

RESEARCH PAPER

Defining State Economic Loss Due to Corruption within the Indonesian Law: Hurdle and Solution

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PURPOSE: This study aims to identify what the phrase “state economy” means in the Indonesian Anti-Corruption Act and to provide standards or benchmarks for determining the ratio of state economic losses caused by corruption.

DESIGN/METHODOLOGY/APPROACH: A descriptive-analytical strategy was employed in this investigation. This method made use of library research on rules and court decisions, and the information gathered was examined descriptively.

FINDINGS: Although the notion of state economy is articulated in the General Explanation of the Anti-Corruption Act, this study demonstrates that it remains inappropriate and confusing.

CITATION: Rachman, T., Basuki Minarno, N., Aprilianto, S. and Muzaki, H. (2023): Defining State Economic Loss Due to Corruption within the Indonesian Law: Hurdle and Solution. *World Journal of Entrepreneurship, Management and Sustainable Development*, Vol. 19, No. 1/2, pp. 53–67.

RECEIVED: 22 November 2021 / **REVISED:** 9 February 2022 / **ACCEPTED:** 20 April 2022 / **PUBLISHED:** 15 December 2022

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RESEARCH LIMITATIONS/IMPLICATIONS: The findings of this study are likely to serve as a model for future research or as a reference for judges interpreting the aspects of the state economy in the Indonesian Anti-Corruption Act.

ORIGINALITY/VALUE: This study demonstrates the parameters and guidelines for understanding the notion of damaging a country's economy, as well as explaining the meaning of harming a country's economy by identifying the definition of economic interests.

KEYWORDS: *Corruption; State Economic Losses; State Financial Losses*

INTRODUCTION

Corruption is not only a problem in government bureaucracies, but also in private businesses. Like cancer, corruption is a chronic illness that is difficult to treat (Mochtar, 2006). According to Barda Nawawi Arief (1997), corruption is difficult to eradicate because it is complex and caused by corruption-related issues, such as mental/moral attitudes, economics, socio-economic environment, political culture, and bureaucratic weaknesses/administrative procedures in the field of public services and finance.

For decades, corruption has been a concern. Corruption allegations have resulted in the demise of governments or governing elites in nations such as Japan, Indonesia, South Korea, and Thailand, and most likely contributed to the end of the Yeltsin era in Russia (McFarlane, 2001). Corruption is particularly harmful everywhere, not only because it undermines commercial integrity and good governance, but also trust, which threatens democracy itself (McFarlane, 2001). Corruption is also linked to a country's economic development. According to several studies, the main reason investors are hesitant to invest in a country with high levels of corruption is because of corruption. This, in turn, leads to a fall in the country's economic growth (Alsagr and van Hemmen, 2022). Furthermore, corruption has an impact on financial markets. Some studies have demonstrated the negative effects of corruption. A study by Ng (2006) revealed that corruption has a substantial impact on numerous aspects of the economy, namely higher borrowing costs, lower stock valuations, and poorer corporate governance throughout worldwide financial markets.

Indonesia is a country that is now dealing with a number of corruption cases. The statistics on corruption cases by the Corruption Eradication Commission (KPK) during the last ten years are shown in Table 1 below:

Table 1: Corruption Cases in Indonesia

| INKRACHT (Final and binding court decision) | District Court | High Court | Supreme Court | Total |
|--|-----------------------|-------------------|----------------------|--------------|
| 2010 | 20 | 3 | 11 | 34 |
| 2011 | 21 | 0 | 13 | 34 |
| 2012 | 8 | 3 | 17 | 28 |
| 2013 | 10 | 10 | 20 | 40 |
| 2014 | 20 | 7 | 13 | 40 |
| 2015 | 16 | 6 | 15 | 37 |
| 2016 | 43 | 13 | 14 | 70 |
| 2017 | 71 | 5 | 5 | 84 |
| 2018 | 94 | 10 | 5 | 109 |
| 2019 | 113 | 11 | 18 | 147 |
| 2020 | 52 | 4 | 14 | 70 |
| Total | 468 | 72 | 145 | 693 |

