nanda, 2020).

Jimly Asshiddiqie in Imron revealed that in Indonesia, the organizational forms of modern countries have undergone many changes. This also happened in Indonesia. These changes in the state institutional organization consist of two things, first, there is a growing awareness that certain state agencies such as the military organization, the Police, the Prosecutor's Office and the Central Bank must be developed independently. The independence of these institutions is necessary in the interests of ensuring a more effective limitation of power and democratization. In the case of Indonesia, those who have enjoyed independence are the TNI Military, the National Police (POLRI), and Bank Indonesia as the Central Bank (Rosyadi, 2016). Second, is the emergence of developments regarding special cases such as the National Human Rights Commission (Komnas HAM), the General Election Commission (KPU), the Ombudsman Commission, the Business Competition Supervisory Commission (KPPU), the Corruption Eradication Commission (KPK), the Truth Commission and Reconciliation, Indonesian Broadcasting Commission, and others based on a law. All of these institutions are new types of institutions in the constitutional system. This rapid development was driven by public demand for a more professional and cleaner government.

The institution that has the highest authority and is mandated by the constitution to carry out financial audits is the BPK. Special Purpose Checks to show financial status,

suffer losses or not. The conclusion drawn by the BPK is based on the Audit Report (LHP) (Kristanto, 2020). An audit or examination of financial reports in local government is carried out by an external party or it can be called an external audit. BPK examines the financial statements in order to provide a sense of confidence or (reasonable assurance), the result will be a report that is presented fairly or not from all material matters. The audit certainly uses generally accepted accounting principles and is carried out comprehensively (Essing, 2017).

Based on research at the BPK Representative of Lampung Province, it is known that the lack of obedience with regional entities with BPK recommendations is one of the main constraints causing why so far both Work Units (Satker) and Regional Work Units or Satuan Kerja Perangkat Daerah (SKPDs) in Lampung Province have not completed these recommendations, this can be seen from the level of obedience of Satker/SKPD in Lampung Province in completing BPK recommendations in the form of an Audit Result Report related to indications of regional losses in all regions in Lampung Province.

Based on the percentage calculation of regional losses carried out by the BPK Representative of Lampung Province, the level of obedience has not reached the optimal result, namely, the return on regional losses is only 69.60%. This is also a concern for Satker/SKPD in Lampung Province to immediately take concrete steps to finalize the BPK recommendation.

The audited officials are obliged to provide an answer or explanation to BPK regarding the Follow-up on the Audit Result Recommendation by 60 days after the Audit Result Report is received. If part or all of the recommendations cannot be implemented within the specified time period, then the official must provide valid reasons (Musa, 2015). The audit is carried out in order to promote good state financial governance by obtaining confidence that the management and responsibility of state finances are in accordance with the provisions of laws and regulations and/or the principles of good governance (Apriellia, 2017).

According to the author, law enforcement must be improved. In the field itself, law enforcers are only passive in the sense of waiting for follow-up recommendations on the audit results report from the BPK which is in accordance with Articles 26 and 20 paragraphs (1) to paragraph (5) of Law No.15 of 2004 concerning Financial Management and Responsibility of State Finance Jo Article 9 of BPK Indonesian Republic Regulation Number 2 of 2017 concerning Monitoring of the implementation of follow-up recommendations on the results of the Audit Board's examination in the first period, BPK will give 60 days for the audited entity to provide answers or explanations to BPK regarding the completion of follow-up on recommendations in examination result report. If during that time the regional entity has not followed up on the recommendation, BPK can report it to the competent agency. In addition, if a criminal element is found in the examination, BPK will report this to the competent agency (prosecutor's office and police) in accordance with the provisions of laws and regulations. The BPK report is used as the basis for

investigations by authorized investigating officials in accordance with statutory regulations (Andrizal, 2006).

Problems that occur in the field often are caused by the regional entities who are also disobedient towards the regulation that is conducting the follow-up. Law enforcement officials tend to seem persuasive in asserting the regional entities to implement it immediately, it is such a rare for them to be sanctioned by the law enforcement officers. Consequently, in this case, law enforcement towards the regional entities is diminishing in the implementation, so there are only a small number of regional losses that can be recovered.

