Reconstructing National Economic Loss in Corruption Crimes

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Abstract

Although various law enforcement instruments have been implemented, the handling of losses due to corruption still tends to focus on state financial losses, without considering the broader state economic losses that have a far more systemic and long-term impact. This research aims to reconstruct the elements of state economic losses to make them more operational in judicial practice, serving as a basis for fair and comprehensive recovery. The method employed is a normative juridical approach, incorporating statutory, conceptual, and case-based elements. The results of the research indicate that *first*, the element of state economic losses in criminal acts of corruption has not been implemented effectively due to the lack of a clear normative definition, the absence of standard quantitative parameters, and low application in judicial practice due to legal doubts and weak technical capacity of law enforcement officials. This results in the handling of losses due to corruption continuing to focus on narrow state financial losses while ignoring broader and systemic economic impacts. *Second*, a legal reconstruction of the element of state economic losses is necessary by strengthening the definition in Article 1 of the Corruption Law, adding characteristics and scope to the article's explanation, and expanding the concept of confiscation and compensation to include structural losses. In addition, the implementation of alternative recovery mechanisms, such as settlement fines from the investigation stage, is important as a restorative effort that objectively considers the value of economic losses.

Keywords: Corruption Crimes; Economic Loss; Reconstructing;

Introduction

The United Nations Convention Against Corruption (UNCAC) classifies corruption as a serious crime that requires extraordinary enforcement due to the significant threats and problems it creates.[1] Addressing corruption effectively demands extraordinary measures because its impact extends across social, economic, environmental, and natural resource sectors, and affects Indonesia's investment climate and development. As a serious crime,

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[1] Jiwon Suh, 'Human Rights and Corruption in Settling the Accounts of the Past', *Bijdragen Tot de Taal-, Land- En Volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia*, 179.1 (2023), 61–89 https://doi.org/10.1163/22134379-bja10049

corruption affects all areas of life.[2] It causes significant harm by destabilising the state and society, obstructing socio-economic and political development, and eroding moral and democratic values. Over time, these damaged values can become deeply rooted and risk legitimising corrupt practices within the culture.[3]

Corruption significantly affects a nation's economy because corrupt actors often divert public funds meant for development programs. Since development serves as a foundation for building a fair and prosperous society, diverting funds undermines this goal. The abuse of power or authority primarily drives the spread of corruption, severely damaging economic sectors such as natural resource management, environmental governance, trade, and industry.[4] Although authorised anti-corruption institutions have actively pursued legal enforcement, they have not achieved optimal restitution for the losses caused by corruption. Law enforcement officers often limit their focus to proving state financial losses, as defined in the Anti-Corruption Law, and neglect to pursue the element of state economic loss. If they implemented this element effectively, they could recover losses more comprehensively.[5]

In practice, most people, including law enforcement, tend to interpret corruption as a matter of state financial loss, often overlooking the broader economic impact on the state.[6] However, corruption has far-reaching consequences that extend beyond financial harm; it also disrupts economic, social, and ecological systems. For example, in the corruption case involving NUR ALAM, who accepted bribes to issue a Nickel Mining Business Permit (IUP) to PT. Anugrah Harisma (PT. AHB) in Southeast Sulawesi, experts estimated the total material and immaterial damage at Rp4.2 trillion.[7] This figure included Rp 1.5 trillion in direct financial losses, as calculated by the

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[2] Corina Joseph and others, 'Realising Sustainable Development Goals via Online Integrity Framework Disclosure: Evidence from Malaysian and Indonesian Local Authorities', *Journal of Cleaner Production*, 215 (2019), 112–22 https://doi.org/10.1016/j.jclepro.2019.01.057

[3] Herry Ludiro Wahyono, Jati Utomo Dwi Hatmoko, and Rizal Z. Tamin, 'State Financial Losses in Public Procurement Construction Projects in Indonesia', *Buildings*, 9.5 (2019), 129 https://doi.org/10.3390/buildings9050129

[4] Jay S Albanese, 'Corruption as the Cause, Not the Effect, of Organized Crime?: A Review and Assessment of Cases across the World', *Journal of Economic Criminology*, 7 (2025), 100137 https://doi.org/https://doi.org/10.1016/j.jeconc.2025.100137

