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State Financial Losses in Corruption Crimes: A Comparative Study of Indonesian and Dutch Criminal Law

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Abstract

This article examines the issue of interpreting the element of "financial loss to the state or the national economy" in Article 2(1) of Law No. 31 of 1999 on the Eradication of Corruption Offenses. The research question is: to what extent can the lack of utility of goods purchased using the State Budget (APBN) be classified as an act that harms the national economy or state finances in the context of corruption? This study employs a normative legal method using a statutory approach, a conceptual approach, and a comparative approach. Primary legal materials, consisting of laws and Constitutional Court decisions, were analyzed using grammatical, systematic, and teleological interpretation methods. The research findings indicate that: (1) the element of state financial loss in Article 2(1) of the Anti-Corruption Law constitutes a formal offense that must still be proven objectively and measurably; (2) the lack of utility of goods procured through the State Budget ( ) does not automatically satisfy the element of state financial loss or harm to the national economy unless there is an unlawful act resulting in a tangible reduction of state assets; (3) the Dutch legal system, which applies an evidence-based approach, provides an alternative framework that can strengthen legal certainty in the interpretation of the element of state loss. The contribution of this article is to offer an analytical comparative perspective to reconstruct the interpretation of state loss more precisely in.

Kata kunci:
Kerugian Keuangan Negara, Tindak Pidana Korupsi, Delik Formil, Delik Materiil, Perbandingan Hukum, Belanda

Abstrak

Artikel ini mengkaji persoalan penafsiran unsur "kerugian keuangan negara atau perekonomian nasional" dalam Pasal 2 ayat (1) Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi. Rumusan masalah dalam penelitian ini adalah: sejauh mana tidak adanya kegunaan barang yang dibeli menggunakan Anggaran Pendapatan dan Belanja Negara (APBN) dapat dikategorikan sebagai suatu perbuatan

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yang merugikan perekonomian nasional atau keuangan negara dalam konteks tindak pidana korupsi? Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan, pendekatan konseptual, dan pendekatan komparatif. Bahan hukum primer, yang terdiri atas peraturan perundang-undangan dan putusan Mahkamah Konstitusi, dianalisis dengan menggunakan metode penafsiran gramatikal, sistematis, dan teleologis. Hasil penelitian menunjukkan bahwa: (1) unsur kerugian keuangan negara dalam Pasal 2 ayat (1) Undang-Undang Pemberantasan Tindak Pidana Korupsi merupakan delik formil yang tetap harus dibuktikan secara objektif dan terukur; (2) tidak adanya kegunaan barang yang diperoleh melalui APBN tidak secara otomatis memenuhi unsur kerugian keuangan negara atau kerugian terhadap perekonomian nasional, kecuali terdapat perbuatan melawan hukum yang mengakibatkan berkurangnya aset negara secara nyata; (3) sistem hukum Belanda, yang menerapkan pendekatan berbasis pembuktian, memberikan kerangka alternatif yang dapat memperkuat kepastian hukum dalam penafsiran unsur kerugian negara. Kontribusi artikel ini adalah menawarkan perspektif analitis-komparatif untuk merekonstruksi penafsiran mengenai kerugian negara secara lebih tepat dalam konteks pemberantasan tindak pidana korupsi.
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1. Introduction

According to Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, Indonesia is a state governed by the rule of law. A consequence of this principle is that all citizens and state officials are required to submit to the supremacy of the law. However, in practice, corruption remains a serious threat that undermines the very foundations of statehood.

According to a report by Indonesia Corruption Watch (ICW), 791 corruption cases involving 1,695 suspects were recorded throughout 2023, marking the highest figure in the past five years. Although state losses decreased from Rp42.7 trillion in 2022 to Rp28.4 trillion in 2023, the rising number of cases indicates that corruption is becoming increasingly widespread and systemic. This phenomenon is driven by the fact that perpetrators often hold positions of authority and power, thereby complicating prevention and enforcement efforts.[1]

One of the fundamental issues in the enforcement of anti-corruption laws in Indonesia is the ambiguity surrounding the interpretation of the element "causing harm to state finances or the national economy" in Article 2(1) of Law No. 31 of 1999 on the Eradication of Corruption (Anti-Corruption Law). The phrase "may cause harm" contained in that article has sparked a doctrinal debate that remains unresolved to this day: is corruption a formal offense for which the fulfillment of the act alone is sufficient