In terms of substance, when viewed based on Article 26 Section 2 Law Number 15 of 2004 concerning Financial Management and Responsibility of State Finance which states that each individual who does not comply the obligation to follow up the recommendations will be sentenced to imprisonment of 1 (one) year and 6 (six) months and/or a maximum fine of IDR 500,000,000.00 (five hundred million rupiahs), but the article does not contain legal certainty because the article is not effective in imposing criminal sanctions on Satker/SKPD who do not have the intention to carry out recommendations on the BPK examination. This is because Article 20 paragraph (1) to paragraph (5) of Law No. 15 of 2004 states otherwise, that is, officials will be subject to administrative sanctions for not carrying out their obligations towards the results of the recommendations. According to the author, this means that law enforcement has still not been optimal because, in abstracto (formulation), the law still has to be revised and reconsolidated. Considering that law enforcement on BPK recommendations regarding regional financial findings that have not been followed up cannot be implemented well if the regulations are not maximal in implementation.

Based on other research conducted by Karl Moene, it is revealed that even though the penalties regarding business crimes are quite high, crime cases still occur. The relevance is in law enforcement against corruption crimes, he revealed that there are variables that are closely related to the effectiveness of the settlement, namely the form of cooperation between law enforcement agencies. If there are even minor differences that change at the local level in terms of honesty and forms of cooperation, this can create a large domino effect on the true enforcement of corruption laws (Moene, 2016).

Looking at comparisons in other countries, a public audit institution in Ukraine was also formed after the reformation, just like Indonesia. The background to the formation of this institution is the occurrence of full and partial dysfunctionalities that occur in the state financial system. Ukraine's public pressure is also a factor influencing the formation of a public audit institution. These factors lead to very low trust in state authority. According to research conducted by the Razumkov Center in June 2018, Ukrainians trust the volunteers, the Church and the soldiers the best of all. They do not trust the President of Ukraine (80.6%), the Verkhovna Rada of Ukraine (belonging to the Ukrainian parliament) (85.6%), the Government of Ukraine (80.7%), the state apparatus (government officials) (85.3%), courts (84.3%) and political parties (80.0%) (Slobodyanik, 2019).

The purpose of the establishment of this institution is to determine the economic viability and to assess the efficiency and effectiveness of the use of finances in the country and to improve the quality of corruption eradication. This institution continues to strive to gain public trust to be able to show satisfactory performance.

Another surprising and controversial result of research is a study conducted by Ioan Gheorghe in a study entitled "The Social Role of The Supreme Audit Institutions to Reduce Corruption In European Union-Empirical Study". This research shows that if a country has an institution in charge of auditing finances and is formed as a court, this will imply that the corruption rate in that country tends to be higher than the other way around (Tara, 2016).

2. Obstacles to Law Enforcement on BPK Recommendation Related to Regional Finance Finding that Have Not Been Followed Up by Regional Entities

Soerjono Soekanto explains that the factors that influence law enforcement are the legal factors themselves, namely laws; law enforcement factors, namely the parties who form or apply the law; the facilities or facilities that support law enforcement; community factors, namely the environment in which the law is enforced. this applies or is applied, as well as cultural factors, namely as a result of work, creativity, and taste based on human initiative in social life (Utama, 2019). Law enforcement related to the follow-up of BPK recommendations relating to regional finances in Indonesia, especially those in the province of Lampung, is not going well. The recommendations issued by the BPK were not followed by the regional government for various reasons. Of course, this research will show that there are several obstacles and obstacles in the law enforcement process against BPK recommendations.

