The Urgency of Resolving the Bank of Indonesia's Liquidity Assistance Case Based on Law Number 10 of 1998 Concerning Banking Related to the Supreme Court Decision Number 1555 K/Pid.Sus/2019

Aldo Evander[1] Jeane Neltje[1*]

[1]*Faculty of Law, Universitas Tarumanagara, Jakarta 11440, Indonesia*
[*]*Corresponding author. Email: jeanenovember@gmail.com*

ABSTRACT
The BLBI case is indeed quite complex to handle, considering that there were two BPK audit results in 2006 and 2017 with different results, especially regarding the presence or absence of state financial losses as an element of corruption. The problem faced is how the impact of uncertainty in rescuing the BLBI case on the future of investment in Indonesia and how urgency to resolve the Bank Indonesia Liquidity Assistance case based on Law Number 10 of 1998 concerning Banking related to the Supreme Court's Decision Number 1555 K/Pid.Sus/2019. The research method used in writing this scientific paper is a normative juridical research method. The results of the study indicate that the impact of uncertainty in rescuing the BLBI case on the future of investment in Indonesia is investor distrust of the investment climate in Indonesia, given the long-winded and time-consuming BLBI settlement. The urgency of resolving the Bank Indonesia Liquidity Assistance case based on Law Number 10 of 1998 concerning Banking related to the Supreme Court Decision Number 1555 K/Pid.Sus/2019 is through the MSAA mechanism with Release and Discharge clauses and MRNIA, but in the reality, this has implications for various irregularities by the obligor or the BLBI receiving banks. It should be in order to recover the state financial loss of Rp. 108 trillion to the State treasury, the government uses a civil lawsuit on the basis of the Asset Confiscation Law.

Keywords: *Urgency, Resolution, BLBI, Banking*

1. INTRODUCTION

The main problem with BLBI is "there is a very unreasonable deviation in the distribution of social assistance. From the total social assistance of Rp. 144.536 trillion, which was misused by bankers and irresponsible persons, Rp. 138.442 trillion or 95.5%. It's a very fantastic deviation number. So due to that there is an opinion in the public discourse that BLBI is a massive looting of public money." The magnitude of the deviation in the distribution of BLBI is "the result of the investigation findings of the Supreme Audit Agency (BPK) in 48 banks, namely 5 Take Over Banks (BTO), 15 Banks in Liquidation (BDL), 10 Operational Frozen Banks (BBO) and 18 Frozen Banks Business (BBKU). According to the BPK, BI has carried out irregularities in the distribution of BLBI through several schemes[1], namely BLBI which is intended to cover debit balances and debit balance facilities. The BLBI scheme comes from the discount facility, the Special Money Market Securities Facility (FSBPUK). In this scheme, the distribution of BLBI does not refer to BI provisions, such as insufficient promissory notes submitted by banks, as well as the provision of FSBPUK to banks whose CAR is below 2%. The provision of these funds was more likely to be based on the policy of the BI directors at that time and the BLBI as a bailout fund to pay foreign obligations and in the context of guarantees by the government." In this scheme, it is found that there is a difference in the numbers paid by BI and the notes of creditors abroad and BI has not verified the correctness of the transaction, thus giving rise to the obligation.

The findings of BLBI irregularities are "the results of the investigation during a general audit of BI's position as of May 17, 1999. The audit was conducted using BPK parameters. Meanwhile BI also uses its own parameters. It is odd that two parties conduct audit investigations with different parameters and the findings are definitely different. [2]

In writing this scientific paper, the author raised the case of the Supreme Court's Decision Number 1555K/Pid.Sus/2019 because the decision was strange, odd and controversial, considering that the cassation decision contradicted the decisions of the District Court and High Court judges. The

irregularity of Syafruddin Temenggung's (SAT) cassation decision can also be seen from the dissenting opinions of the three judges of the Supreme Court who tried. The three judges stated that the former head of the Indonesian Bank Restructuring Agency had committed the act as charged. However, in his decision, the chairman of the panel of judges, Salman Luthan, considered the SAT to have committed a crime. Meanwhile, a member of the panel of judges, Syamsul Rakan Chaniago, considered Syafruddin's actions to be in the civil sphere and judge Mohamad Askin considered the administrative realm.