Source: Constructed by authors

In addition, Transparency International, a global non-governmental organisation, conducts an annual corruption study. The Corruption Perception Index (CPI) is based on the results of an annual poll. The score is used to determine the CPI score that provides a snapshot of a country's or territory's corruption situation and conditions. A number of 0 indicates that something is exceedingly corrupt, while a score of 100 indicates that something is very clean. Indonesia has been examined since the first CPI was launched in 1995. In 2020, Transparency International released a CPI in which Indonesia ranked 102nd out of 180 nations evaluated, with a CPI of 37/100; this is a 3 point decrease from the previous year's score of 40/100, which was the highest since Indonesia came under study in 2018.

One of the likely causes of Indonesia's CPI decrease are two high-profile Indonesian cases. The Minister of Marine Affairs and Fisheries, Eddy Prabowo, became the first minister to be implicated in a corruption case in 2020. Prabowo was charged with bribery in the areas of pond licensing, business, and/or administration of fisheries or other aquatic commodities. He was arrested by the KPK on 24 November 2020 as he was about to arrive in Indonesia after traveling to Hawaii for a holiday and shopping for expensive things with the bribes he received. He was charged under Article 12 Paragraph (1) Point (a) of Law Number 31 of 1999 and Law Number 20 of 2001 concerning the Anti-Corruption Act and sentenced to 5 years in prison, a fine of 400 million rupiahs (US\$25,694), and a compensation of 9.6 billion rupiahs (US\$616,382) and US\$7,700 based on what the defendant had returned. As an additional penalty, the panel of judges revoked Prabowo's political rights to run for public office for three years from the time he completed his main sentence (BBC News, 2021).

Juliari Batubara, the Minister of Social Affairs, became the second minister to be charged with corruption in 2020. Batubara was named a suspect by the KPK in the bribery case for social assistance in the COVID-19 pandemic on 6 December 2020. Batubara received a total bribe of 17 billion rupiahs (US\$1,091,427), which he utilised to advance his own interests. Batubara was found guilty of violating Article 12 Point (a) of the Anti-Corruption Act and was sentenced to 12 years in jail and a fine of 500 million rupiahs (US\$32,101) for his acts. In addition, the panel of judges imposed extra penalties for Batubara's failure to pay compensation in the amount of 14.59 billion rupiahs (US\$936,964) and removed his political privileges or rights to be elected for four years (BBC News, 2021).

The state's loss in the Indonesian Jiwasraya case (2020) was enormous, at Rp. 16,807,283,375,000.00 (US\$1,078,807,417), but the meaning of harming the country's economy remained unclear (CNN Indonesia, 2020). According to the Chairman of the Supreme Audit Agency (BPK), which is in charge of calculating state financial losses, the Jiwasraya case did not rule out the potential of state economic losses as a result of the enormous and massive state financial losses that happened (Rosana, 2020). Based on the definition referred to in the General Explanation of the Anti-Corruption Act, the panel of judges only specified the existence of state financial losses and state economic losses. This raised concerns because despite a significant loss (the largest in Indonesia's history of anti-corruption efforts), the country's economy was not clearly mentioned as being harmed (Firdaus, 2020). In conclusion, the court appears to conflate the notion of state financial losses and state economic losses, which should be distinct. As a result, a clear framework and limitations are required to establish whether or not the state has suffered economic losses.

Definition of Corruption

In Indonesia, the definition of a criminal act of corruption has been regulated in positive law, specifically in Article 1 Paragraph (1) of Law Number 30 of 2002 concerning the Corruption Eradication Commission (KPK Act), which states that "Corruption is a criminal act as referred to in Law Number 31 of 1999 concerning Anti-Corruption Act as amended by Law Number 20 of 2001" which lastly amended by law number 19 of 2019.