[5] Jay S. Albanese, 'Organized Crime as Financial Crime: The Nature of Organized Crime as Reflected in Prosecutions and Research', *Victims & Offenders*, 16.3 (2021), 431–43 https://doi.org/10.1080/15564886.2020.1823543

[6] Waluyo Waluyo, Hilaire Tegnan, and Noni Oktiana Setiowati, 'Aligning State Finance Regulations with SOE Bankruptcy Policy: Evidence from the United States', *Journal of Human Rights, Culture and Legal System*, 5.1 (2025), 246–78 https://doi.org/10.53955/jhcls.v5i1.470

[7] N. G. Mankiw, D. Romer, and D. N. Weil, 'A Contribution to the Empirics of Economic Growth', *The Quarterly Journal of Economics*, 107.2 (1992), 407–37 https://doi.org/10.2307/2118477

Financial and Development Supervisory Agency (*Badan Pengawan Keuangan dan Pembangunan*/BPKP), and Rp2.7 trillion in environmental and economic losses from ecological degradation and rehabilitation costs.[8]

Given the broad impact of corruption on the economy, the government should strengthen its efforts to eradicate it by effectively applying the element of state economic loss. Articles 2 and 3 of the Anti-Corruption Law include this element; however, law enforcement rarely utilises it due to implementation challenges. Judges often issue vague or inconsistent decisions, which creates legal uncertainty and hinders prosecutors' efforts to prove economic loss in corruption cases. The phrase "may harm state finances or the state economy", known as the *bestandel delict*, is a central component of both articles. This clause allows prosecutors to prove either harm to state finances or harm to the state economy, as the law treats them as alternative elements, establishing that either one is sufficient to satisfy the article.[9] Therefore, if the court proves damage to the state economy, even without proving financial loss, the corruption offence is still legally complete.[10]

In recent years, law enforcement agencies have begun prioritising the proof of state economic losses in corruption cases.[11] The Attorney General's Office has taken the lead by proving state financial losses, investigating, and presenting evidence of state economic losses during trials. However, proving economic losses remains a challenging task due to the Corruption Law's broad and abstract definition of "state economy", which makes it extremely difficult to translate into a clear, concise, and applicable evidentiary framework in court.[12]

This difficulty increases when law enforcement must determine how to calculate the value of state economic losses, identify who has the authority to validate such valuations, and establish a reliable method to prove those values in court. Even more complex is the challenge of using these calculated

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[8] Suramin Suramin, 'Indonesian Anti-Corruption Law Enforcement: Current Problems and Challenges', *Journal of Law and Legal Reform*, 2.2 (2021), 225–42 https://doi.org/10.15294/jllr.v2i2.46612

[9] Anisah Alfada, 'The Destructive Effect of Corruption on Economic Growth in Indonesia: A Threshold Model', *Heliyon*, 5.10 (2019), e02649 https://doi.org/10.1016/j.heliyon.2019.e02649

[10] Retno Dewi Pulung Sari and others, 'State Financial Losses as a Result of Environmental Damage', *Journal of Human Rights, Culture and Legal System*, 4.1 (2024), 121–48 https://doi.org/10.53955/jhcls.v4i1.136

[11] Jenny Domashova and Anna Politova, 'The Corruption Perception Index: Analysis of Dependence on Socio-Economic Indicators', *Procedia Computer Science*, 190 (2021), 193–203 https://doi.org/10.1016/j.procs.2021.06.024

[12] Oleh M. Omelchuk and others, 'Analysis of the Activities of Law Enforcement Authorities in the Field of Combating Crime and Corruption Offences', *Journal of Money Laundering Control*, 25.3 (2022), 700–716 https://doi.org/10.1108/JMLC-07-2021-0073

values as a reference for recovering state economic losses.[13] The lack of a comprehensive legal framework to interpret and verify these losses further hampers efforts to reclaim misappropriated assets. Without clear mechanisms and standardised procedures, prosecutors struggle to file compensation claims or determine the appropriate amount of restitution. This legal and procedural ambiguity not only weakens public trust in the justice system's ability to recover stolen state assets but also reduces the deterrent effect of anti-corruption enforcement.[14] To address these gaps, the legal system must adopt clearer definitions, establish more rigorous evidentiary standards, and implement structured recovery mechanisms for state economic losses.[15]