[1] Indonesia Corruption Watch (ICW), Corruption Trends 2023, Retrieved September 19, 2025. https://antikorupsi.org.

without the need for actual consequences, or is it a material offense that requires proof of actual harm?[2]

This issue has serious practical implications. In the case involving Nadiem Anwar Makarim (NAM) as a suspect in alleged corruption related to the procurement of Chromebooks under the 2019–2022 education digitization program, a fundamental question arises: can the failure or suboptimal utilization of goods purchased using the state budget be construed as a financial loss to the state? The alleged state loss in this case is estimated at Rp1.98 trillion, but the essence of the act refers more to the procurement policy in question, rather than to embezzlement or bribery that can be measured concretely.[3]

A comparative study with the Dutch legal system is relevant given that Indonesian criminal law historically derives from Dutch law (Wetboek van Strafrecht). The Dutch legal system employs a stricter evidence- -based approach to proving state losses, thereby offering an alternative perspective that could strengthen legal certainty in Indonesia.

Previous studies on financial losses to the state resulting from corruption, including those by Fatah, Jaya, and Juliani (2016), Monintja (2020), and Sadat (2022), have generally focused on the debate between formal and material offenses within the context of Indonesian law. Meanwhile, existing comparative studies between Indonesia and the Netherlands, such as those by Danish et al. (2024) and Opsunggu & Hoesein (2025), remain descriptive and have not yet deeply analyzed the conceptual differences that have implications for legal reform. It is this gap that is the focus of this article.[4]

Based on this background, this study formulates the following research questions: (1) How is the normative construction of the element of financial loss to the state defined in Article 2(1) of the Corruption Eradication Law, and how does the Constitutional Court interpret it? (2) Can the lack of utility of goods purchased using the State Budget be classified as an act causing financial or economic loss to the state in the context of corruption offenses? (3) How do the concepts of state loss in the Indonesian and Dutch legal systems compare, and what are the implications for legal certainty in Indonesia?

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[2] Dominikus Jawa, Parningotan Malau, dan Ciptono, "Tantangan dalam Penegakan Hukum Tindak Pidana Korupsi di Indonesia," *Jurnal Usm Law Review* 7, no. 2 (2024): 1006-17.

[3] Cantikaamara. "Meningkatnya Kasus Korupsi di Indonesia: Ujian Serius Menuju Komitmen Global Pemberatasan Korupsi." Diakses pada 19 September 2025. https://www.kompasiana.com/cantikaamara0297/682e9483c925c452657f5202/meningkatnya-kasus-korupsi-di-indonesia-ujian-serius-menuju-komitmen-global-pemberantasan-korupsi.

[4] Abdul Fatah, Nyoman Serikat Putra Jaya, dan Henny Juliani, "Kajian Yuridis Penerapan Unsur Merugikan Keuangan Negara dalam Penegakan Hukum Tindak Pidana Korupsi," *Diponegoro Law Journal* 6, no. 1 (2016): 1-15; Ester Sheren Monintja, "Tinjauan Yuridis Pasal 2 Dan 3 Undang-Undang Tindak Pidana Korupsi Sebagai Delik Materil Menurut Putusan Mahkamah Konstitusi No. 25/PUU/XIV/2016," *Lex Crimen* 9 (2020): 97-105; Anwar Sadat, "The Application of the State Financial Losses' Assessment in Corruption Crime after the Verdict of the Constitutional Court No. 31/Puu-x/2012," *Indonesian Journal of Sustainability* 1 (2022): 1-27.

The purpose of this study is to conduct a comprehensive and comparative analysis of the concept of financial loss to the state, with the aim of making a theoretical and practical contribution to the reform of corruption criminal law in Indonesia.

2. Research Methods

This study employs a normative legal research method (*doctrinal legal research*) that focuses on the analysis of positive legal norms through the examination of secondary legal sources. This method was chosen because the subject of study is the text of legislation and court decisions, rather than social events or behaviors that require primary data. The study utilizes three complementary approaches: first, the Statute Approach, which examines the hierarchy of legal norms related to corruption offenses, particularly Law No. 31 of 1999 as amended by Law No. 20 of 2000;, which examines the hierarchy of legal norms related to corruption offenses, specifically Law No. 31 of 1999 as amended by Law No. 20 of 2001, Law No. 1 of 2004 on the State Treasury, and Law No. 15 of 2004 on the Audit of State Financial Management; second, *the* Conceptual *Approach*, which analyzes the concepts of formal and material offenses, the concept of state financial loss, and the concept of the state economy based on Indonesian criminal law doctrine and its comparison with Dutch legal doctrine; and third, *the Comparative Approach*, which compares the Indonesian and Dutch legal systems regarding the normative construction of corruption offenses, standards of proof for state losses, the role of law enforcement agencies, and implications for legal certainty.

