

Legal Analysis of the Role of the Tanjungpinang District Attorney's Office in Carrying Out Law Enforcement Efforts to Return State Finances from Corruption Crimes Committed by Convicts

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ABSTRACT

Corruption in Indonesia is an extraordinary crime that causes significant losses to state finances. Law enforcement in recovering state losses is a primary focus, with the Prosecutor's Office playing a crucial role as investigator, prosecutor, and enforcer of judges' decisions. This study aims to analyze the role of the Tanjungpinang District Attorney's Office in recovering state losses from corruption and to identify obstacles encountered in the process. The research method used is an observational approach with a field survey through in-depth interviews, and descriptive-analytical data analysis with an inductive conclusion drawing pattern. The results show that the Tanjungpinang District Attorney's Office plays a significant role in recovering state losses through a mechanism for paying compensation by convicts, as in case No. 05/Pid.Sus-TPK/2019/PN.TPG, where the restitution is carried out in stages until it is fully paid and deposited into a state account. However, the implementation of this role is not free from various obstacles, including legal factors, limited facilities and infrastructure, obstacles to the community's legal culture, and difficulties in asset tracking because most of the convict's assets are transferred to other parties. These findings indicate the need for strengthened regulations, increased capacity of officials, and cross-institutional collaboration to support the effective recovery of state funds from corruption. Therefore, the role of the prosecutor's office is not only strategic in law enforcement but also crucial for efforts to recover state losses and maintain the integrity of the public financial system.

Keywords: Corruption crimes, Prosecutor's Office, Return of state finances.

1. Introduction

Corruption in Indonesia remains very high, and it's even becoming more prevalent, from the central government down to the regional levels. This has had a negative impact on the national economy. Those holding strategic positions in state/government institutions are accustomed to committing corruption, even on a small scale. Today, the scale of corruption is much broader, more systematic, and more sophisticated. The rise in corruption has become a serious problem for law enforcement efforts in Indonesia.¹ The term corruption in the Big Indonesian Dictionary is defined as an act of misappropriation carried out by an official in the form of embezzlement of funds or money (belonging to the state, companies, etc.)

¹ R.Bayu ferdian dan Mohd Din, 'Penetapan Kerugian Negara Dalam Perkara Tindak Pidana Korupsi', *Law Journal*, 2 No.3 (2018), 1.

for personal, group, or other people's interests.²

One of the objectives of enacting Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption in conjunction with Law Number 20 of 2001 is to recover state losses. Therefore, criminal law enforcement prioritizes recovering state financial losses from perpetrators of corruption.³ The return of state financial compensation resulting from corruption is a system of law enforcement that requires a process of eliminating the rights to the perpetrator's assets from the state as the victim by means of confiscation, freezing, seizure, both in local, regional and international competence so that the assets can be returned to the legitimate state (victim).⁴ The Corruption Crimes Act stipulates that for a corruption crime to occur, state losses must occur. According to Article 1, number 22 of Law No. 1 of 2004 concerning the State Treasury, state losses are a real and definite reduction in money, securities, and goods as a result of unlawful acts, whether intentional or negligent.

According to Djoko Sumaryanto, the state loss in this case is not a state loss in the corporate/commercial sense, but rather a loss that occurs due to an unlawful act. In this regard, other factors that cause state losses are:

- a) a) Improper implementation of policies,
- b) Self-enrichment,
- c) Other people or corporations.

State financial management is its identity when entrusted with the task of managing state finances so that the state suffers losses. State financial losses are a real and definite shortage of money, securities, and goods as a result of unlawful acts, whether intentional or negligent. When the factors causing state financial losses are examined from a legal perspective, state losses fall within the realm of public law, such as state financial law and criminal law. These two types of law have different substances but still have the same goal of placing state finances in a normal position. This is based on the fact that state finances are a supporting force in achieving state goals as intended in the fourth paragraph of the Preamble to the 1945 Constitution. State losses and claims for compensation are the substance of state financial law that involves the state financial manager and the authorities who make claims for compensation. When one party cannot carry out its function, it means there are obstacles to the enforcement of state financial law. These obstacles must be set aside so that the state's goals to be achieved can obtain funding as mandated in the state budget.⁵

The individual modus operandi of corruption has begun to fade. A new dimension of corruption is the abuse of power by public officials, known as systemic

² M.musa dan heni Susanti, 'Penalaran Hakim Tentang Penyertaan Tindak Pidana Dalam Kasus Korupsi Pengadaan Videotron', *Jurnal Yudisial*, 15 No.1 (2022), 35.