Adhitya Anugrah Nasution et al. [16] found that the current legal framework lacks both clarity and comprehensiveness, which has led to inconsistent implementation and significant challenges in recovering state assets. This study recommends initiating legal reforms through amendments and additions to the existing laws to address these shortcomings. By incorporating international best practices, Indonesia can enhance its anti-corruption legal structure, improve the effectiveness of asset recovery, and strengthen public confidence in the legal system. This study highlights the pressing need for a robust and cohesive legal reform agenda to bolster anti-corruption efforts and promote justice. Rahmayanti's research[17] indicates that law enforcement agencies aim to recover state losses resulting from corruption. They do this by confiscating and tracing the assets of suspects or convicted individuals. They also require convicts to pay compensation and encourage public involvement in anti-corruption efforts. She also emphasises the need to enhance facilities and infrastructure that support these efforts. Her study emphasises the importance of having clear and firm regulations governing the powers of prosecutors within the Corruption Eradication Commission (Komisi Pemberantasan Korupsi/KPK) and those appointed or dismissed by the KPK, as mandated by existing laws. Syahiruddin Latif and

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[13] Aji Rahmadi, Lego Karjoko, and Hartiwiningsih Hartiwiningsih, 'The Concept of State Economic Loss in Corruption Crime Cases', 2024, pp. 361–68 https://doi.org/10.2991/978-2-38476-315-3_49

[14] Armunanto Hutahaean and Erlyn Indarti, 'Implementation of Investigation by the Indonesian National Police in Eradicating Corruption Crime', *Journal of Money Laundering Control*, 23.1 (2020), 136–54 https://doi.org/10.1108/JMLC-12-2018-0075

[15] Serhan Cevik and João Tovar Jalles, 'Corruption Kills: Global Evidence From Natural Disasters', *Scottish Journal of Political Economy*, 2025 https://doi.org/10.1111/sjpe.70024

[16] Adhitya Anugrah Nasution and Riswadi Riswadi, 'Legal Reconstruction of Non-Conviction-Based Asset Forfeiture for State Loss Recovery from Corruption Crimes', *Return : Study of Management, Economic and Bussines*, 3.11 (2024), 871–80 https://doi.org/10.57096/return.v3i11.293

[17] Rahmayanti Rahmayanti, 'The Restitution Of State Financial Losses In Law Enforcement Against Corruption Crime', *Jurnal Pembaharuan Hukum*, 10.2 (2023), 280 https://doi.org/10.26532/jph.v10i2.32753

Rizki Ramadani[18] demonstrate that, despite several government regulations aimed at recovering state losses from corruption, including provisions in the Criminal Code, the UNCAC, and the Corruption Law, the effectiveness of these measures is hindered by vague legal frameworks, limitations in law enforcement capacity and commitment, and inadequate facilities and infrastructure. Meanwhile, this research proposes a reformulation of norms and offers an evidentiary framework that can be applied in judicial practice, based on objective economic indicators and expert assessments, rather than solely on financial audits.[19]

Current legal frameworks often overlook the multidisciplinary nature of state economic losses. Although corruption is closely tied to public finance, development planning, and national economic performance, legal responses typically rely solely on juridical reasoning.[20] This approach fails to fully capture the actual social and economic harm suffered by the public, primarily due to the absence of an integrated economic analysis in legal proceedings. As a result, it is essential and urgent to reframe the concept of state economic losses. A more comprehensive and concrete definition is needed, one that incorporates objective economic indicators, accounts for both short-term and long-term effects, and considers both direct and indirect impacts.[21]

This research introduces scientific novelty through three main contributions. First, it formulates a more detailed and operational definition of state economic loss, addressing the previously vague and subjective nature of the concept. Second, it proposes an evidentiary model based on economic impact assessment, designed to equip law enforcement with tools to present objective and reliable evidence in court. Third, the research shifts the focus from direct financial loss to a more comprehensive understanding of structural economic harm, including declining national productivity, reduced investment opportunities, and disruptions to the nation's welfare distribution system. Through these innovations, the study aims to improve the legal framework for combating corruption, enhance its responsiveness to