3. Results and Discussion

3.1 The Legal Definition of Corruption and the Element of State Loss in Indonesia Law

Criminal acts of corruption in the Indonesian legal system are comprehensively defined in Law No. 31 of 1999, as amended by Law No. 20 of 2001. Acts of corruption are classified into seven main categories: (1) acts causing financial loss to the state or the national economy; (2) bribery; (3) embezzlement in the performance of official duties (4) extortion; (5) fraudulent acts; (6) conflicts of interest in procurement; and (7) gratuities. Corruption is categorized as an extraordinary crime due to its systemic nature and its destructive impact on social, economic, and political order.[5] This classification indicates that the legislature intended a broad scope covering various modus operandi of corruption, as emphasized by Andi Hamzah, who noted that the broad formulation of corruption offenses in the Anti-Corruption Law is a logical consequence of corruption's characteristic as a crime that continuously evolves alongside the development of the bureaucracy and the state's financial system.[6]

Article 2(1) of the Anti-Corruption Law defines the elements of corruption at the heart of this debate: "Any person who unlawfully commits an act of enriching oneself, another person, or a corporation that may cause harm to the state's finances or the national economy." Two crucial elements in this formulation are: (a) the phrase "unlawfully" and

[5] Andin Dwi Safitri dan Khalimatuz Zuhriyah, "Pengertian Tindak Pidana dan Unsur-Unsur Tindak Pidana," *Jurnal Hukum Dan Keadilan* (2025): 34-47.

[6] Andi Hamzah, *Pemberantasan Korupsi Melalui Hukum Pidana Nasional dan Internasional*, Raja Grafindo Persada, Jakarta, 2007, 102–104.

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(b) the phrase "may cause harm to the state's finances or the national economy."[7] In this context, R. Wiyono emphasizes that the element "unlawfully" in Article 2(1) encompasses both formal and material unlawfulness, meaning that the act is not only contrary to written laws and regulations but may also be deemed reprehensible according to the public's sense of justice.[8]

It is the phrase "may cause harm" that gives rise to the debate between formal offenses and material offenses. A formal offense requires that all elements of the act be fulfilled without the need for an actual consequence to occur, whereas a material offense requires the occurrence of a specific consequence as a condition for punishment. Grammatically, the word "may" in that phrase indicates possibility or potential, not the necessity of an actual consequence, thus supporting the construction of a formal offense.[9] This debate becomes even more complex because the explanation of Article 2(1) of Law No. 31 of 1999 itself states that the word "may" preceding the phrase "harm the state's finances or the national economy" indicates that the crime of corruption is a formal offense, meaning that the existence of the crime of corruption is sufficient upon the fulfillment of the elements of the act as defined, rather than the occurrence of consequences; however, this interpretation was later corrected by the Constitutional Court through its rulings, which require proof of more concrete losses.

3.2 The Constitutional Court's Interpretation: The Boundary Between Formal Offenses and Legal Certainty

The Constitutional Court, through Decision No. 003/PUU-IV/2006, affirmed that the Anti-Corruption Law adopts a formal offense construction. This means that a criminal act of corruption is considered complete if all elements of the act are fulfilled, even if the state's loss has not yet been fully realized. The Constitutional Court argued that a formal construction is necessary to maximize efforts to prevent corruption.[10]

However, the ruling implicitly sets an important limit: the phrase "may cause harm" cannot be interpreted freely or speculatively. This element must still be proven objectively and rationally, whether in the form of actual harm or potential harm that is quantifiable and legally actionable.

Furthermore, Constitutional Court Decision No. 25/PUU/XIV/2016 clarifies that the word "may" in the wording of Article 2(1) and Article 3 of the Anti-Corruption Law must be removed to ensure legal certainty, meaning that corruption is now treated more

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7 Komisioner KPK, *Pantang Korupsi Sampai Mati: Cara Mudah Mempelajari Pasal-Pasal Tindak Pidana Korupsi* (Direktorat Pendidikan dan Pelayanan Masyarakat Kedeputian Pencegahan KPK, 2015).