³ Purwaning M.Yanuar, *Pengembalian Aset Hasil Korupsi* (Bandung: Alumni, 2007).

⁴ Andriyanto Seno Adji, *Korupsi Dan Penegakan Hukum* (Jakarta: DiaditMedia, 2009).

⁵ Muhammad Djafar Saidi, *Hukum Keuangan Negara* (Jakarta: Rajawali Pers, 2011).

corruption or institutional corruption, which is always related to policy issues. According to Yunus Husein, state losses are closely related to various transactions, such as transactions for goods and services, transactions related to debts and receivables, and transactions related to costs and income.⁶ When the state experiences losses due to state financial management and attempts have been made to recover these losses through compensation procedures based on state financial law. The procedures adopted under state financial law are a way to recover state funds resulting from state losses without going through the courts. Essentially, recovering state losses without going through the courts focuses more on administrative aspects but remains within the bounds of state financial law.

Recovering state losses without going through the courts is much more effective and efficient than through the courts. This is based on the fact that recovering state losses without going through the courts is very easy to resolve because it does not use complicated procedures. In addition, the time required is very short because there are no legal remedies such as appeals, cassation and judicial review in contrast to procedures through the courts which require quite a long time, but this does not mean that there is an arbitrary act on the part of the person asked to be responsible for state losses due to actions when managing state finances, and when procedures without going through the courts turn out to be unable to return state losses, this means that procedures through the courts must be used so that state finances are in the same position as before being managed. Procedures through the courts are based on civil law instruments, but both contain procedures that are not obstacles or constraints to recovering state losses because the substance of the law is what causes differences in its application in the courts in question.

The phenomenon of state losses resulting from deviant or unlawful state financial management must be reimbursed so that state finances return to their original state to finance the implementation of state governance in order to achieve state goals. In an effort to reimburse losses caused by deviant or unlawful state financial management, legal instruments have been prepared within the context of criminal law. Even if these exist, if the morals and commitment of law enforcement do not support their enforcement, this means that criminal law instruments are merely legal ideals.⁷ To prevent the state from suffering losses, the state must recover the money stolen by corruptors from the state treasury. In recovering lost state losses, the state already has an agency tasked with doing so, namely the Prosecutor's Office. The Prosecutor's Office is a law enforcement agency, regulated by Law Number 11 of 2021, Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. The Prosecutor's Office of the Republic of Indonesia is a State Institution authorized by the state to implement court decisions that have obtained permanent legal force. Article 6 paragraph 1 point b of Law Number 8 of 1981 concerning the Criminal Procedure Code also

⁶ Yunus Husein, *Negeri Sang Pencuci Uang* (Jakarta: Pustaka Juanda Tigalima, 2008).

⁷ Muladi dan Barda Nawawi Arief, *Teori-Teori Dan Kebijakan Hukum Pidana* (Bandung: Alumni, 1998).

states that prosecutors are also authorized to implement judges' decisions because they are special civil servants who are given special authority by law.