Based on the research results, there are obstacles to law enforcement on BPK recommendations related to regional financial findings that have not been acted upon by regional entities, including:

a. The Inconsistency of the Law Norms in Imposing Sanctions

Several articles are contradictory towards Article 26 and 20 paragraph (1) to paragraph (5) of Law Number 15 of 2004 concerning Audit of State Financial Management and Accountability in handling follow-up on recommendations in the audit results report conducted by BPK. Because on one side officials who do not follow up on these recommendations will be subject to administrative sanctions and on the other hand every person who deliberately does not comply with the obligations of the recommendations given by the BPK will be subject to criminal sanctions. So this is how the law is inconsistent in providing strict sanctions against officials who deliberately do not comply with these rules. The weakness and indecisiveness of these regulations greatly prevented the implementation of the recommendations from the BPK from running optimally. The nature of harsh laws does not apply to the problems in this

study, whereas in the opinion of the author, there should be strict laws against fraud. In accordance with the existing adage, namely *lex dura secta mente sriptata*.

b. Political Will from the Law Enforcement Officer

Political will is an attitude in good faith to uphold the law. The context of this problem really demands an initiative from the government, in this case law enforcers, to be able to take maximum action. Certainly an action that was not in vain. Effective and efficient action must be implemented and implemented. According to the author, to optimize good law enforcement in addition to requiring law enforcement officers who are dexterous, honest and also have high integrity, a political will (Willingness) of the law enforcers is also needed based on research conducted by the author that the most dominant individual in the field is law enforcers itself in asserting the regional entities to follow up on recommendations on audit results reports (LHP) conducted by the BPK to regional entities within 60 days. Practices in the field, the *eweuh pakewuh* nature of law enforcers in carrying out their obligations to take action against regional entities is due to the proximity between the legal apparatus and the Satker/SKPD so that the proximity factor is a trigger. because they do not take action against these regional entities due to friendships, relatives, and even worse, there is an element of collusion in law enforcement agencies in taking action against these regional entities, such as lobbying for money so that cases are not brought up to the realm of law. This could happen because law enforcement officials are also human beings who cannot escape a sense of error. This is also weakened by the absence of norms that regulate and supervise the role of legal officers when they do not process regional entities in following up on the recommendations of the examination results if a pretrial effort is made, it is very inappropriate considering that this stage has not yet entered the stage of investigation or investigation so it is not an object of pretrial. if it is reported by the internal security of the Indonesian national police and also the provost, it is not appropriate, considering that it must be related to a violation of the code of ethics.

c. Weak Internal Control System

Internal control of the system becomes a serious issue to highlight and pay attention to. A bad system will be able to obstruct the existence of law enforcement itself. Based on research conducted by researchers by resource persons, Meinita, as the Head of Subdivision of Analysis and Evaluation at the Inspectorate of Lampung Province, the obstacles faced are the weakness of the Internal Control System (SPI). The results of interviews with informants are that Lampung Provincial Government is still weak in upholding integrity, in this case, this weakness occurs because of the lack of seriousness in responding to these recommendations, the apathy nature causes many of the results of these recommendations are not handled properly so that there is an accumulation of recommendations from previous years that have not been completed. Based on these results, supervision becomes a variable that really needs to be considered. Supervision is the main instrument in administrative law which is part of preventive law

enforcement efforts. Law enforcement is an effort to achieve legal compliance in the community (Amiq, 2017).

d. Position Rotation Culture in Each Satker/SKPD

Based on research conducted by researchers by resource persons, Meinita, as the Head of the Subdivision of Analysis and Evaluation at the Inspectorate of Lampung Province, explained that the problem of employee rotation or transfer is an obstacle to resolving follow-up that occurs in the internal SKPD of Lampung Province. The problem that most often arises is the difficulty in handling follow-up actions for officials/state civil apparatus (ASN) regarding findings that have been assigned to other SKPD in Law scope; sometimes there is a difference between legal awareness and legal feeling. Feelings of law are defined as legal judgments that arise immediately from society in relation to issues of justice. Legal awareness is more of a formulation from the legal community regarding this judgment, which has been done scientifically. So legal awareness is actually an awareness or values that exist in humans about existing laws or about laws that are expected to exist. Thus what is emphasized in this case is the values regarding the function of law and not on concrete events in the society concerned. If so, legal awareness emphasizes the values of society about what functions the law should carry out in society. Based on the above opinion, it can be said that the problem here returns to the basic problem of the validity of the applicable law, which ultimately must be returned to the values of society (Usman, 2015).