However, based on the case, the author only limits the problem from the point of view of banking law. The tens of trillions of rupiah that arise as a result of corruption in the Bank Indonesia Liquidity Assistance (BLBI), are borne by all Indonesians. The thing that needs to be underlined is that the losses due to the BLBI scandal will be borne by the people for decades to come." This is because the losses from the BLBI corruption case are very large, and there are many parties involved, especially the bank leaders who received BLBI funds during the economic crisis. [3]

The case that ensnared SAT began with "the provision of a Certificate of Clearance (SKL) to Sjamsul Nursalim's Bank Dagang Negara Indonesia (BDNI) in 2004. The SKL was issued based on Presidential Instruction (Inpres) Number 8 of 2002 concerning Provision of Legal Assurance Guarantees to Debtors who have completed obligations or legal action to debtors who do not settle their obligations based on the examination of the Settlement of Shareholders' Obligations (PKPS). The Presidential Instruction was issued during the leadership of President Megawati Soekarnoputri which also received input from the Minister of Finance Boediono, Coordinating Minister for the Economy Dorodjatun Kuntjorojakti and Minister of SOEs, Admiral Sukardi. Based on the Presidential Instruction, BLBI debtors are considered to have settled their debts, even though they have only paid 30 percent of the total shareholder obligations in cash and 70 percent are paid with a certificate of proof of rights to IBRA. In its development, based on the BPK's investigative audit, the state financial losses in cases of indications of corruption related to the issuance of SKL against BDNI became Rp 4.58 trillion."

As explained earlier that "the settlement pattern of IBRA includes, among others, the use of the Shareholder Obligation Settlement (PKPS) scheme, which is termed release and discharge which is actually not known in Indonesian legal institutions, but is commonly used in countries that adhere to the common law legal system. However, the release and discharge contained in the agreement between IBRA and conglomerates or obligors who have obligations to IBRA based on the Shareholders' Liability Settlement Agreement (PKPS), either in the form of MSAA, MRNIA or APU, through IBRA. The government is rolling out options for the settlement method, simply wanting an immediate settlement to the problematic debtors".

Based on the description above, author raised the title: "The Urgency of Settlement of Cases for Bank Indonesia Liquidity Assistance Based on Law Number 10 of 1998 concerning Banking (Case Study of Supreme Court Decision Number 1555K/Pid.Sus/2019)".

1.1. Formulation of the Problem

Based on the background described, the main problem is:

1. What is the impact of uncertainty in rescuing the BLBI case on the future of investment in Indonesia?
2. What is the urgency of the settlement of the Bank Indonesia Liquidity Assistance case based on Law Number 10 of 1998 concerning Banking related to the Supreme Court Decision Number 1555K/Pid.Sus/2019?

1.2. Research Methods

1.2.1. Type of Research

The type of research in this legal research is "normative legal research. Normative legal research is research that provides a systematic explanation of the rules governing a particular category of law, analyzes the relationship between regulations, explains areas of difficulty and perhaps predicts future development. [4]

1.2.2. Characteristics of Research

Characteristics of legal research has a distinctive character, namely "normative, practical and prescriptive in nature. As a prescriptive science, jurisprudence studies the purpose of law, values of justice, validity of the rule of law, legal concepts, and legal norms. [5]

1.2.3. Research Approach

In relation to normative research, the approach used is as follows: [6]

a. "The case approach
b. Legislative approach (statute approach)
c. Historical approach (historical approach)
d. Comparative approach
e. Conceptual approach (conceptual approach)"

The approaches used from the several approaches above are the "statutory approach" and the case approach (the case approach). The statutory approach is an approach taken by examining all laws and regulations related to the legal issues being handled.