In the Anti-Corruption Act, there are 30 types/forms of criminal offenses of corruption (KPK, 2006). The thirty forms/types of corruption discussed in this article can be divided into seven classes of corrupt acts, namely:

- 1) Corruption involving state financial losses, regulated in Article 2 and Article 3;
- 2) Corruption involving bribery, regulated in Articles 5 Paragraph (1) Point a and Point b, Article 13, 5 Paragraph (2), 12 Point a and Point b, Article 11, 6 Paragraph (1) Point a and Point b, Paragraph (2), Article 12 Point c and Point d;
- 3) Corruption involving embezzlement in office, regulated in Article 8, 9, and 19 Point a until Point c;

- 4) Article 12 Point e, and Point f regulating extortion-related corruption.
- 5) Article 7 Paragraph (1) Point a until Point d, 7 Paragraph (2), and Article 12 Point h regulating corruption associated to dishonesty.
- 6) Article 12 Point i regulating corruption linked to procurement containing conflicts of interest;
- 7) Gratification-related corruption, regulated under Articles 12B and 12C.

Understanding the Elements of the State Finances Losses

Because of the rise in corrupt practices in Indonesia, law enforcement agents must be more effective in preventing and eradicating any form of corruption that has a significant negative influence on state finances or the economy, as well as people's lives in general. The Indonesian Public Prosecutor frequently invokes Article 2 Paragraph (1) and Article 3 of the Anti-Corruption Act during the prosecution procedure. The following are the provisions of Article 2 Paragraph (1) and Article 3 of the Anti-Corruption Act:

Article 2 Paragraph (1):

1) Any person who unlawfully commits an act of enriching himself or another person or a corporation that can harm the state finances or the state economy shall be punished with imprisonment for life or imprisonment for a minimum of 4 (four) years and a maximum of 20 (two) years and a fine of at least Rp200,000,000.00 (two hundred million rupiahs) and a maximum of Rp1,000,000,000.00 (one billion rupiah).

Article 3:

Any person who, intending to benefit himself or another person or a corporation, abuses the authority, opportunities, or facilities available to him because of a position or position that can harm the state finances or the state economy shall be sentenced to life imprisonment or a minimum imprisonment of 1 (one) year and a maximum of 20 (twenty) years and or a fine of at least Rp50,000,000.00 (fifty million rupiahs) and a maximum of Rp1,000,000,000.00 (one billion rupiah).

The supplementary document of the Article 32 Paragraph (1) of the Anti-Corruption Act states: "What is indicated by a state financial loss is a loss that can be assessed based on the conclusions of the competent agency or appointed public accountant". The concept of state finance is also explained in several other laws and regulations that can be used as a valid reference and legal source regarding the legal construction of the concept of state finance, including Law No. 17 of 2003 on State Finance. Article 1 Paragraph (1) states that: "State finances are all of the state's rights and obligations that can be valued in money, as well as everything in the form of money or goods that can be used as state property in connection with the implementation of these rights and obligations".

In these Articles (Article 2 Paragraph 1 and Article 3), the phrase “can” before the phrase “harm the state finances or the state economy” considers this corruption case as a *delik formil*.¹ Therefore, the existence of state financial losses or the state economy is not required (potential loss is sufficient) (Wiyono, 2008). However, following the decision of the Constitutional Court No. 25/PUU-XIV/2016 that removes the phrase “can” from Article 2 Paragraph (1) and Article 3 of the Anti-Corruption Act, corruption that harms the state finances or economy at this time must be interpreted as a *delik materii*² (opposite of *delik formil*), whose consequences are the consequences prohibited in the articles. The phrase “*merugikan keuangan negara atau perekonomian negara*” (state financial loss or state economic loss) must be understood as implying real loss (actual loss).