e. Lack of Socialization Regarding Criminal Sanction Against Unimplemented Recommendations

Criminal sanctions or criminal sanctions are the final way in legal problems. The existing crime has been placed as the ultimum remedium in each case. To make this happen, extra work is needed from law enforcers to socialize what is important in this problem. Based on research in the field, these regional entities either deliberately or unintentionally ignore it because the majority, in general, they do not want to know or may not know about these sanctions because there are so many regulations in this country that must be understood so that socialization of these sanctions is needed through the Regional Leadership Conference (Muspida) and also hold seminar workshops, regional meetings with regard to recommendations on the audit reports on findings of state losses so that this socialization can open horizons of knowledge for each work unit/SKPD regarding the importance of following up on these recommendations. It is clear that the existing legal structures in various regions in Indonesia have not been able to carry out their functions and duties properly. The culture in obedience to the law in Indonesia is very uneven. Regions that have become the center of government, such as Jakarta, are gradually improving. Unlike the case in Lampung province, legal awareness is still relatively low. It is evident from the results of the survey and interviews conducted by the author, that recommendations from the BPK which should be an important concern regarding the budget can be ignored and not followed up.

3. Ideal Law Enforcement on BPK Recommendations Regarding Regional Financing Findings that Have Not Been Followed Up by Regional Entities

Law enforcement is the process of making efforts to uphold or function legal norms in a clear manner as a code of conduct in traffic or legal relations in public and state life. From the point of view of the subject, law enforcement can be carried out by a broad subject and can also be interpreted as an effort to enforce the law by the subject in a limited or narrow sense (Utama, 2019). The discourse on ideal law enforcement is very influential from the perspective of law enforcement by law enforcers. Progressive legal flow maintains that law is not something that is final. The legal movement will simultaneously move according to the demands of the times. The stagnation of the law is very dangerous if it is examined further from the perspective of progressive law (Ansori, 2015). Furthermore, it is relevant to the problems that exist today. The formulation and improvement of the law must run dynamically and not stagnate. There are factors in law enforcement regarding the follow-up to BPK's recommendations that need to be observed and corrected in the future. In simple terms, Muladi stated that law enforcement is an effort to uphold legal norms and at the same time the values behind these norms (Ansori, 2015). Relevant to existing problems, law enforcement regarding BPK recommendations must be in accordance with legal values and norms, especially the values that are behind these norms and in accordance with the existing content in Pancasila.

Based on an interview with Zahri Kurniawan as the Public Prosecutor at the Lampung High Prosecutor's Office, the ideal law enforcement must pay attention to the attitude of law enforcement officials in handling a case, whether the case is handled in a subjective or objective way. Based on the results of the author's analysis that in order to make law enforcement more ideal on BPK recommendations related to regional financial findings that have not been followed up by regional entities, first of all, concrete steps must be preceded by the following:

a. Material Improvement on Sanction Norms in the Regulation

The substance of the law becomes an integral part of the law enforcement process. The legal structure will not work optimally if the legal substance is not addressed first. In this matter the legal substance needs to be improved and reconstructed. This step is important to take considering that legal norms are the most essential thing for the effectiveness of a law to be carried out by law enforcement officials normatively from various BPK laws, as well as laws on State Financial Management and Accountability Audit, particularly with regard to Article 26 and 20 paragraph (1) to paragraph (5) of Law No. 15 of 2004 concerning Audit of the Management and Accountability of State Finances. Legal norms that contain values must be formed harmoniously and strongly legitimized. Gaps of multiple interpretations and ambiguity in a statutory regulation must be closed and minimized. If the existing regulations do not have gaps and are clear and comprehensive, then of course enforcement will run better and have a clear and systematic legal standing.