The case approach is an approach taken by examining cases related to the urgency of resolving the Bank Indonesia Liquidity Assistance case based on Law Number 10 of 1998 concerning Banking related to the Supreme Court Decision Number 1555K/Pid.Sus/2019."

1.2.4. Types and Sources of Legal Materials

Types of legal materials can be divided into 3 (three), namely primary legal materials, secondary legal materials,

and tertiary legal materials. In this study, the authors use legal sources, namely:

a. “Primary Law Material
The primary legal materials used consist of statutory regulations, official records, minutes of making legislation and judges' decisions. [7] In this study, the primary legal materials used are:
1) The 1945 Constitution of the Republic of Indonesia.
2) the Criminal Code (KUHP)
3) Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption,
4) Law Number 17 of 2003 concerning State Finance
5) Law Number 10 of 1998 concerning Banking.
6) Central Jakarta District Court Decision Number 39/PID.SUS/TPK/2018/PN.JKT.PST.
7) DKI High Court Decision Number 29/PID.SUS-TPK/2018/PT.DKI.
8) Supreme Court Decision Number 1555K/Pid.Sus/2019.

b. Secondary Legal Material
The main secondary legal materials are textbooks because textbooks contain the basic principles of legal science and classical views of scholars who have high qualifications. [8]

c. Non-Legal Material
Non-legal legal materials are materials that provide instructions or explanations for primary and secondary legal materials. In this study, the tertiary legal materials used include the Indonesian Language Dictionary and the Internet.”

1.2.5. Legal Material Collection Techniques

The technique of collecting legal materials is intended to obtain legal materials in research. “The technique of collecting legal materials that supports and relates to the presentation of this research is document study (library study). Document study is a tool for collecting legal materials which is carried out through written legal materials using content analysis. [9]

1.2.6. Legal Material Analysis Techniques

This study uses "data analysis techniques with deductive logic, deductive logic or processing legal materials in a deductive way, namely explaining something general and then drawing it into more specific conclusions." The analysis was carried out by examining the urgency of resolving the Bank Indonesia Liquidity Assistance case based on Law Number 10 of 1998 concerning Banking related to the Supreme Court Decision Number 1555K/Pid.Sus/2019. [10]

2. BACKGROUND

2.1. The Impact of Uncertainty in Saving the BLBI Case on the Future of Investment in Indonesia

The formation of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Criminal Acts of Corruption is based on two needs, first because corruption is very detrimental to state finances or the country's economy and hinders national development. Second, the destructive power of criminal acts of corruption is not only detrimental to state finances or the state economy but hampers the growth and continuity of national development which demands high resource efficiency.
The BLBI case is a case of "old wounds" that should not be repeated. However, “without the BLBI policy at that time, the economic crisis that caused the economy to drop to minus 13 percent is expected to revive banks. In fact, the existence of BLBI and the presence of IBRA can revive banks. The intermediary function is back on track, banks are driving the economy and generating taxes for the state treasury. [11]
A valid legal basis, among others; “Law No.25/2000 on Propenas, MPR Decree Number X of 2001, MPR Decree No.VI/2002 and Presidential Instruction No.8/2002. In fact, BPK has also completed an audit of IBRA's performance, including the BDNI SKL. If so, it is okay to disagree with what was decided, but we all should respect the Government's policies and respect the decisions taken."
The impact of the disbursement of BLBI has indeed become a “heavy burden for the country's economy until now. Many parties have voted to provide various alternative solutions for BLBI. The impact of uncertainty in banking rescue will adversely affect the future of investment in Indonesia. Moreover, the BLBI case which is over 21 years old and has been tampered with again by ignoring the agreed upon agreement (MSAA), release & discharge and SKL will be a bad advertisement for Indonesia. Moreover, the results of the BPK audit in 2017 which are used as the basis for state losses are very different from the results of the BPK audit in 2006. The audit object is the same, the results are different. Obviously, here BPK seems to have received an "order" because it did not check what was audited." Calculating state losses is also awkward, which sells the Asset Sales Company (PPA) which must be responsible for SAT.
Regarding the “impact on the investment climate in Indonesia, of course, it will have a very big impact, because foreign countries also see that after Sjamsul Nursalim, the business is global too, so the news must follow. The point is that information on government policies regarding Bank Indonesia Liquidity Assistance to banks experiencing liquidity problems is certainly also information that can influence investors to invest in the banking sector on the Jakarta Stock Exchange.
On the other hand, the BLBI case certainly hampers the investment climate in Indonesia. Overseas investors think that the BLBI case is a crisis that has a major impact on the