In practice, law enforcement officials attempt to prove ‘state financial losses’ based on investigative audit calculations from Badan Pemeriksa Keuangan (the Audit Board of the Republic of Indonesia) (BPK RI) and/or Badan Pengawasan Keuangan dan Pembangunan (the Financial and Development Supervisory Agency) (BPKP RI) (Astuti and Chariri, 2015). In terms of ‘the state economic loss’, the court only found the defendant guilty of committing a criminal act of corruption because it harms the state economy under the Anti-Corruption Act in a few cases. Furthermore, there is no Indonesian regulation governing which institution is authorised to assess (or calculate) the state economic losses at this time.

Understanding the Elements of State Economic Losses

In the fourth paragraph of the General Explanation of the Anti-Corruption Act, it is explained that:

“...The State Economy is an economic life structured as a collaborative effort based on the principle of kinship or an independent community effort based on government policies, both at the national and regional levels, under the provisions of applicable laws and regulations aimed at providing benefits, prosperity, and welfare to all people’s lives”.

Although the General Explanation of the Anti-Corruption Act mentions ‘the state economy’, the definition of state economic losses is arguably not comprehensive and remains imprecise, creating legal confusion about the recovery of losses suffered by the state as a result of criminal acts of corruption. Moreover, the description of the state economy in the General Explanation of the Anti-Corruption Act section is ambiguous, confusing, and difficult for law enforcement to apply, making it difficult to establish clear boundaries or benchmarks for ‘state economic losses’. Previously, according to Article 1 Point (a) of the Indonesian Anti-Corruption Act Number 3 of 1971,³ activities

¹The Indonesian type of conduct that shows that the result of the conduct is unnecessary to be assessed.

²The Indonesian type of conduct that shows that the result of the conduct is necessary to be assessed.

³This law is no longer in effect.

that can harm the economy of the country are “actions that can impair the country’s economy which are considered as criminal violations within its jurisdiction as alluded in MPRS⁴ Decree Number XXIII/MPRS/1966”. Consequently, the government issued regulations based on its authority and the TAP MPRS to create harmonisation, particularly laws and regulations governing economic and monetary policy (Supriyanto *et al.*, 2017). According to the Indonesian legal system, TAP MPRS⁵ Number XXIII/MPR/1966 Concerning the Renewal of Economic, Financial, and Development Policy, on the other hand, has been established as TAP MPR/MPRS, which does not require further legal action because it is *enmalig*⁶ (final), has been revoked, or has been completed according to TAP MPR Number 1 of 2003.

This means that provisions concerning actions that are harmful to the state economy can no longer be used as normative legal guidelines. However, regulations made by the relevant government under their authority as mandated by this TAP MPRS remain valid and are not revoked or declared as not having legal force. The regulations in this area are still relevant and can be used as a reference.

Decision Related to the Elements of State Economic Losses

Referring to a judge’s decision related to the phrase “loss of the state economy” in the corruption case, it can be seen in Decision Number 1164/K/Pid/1985 that on behalf of the defendant Tony Gozal, the defendant built on a state-owned beach without a permit, preventing the state from using it for the public interest (Mulyadi, 2007). The decision No. 1144 K/Pid/2006 on behalf of the defendant ECW Neloe is also related to the state economic losses. As for the President Director of Mandiri Bank (State Owned Enterprise Bank), he illegally made bailout loans by ignoring the idea of banking prudence and loaned to *Korupsi, Kolusi, dan Nepotisme* (KKN/Corruption, Collusion, and Nepotism). According to the judges, the country was harmed by providing huge sums of credit to entrepreneurs who were not engaged in productive fields, where the state and community conditions necessitate the development of the populist economy. However, the preceding judgements did not clarify in any way what the expression “economic damages in the crime of corruption” implies. Neither decision was able to explain the significance of the state economic losses. Table 2 below shows numerous judgements that state that there have been economic losses to the country for the last decade:

⁴The Provisional People’s Consultative Assembly (MPRS) is the forerunner of the People’s Consultative Assembly (MPR), an Indonesian legislative body consisted of DPR and DPD members elected in general elections.