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[18] Syahiruddin Latif and Rizki Ramadani, 'The Recovery of State Losses through Corruption Asset Confiscation: Policies and Obstacles', *Iapa Proceedings Conference*, 2022, 312 https://doi.org/10.30589/proceedings.2022.703

[19] Boge Triatmanto and Suryaning Bawono, 'The Interplay of Corruption, Human Capital, and Unemployment in Indonesia: Implications for Economic Development', *Journal of Economic Criminology*, 2 (2023), 100031 https://doi.org/10.1016/j.jeconc.2023.100031

[20] S.A. Igbinedion and Anthony Osobase, 'Grand Corruption In The Global South: Legal, Political And Economic Analysis Of Assets Recovery In Nigeria', *Journal of Economic Criminology*, 2025, 100164 https://doi.org/10.1016/j.jeconc.2025.100164

[21] Rana Ejaz Ali Khan and Hafiza Maria Naeem, 'Corruption, Income Inequality and Human Resource Development in Developing Economies', *Asian Journal of Economic Modelling*, 8.4 (2020), 248–59 https://doi.org/10.18488/journal.8.2020.84.248.259

real economic impacts, and clarify the evidentiary standards required to achieve substantive justice.[22]

Methodology

This research adopts a normative juridical method.[23] It is supported by both conceptual and comparative approaches and relies on secondary data derived from court decisions and relevant regulatory frameworks. The comparative approach analyses international practices in interpreting and verifying state economic losses.[24] The conceptual approach reconstructs the elements of state economic losses in corruption cases using legal theory and public economic theory. The researcher collected data through a literature review of applicable laws, regulations, and judicial decisions related to corruption offences.[25] The study then employed qualitative analysis to develop a concept and model for quantifying state economic losses. These models aim to be more measurable, equitable, and practically applicable within the Indonesian legal system.

Results and Discussion

Challenges in Establishing Economic Loss in Corruption

Articles 2 (1) and 3 of Law Number 31 of 1999, in conjunction with Law Number 20 of 2001 on the Eradication of Corruption (PTPK Law), govern corruption offenses that result in harm to state finances or the national economy. The definition of state financial loss is relatively clear and can be found across multiple legal instruments, including the PTPK Law, the State Finance Law, the State Treasury Law, and the Supreme Audit Agency Law.[26] However, the interpretation of state economic loss remains problematic. Although the General Explanation of the PTPK Law attempts to define it, law enforcement officials still consider the definition vague and inapplicable in practice. Consequently, court decisions rarely, if ever, declare that a

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[22] Yogi Yasa Wedha and others, 'Unraveling the Complex Policies Regulating Conflicts of Interest and Criminal Corruption', *Journal of Human Rights, Culture and Legal System*, 5.1 (2025), 33–59 https://doi.org/10.53955/jhcls.v5i1.486

[23] Ahmad Dwi Nuryanto, Reza Octavia Kusumaningtyas, and Bukhadyrov Habibullo, 'The Imperative of Social Justice on the Insolvency and Workers' Wage', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.3 (2024), 209–32 https://doi.org/10.53955/jsderi.v2i3.48

[24] Cahya Intan Ayuningsekar, Abdul Kadir Jaelani, and Sapto Hermawan, 'Legitimacy Principle of Equality in Collection of Rural and Urban Land Tax', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.3 (2023), 151–74 https://doi.org/10.53955/jsderi.v1i3.15

[25] Ponco Hartanto and others, 'Corruption Policy Challenges in Combating Land Mafia: Experiences from Several Countries', *Journal of Human Rights, Culture and Legal System*, 4.3 (2024), 521–654 https://doi.org/10.53955/jhcls.v4i3.233

[26] Deddy Mursanto, La Ode Muhammad Karim, and Mashendra Mashendra, 'Effectiveness to the Reversal of the Burden Proof System in Handling Corruption Case', *Jurnal Hukum Volkgeist*, 5.1 (2020), 14–20 https://doi.org/10.35326/VOLKGEIST.V5I1.863

defendant has committed a corruption crime that directly harms the national economy.[27]