Indonesian economy and more or less affects investor confidence in the investment climate in Indonesia. In other aspects, there is also an aspect of very large state losses that affect monetary, economic and various other aspects."

Alluding to "the issue of the verdict against the SAT due to its policy on SKL-BDNI will be a kind of trauma for current policy makers. Even though there is a crisis protocol, who dares to take a policy if in the next 10 years the policy will be questioned. The point is that the tens of trillions of rupiah that arise as a result of corruption in the BLBI, are borne by the entire Indonesian people. The Supreme Court granted the cassation against one of the defendants, namely the former Head of the National Bank Restructuring Agency (IBRA), Syafruddin Arsyad Temenggung, and must really be held accountable. This is because all the people are harmed if the decision is granted for the cassation, it actually makes the BLBI corruption investigation effort to be backtracked. The loss will be borne by the people for decades to come. This is because the losses from the BLBI corruption case are very large, and there are many parties involved, especially the bank leaders who received BLBI funds during the economic crisis."

Many of these state policies are crucial issues for several reasons.

1. The development of society, including the national economy, since the 19th century is highly dependent on international financial fluctuations, which no one can deny.
2. The socio-economic and political life of the community is always in a dynamic state, including the mindset and approach in looking at the legal problems behind a social event that the legal (criminal) approach to an event by a legal practitioner suspected of a criminal offense is still dominated by understanding the 15th century civilization period, namely an eye for an eye a tooth for a tooth aka revenge, which is no longer relevant and has expired in the civilization of the 20-21 century society.
3. Past civilizations did not recognize economic and financial problems, especially corporate problems, but saw an event like a horse's glasses, not considering the economic and social impact anymore.
4. The fundamental weakness in legal theory and practice is ignoring the function and role of law in achieving legal goals, certainty, justice, and expediency. Laws are only treated as written rules that must be read and applied with due regard to lex scripta, lex stricta, and lec certa.
5. The handling of the BLBI case from the beginning did not apply the principle of due care, due process of law which resulted in miscarriage of justice, resulting in a violation of the principle of ne bis in idem (the same subject and object were prosecuted twice).
6. Objectivity and principles that should be respected regarding the protection of human rights have been eroded by public opinion which should have been criticized, KPK Volume III was not carried out just because of the spirit of zero tolerance to corruption. The jargon is no longer relevant and useful from an economic perspective for our country because it is proven that in parts of the country outside of us, corruption can be investigated through a deferred prosecution agreement on the grounds that the perpetrators of corruption have paid administrative fines to the state.
7. Negligence of academics and legal practitioners who do not see a big difference between administrative sanctions that aim to remedy a problem and criminal sanctions that aim to deter perpetrators, but do not solve the overall problem, namely the socio-economic impact of the perpetrators and the surrounding community.