8 R. Wiyono, *Pembahasan Undang-Undang Pemberantasan Tindak Pidana Korupsi*, Sinar Grafika, Jakarta, 2012, 33–36.

9 M. Dani Fariz Amrullah, Yuli Kasmarani, and Dora Mustika, "Analysis of the Nature of Formal Illegality Against Perpetrators of Corruption Offenses Based on Articles 2 and 3 of Law No. 20 of 2001," *Ta'zir: Journal of Criminal Law* 8, no. 1 (2024): 57–68.

10 Ana Aniza Karunia, "Penegakan Hukum Tindak Pidana Korupsi di Indonesia dalam Perspektif Teori Lawrence M. Friedman," *Jurnal Hukum dan Pembangunan Ekonomi* 10, no. 1 (2022): 115-28.

as a material offense in the context of proof. This ruling reinforces the argument that state losses must be proven in a concrete and measurable manner.

Thus, there has been a development in legal interpretation indicating that although the Anti-Corruption Law formally adopts the concept of formal offenses, in practice, proof of actual state losses is still required, rather than merely abstract potential losses. The position of this article is to support this restrictive interpretation: state losses must be real, measurable, and have a direct causal link to the unlawful act.

3.3 Comparison of the Concept of State Finansial Loss with Economic Loss

The elements set forth in Article 2(1) include two types of losses defined as alternatives: financial losses to the state and economic losses to the state. The fulfillment of either element is sufficient to satisfy the elements of the offense.

Loss to the state treasury has a relatively measurable definition. Law No. 1 of 2004 on the State Treasury, Article 1, paragraph (22), defines loss to the state as a shortage of money, securities, and goods, the amount of which is tangible and certain, resulting from an unlawful act, whether intentional or negligent. Thus, this element requires: (a) the existence of a concrete and verifiable shortfall; (b) direct causality with the unlawful act.

In contrast, harm to the national economy has a broader and more abstract scope. The national economy is understood as the entire system of the nation's economic life, organized to achieve the people's prosperity. Because this definition lacks clear quantitative indicators, it is open to multiple interpretations and risks disproportionately expanding the scope of criminal liability.[11]

In the context of state budget spending, not every expenditure deemed "unproductive" or economically suboptimal can be categorized as a financial loss to the state. Policy ineffectiveness or program failure is more appropriately classified as a public administration issue, not a criminal act of corruption, as long as there are no elements of unlawful acts resulting in a tangible reduction of state assets, mark-ups, embezzlement, or abuse of authority.[12]

3.4 Comparison of Indonesia and Dutch Legal Systems is Handling Corupption

The following presents a systematic comparison between the Indonesian and Dutch legal systems in the handling of criminal acts of corruption:

[11] Yunus Husein, *Kerugian Negara Dalam Tipikor* (Koran Seputar Indonesia, 2008).

[12] Antonius Despinola, Hafrida Hafrida, dan Hartati Hartati, "Regulation of Elements Harming the State's Economy in Corruption Criminal Acts in Indonesia," *Law Journal Borobudur International* 1, no. 1 (2024).

Table 1.Comparison Practice in Indonesia and Netherlands

Aspect	Indonesia	Netherlands
Primary Legal Basis	Law No. 31 of 1999 as amended by Law No. 20 of 2001 (Anti-Corruption Law) and its implementing regulations	Criminal Code (WvSr)–Articles 177, 178, 363, 364 (bribery); Article 51 (corporations)
Nature of Corruption Offenses	A formal offense with a trend toward becoming a material offense (Constitutional Court Decision No. 25/PUU/XIV/2016)	Evidence-based material offense: requires proof of intent (mens rea) and concrete causality
Role of State Loss	Central and must be proven; a prerequisite for prosecution	Not essential in bribery offenses; focus is on the unlawful act and mens rea
Standard of Proof	Actual or potential loss that is objective and measurable; audited by the BPK/BPKP	Evidence-based: systematic tracing of fund flows, communications, and relationships— s of conflicts of interest
Law Enforcement Agencies	KPK, Police, Prosecutor's Office (law enforcement); BPK, BPKP (calculation of losses)	Public Prosecution Service (OM) as prosecutor; FIOD as special financial investigation unit
Legal Risks	Criminalization of policies due to a broad and unmeasurable interpretation of state losses	Greater legal certainty; criminalization is limited by strict standards of proof
Corporate Liability	Regulated under the Anti-Corruption Law	Explicitly regulated in Article 51 of the Criminal Code; significant fines and restrictions on business activities