The explanation provided in the law remains ambiguous and lacks practical value in legal proceedings, making it difficult for law enforcement to establish objective parameters or benchmarks for determining state economic loss. Misinterpreting this legal definition can have serious consequences for justice seekers, especially if flawed interpretations influence future judicial reasoning.[28] This conceptual confusion creates legal uncertainty and undermines the principle of justice. In many proven cases of corruption, the damage to national and regional economies has exceeded the measurable financial losses. Corruption has disrupted the state's economic stabilisation functions, weakening the foundations of both national and local economies.[29]

In summary, while significant strides have been made in prosecuting corruption, greater emphasis on clearly defining and applying the concept of state economic loss is essential.[30] Without a robust and practical framework to measure such losses, recovery efforts will remain incomplete, and justice will not be fully served. A clearer legal interpretation and consistent application are necessary to ensure that the damage caused by corruption, both financial and economic, is comprehensively addressed and that anti-corruption measures achieve their intended effect.

Table 1. Corruption Cases Harming the State Economy

No	Case	State Loss Amount (Rp)	Amount of State Economic Loss (Rp)	Information
1.	Corruption Crimes in Textile Imports at the Directorate General of Customs and Excise from 2018 to 2020	-	1.646.216.880.000	It has been legally binding, and it is proven that there are losses to the country's economy.
2.	Corruption in the provision of export facilities for Crude Palm Oil (CPO) and its derivatives	6.047.645.700.000	12.312.053.298.925	Based on the ruling of the corruption court at the Central Jakarta District Court, the state economic losses were

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[27] Bo Liu and Jincheng Liu, 'Did the Integrity Transition Promote Economic Growth? Empirical Research Based on the Perspective of Anti-Corruption Approaches', *International Review of Economics & Finance*, 101 (2025), 104156 https://doi.org/10.1016/j.iref.2025.104156

[28] Petter Gottschalk, 'Investigating and Prosecuting White-Collar and Corporate Crime: Challenges and Barriers for National Police Agencies', *Journal of Economic Criminology*, 3 (2024), 100051 https://doi.org/10.1016/j.jeconc.2024.100051

[29] Nicholas Lord and Michael Levi, 'Economic Crime, Economic Criminology, and Serious Crimes for Economic Gain: On the Conceptual and Disciplinary (Dis)Order of the Object of Study', *Journal of Economic Criminology*, 1 (2023), 100014 https://doi.org/10.1016/j.jeconc.2023.100014

[30] Lucas Salati, Maurice Mbago, and Dimpna Mosha, 'Bidirectional Relationship between Corruption and Economic Performance in Tanzania', *Journal of Economic Criminology*, 7 (2025), 100121 https://doi.org/10.1016/j.jeconc.2024.100121

				not proven. The case is currently under appeal.
3.	Corruption and Money Laundering Related to Illegal Land Transfer by PT Duta Palma Group in Indragiri Hulu Regency, Riau	4.798.706.951.640 and USD7,885,857.36	73.920.690.300.000	Still in the trial process
4.	Corruption crimes in the import of iron or steel, alloy steel, and derivative products from 2016 to 2021	1.060.658.585.069	20.005.081.366.339	During the examination process at the Corruption Court at the Central Jakarta District Court
5.	Corruption crime in textile imports using PT. HGI's Bonded Zone Facilities through Tanjung Emas and Tanjung Priok Ports.	28.782.566.143	712.477.199.970	Based on the verdict of the Semarang District Court for corruption, the state's economic losses have been proven. The case is currently under appeal.

Source: Case data from the Deputy Attorney General for Special Crimes

The table highlights that validating the element of state economic loss in corruption cases continues to face both legal and conceptual barriers. In some cases, the value of state economic loss significantly surpasses that of state financial loss.[31] For example, in the PT Duta Palma case, the estimated economic loss exceeded IDR 73 trillion, while the state financial loss was only around IDR 4.7 trillion. Yet, courts have not consistently acknowledged this element. In the case involving export facilities for crude palm oil (CPO), despite evidence showing economic losses of over IDR 12 trillion, the court ruled that the state's economic loss was unproven. In contrast, in other cases, such as the textile import case at the Directorate General of Customs and Excise, the court recognised state economic loss despite the absence of direct evidence of financial loss to the state. These inconsistencies indicate the lack of a standardised framework for interpreting and proving the element of state economic loss. The wide gap between valuation, submitted evidence, and judicial conclusions reinforces the need for legal reconstruction of this element through the development of objective indicators and a more measurable evidentiary model. Therefore, these comparative case analyses strongly support the need to reformulate the concept and application of state economic loss in the context of corruption eradication in Indonesia.[32]