b. Improvements in the Mentality of Law Enforcement Officials

This second step is no less important in talking about law enforcement, namely that the law enforcement apparatus, according to the author, is useless when the law is sufficient to cover all aspects, but the implementation carried out by law enforcement officials does not go well or does not have the determination (Political will) in an effort to impose strict sanctions on state entities that do not carry out these recommendations. According to the author of the law without humans it will only be like a pile of documents. Law enforcers who are implementing it must understand, understand and have high legal awareness. The element of law enforcement in this sector requires consistency from Human Resources. The best is that the established legal rules will be useless when the law enforcement apparatus does not have the integrity and commitment in enforcing the regulations that have been promulgated. The legal culture itself is actually a determinant of the proper running of the law because the legal culture sees the law more in the perspective of the operation of the law, meaning the individual or institution that carries it out. When the legal culture has been well developed, of course when talking about the substance and structure of the law something ideal will be achieved because in a pure formation on the basis of the rule of law, not the supremacy of interests (Muhtar, 2019).

c. Improving the Commitment in Completion of Follow-up on Audit Result

Concrete steps that can be taken are to instill commitment and affirmation of institutions that have not responded and followed up on the results of these examinations and regularly evaluating the extent to which the regional government has made progress in following up on the results of these recommendations. The results of existing examinations must be evaluated periodically. The weaknesses that exist in the enforcement process must continue to be improved. The existing local government must be monitored and enforced. The progress that the regions will experience always comes from a healthy and measurable financial climate.

d. Maximizing the Supervision Function

The supervisory function of the administration of Lampung Provincial Government is carried out by the Inspectorate. In order to improve this function, the Inspectorate formulates a technical policy in the field of supervision; compiling plans and programs in the field of supervision; to carry out technical control of operational supervision; to carry out coordination of supervision and follow-up. the supervisory function of government administration in an effort to accelerate the completion of the follow-up to the BPK audit results. Therefore maximizing the function of supervision from a legal perspective on government actions is a *rechtmatigheid* supervision that needs to be optimized in its implementation (Sina, 2008). According to the author after the legal substance, the structure of the law is strengthened. Supervision must be carried out to ensure a healthy operation. The inspectorate in forming technical policies in the supervisory sector will work systematically and measured to ensure regularity in its implementation.

- e. Conducting Evaluation and Monitoring the Follow-up to the Audit Results Periodically
Based on the author's results of research and results of the analysis, the monitoring and evaluation activities carried out by the Inspectorate of Lampung Province are an ideal form of law enforcement in an effort to encourage the Lampung Provincial Government to follow up on recommendations on the BPK LHP to regional entities. The consistency of the activities carried out by various parties must be carried out in order to gradually form a legal culture. According to the author, the activities carried out by the Inspectorate of Lampung Province have a very strategic and important role in increasing the follow-up of BPK recommendations carried out by the Provincial government.

Monitoring and evaluation is part of the internal control monitoring activities in one of the SPIP elements. Determination of State losses must be based on accurate and precise identification in the results of the investigation. A case can only be determined as a criminal act of corruption if it contains sufficient preliminary evidence (Febriana, 2017). Based on the accurate and precise identification as a sufficient preliminary evidence, so the result of the investigation can be continued to the level of investigation (Ferdian, 2018).

Conclusion

The conclusion of this study is that there are obstacles to law enforcement on BPK recommendations regarding regional financial findings that have not been followed up by regional entities, namely: *first*, the lack of compliance of regional entities towards BPK recommendations, this can be seen from the level of compliance of the Satker/SKPD in Lampung Province, where the percentage of settlement and regional loss is only 69.60%; *second*, the inconsistency of the law norms in imposing sanctions; *third*, political will from the Law Enforcement Officers die to the proximity between legal apparatus Satker/SKPD; *fourth*, weak Internal Control System; and *fifth*, rotation of official positions factor, which in fact eliminated the responsibility they had when they were transferred, so that the audit that had not been completed by the Satker/SKPD was neglected and not resolved.