Source: analysed by authors (2026)

The table above illustrates the fundamental differences between the two systems. Indonesian law, with its formal offense framework and broad scope of "economic loss to the state," carries a higher risk of criminalizing policy decisions. Meanwhile, the Dutch system, which adopts an evidence-based approach with strict mens rea standards, provides greater legal certainty for public decision-makers.[13]

[13] Ari Septi Arum Fatma Citra Dewa dan I. Made Wirya Darma, "Komparasi Penjatuhan Sanksi Pidana Terhadap Pelaku Tindak Pidana Korupsi di Indonesia Dengan di Belanda," *Vidhisastya: Journal for Legalscholars* 1, no. 3 (2024): 170-180.

3.5 The Dutch Anti-Corupption Legal System: Normative and Institutional dan Framework

The Netherlands consistently ranks high on Transparency International's Corruption Perceptions Index (CPI). This reflects the effectiveness of its anti-corruption legal and institutional framework.[14]

The Criminal Code (WvSr) regulates corruption offenses, particularly in the form of bribery. Articles 177 and 178 address active bribery, which is the act of offering or promising a benefit to a public official to influence the performance of their duties. Sections 363 and 364 address passive bribery, defined as the act of a public official accepting or soliciting a benefit. It is important to note that, under the Dutch system, a conviction for bribery does not require that the act or omission in question actually occurred; it is sufficient to prove that the official knew or reasonably suspected that the gift was given to influence them.[15]

The WvSr also addresses bribery in the private sector (commercial bribery) in Articles 328ter and 328quater, as well as corporate liability in Article 51. Through policies updated in 2020 and aligned with OECD and UNCAC standards, Dutch jurisdiction has been expanded to cover cross-border bribery.[16]

From an institutional perspective, the Openbaar Ministerie (OM), as the Dutch Public Prosecution Service, holds the authority to prosecute criminal cases, including corruption. The OM coordinates with the Fiscale Inlichtingen-en Opsporingsdienst (FIOD), a specialized financial investigation unit under the Ministry of Finance that focuses on financial crimes, including corruption, tax evasion, and money laundering. This structured coordination between prosecution and financial investigation functions is one of the keys to the effectiveness of law enforcement in the Netherlands.

The evidence-based approach adopted by the Netherlands requires concrete evidence: tracing the flow of funds, analyzing communications, and mapping relationships that point to conflicts of interest. Judges are required to reach an objective conviction based on admissible evidence, including proof of mens rea (criminal intent), a link between the granting of benefits and official acts, and indications of abuse of authority. This strict standard of proof effectively limits the potential for the criminalization of policy.[17]

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[14] Transparency International, *Corruption Perceptions Index 2023* (Berlin: Transparency International, 2024), https://www.transparency.org/en/cpi.

[15] Wetboek van Strafrecht (WvSr) Belanda, Pasal 177, 178, 363, 364; Akbari, Anugerah Rizki, Nella Sumika Putri, dan Widati Wulandari, eds., *Terjemahan beberapa bagian risalah pembahasan wetboek van strafrecht dan wetboek van strafrecht voor Nederlandsch Indie: KUHP Belanda dan KUHP Indonesia* (Institute for Criminal Justice Reform, 2021).

[16] Dutch WvSr, Articles 328ter, 328quater, Article 51; OECD, *Implementing the OECD Anti-Bribery Convention Phase 4 Report: Netherlands* (Paris: OECD Publishing, 2020), https://doi.org/10.1787/b3e05403-en.

[17] Ahwan Ahwan dan Topo Santoso, "Discontinuation of corruption investigation and prosecution: A comparison of Indonesia, The Netherlands, and Hong Kong," *Jurnal Penelitian Hukum De Jure* 22, no. 1 (2022): 1-16.

3.6 The Lack of Benefit From Goods Purchased Using the State Budget is Not an Element of Economic Loss to the State

Based on the normative and comparative analysis above, the following argument can be made: the lack of utility or inefficiency of goods purchased using the State Budget does not automatically satisfy the elements of financial loss to the state or economic loss to the state under Article 2(1) of the Corruption Eradication Law.