⁵TAP MPR is a type of People’s Consultative Assembly decision that contains specific provision matters. TAP MPR is also one of Indonesia’s laws and regulations.

⁶Several Dutch legal legacies have been brought to Indonesia by the principle of concordance for the colonised country (Indonesia). Even the terms HIR (civil procedural law), KUHD (commercial law), BW (Civil Code), and KUHP (criminal law) are still used today. As a result, many Dutch languages are still used in Indonesian law.

Table 2: Judgements Regarding Economic Losses

| Case Register | Article 2 or Article 3 | Loss Incurred (Ratio Decidendi) | Harming The Country's Economy |
|--------------------------------|------------------------|--|---|
| 9/PID.SUS/ TIPIKOR/2014/ PN.PL | Article 3 | Explanation of the Anti-Corruption Act | Harming the country's economy due to reduced welfare of teachers in remote areas |
| 20/PID.SUS-TPK/2021/ PT.DKI | Section 2 | A thing that affects the course of development | Harming the country's economy due to a decrease in national textile production |
| 18/PID.SUS/TPK/2021/PT.DKI | Section 2 | A thing that affects the course of development | Harming the country's economy due to a decrease in national textile production |
| 33/PID.SUS-TPK/2016/ PN.BJM | Article 3 | Macro-economics and micro-economics | Harming the country's economy due to harming the micro and macro economy, the Binawara Village community, and the state |
| 8/PID.SUS/2019/ PN.dps | Article 3 | Explanation of the Anti-Corruption Act | Harming the country's economy (without further explanation) |
| 22/PID.SUS-TPK/2018/ PN.DPS | Article 3 | Explanation of the Anti-Corruption Act | Harming the country's economy (without further explanation) |
| 9/PID.SUS/2019/ PN.dps | Article 3 | Explanation of the Anti-Corruption Act | Harming the country's economy (without further explanation) |

Source: Constructed by authors

Several of the cases above tried to define “state economic loss” in their decisions. For example, the defendant committed a criminal act of corruption in the special allowance funds for remote teachers in 2009-2012 at Tojo Una-Una Regency, resulting in state economic losses, particularly for the welfare of teachers in these remote places.⁷ A different case mentioned that it was known that the defendant was engaged in a criminal act of corruption in the management of the Traditional Ship Village LPD funds, resulting in losses to the state economy, particularly village welfare.⁸ Subsequently, according to Decision Number 33/PID.SUS-TPK/2016/PN.BJM, the defendant committed a criminal act of corruption in village funds, inflicting economic damage to the residents of Binawara Village (micro economy) and the country's economy (macro) suffered as a result. Another case stated that the defendant committed a criminal act of corruption in the import of products (textiles), resulting in losses to the country's economy, specifically the decline in national textile production of 63.35 trillion rupiah (US\$4,034,890,480) and the decline in domestic textile industry activity induced by a surge in material imports.

⁷ Case number 09/PID.SUS/TIPIKOR/2014/PN.PL (Palu District Court).

⁸ Case number 8/PID.sus/2019/PN.dps (Denpasar District Court), 9/PID.sus/2019/PN.dps (Denpasar District Court), and 22/PID.SUS-TPK/2018/PN.DPS (Denpasar District Court).

It can be observed from these judgements that some still utilise the definition of state economic losses as defined in the General Explanation of Anti-Corruption Act. However, the panel of judges who heard in one of the cases above believed that what was meant by the state economy was a decrease in domestic industrial activity in the form of a 63.35 trillion rupiah decrease in production, and a decrease in the workforce caused by the defendant's surge in textile imports.⁹ Expert witnesses in this textile case calculated the country's economic losses in textile imports from 2018 to 2020 at the Directorate General of Customs and Excise.