2.2. Urgency of Settlement of Bank Indonesia Liquidity Assistance Cases based on Law Number 10 of 1998 concerning Banking related to the Supreme Court Decision Number 1555K/Pid.Sus/2019

In the BLBI case, the Government uses the "BLBI debt settlement method through the MSAA mechanism with Release and Discharge clauses and MRNIA. Where the MSAA is an agreement whose juridical validity is very doubtful, apart from being unknown in the legal system of the Republic of Indonesia state administration system, also from its formal legality, namely the signing of the signature of the Attorney General as a party which in one of the clauses is said to have given approval as a sign of recognition and reception. The approval sheet only contains the signatures of the Chairman of IBRA, the Minister of Finance and the Obligors. the Chairperson of IBRA, the Minister of Finance, the Attorney General and the Obligors, but in the agreement regarding the repayment of the debt there is no signature of the Attorney General."

Both MSAA and MRNIA have "standard concepts, although in practice there are variations in transactions, namely by keeping in mind the relevant transaction patterns to be applied to certain shareholders which of course differ from other shareholders. In addition, this situation is also caused by the complexity of the transaction with obstacles arising from inconsistencies in laws and regulations, and so on, but the binding is attempted in such a way as to be fully implemented and provide maximum benefit to IBRA.

Settlement of BLBI debt from a civil perspective as outlined in the MSAA with the Release & Discharge clause is an agreement whose contents have contradicted or violated the provisions of the law, even though according to Article 1337 of the Civil Code the contents of the agreement must not conflict with the law, morality and order. general."

From the point of view of the theory of responsibility, "where the MSAA and MRNIA agreements are binding between IBRA and the PSP of the BLBI debt recipient bank, it is a form of personal responsibility for the BLBI debt shareholders. In the MSAA and MRNIA agreement there is a Release and Discharge clause which will provide proof of repayment and release bank PSPs from criminal charges that have made BLBI debt payments. The release and discharge clauses in MSAA and MRNIA have fulfilled the terms of the agreement in Article 1320 of the Civil Code, namely agreement, competence, a certain matter, and a

lawful cause. However, in its implementation, or materially the MSAA and MRNIA agreement containing the Release and Discharge clause does not meet the legal requirements of the agreement, namely the agreement and the lawful cause." [12]

While referring to "the theory of authority, where the aspect of the application of law in this decision is the characteristics of the actions of the officials holding the authority must be separated from their actions as individuals which of course have an impact on who is the allocation of the burden of legal responsibility. The Supreme Court emphasized that the position of the defendant Syafruddin Arsyad Temenggung as head of IBRA must be seen as a public official so that abuse of authority in principle is not only seen when the impact of authority is not in line with the purpose for which the authority was given but also what personal motives and social factors are behind it. issuance of the SKL. Therefore, even though an administrative error in the issuance of the SKL is proven, the error cannot be declared a criminal act because it was carried out based on an authorized order and not on personal encouragement."

BLBI settlement efforts that have been carried out by the Government are carried out in various aspects, including:

1. "From the Financial Aspect

Efforts to resolve the BLBI began with the signing of a Letter of Agreement on 6 February 1999 between the Minister of Finance of the Republic of Indonesia and the Governor of Bank Indonesia. In this collective agreement, the following matters are agreed:

a. The Government, cq IBRA, takes over the claim rights (cessie) to the Commercial Bank receiving BLBI from Bank Indonesia, the distribution of which has been recorded in the books of Bank Indonesia accompanied by the submission of Government Debt Instruments (SUP) to BI by the Government.
b. The transfer and transfer of claim rights amounted to the position of January 29, 1999 amounting to Rp 144.54 trillion. The government pays it with SUP No. SU-001/MK/1998 dated September 25, 1998 amounting to Rp 80 trillion. The remaining balance was paid on February 8, 1999 with SUP No. SU-003/MK/1999.
c. The cessie approval is made for each BLBI recipient Commercial Bank
d. For the collection of the said claim, verification will be carried out as agreed by both parties.
e. The remaining BLBI payments (positions after January 29, 1999), are carried out later at a time deemed appropriate by both parties. "