This argument is based on several legal rationales. First, the definition of state financial loss in Law No. 1 of 2004 requires a shortfall that is "real and definite in amount" as a result of an unlawful act. State budget spending that has been carried out in accordance with procedures and does not involve mark-ups or embezzlement does not unlawfully reduce state wealth, even if the results are not optimal.[18]

Second, the interpretation of Constitutional Court Decision No. 25/PUU/XIV/2016, which reaffirms the need to prove actual damages, reinforces this argument. The ineffectiveness of a policy does not constitute an unlawful act under criminal law; it falls within the realm of public administrative accountability.[19]

Third, from a comparative perspective with Dutch law, government procurement failures that result in goods becoming useless cannot be criminalized as corruption unless it is proven that fraudulent acts or bribery underlie such failures. To establish economic loss to the state, it must be proven that the actions in question have a tangible and measurable negative impact on the national economic system, rather than merely an assumption of the goods' uselessness.[20]

Fourth, expanding the definition of "economic loss to the state" to include inefficient budget spending risks creating what experts refer to as *the* "criminalization *of policy*." This contradicts the principles of legality and legal certainty, which form the foundation of the rule of law.[21]

Therefore, the core argument of this article is: economically inefficient or non-beneficial state expenditure is not equivalent to corruption. To be subject to criminal prosecution, it must be concretely proven that there was an unlawful act resulting in actual, measurable state losses with a direct causal link.

4. Conclusion

[18] Putusan Mahkamah Konstitusi Nomor 25/PUU/XIV/2016; Undang-Undang No. 1 Tahun 2004 tentang Perbendaharaan Negara, Pasal 1 ayat (22).

[19] Aulia Aulia, Muhammad Nur, dan Sulaiman Sulaiman, "Penghentian Penyidikan Perkara Tindak Pidana Korupsi Oleh Kejaksaan Terhadap Pengembalian Kerugian Keuangan Negara," *Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh* 13, no. 1 (2025): 41-66.

[20] Ayub Jose Luhut Parulian Simanjuntak dan Heryanto Heryanto, "Pengembalian Dan Pembuktian Kerugian Keuangan Negara Dalam Perkara Tindak Pidana Korupsi," *RIO LAW JURNAL* 6, no. 2 (2025): 1012-1021.

[21] Andi Hamzah, *Pemberantasan Korupsi, Melalui Hukum Pidana Nasional dan Internasional* (Jakarta: PT Raja Grafindo Persada, 2012), & R. Wiyono, *Pembahasan Undang-Undang Tindak Pidana Korupsi*, Ed. rev. 2 (Jakarta: Sinar Grafika, 2009).

Based on the results of research and a normative-comparative analysis of the construction of the element of financial loss to the state in Article 2(1) of Law No. 31 of 1999 as amended by Law No. 20 of 2001 on the Eradication of Corruption Offenses, it can be concluded that the construction of the offense in that provision is formal in nature, however, the development of the Constitutional Court's interpretation, particularly Decision No. 25/PUU/XIV/2016, indicates that the element of state financial loss must still be proven objectively, concretely, and measurably; thus, the phrase "may cause loss" cannot be interpreted speculatively, and proof of actual loss or rational and verified potential loss remains an essential requirement for prosecution; furthermore, the lack of utility or inefficiency of goods procured using the State Budget does not automatically satisfy the element of state financial loss in a corruption offense, as the constitutive requirement namely, the existence of an unlawful act resulting in a tangible, quantifiable, and verifiable, as well as a direct causal link between the act and the loss; without these three elements, program failure or budget inefficiency is more appropriately categorized as a matter of public administration; Meanwhile, a comparison with the Dutch legal system shows that the *evidence-based* approach applied in the Netherlands with strict standards of proof regarding mens rea and a focus on concrete fraudulent acts provides greater legal certainty while preventing the criminalization of policy decisions. Consequently, Indonesia could adopt elements of this approach through updates to legal interpretations or legislative reforms, particularly by clarifying the operational definition of "economic loss to the state" that is more measurable; and to prevent inconsistencies in law enforcement, harmonization of the methodology for calculating state losses between the BPK and the BPKP is required, along with the strengthening of jurisprudence through consistent judicial rulings in interpreting the elements of state loss, as well as legislative reforms that clarify the boundary between administrative errors and criminal acts of corruption.

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