Although closely related, the evidentiary requirements for proving state financial loss and state economic loss are distinct. The state financial loss element is concrete and measurable, making it relatively easier to calculate

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[31] Yasmirah Mandasari Saragih, 'Comparison of Eradication Concepts Corruption Criminal Acts in Indonesia and Japan', *Journal of Law and Sustainable Development*, 11.3 (2023), e712 https://doi.org/10.55908/sdgs.v11i3.712

[32] Hutahaean and Indarti.

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and prove. In contrast, state economic loss is abstract and complex to quantify with precision.[33] As a result, even if experts estimate the economic loss, the court cannot impose compensation on the defendant unless the state suffered direct financial damage. Typically, such economic losses arise when the defendant's actions prevent the government from achieving specific policy goals. Therefore, proving the failure of a policy due to corrupt actions is sufficient to meet the threshold for establishing state economic loss.[34]

The Constitutional Court's Decision No. 25/PUU-XIV/2016 fundamentally changed the enforcement framework of corruption law. By ruling that the word "can" in Articles 2 (1) and 3 of the Corruption Law no longer has binding legal force, the Court transformed the offence from a formal delict to a material one.[35] As a result, prosecutors must now prove that actual losses to the state, whether financial or economic, have occurred. This decision creates legal complications, especially when addressing the abstract nature of the term "state economy", which reflects systems of action, regulation, and governance, rather than quantifiable outcomes.[36]

To prove the existence of state economic loss, investigators should refer to its legal definition: "economic life structured as a collective effort based on the principles of kinship or independent community initiative, implemented through central or regional government policies aimed at creating welfare and prosperity for all members of society".[37] This definition implies that the principles of economic democracy should serve as the standard for evaluating state economic life. However, despite its presence in legal texts, operationalising this concept into concrete, court-acceptable evidence remains a significant challenge. These challenges are not only technical but also conceptual, juridical, and institutional, demanding systemic legal reform and interdisciplinary integration.[38]

One of the primary obstacles to proving state economic losses is the lack of consistent quantitative parameters that economic experts and law

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[33] Mustawa Mustawa, Abd. Haris Hamid, and Sunardi Purwanda, 'Refund of State Financial Losses in Realizing the Welfare State of Law', *Amsir Law Journal*, 4.1 (2022), 51–61 https://doi.org/10.36746/alj.v4i1.125

[34] Meiryani Meiryani, Sani Muhamad Isa, and Johan Muliadi Kerta, 'Money Laundering in Corruption Cases in Indonesia', *Journal of Money Laundering Control*, 27.1 (2024), 127–38 https://doi.org/10.1108/JMLC-05-2022-0069

[35] Moh Iqra, Syabani Korompot, and Al-fatih David, 'The Principle of Equality Before the Law in Indonesian Corruption Case : Is It Relevant ?', *Journal of Human Rights, Culture and Legal System*, 1.3 (2021), 135–46. https://doi.org/10.53955/jhcls.v1i3.13

[36] Dmytro S. Melnyk and others, 'Practice of the Member States of the European Union in the Field of Anti-Corruption Regulation', *Journal of Financial Crime*, 29.3 (2022), 853–63 https://doi.org/10.1108/JFC-03-2021-0050

[37] Sari and others.