The panel of judges in one of the above decisions considered that there was a state economic loss (a decrease in the welfare level of teachers who teach in a remote area), despite the fact that it still used the meaning of the state economy in the General Explanation of the Anti-Corruption Act.¹⁰ This will undoubtedly hinder the government's efforts to improve school quality. However, this decision has a flaw in that there are no guidelines for measuring the decline in teacher welfare in these remote places.

Guidelines of the Elements of State Economic Losses

Because the majority of the panel of judges still relies on the rationale based on the General Explanation of the Anti-Corruption Act, the decisions above illustrate that the panel of judges still has different views when assessing the factors of state economic losses. As a result, a guide to evaluating the meaning of state economic losses is required. Through Perma Number 1 of 2020 (Supreme Court Rule Number 1 of 2020), the Supreme Court published sentencing guidelines to enforce Articles 2 and 3 of the Anti-Corruption Act. These guidelines attempt to provide a method for imposing punishment by establishing the criteria that judges must evaluate. The goal is to ensure legal certainty, proportionality in sentencing, and avoidance of inequity. The Supreme Court recognises that implementing the two provisions of the Anti-Corruption Law remains a challenge, so judges are compelled to follow the guidelines.

There are four chapters in the guidelines:

- Chapter I General Provisions;
- Chapter II Principles, Objectives, and Scope;
- Chapter III Guidelines Implementation; and
- Chapter IV Closing Provisions.

The contents of the guidelines are not explored in length in this study, but they are discussed concurrently in relation to the subject of state economic losses. Chapter III of Perma Number 1 of

⁹Cases number 18/PID.SUS/TPK/2021/PT.DKI (Jakarta High Court) and 20/PID.SUS/TPK/2021/PT.DKI (Jakarta High Court).

¹⁰Case Number 9/PID.SUS/TIPIKOR/2014/PN.PL (Palu District Court).

2020 regulates articles in the guidelines that are directly relevant to the subject. The category of state financial losses or the state economy is specifically mentioned in that chapter. Because the criteria have the same articles in the rules, the term “or” is used to express choices, and the criteria are not distinguished. For example, under Article 6, the heaviest, heavy, medium, and light categories of state financial losses or the state economy are defined. For the purpose of applying Article 2, the categories refer to a specified nominal of loss, such as over 100 billion rupiahs (US\$6,420,650), which is the heaviest loss, and more than 200 million rupiahs (US\$12,855) but not more than one billion rupiah (US\$64,275), which is the lightest loss. When it comes to the application of Article 3, the heaviest category is a loss of more than 100 billion rupiahs (US\$6,420,650), while the lightest category is a loss of less than 200 million rupiahs (US\$12,855). The “lightest” category applies only to Article 3, while “light” is the lowest category for Article 2. The metrics utilised in this legislation do not differentiate between “harming the state finances” and “harming the country’s economy”. This indicates two things. First, the two meanings can be employed interchangeably, implying that they are equivalent alternatives. Second, the factors used to calculate “state financial losses” and “state economic losses” are the same as those mentioned in Article 6 of Perma Number 1 of 2020.

Following the aforementioned nominal categorisation, the state economic losses are determined once the nominal state losses are determined (two-stage evaluation). If it is not interpreted this way, the implementation of Perma Number 1 of 2020 will be confusing because it conflates “State Finances Losses” with “State Economic Losses”, which are clearly stated to be distinct in the legislation. The meaning of “State Economic Losses” is still not explained in Perma Number 1 of 2020. Therefore, a flexible parameter or guide is still needed in interpreting the meaning of harming the state economy that can be continuously updated to suit the times by the authorised institution, in this case, the Supreme Court. It is worth noting that there cannot be any state economic losses if there are not any state financial losses (Rachman and Raspati, 2021). Furthermore, a metric is required to estimate the extent to which state financial losses can result in state economic losses. This article suggests that state financial losses exceeding 100 billion rupiah (US\$6,420,650), or the most severe category, are state financial losses that can result in state economic losses.