Meanwhile, the ideal law enforcement based on BPK recommendation regarding regional financial findings that have not been followed up by regional entities, the concrete steps are as follows: first, material improvement on sanction norms in the regulation; second, improvements in the mentality of law enforcement officials; third, improving the Commitment in Completion of Follow-Up on Audit Results; fourth, maximizing the supervision function; and fifth, conducting evaluation and monitoring the follow-up to the audit results periodically.

Suggestion

Suggestions that can be given are that the BPK should immediately encourage the DPR to improve the substance of the ineffective norms in imposing sanctions, especially Articles 26 and 20 paragraph (1) to paragraph (5) of Law No.15 of 2004 concerning Management and Responsibility Audit State Finance regarding the context of the follow-

up to the BPK audit report in the form of recommendations for indications of state losses with the hope that the DPR is able to include and strengthen sanctions norms against everyone and also officials who are negligent in following up on recommendations and it is preferable for regional entities to act cooperatively in following up. the results of BPK recommendations so that good cooperation will create good governance.

References

- Amiq, Bachrul. (2016). Pengawasan BPK dalam Mewujudkan Pengelolaan Keuangan Daerah yang Bebas Korupsi. *Jatiswara*. 31 (2). 249-263. <http://jatiswara.unram.ac.id/index.php/js/article/view/48>.
- Andrizal. (2006). Pertanggungjawaban Badan Pemeriksa Keuangan Menurut Undang-Undang Nomor 15 Tahun 2006. *Jurnal Ilmu Hukum Jambi*. 2. 10-15. <https://www.neliti.com/publications/43254/>.
- Ansori, Lutfil. (2015). Diskresi dan Pertanggungjawaban Pemerintah dalam Penyelenggaraan Pemerintahan. *Jurnal Yuridis*. 2 (25). 134-150. <https://ejournal.upnvj.ac.id/index.php/Yuridis/article/view/165>.
- Apriellia, Djatu. (2017). Rekomendasi Badan Pemeriksa Keuangan untuk Penguatan Tata Kelola Keuangan Negara yang Baik. *Jurnal Magister Hukum Udayana*. 6 (2). 153 - 171 <https://doi.org/10.24843/jmhu.2017.v06.io2.p02>.
- Essing, Sisilia Amelia, David P E Saerang, and Linda Lambey. (2017). Analisis Pelaksanaan Tindak Lanjut Hasil Pemeriksaan BPK RI atas Laporan Keuangan Pemerintah Daerah di Kabupaten Kepulauan Talaud. *Goodwill: Jurnal Riset Akuntansi Dan Auditing*. 8 (1). 118-128. <https://doi.org/10.35800/jjs.v8i1.15331>.
- Febriana, Kadek Dwi and I Nyoman Gede Remaja. (2017). Peranan dan Pengaruh Inspektorat Kabupaten Buleleng dalam Pemeriksaan terhadap Temuan yang Tidak Ditindaklanjuti pada Pemerintah Kabupaten Buleleng. *Kertha Widya*. 5 (2). 126-140. <https://ejournal.unipas.ac.id/index.php/KW/article/view/489/414>.
- Ferdian, R. Bayu, Mohd. Din, and M. Gaussyah. (2018). Penetapan Kerugian Negara Dalam Perkara Tindak Pidana Korupsi. *Syiah Kuala Law Journal*. 2 (3). 320-337. <https://doi.org/10.24815/sklj.v2i3.11648>.
- Guntara, Bima. (2020). Maraknya Korupsi di Pemerintahan Daerah dalam Era Desentralisasi. *Yuriska: Jurnal Ilmiah Hukum*. 12 (1). 11-24 <https://doi.org/10.24903/yrs.v12i1.813>.
- Hartanti, Evi. (2007). *Tindak Pidana Korupsi*. Second Edition. Jakarta: Sinar Grafika.
- IAI. (2007). *Standar Akuntansi Keuangan*. Jakarta: Salemba Empat.
- Ijewereme, Ogbewere Bankole. (2015). Anatomy of Corruption in the Nigerian Public Sector. *SAGE Open*. 5 (2). 1-16. <https://doi.org/10.1177/2158244015581188>.
- Jasa, Gilang Prama and Ratna Herawati. (2017). Dinamika Relasi antara Badan Pemeriksa Keuangan dan Dewan Perwakilan Rakyat dalam Sistem Audit Keuangan Negara. *Law Reform*. 13 (2). 189-203. <https://doi.org/10.14710/lr.v13i2.16155>.
- Kristanto. (2020). Implications of BPK's Juridic as the Only Status Institution Given Authority Declares State Financial Damages in Corruption Criminal Action. *International Journal of Multicultural and Multireligious Understanding*. 7 (7). 412-419. <https://ijmmu.com/index.php/ijmmu/article/view/1862/1461>.