Furthermore, based on "Presidential Decree No. 55 of 1998, the government has issued several Government Debt Instruments related to the amount of BLBI transferred. The transfer of claim rights against Commercial Banks receiving BLBI was carried out from Bank Indonesia to the government cq IBRA in a cessie manner before a notary on February 22, 1999. In this cessie transfer, the following matters are regulated, among others:

a. Bank Indonesia has provided BLBI facilities to BLBI recipient Commercial Banks.
b. For the BLBI facility, Banks are required to repay to Bank Indonesia. However, if the Bank has not settled the payment obligation, then Bank Indonesia still has the right to claim the BLBI facility against the Bank.
c. Bank Indonesia intends to hand over and transfer (cessie) to the government cq IBRA for the right to collect and all existing collateral as of January 29, 1999.
d. With the cessie transfer, all of Bank Indonesia's claims for BLBI that are transferred become the rights of the Government, cq IBRA.
e. Both the value and the transferred BLBI document will be verified in accordance with the Joint Agreement dated February 6, 1999 between the Governor of Bank Indonesia and the Government cq. IBRA."

2. From the Legal Aspect

"The disbursement of BLBI to national private commercial banks by Bank Indonesia is faced with two choices/legal obligations, namely between closing troubled banks because they are contrary to laws and regulations or rescuing the national banking system to restore and maintain public trust in the national banking system and Indonesia's foreign payment system. , because the collapse of the banking system will lead to the collapse of the national economy.

According to the BPK and BPKP, the distribution of BLBI has the potential to cause state losses, because the funds disbursed come from state finances, and the recipient banks are used inappropriately for their intended purpose, such as, among others, paying the obligations of related parties, paying third party funds, financing derivative contracts, finance new placements in the Interbank Money Market (PUAB), credit expansion and other financing."

Likewise, the Investigating Prosecutor and the Public Prosecutor are of the opinion that the distribution of BLBI is carried out by:

a. "Disregarding the internal regulations of BI and the applicable external regulations of BI;
b. Not complying with prudential banking principles;
c. Not applying stop clearing sanctions for debit balances."

It is an "unlawful act. Based on the above considerations to handle cases of irregularities in the distribution of BLBI from a criminal aspect, we can apply Law no. 3 of 1971 concerning the Crime of Corruption and/or Law no. 7 of 1992 in conjunction with Law no. 10 of 1998 concerning Banking Crimes. Meanwhile, from the civil aspect, because BLBI is a credit, it will be subject to contract law according to Civil Law and Commercial Law. Although the distribution of BLBI is considered by the BPK, BPKP and the Investigating Prosecutor/JPU as an unlawful act that has the potential to cause state losses, if it is carried out on a basis/reason such as a multi-dimensional crisis and emergency, and/or based on the provisions of the law, and/or orders position, and or public interest, then the action has justification and excuses."

3. “Political Aspect

The DPR Commission IX BLBI Working Committee (Panja) in its report dated March 6, 2000 (before the investigative audit conducted by the BPK) issued a political statement that BLBI is a Government’s policy and is the responsibility of the Government. In addition, the Government is also responsible for the possibility of liquidation of Bank Indonesia, because Bank Indonesia's equity is state assets.

Based on the data obtained, the BLBI Panja in its recommendations put forward the following matters:

a. In accordance with Law No. 13 of 1968 concerning the Central Bank, the position of the Governor of Bank Indonesia as a member of the cabinet and a member of the Monetary Board carries the consequences of responsibilities in the policy and financial fields. This aspect of Bank Indonesia's responsibility in the financial sector can be separated from the government, but from a policy perspective it is the implementation of government policies. Therefore, the BLBI policy is the policy and responsibility of the Government, while financially it is the responsibility of Bank Indonesia.
b. Given the alleged irregularities in the implementation of the BLBI policy, it is necessary to conduct a special examination by the BPK on Bank Indonesia and the BLBI receiving banks.
c. Although the enforcement of the rule of law must be carried out, safeguarding and recovering state assets which are very large and cannot be pursued through legal channels, requires firm legal politics and leads to the settlement of BLBI and BMPK violations on BBO, BTO, BBKU and BDL including the settlement of bad loans. banking.
d. In the event that the results of the examination of Bank Indonesia and the BLBI receiving banks, it is found that there are violations that can be used as initial evidence of a criminal act that is detrimental to state finances, so that the Supreme Policy must immediately follow up and if proven, the perpetrators will be punished according to a sense of justice Public."