Certain things that directly affect an economy can be linked to guidelines for determining a country’s economy. Guidelines for defining a country’s economy must be flexible enough to be altered (by adding or removing categories) in response to changing circumstances. The guidelines contain categories that can be approved, but if they (the categories) are disrupted, the economy of the country will also be disrupted. Several factors can interfere with or disturb economic interests, including the presence of monetary corruption, such as fiscal, exchange rate, and interest rate corruption. Furthermore, corruption can disturb economic interests in areas involving national products, such as exports and imports, distribution of goods and services, and sales. Furthermore, corruption in the financial sector, including banking, lending, capital markets, insurance, investment, and foreign investment, might jeopardise economic interests. In addition, corruption in areas such as education, output reductions due to poverty alleviation programmes, and issues with

people's economic institutions (such as Koperasi¹¹) can all hinder economic interests. As a result, the definition of the state economy in the General Explanation of the Anti-Corruption Act must be interpreted as follows: state economy loss is defined as an economic life structured as a joint effort based on the principle of kinship or an independent community effort based on government policies, both at the national and regional levels, that aim to provide benefits, prosperity, and welfare to all people's lives under the provisions of applicable laws and regulations. If there is corruption in the scope of the country's economic interests, it will be disrupted or impossible to implement.

The Constitutional Court issued judgement No. 25/PUU XIV/2016 in 2016, requiring state financial losses to be shown in cases of corruption under Article 2 Paragraph (1) and Article 3 of the Anti-Corruption Act. Consequently, even while state financial losses are sufficient and state economic losses are not required, the application of the elements of state economic losses should become an aggravating factor. If financial loss is established, the factor affecting the state economy must be examined, and the elements cannot be considered separately. As a result, the assessment has changed from a one-stage evaluation to a two-stage evaluation to determine the loss. This is also consistent with Perma Number 1 of 2020 (guidelines), which specifies that when applying Article 2 Paragraph (1) and Article 3 to the element of "loss", the first stage must demonstrate the existence of state losses determined by a competent institution. The second stage consists only of determining whether there is a loss to the state economy by taking into account the previously mentioned disrupted economic interests.

LITERATURE REVIEW

State Economic Losses and State Financial Losses

The concept of financial loss is mentioned in Law Number 1 of 2004 concerning the State Treasury; this states that "State/Regional losses are shortages of money, securities, and goods, which are real and definite in number as a result of unlawful acts, whether intentional or negligent". According to the General Explanation of the Anti-Corruption Act:

"The State Economy is an economic life that is structured as a joint effort based on the principle of kinship or an independent community effort based on government policies, both at the central and regional levels, under the provisions of applicable laws and regulations aimed at providing benefits, prosperity, and welfare of all people's lives".

According to this definition, harming the country's economy is defined as harming economic life that is structured as a joint effort based on the principle of kinship or an independent community effort based on government policies at the central and regional levels that are designed to provide

¹¹ According to Article 1 Law Number 17 of 2012, Koperasi is a business made up of a group of people whose activities are based on cooperative principles, as well as a people's economic movement based on kinship.

benefits, prosperity, and welfare to all people's lives under the provisions of applicable laws and regulations. Such a definition is very broad and contains topics that need to be explained further. As a result, it is difficult to put into practice and tends to be ambiguous. Several studies have also concluded that the factor of 'harming the country's economy' is ambiguous. "It may be inferred that the idea of the state economy in corruption is imprecise, vague, and has numerous interpretations", writes Firmansyah (2020). To aid law enforcement personnel, the explanation in the Anti-Corruption Law should include a clear and detailed statement of state economic losses.