[38] Aurolipsa Das, Devi Prasad Dash, and Narayan Sethi, 'INNOVATION, CORRUPTION, AND ECONOMIC GROWTH IN EMERGING ASIA', *Buletin Ekonomi Moneter Dan Perbankan*, 23.3 (2020), 347–64 https://doi.org/10.21098/bemp.v23i3.1183

enforcement officials can use. Unlike state financial losses, which are easier to quantify through BPK audits that detect fictitious spending, discrepancies in financial reports, or budget fraud, state economic losses tend to be indirect, broad in scope, and long-term in nature. For example, corruption related to CPO export policies, or the abuse of bonded zone facilities may lead to market distortions, reduced investor confidence, and the failure to achieve macroeconomic targets. However, translating these systemic and cross-sectoral consequences into precise loss values remains extremely difficult.[39]

Judicial inconsistency further complicates efforts to prove state economic losses. Many court rulings have dismissed this element as unproven, even when experts from credible institutions have submitted quantitative estimates. This problem stems from the absence of objective indicators and a lack of authoritative legal precedent. Without a clear normative and technical framework linking the failure of public policies to measurable economic harm, judges tend to adopt overly cautious or even hesitant positions in delivering verdicts. Consequently, law enforcement officials often prioritise proving state financial losses, as they are more concrete and less legally ambiguous, over pursuing the broader but more complex issue of economic loss recovery.[40]

Another major challenge involves the limited technical capacity and lack of cross-sectoral coordination. Proving state economic losses requires collaboration between legal scholars, macroeconomic experts, state audit bodies, and relevant technical ministries. Yet, Indonesia lacks standardised procedures and specialised institutional units capable of conducting thorough economic impact assessments of corruption. Moreover, law enforcement agencies lack analytical tools such as policy evaluation models or economic data systems to assess the extent to which corruption disrupts public policy.[41] To address this gap, the legal framework for evidence must be reformed by developing standardised legal-economic indicators, integrating expert involvement from the investigation phase, and updating procedural laws to support an interdisciplinary approach aligned with the abstract but essential concept of the "state economy."

[39] NILS C. KÖBIS and others, 'Social Norms of Corruption in the Field: Social Nudges on Posters Can Help to Reduce Bribery', *Behavioural Public Policy*, 6.4 (2022), 597–624 https://doi.org/10.1017/bpp.2019.37

[40] Petter Gottschalk, 'The Extent of Perceived Exposure to Economic Crime in Public and Private Business: Survey Research in Norway', *Journal of Economic Criminology*, 2 (2023), 100037 https://doi.org/10.1016/j.jeconc.2023.100037

[41] Gde Made Swardhana and Seguito Monteiro, 'Legal Policy of State Financial Losses Arrangement In A State-Owned Enterprise', *BESTUUR*, 11.1 (2023), 171 https://doi.org/10.20961/bestuur.v11i1.61326

Reconstructing National Economic Loss in Corruption Crimes

To effectively eradicate corruption, Indonesia should pursue both legal and legislative reforms. The current legal framework for combating corruption remains inadequate, as various loopholes continue to hinder the achievement of the law's intended objectives. Despite the existence of key institutions such as the National Police, the Prosecutor's Office, and the KPK, along with various laws and regulations, corruption cases have not declined; in fact, they continue to rise annually. Although Article 2 paragraph 2 of Law No. 31 of 1999 (as amended by Law No. 20 of 2001) prescribes the death penalty for acts of corruption that significantly harm state finances or the national economy, such punishment is limited to specific circumstances, including times of national emergency, natural disasters, repeated offenses, or economic and monetary crises.[42]

However, the Corruption Law lack any provision that defines or quantifies the threshold for losses to state finances or the national economy, despite these being central elements in determining criminal liability and sentencing. In practice, courts rarely find defendants guilty based on harm to the state economy; instead, prosecutions almost exclusively rely on evidence of state financial losses. Furthermore, Law No. 31 of 1999 (as amended) fails to explicitly define the term "state economy". Government regulations, particularly those grounded in MPRS Decrees, must also be evaluated considering existing legal frameworks to avoid regulatory overlap or contradictions, especially in the fields of economic and monetary policy.[43]

To resolve this ambiguity, legal scholars and policymakers should develop a precise and applicable definition of corruption that harms the state economy. This definition might build on the legislative history of the term 'state economy', such as that in Article 1 sub (a) of Law No. 3 of 1971. The definition might identify key characteristics of economic life, particularly those reflecting economic democracy principles.[44] Establishing these criteria will enable law enforcement to measure state economic loss more precisely. This method still respects the term's broad nature. The scope of evidentiary