The implementation of the following return of state finances from the results of criminal acts of corruption committed by the perpetrator of criminal acts of corruption by Berto Riawan is one of the duties of the Prosecutor's Office, because the Prosecutor's Office is given authority by law to play a role in returning state financial losses or state assets through replacement money from the results of criminal acts of corruption as regulated in Article 18 of Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, so that on these grounds the Prosecutor's Office has the authority to return state losses from criminal acts of corruption, including in cases of The criminal act of corruption in the continuation of the construction of the Dompok seaport facility in the 2015 Revised State Budget of Tanjungpinang City, was carried out by the Class II Tanjungpinang KSOP. The criminal act of corruption was carried out by the defendant named Berto Riawan as the Branch Head of PT. Karya Tunggal Mulya Abadi who was appointed as the provider of Goods/Services in the continued Work on the Construction of the Dompok Seaport Facility in the 2015 Revised State Budget. Based on the Letter of Appointment for the Provision of Goods and Services which was then made a Work Order (SPMK) which took place at the Dompok Seaport Facility in Tanjungpinang City, he had carried out it together with Hariadi, S.Sos, MM. (who was prosecuted separately) which was against the law. That PT. Karya Tunggal Mulya Abadi was the winner of the tender for the provision of goods and services in the Construction of the Dompok Seaport Facility in the 2015 Revised State Budget carried out by the Tanjungpinang Class II Port Authority and Harbormaster Office, which must have full responsibility for the implementation of Administration, Use of Funds and the Successful Implementation of the Work program in the process of Procurement of Goods and Services. However, in reality, it was found that the work was not fully carried out and with the naked eye, the physical work had not been completed 100% (one hundred percent) carried out. even the items of goods in the equipment and completeness work that should have been provided by PT. Karya Tunggal Mulya Abadi were not installed at the work location. but Hariyadi as PPK (Making Official) As stated above, the case of the Corruption Crime of the Port of Dompok Island, Tanjungpinang continued in the Decision Case No: 05 / pid.Sus-TPK / 2019 / PN.TPG It is the defendant's actions that have caused losses to state finances amounting to Rp. 5,054,740,904.35. (Five billion fifty four million seven hundred forty thousand nine hundred four point thirty five rupiah) Based on this explanation it can be said that the defendant committed corruption by violating the provisions of "Article 2 paragraph (1) Jo Article 18 of Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption Jo Article 55 Paragraph (1) of the Criminal Code. The defendant is sentenced to 6 years in prison and must pay additional compensation of Rp. 170,000,000 (One Hundred and Seventy Million)."

The researcher's interest in taking this title, behind the rampant cases of corruption in Indonesia, which have harmed state finances from small to large amounts, the researcher is interested in the role of prosecutors as investigators, prosecutors, executors and carrying out the judge's decision. in returning state finances, especially in one of the corruption cases the researcher took. And the researcher's curiosity to know the obstacles of the prosecutor's office as law enforcement in returning state losses to convicts. Based on the background of the problem above, the role of the Tanjungpinang District Attorney is very much needed in returning state/regional losses from corruption crimes committed by perpetrators of corruption, however, not all of these roles can run well, of course there are still several obstacles in their implementation.

2. Research Method

The author uses a method to explain, answer and analyze the main problem. The method used by the author, seen from its type, means that this research is classified as observational research which is carried out by means of a survey, namely direct research at the research location using data collection tools in the form of interviews.

Meanwhile, if seen from its nature, this writing is descriptive analytical, which means the research is intended to provide a detailed, clear and systematic description of the main research problem. According to Sukmadinata, descriptive research is a form of research aimed at describing existing phenomena, both natural phenomena and man-made phenomena.⁸ The phenomenon can be in the form of form, activity, characteristics, changes, relationships, similarities and differences between one phenomenon and another.

3. Result and Discussion

3.1. The Role of the Tanjungpinang District Attorney's Office in Enforcing Law Enforcement Efforts to Recover State Finances from Corruption Crimes

The role of the Tanjungpinang District Attorney's Office in enforcing the law on the return of state finances from corruption crimes can be seen in Article 1 of Law No. 11 of 2021 concerning the Attorney General's Office of the Republic of Indonesia, which states that the Attorney General's Office is a government institution whose functions are related to judicial power that carries out state power in the field of prosecution and authority in the Law.⁹ Article 6 of the Criminal Procedure Code also discusses the role of the prosecutor, who is an official who is authorized by this law to act as a public prosecutor and to implement court decisions that have become final and binding.¹⁰

⁸ Sukmadinata, *Metode Penelitian Pendidikan* (PT Remaja Rosdakarya, 2005).

⁹ Undang-Undang No 11 tahun 2021, *Tentang Kejaksaan Republik Indonesia*, 2021.

¹⁰ diding rahmat Fadlil Altansa, 'Analisis Yuridis Kewenangan Jaksa Dalam Penegakan Hukum Tindak Pidana Informasi Dan Transaksi Elektronik', *Lex Laguens : Jurnal Kajian Hukum Dan Keadilan*, 2 (2024), 6.