According to former Attorney General Baharudin Lopa, what is meant by the state economy as alluded to in the Anti-Corruption Act's explanation is imprecise, making it impossible to prove the phrase "harming the country's economy" in law enforcement. It is explained regarding actions that can impair the country's economy in the preceding Law on the Eradication of Corruption Crimes, specifically Law Number 3 of 1971. "Actions that can impair the country's economy are criminal violations of the regulations imposed by the government within its jurisdiction as alluded to in MPRS Decree Number XXIII/MPRS/1966", according to Article 1 Sub (a) Law Number 3 of 1971. However, according to MPR Decree No. 1 of 2003 concerning the Review of the Material and Legal Status of Provisional People's Consultative Assembly Decrees and Decrees of the People's Consultative Assembly of the Republic of Indonesia 1960 to 2002, this MPRS Decree has been revoked.

CONCLUSIONS

From the standpoint of anti-corruption law, this study describes the characteristics of "state economic loss" reported to the Indonesian Supreme Court for the last decade. An examination of the decision on the Indonesian Supreme Court's website revealed no clear considerations regarding the meaning of state economic loss. Due to their casuistic nature, some decisions provide considerations related to the meaning of state economic loss, but they are difficult to use as a reference for different cases. The idea of the state economy is defined in the General Explanation of the Anti-Corruption Act, but it is nevertheless seen as broad, difficult to apply, and vague. As a result, a parameter is required to calculate the state economic loss as a result of investigating Indonesian corruption cases. These characteristics focus on what it means to have "economic interests" that are jeopardised when corruption occurs. These criteria can be related to monetary, national production, finance, and government programmes for poverty alleviation, education, or people's economic institutions. Furthermore, with the Constitutional Court's decision No. 25/PUU XIV/2016 concerning State Financial Losses and Perma No. 1 of 2020 establishing Guidelines for the Sentencing of Articles 2 and 3 of the Anti-Corruption Law, "harming the country's economy" should be viewed as an aggravating factor that does not always have to exist. As a result, the element of causing economic harm to the country can only be demonstrated after the element of "state financial loss" has been established. According to Indonesian legislation, there can be no state economy loss without state financial loss. It is proposed that the Indonesian Supreme Court

amend Perma No. 1 of 2020 establishing Guidelines for the Sentencing of Articles 2 and 3 of the Anti-Corruption Law by including “economic interest” criteria for judges to use in evaluating the element of state economic loss.

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BIOGRAPHY



Taufik Rachman is a passionate researcher and lecturer at Universitas Airlangga Indonesia. His ambition is to contribute to the improvement of the legal system in Indonesia, so after graduating from Victoria University in 2016, he joined the Faculty of Law Airlangga University Center for Anti-Corruption (CACCP/Center for

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Nur Basuki Minarno is a passionate researcher, lecturer, and professor of criminal law and corruption law at Airlangga University. Together with criminal law lecturers, he formed the Faculty of Law Airlangga University Center for Anti-Corruption (CACCP/ Center for Anti-Corruption and Criminal Policy), an organisation dedicated to improving the anti-corruption environment through education and research. He created WINS & Partners Law Firm in 2007 with three legal specialists and an Airlangga University professor. With three partners, he formed the law practice with the goal of offering the best legal services to clients by solving legal difficulties in the form of preventive and curative measures on legal issues that clients confront.



Sapta Aprilianto is a researcher and lecturer at Universitas Airlangga Indonesia. He obtained his bachelor degree from Universitas Airlangga and has completed his master's studies at Universitas Airlangga (M.H.), then at Universitas Kebangsaan Malaysia (LL.M). He is an expert on Criminal Procedure Law; Homicide and Crime Against Property; and Health Law. As a full time lecturer, he is involved in a variety of Faculty activities such as teaching, research, community development, and internationalisation. He is also the head of the legal advisory and assistance unit (legal aid) at the Faculty of Law, Universitas Airlangga. In addition, he actively contributes to the development of law in Indonesia as an academic expert and is often asked for opinions in trials related to his area of expertise.



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