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[42] Bambang Sugeng Rukmono, Pujiyono Suwadi, and Muhammad Saiful Islam, 'The Effectiveness of Recovering Losses on State Assets Policy in Dismissing Handling of Corruption', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024), 299–330 https://doi.org/10.53955/jhcls.v4i2.259

[43] Adi Tirto Koesoemo, Vicky Fransiskus Taroreh, and Selviani Sambali, 'Benefits of Collaboration Between the Corruption Eradication Commission of the Republic of Indonesia and Higher Education Institutions in Monitoring Corruption Crime Trials for Higher Education Institutions and Courts', *Journal La Sociale*, 4.4 (2023), 158–66 https://doi.org/10.37899/journal-la-sociale.v4i4.870

[44] Alina Mungiu-Pippidi, 'Transparency and Corruption: Measuring Real Transparency by a New Index', *Regulation & Governance*, 17.4 (2023), 1094–1113 https://doi.org/10.1111/REGO.12502

proof for state economic loss must include losses from unlawful acts that obstruct national and regional economic development policies.[45]

Therefore, to optimise the application of the element of state economic loss in corruption cases, legal reform must involve reconstructing both the concept of financial loss and the mechanisms for recovery. This includes clarifying the characteristics and scope of state economic losses through expanded legal explanations, without altering the core legal norm, to maintain flexibility in enforcement. Additionally, Article 18 of the Corruption Law, which governs asset confiscation and restitution, should be redefined to include the recovery of illicit gains and compensation for broader economic harm incurred by the state.[46]

To strengthen its normative authority, legal scholars propose relocating the definition of state economic losses to the general provisions of Article 1 in the Corruption Eradication Law.[47] Law enforcement would benefit from a clearer evidentiary basis if the explanation accompanying this article included the characteristics and scope of state economic losses. This reform affirms the legal standing of the element and facilitates the integration of economic concepts into a systematic and measurable framework for criminal law.[48] Currently, Article 18 of the Corruption Law provides three main restitution mechanisms including asset forfeiture, compensation payments, and the revocation of certain rights or privileges. However, these instruments focus exclusively on confiscating the proceeds of corruption, overlooking the broader societal or economic damage inflicted.[49]

Such a narrow focus is inadequate in addressing systemic and indirect economic harm. Therefore, it is essential to expand the legal interpretation of both asset confiscation and restitution to encompass the full value of state

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economic losses, as assessed by independent experts.[50] The proposed recovery model also includes a confiscation mechanism targeting unlawful gains and introduces a *settlement fine* approach to be administered by the Attorney General during the investigation or prosecution stages prior to trial. This mechanism offers a viable alternative within a restorative justice framework, particularly when the perpetrator's ability to pay and the efficiency of legal proceedings are considered. For recovery to be comprehensive and the deterrent effect more impactful, the number of sanctions must reflect the total economic losses suffered by the state, not merely the direct financial damages.[51]

In this light, the proposed legal reconstruction is not only normative but also substantive and operational. It aims to improve legal formulations, strengthen evidentiary methods, and establish more advanced recovery tools. These reforms represent a crucial step toward creating an anti-corruption system that is more responsive, just, and capable of restoring the integrity of the national economy, which corrupt practices have undermined.

Conclusion

Although various law enforcement instruments have been intensively implemented, handling losses due to corruption still tends to focus on the narrow aspect of state financial losses, without considering the more abstract state economic losses that have a far more systemic and long-term impact. The Corruption Eradication Law explicitly regulates the element of "state financial or state economic losses" in Articles 2 and 3, but the implementation of proving the element of state economic losses still faces various serious challenges. The main problems lie in the unclear normative definition, the absence of standard quantitative parameters, and the low application of this element in judicial practice. This condition is exacerbated by legal uncertainty in the provision of evidence, the unpreparedness of law enforcement officials regarding technical capacity, and a lack of interdisciplinary collaboration. In response, the text argues that legal reconstruction is essential. This includes clarifying the definition of state economic losses, specifying their characteristics and scope, and broadening Article 18 to capture losses to the economic structure. Additionally, it proposes introducing restitution mechanisms, like settlement fines, early in investigations, aligning them with real economic losses and defendants' abilities. This approach aims to make restitution an instrument of punishment and genuine economic restoration.

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