Prosecutors also have duties and authorities as investigators, prosecutors, finding evidence, executing case handling and implementing judges' decisions.¹¹ At the investigation stage, the prosecutor will find out whether there are criminal elements in a case. If there are criminal elements, a split stage will be carried out (the stage of raising a case from the investigation stage to the inquiry stage) to then determine whether it can be raised to the investigation stage or not.¹²

In finding assets, property and evidence, this is done by investigators. In carrying out investigations into corruption crimes, prosecutors have the authority as investigators as stated in Article 7 Paragraph (1) of the Criminal Procedure Code. The role of prosecutors in recovering state losses due to corruption crimes is through criminal, civil and state administrative channels. Through criminal channels, prosecutors can attempt to take actions in order to recover state losses due to corruption crimes. Actions that can be taken starting from the investigation stage to the execution stage of corruption crime cases that have permanent legal force, include¹³:

- a) Asset/wealth tracing
- b) Asset freezing
- c) Confiscation
- d) Demanding compensation
- e) Execution to recover state financial losses
- f) Confiscation of the defendant's assets.

In the role of the prosecutor, the corruption case that the researcher took was one of the Corruption Cases for the continued construction of the Dompok port in Tanjung Pinang City with Case No. 05/pid.sus-TPK/2019/PN.TPG carried out by Berto Irawan and his colleagues, so that the total state loss was Rp. 5,054,740,904.35. (Five billion fifty-four million seven hundred forty thousand nine hundred and four point thirty-five rupiah). In the case of Berto Irawan, the Judge's decision imposed a replacement fee of Rp. 170,000,000 (one hundred and seventy million rupiah). This is different from the return of state financial losses due to corruption through civil channels, which are contained in the provisions of Article 32 paragraph (1), paragraph (2), Article 33 and Article 34 of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning Corruption. Article 32 paragraph (1) of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 concerning Criminal Acts of Corruption states that: In the event that an investigator finds and is of the opinion that there is insufficient evidence for one or more elements of a criminal act of corruption, while there has clearly been a financial loss, the investigator shall immediately submit the case file resulting from the investigation to the state attorney for a civil suit or submitted to the injured agency to file a suit with

¹¹ 'Hasil Wawancara Kasi Pidsus Roy Huffington Harahap, S.H.,M.H.'

¹² Boby Amanda, 'Penyita Aset Pelaku Tindakpidana Korupsi Oleh Kejaksaan Tinggi Dalam Pengembalian Kerugian Negara', *Bidang Hukum Pidana*, 5, 572.

¹³ Tandyo Sughondo, 'Peran Kejaksaan Dalam Pengembalian Kerugian Negara Akibat Tindak Pidana Korupsi', 12, 48.

the following steps:

- a) Confiscation
- b) Demanding payment of compensation
- c) Execution to recover state financial losses
- d) Confiscation of the defendant's assets.

The mechanism for the return of state financial losses due to criminal acts of corruption by the prosecutor's office is regulated in Article 30 paragraph (1) letters b and c, namely; Implementing the judge's decision and court decision that has obtained permanent legal force, supervising the implementation of conditional criminal decisions, supervisory criminal decisions and conditional release decisions and the implementation of supervision of Court decisions in criminal cases also lies in the responsibility of the Chief Justice, as referred to in the Judicial Power Law which has been determined and regulated in the Criminal Procedure Code, namely in Articles 277 to 283. The ideal effort that can be taken by the prosecutor's office to optimize the return of state financial losses, namely the use of assets resulting from criminal acts of corruption by transferring confiscated goods to third parties to replace state financial losses, this means goods or objects from the proceeds of crimes for criminal acts of corruption that have been confiscated. As well as compensating or paying replacement money to return state financial losses that have been taken or misappropriated.

Article 1 Number 1 of Law No.: 17 of 2003 concerning State Finance (UUKN) states that 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 owned by the state in connection with the implementation of these rights and obligations. This definition has a substance that can be reviewed in a broad sense, including the rights and obligations of the state that can be valued in money, including state property that is not included in the state budget.