There are many “statutory regulations in disclosing cases of BLBI abuse, namely the Criminal Code, Banking Law, Corruption Eradication Act, Attorney Law, Burgerlijk Wetbock and PUPN Law (State Receivable Affairs Committee). Related to the banking law is the problem of violating the LLL that was given when Indonesia was experiencing an economic crisis. Meanwhile, with the Law on eradicating corruption, there is a very large state loss due to the non-cooperative attitude of obligors to pay their debts. Based on the prosecutor's law, there is fear from the public if the attorney general uses his authority to override this case in the public interest, because if the attorney general has used his authority, the case can no longer be brought to court. Related to Burgerlijk Wetboek is the issue of the agreement made when the BLBI was disbursed, the obligors had violated the agreement and were in default. And finally, related to the PUPN Law, PUPN as a government agency that handles state receivables is authorized to handle the BLBI case, it is hoped that with its authority it can be more assertive than what has been done by IBRA.

Looking at the many related regulations regarding BLBI, it is clear that BLBI is a big and complicated case. But there is one thing that is certain, that the return of money to the state and the bringing of this case to a civil lawsuit does not eliminate the criminal element. Efforts to refund the misuse of BLBI funds by the government have not achieved satisfactory results, even though the government in Indonesia has changed 5 times since the distribution of BLBI funds was disbursed. they feel that what they are doing is right. These obligors feel that what they are doing is not a criminal act, as many observers and legal practitioners claim.

The first misuse of BLBI and which can be criminally charged is when banks experience a BLBI rush but do not use it properly. Those who should have used the money so that their balances would not be debited when many people took their own money, and so that Indonesia's economic condition returned to stability, instead used the BLBI money for their own interests as a result, not only were the banks collapsing, but public unrest was increasing. become worse and the Indonesian economy is increasingly vulnerable.

On the other hand, such policies can be subject to criminal law, namely through Article 49 paragraph (2) letter (b) of the Banking Law. In addition to the policy of granting the LLL above the maximum limit for companies within the group, BLBI obligors who have not yet returned the state money may be subject to Article 3 of the Law. No. 31 of 1999 in conjunction with Law No. 20 of 2001 because it has been proven to harm state money in the absence of good faith to return state money or at least postpone the payment period which results in an increase in interest on state debt which in the end "eats" APBN funds."

From all the explanations above, it is clear that “the misuse of BLBI is included in the category of criminal acts to resolve the misuse of BLBI. Until now, most of it is done through Out-of-court Settlement. Out-of-court criminal settlement mechanisms must be distinguished from out-of-court settlement mechanisms in a civil context. This out-of-court settlement was carried out initially because many parties, including the government itself, felt that the abuse of the BLBI was in the civil, legal, criminal realm.”

In relation to the case of “Supreme Court Decision No. 1555/K/PID.SUS/2019 which released Syafruddin Arsyad Temenggung as Head of IBRA (National Bank Restructuring Agency). The main legal considerations that stood out from the Supreme Court when granting Syafruddin Arsyad Temenggung's appeal were the issuance of the BLBI Lunas Certificate (SKL) to Sjamsul Nursalim's Indonesian National Dagang Bank (BDNI) which was qualified as an administrative or civil error.