- Labolo, Muhadam. (2017). Menutup Celah Korupsi Pemerintahan Daerah. *Jurnal Ilmu Pemerintahan Widya Praja*. 43 (2). 93-110. <https://doi.org/10.33701/jipwp.v43i2.50>.
- Moene, Karl and Tina Søreide. (2016). Corruption Control. *Crime, Law and Social Change*. 66 (2). 147-163. <https://doi.org/10.1007/s10611-016-9618-6>.
- Muhtar, Mohamad Hidayat. (2019). Model Politik Hukum Pemberantasan Korupsi di Indonesia dalam Rangka Harmonisasi Lembaga Penegak Hukum. *Jambura Law Review*. 1 (1). 68-93. <https://doi.org/10.33756/jalrev.viii.1988>.
- Musa, Arnold Nicodemus. (2015). Kajian Hukum atas Opini BPK RI terhadap Laporan Pengelolaan dan Pertanggungjawaban Keuangan Pemerintah Daerah (Studi Kasus pada Pemerintah Kabupaten Halmahera Barat). *Lex Et Societatis*. 3 (19). 79-87. <https://ejournal.unsrat.ac.id/index.php/lexetsocietatis/article/view/7317>.
- Musahib, Abd Razak. (2015). Pengembalian Keuangan Negara Hasil Tindak Pidana Korupsi. *e-Jurnal Katalogis*. 3 (1). 1-9. <http://jurnal.untad.ac.id/jurnal/index.php/Katalogis/issue/view/728>.
- Nanda, Novira Fazri, M Rasuli, and Taufeni Taufik. (2020). Pengaruh APIP, BPK, dan DPRD dalam Penegakan Tata Kelola Pemerintahan Daerah yang Baik (Good Government Governance) dengan Pengendalian Internal sebagai Variabel Moderasi (Studi Empiris Pada Provinsi Riau). *Jurnal Ekonomi*. 27 (2). 254-266. <https://doi.org/10.31258/JE.27.3.P.254-266>.
- Paeh, Karel Antonius. (2017). Pengembalian Kerugian Keuangan Negara Berdasarkan Rekomendasi Badan Pemeriksa Keuangan (BPK) Hubungan dengan Unsur Kerugian Negara dalam Tindak Pidana Korupsi. *e-Jurnal Katalogis*. 5 (2). 49-56. <http://jurnal.untad.ac.id/jurnal/index.php/Katalogis/article/view/8490>.
- Pontoh, Andini Rahmayanti. (2013). Tugas dan Wewenang BPK dalam Pengawasan Pengelolaan Keuangan BUMN/D. *Lex Administratum*. 1 (25). 132-147. <https://ejournal.unsrat.ac.id/index.php/administratum/article/view/1058>.
- Purba, Charles Bohlen. (2014). Efektivitas Tindak Lanjut Hasil Pemeriksaan BPK atas Laporan Keuangan Pemerintah Daerah di Kalimantan Barat, Kalimantan Tengah, dan Kalimantan Timur. *Journal of Accounting*. 18 (2). 233-255. ecojoin.org.
- Rampengan Carla, Margareth. (2009). *Fungsi Laporan Hasil Pemeriksaan (LHP) Badan Pemeriksa Keuangan dalam Kasus Tindak Pidana Korupsi*. Jakarta: Balai Pustaka.
- Rampengan, Mahdalena Deisi. (2014). Fungsi Badan Pemeriksa Keuangan dalam Pemberantasan Tindak Pidana Korupsi. *Lex et Societatis*. 2 (30). 44-51. <https://ejournal.unsrat.ac.id/index.php/lexetsocietatis/article/view/4656>.
- Rosyadi, Muhammad Imron. (2016). Wewenang Badan Pemeriksa Keuangan dan Badan Pengawasan Keuangan dan Pembangunan dalam Menilai Kerugian Keuangan Negara. *Mimbar Keadilan*. (1). 26-53. <https://doi.org/10.30996/mk.voio.2206>.
- Safitri, Nur Wahyu, Muh. Sabaruddin Sinapoy, and Kamaruddin Jafar. (2019). Penetapan Kerugian Keuangan Negara Merupakan Kewenangan BPK atau BPKP. *Halu Oleo Legal Research*. 1 (2). 219-231. <https://doi.org/10.33772/HOLRESCH.V1I2.6179>.
- Saidi, Muhammad Djafar. (2011). *Hukum Keuangan Negara*. Revision Edition. Jakarta: Grafindo Persada.
- Setiadi, Edi. (2000). Penegakan Hukum Pidana terhadap Kasus-Kasus Korupsi dalam Menciptakan Clean Government. *Jurnal Mimbar: Jurnal Sosial dan Pembangunan*. 16 (4). 305-333. <https://ejournal.unisba.ac.id/index.php/mimbar/article/view/>