The role of the investigating prosecutor in collecting evidence according to Article 184 paragraph (1) of the Criminal Procedure Code, namely in the form of witness statements, expert statements, letters, instructions, and statements from the defendant, if a case results in state losses, the prosecutor will begin to trace assets to be used as replacement money in court after a decision has permanent legal force. And if the case of a corruption crime that causes losses to state finances and the defendant's assets are not found, it will be replaced with corporal punishment.¹⁴ In the case of corruption, the main article on state losses is contained in Article 2 of the law on corruption related to anyone who unlawfully enriches himself or another person or a corporation that harms state finances is imprisoned for life or a minimum of 4 (four) years and a maximum of 20 (twenty) years, while in Article 3 it states that anyone who aims to benefit himself or another person or a corporation, abuses authority, office or position that can harm the state and the state economy, can be sentenced to life imprisonment or a minimum of 1 (one) year or a maximum of 20 (twenty) years in prison. In addition, the main penalty applies an additional penalty of Article 18 paragraph 1 letter b,

¹⁴ 'Hasil Wawancara Kasi Pidsus Roy Huffington Harahap, S.H.,M.H'.

payment of replacement money in the amount of which is equal to the assets obtained from the crime of corruption, in this article it can be exemplified if there is a state financial loss of 1 billion, and the defendant does not have assets/properties that can be covered for replacement money, then it is replaced with a subsidiary of several years/months. In the explanation above, the prosecutor is given the authority to confiscate assets against the replacement money that will be charged to the defendant. The public prosecutor is given 1 (one) month to trace the defendant's assets to cover the replacement money charged by the defendant. If the defendant does not want to pay or cannot pay, the prosecutor has a legal basis to seize assets. If the defendant does not pay the replacement money, the replacement money is the largest amount of the corruption value that the defendant enjoyed, for example: a defendant is charged with a replacement of 1 billion and the defendant has assets such as a house, car, etc. The prosecutor will confiscate the assets and then auction them off, the value must be commensurate with the value of the loss, if it is less, it is reduced. If it is more, it is returned to the defendant.¹⁵ The person authorized to auction off the defendant's assets is the Head of Evidence, who is responsible for executing the auction. We are limited to investigations, public prosecutor inquiries, indictments, and execution orders. All matters related to evidence are delegated to the Head of Evidence. Criminal cases are referred to the detention center or prison. As for assets related to the recovery of state losses, the Head of Evidence and confiscated assets are within the purview of the prosecutor's office.

Article 30A of Law No. 11 of 2021 concerning the Attorney General's Office of the Republic of Indonesia explains that in asset recovery, the prosecutor's office is authorized to conduct tracing, confiscation, and return of assets obtained from criminal acts, and other assets to the state, victims and those entitled. In the process of returning state finances, there are several Corruption cases that have returned replacement money during the investigation process. Returning state financial losses does not eliminate the crime. Such as when the prosecutor calculates state losses with the BPK and BPKP and the discovery of state financial losses when the defendant is examined during the investigation stage, the defendant must pay the financial losses at the investigation stage if the defendant has paid the state financial losses. If the defendant has paid and the defendant remains on trial, after being decided by the judge the money is returned to the state according to the judge's decision. The return of state finances is through the treasurer and deposited with the RPL Bank Plat merah if the State Prosecutor's Office in Tanjung Pinang the money is in Bank Mandiri, as of September 2024 there has been around IDR 700,000,000 (Seven Hundred Million Rupiah) of state financial losses that have been returned and there are around 13 cases of corruption crimes under prosecution.¹⁶ Like the case of corruption that researchers took, one of them was the Corruption Crime Case of the continued construction of the Dompok port in Tanjung Pinang City with Case No. 05 / pid.sus-TPK / 2019 / PN.TPG carried out by Berto Irawan and his colleagues, so that the total state loss was

¹⁵ 'Hasil Wawancara Pejabat Fungsional Bambang Wiratdany,S.H'.

¹⁶ 'Hasil Wawancara Kasi Pidsus Roy Huffington Harahap, S.H.,M.H'.