Regarding the above, of course there are several reasons why this argument is important to be studied critically, namely:

First, the Supreme Court is a judex juris so this decision shows a shift in perspective and practice at least at the judex factie and judex juris levels, especially in the choice of legal rules used to define state losses and the treatment of the

actions of state administrative officials that intersect with state administrative law. or civil law because of the agreement and decree of a higher official.

Second, although court decisions have their respective perspectives, the Supreme Court's consideration of this case contains the ratio legis as a product of criminal law policy that is open to evaluation in its application related to contextual matters such as the relation of legal economic analysis to the actions of public officials in the banking sector. intersect with criminal law, state administration or civil law.

From a legal economics point of view, the goal of eradicating corruption is an epistemological demand to realize an integrity system that mostly demands a preventive rather than reactive domain. These preventive elements can be carried out through preventive elements such as strengthening professional codes of ethics, and encouraging information transparency mechanisms in every public institution.

3. CONCLUSION

3.1. Conclusion

Based on the description of the discussion that has been described in previous chapters, the author can draw the following conclusions:

1. The impact of uncertainty in rescuing the BLBI case on the future of investment in Indonesia is "investors' distrust of the investment climate in Indonesia, given the lengthy and time-consuming BLBI settlement. On the other hand, the BLBI case caused enormous state losses, the state losses allegedly occurred because Syafruddin Aryad Temenggung wrote-off the BDNI receivables, whose shares were owned by Sjamsul Nursalim to Pond Farmers amounting to Rp 4.8 trillion (loans to farmers) guaranteed by PT Dipasena Citra Darmadja and PT Wachyuni Mandira, who have become part of the value calculation component in the Master Settlement and Acquisition Agreement (MSAA) between Sjamsul Nursalim as shareholder of BDNI and IBRA representing the Government. This means that for every legal product issued on behalf of the state, the state is obliged to provide legal certainty to its recipients. The reason is, if the guarantee of legal certainty cannot be provided by the state, this will have an impact on the investment climate and the economy in Indonesia."
2. The urgency of resolving the Bank Indonesia Liquidity Assistance case based on "Law Number 10 of 1998 concerning Banking regarding the Supreme Court Decision Number 1555K/Pid.Sus/2019 is through the MSAA mechanism with Release and Discharge clauses and MRNIA, but in the reality, this has implications against various irregularities committed by obligors or BLBI receiving banks. This means that non-criminal BLBI cases, namely through civil law, must be clear and transparent. Considering that non-criminal settlements can be effective, the size must be clear. Handling civil problems through the committee for state accounts receivable (PUPN) and handling criminal matters through the prosecutor's office and/or the police. The handling of the BLBI case is in the "hands" of the Government, so it is advisable to take concrete action immediately. Where the Government establishes the BLBI Task Force." To return the state financial loss of Rp. 108 trillion to the state treasury. One of them is by using a civil lawsuit on the basis of the Asset Confiscation Act.

3.2. Suggestions

Based on the brief description of the problem above, the author draws suggestions aimed at:

1. In order to avoid Indonesia's image in the eyes of the world regarding the BLBI case, "the BLBI case should be resolved as soon as possible so that it does not affect other sectors, especially the investment sector. This investment will foster a business climate. The more investment or investment made, the more new factories will appear. Through investments made by the community, companies can improve business equipment, add employees, and expand their business. Employment opportunities will be open to search for superior resources. Companies can grow well so that they are able to provide higher taxes to the government. When the company is able to generate large taxes, the country's economic growth target can be achieved. The government can build infrastructure, improve the quality of education, expand health facilities, and so on.
2. Regarding the urgency of resolving BLBI cases, where the Government blocks obligor accounts at financial institutions in order to encourage faster refunds of BLBI funds. Persuasive methods have been done so far. Coercive methods must be encouraged because the state's financial condition is in need of new sources of revenue, one of which is through the settlement of the BLBI case." On the other hand, the government's seriousness in resolving BLBI cases can be seen from the formation of the Task Force for Handling State Collection Rights for BLBI Funds.

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