25/pdf.

- Sina, La. (2008). Dampak dan Upaya Pemberantasan serta Pengawasan Korupsi di Indonesia. *Jurnal Hukum PRO JUSTITIA*. 26 (1). 39-51. <http://journal.unpar.ac.id/index.php/projustitia/article/view/1108>.
- Slobodyanik, Yulia, Lesia Kondriuk, and Yuliia Haibura. (2019). The Strategy of Institutional Reform of The Supreme Audit Institution: The Case of Ukraine. *Independent Journal of Management*. 10 (7). ISSN-e 2236-269X. (Ejemplar Dedicado a: Special Edition PDATU). 872-896. <https://doi.org/10.14807/ijmp.v10i7.916>.
- Sucipto, Tum Adriani. (2017). Independensi, Kompetensi, Pengalaman, Gender dan Kualitas Hasil Reviu Auditor Badan Pemeriksa Keuangan di Indonesia. *Riset Akuntansi dan Perpajakan*. 4 (2). 170-181. <http://journal.univpancasila.ac.id/index.php/jrap/article/view/160>.
- Taghupia, Venia Clarissa Afriany. (2019). Kewenangan Badan Pemeriksa Keuangan dalam Memeriksa Pengelolaan Keuangan Pemerintah Daerah. *Lex et Societatis*. 7 (30). 79-87. <https://ejournal.unsrat.ac.id/index.php/lexetsocietatis/article/view/24726>.
- Tara, Ioan Gheorghe. (2016). The Social Role of The Supreme Audit Institutions to Reduce Corruption in The European Union - Empirical Study. *Revista de Cercetare Şi Intervenţie Socială*. (52). 217-240. <https://www.cceol.com/search/article-detail?id=521495>.
- Tuanakotta, T.M. (2010). *Akuntansi Forensik dan Audit Investigatif*. Jakarta: Salemba Empat.
- Usman, Atang Hermawan. (2015). Kesadaran Hukum Masyarakat dan Pemerintah sebagai Faktor Tegaknya Negara Hukum di Indonesia. *Jurnal Wawasan Yuridika*. 30 (15). 26-53. <https://doi.org/10.25072/JWY.V30I1.74>.
- Utama, Andrew Shandy. (2019). Kepercayaan Masyarakat terhadap Penegakan Hukum di Indonesia. *Ensiklopedia Social Review*. 1 (3). 306-313. <http://jurnal.ensiklopediaku.org/ojs-2.4.8-3/index.php/sosial/article/view/375/332> u.org.