Rp. 5,054,740,904.35. (Five billion fifty-four million seven hundred and forty thousand nine hundred and four point thirty-five rupiah). In the case of Berto Irawan, the Judge's decision imposed a replacement fee of Rp. 170,000,000 (one hundred and seventy million rupiah), if not paid, the Prosecutor will issue a P48 letter / asset tracking. After the court issued a court order after asking the perpetrator with D2 (Order Letter) that the defendant was able/understood, then D4 (Order Letter) was issued that the defendant was able to pay compensation of Rp. 170,000,000 (One Hundred and Seventy Million Rupiah) and was paid in full by the defendant.

3.2. Obstacles faced by the Tanjungpinang District Attorney's Office in Law Enforcement Efforts to Recover State Finances from Corruption Crimes

Corruption is a problem that disrupts and hinders national development because corruption has resulted in state financial losses. Corruption can also weaken the joints of life in society, nation, and state, therefore it is necessary to execute corruption crimes maximally by the Prosecutor's Office, specifically in this study the Tanjungpinang District Prosecutor's Office. In accordance with the theory of legal effectiveness put forward by Soerjono Soekanto, the effectiveness or ineffectiveness of a law is determined by 5 (five) factors, namely:¹⁷

- a) The legal factor itself (the law).
- b) Law enforcement factors, namely the parties who create and implement the law.
- c) Facilities or infrastructure that support law enforcement.
- d) Community factors, namely the environment in which the law applies or is implemented.
- e) Cultural factors, namely the results of works, creativity, and feelings based on human initiative within social interactions.

Obstacles/constraints in Law Enforcement Efforts in Recovering State Financial Losses
Legal/legislative Factors are the main factors that hinder prosecutors' efforts to recover state financial losses resulting from corruption, namely the law itself because the 1999 Corruption Law in conjunction with Law Number 20 of 2001 does not specifically regulate the issue of recovering state financial losses (returning state assets) resulting from corruption, so that from the existing regulations, the recovery of state financial losses is only attempted through the imposition of additional penalties in the form of confiscation and payment of replacement money to the convict. This is done to prevent the actions of suspects who will divert or hide their assets. In accordance with the provisions of Article 26 of the 1999 Corruption Law in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, the implementation of confiscation in the investigation of corruption cases must refer to

¹⁷ Sarah hersriavita Dkk, 'Upaya Pengembalian Kerugian Keuangan Negara Dari Perkara Tindak Pidana Korupsi Oleh Kejaksaan Negri Sukohajo', *Pascasarjana Hukum Uns*, VII,no 1 (2019).

and comply with the regulations in the Criminal Procedure Code.¹⁸

According to the investigating prosecutors, confiscating the assets of suspects in corruption cases, which should be projected as an effort to recover state financial losses, is not easy. When confiscating, especially the assets of suspects, the investigating prosecutors must always pay attention to and adhere to the regulations contained in the Criminal Procedure Code.

In searching for the defendant's assets, the prosecutor always coordinates with the BPN and Samsat institutions to search for the defendant's assets because many defendants do not put their real names on their assets, most of them use other people's names that have no connection with the defendant. But there are also those whose assets are in the name of friends, distant relatives, and close relatives such as their wives or children. To check the names of the defendant's family, the prosecutor checks the family card. The fact proves that corruption suspects are generally highly educated people, have influence and power so that they can use various ways to hide or transfer the property/assets they own, even abroad.

Legislation concerning efforts to eradicate corruption has several weaknesses that lie in the substance of the legislation, both in this aspect and in the technical aspects of its implementation, thus allowing for inequalities in the corruption eradication process. Among these weaknesses are:¹⁹

- a) The unclear division of authority between prosecutors, the police, and the Corruption Eradication Commission (KPK), and the absence of the principle of reverse burden of proof in corruption cases;
- b) Weak and unclear witness protection mechanisms, resulting in individuals deemed to be aware of financial irregularities being unwilling to testify or testify.

In dividing the task of handling corruption cases by the prosecutor's office, the police, and the Corruption Eradication Commission (KPK), all of these institutions have the authority in the context of investigation, the difference depends on which institution the report or complaint comes from. If in the police, it is only at the investigation stage, then the case is thrown to the prosecutor's office, namely the investigating prosecutor, after the complaint has been reviewed and received, it goes up to the investigator. The difference is that the police summarize the files, the prosecutor sees whether a case is worthy of being included in P21 after which it can be tried. When the police submit the files, the files are examined for 7 (seven) days. If there are any that need to be corrected and completed by the investigator, they are given another 7 days P19 to determine the shortcomings of the case.

¹⁸ rudepel dkk Louis hangrai, 'Upaya Jaksa Selaku Eksekutor Dalam Pengembalian Kerugian Keuangan Negara Hasil Tindak Pidana Korupsi', *Ilmu Hukum Dan Tata Negara*, 168.

¹⁹ Indra Gunawan, 'Pelaksanaan Penyitaan Barang Bukti Oleh Jaksa Terhadap Tersangka Dalam Perkara Korupsi Yang Ditinjau Undang-Undang No 20 Tahun 2001 Tentang Tindak Pidana Korupsi', *Normative Fakultas Hukum Universitas Al-Azhar*, 59-169.

The author believes that with the imposition of heavy prison sentences, convicts are more likely to choose prison sentences if they are unable to pay or do not want to incur state losses. The legal weaknesses implemented in the Corruption Law tend to make convicts of corruption more likely to choose subsidiary sentences rather than returning the assets they have embezzled. In this case, convicts are more likely to choose this because they believe that prison sentences are relatively lighter than having to return the money or assets they have embezzled.

4. Conclusion

The Prosecutor's Office is a government institution whose function is related to the judicial power that carries out state power in the field of prosecution and authority in the Law. The Prosecutor also has the Duties and Authorities as an Investigator, Investigator, Prosecutor, finding evidence, executing case handling and implementing the judge's decision. In the Corruption Crime Case that the researcher raised in Case No. 05 / pid.sus-TPK / 2019 / PN.TPG carried out by Berto Irawan. in the Judge's decision the Defendant was charged with a replacement fee of Rp. 170,000,000 (one hundred and seventy million rupiah) the defendant agreed and paid in installments. at the Tanjungpinang District Prosecutor's Office. The return of state financial losses does not eliminate the criminal penalty. If the Defendant does not pay the replacement money, the prosecutor has the authority to trace the assets, and with the maximum nominal value of the corruption that the defendant enjoyed, then the defendant's assets are auctioned by the execution prosecutor, if the nominal value of the assets is more than the replacement money paid, the remainder is returned to the defendant and if the defendant's assets are not found to cover it, it is replaced with subsidiaries for several months/years. The return of financial losses is through the treasurer and deposited with the RPL Bank Plat merah if the State Prosecutor's Office in Tanjung Pinang the money is in Bank Mandiri, as of September 2024 there have been around 13 cases of corruption crimes in prosecution and there has been Rp. 700,000,000 (Seven Hundred Million Rupiah) of state financial losses that have been returned.

There are several obstacles or constraints for the Tanjung Pinang District Attorney's Office in returning state finances, which can be seen from legal factors, law enforcement, facilities and community culture. In legal factors, the main factor that hinders the prosecutor's efforts to return state financial losses resulting from corruption is the law itself because the 1999 Corruption Law in conjunction with Law Number 20 of 2001 does not specifically regulate the issue of returning state financial losses (return of state assets) resulting from corruption, so that from the existing regulations, the return of state financial losses is only attempted through the imposition of additional penalties in the form of confiscation and payment of replacement money to the convict. Law enforcement factors require more active efforts from investigators, including collaborating with various competent parties to be able to reveal the origin or source of the defendant's assets. It is difficult for investigators to find the defendant's assets because many defendants do not put their real names on their assets, most of them use the names of other people who have no connection with

the defendant. But there are also those whose assets are in the names of friends, distant relatives, and close relatives such as wives or children, and finally, societal and cultural factors. Currently, it can be said that there is very little public participation in law enforcement, and legal regulations are deliberately violated by the public, because they believe that laws are made to be violated. For example, in asset tracking, most of the defendants' assets are in the names of other people, even close family members who help the defendants hide their assets, making it difficult for investigating prosecutors to find the defendants' assets.

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