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THE JUDICIAL INCONSISTENCY IN CORRUPTION CASES: IMPLICATIONS FOR LEGAL CERTAINTY

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ABSTRACT

The study aims to contribute to understanding judicial inconsistencies in corruption cases and suggest solutions for improving transparency and accountability in the judicial system. The research is based on a normative juridical method using statutory, case, and conceptual approaches. The study examines differences in judicial reasoning at various levels of court, especially regarding the calculation of state losses, the evidentiary basis used by judges, and the extent to which judicial considerations reflect legal certainty and substantive justice. These inconsistencies create disparities in sentencing and may weaken public trust in the judiciary. The novelty of this study lies in its focus on the relationship between judicial inconsistency, state loss assessment, and the potential misuse of judicial discretion in corruption cases. This study contributes to the development of criminal law scholarship by emphasizing the need for clearer judicial guidelines, stronger supervision of corruption case adjudication, and more transparent reasoning in verdicts involving state financial losses. These reforms are expected to strengthen legal certainty, prevent arbitrary decision-making, and promote fairer adjudication in corruption cases.

1. INTRODUCTION

Corruption is one of the extraordinary crimes that has a far-reaching impact on the life of the nation and the state.[1] Its existence not only negatively impacts governance and the private sector but also threatens the country's economic and financial stability.[2] This crime is systematic and complex, often involving a network of perpetrators with various interests, requiring special attention in its handling. In this context, corruption has become a central focus of legal reform in Indonesia. However, its handling still faces serious challenges, one of which is judicial inconsistency within the judicial system.[3] Judicial inconsistency in handling corruption cases is an important issue because it creates legal uncertainty that harms all parties, including the public, the state, and the perpetrators. In several cases, there are significant differences in court decisions that should have uniformity and clarity in the application of the law, particularly in determining state losses. This inconsistency indicates a disparity in court decisions, which should be avoidable. It raises questions about the professionalism of judges and the independence of the judiciary. The inconsistencies that occur often become a loophole for abuse of power, whether in the form of external intervention, ignoring relevant evidence, or bias in applying the law. As a result, public trust in judicial institutions weakens, and the legal system loses legitimacy in the eyes of the public.[4]

This issue requires analysis from various relevant legal theoretical perspectives. Satjipto Rahardjo, with his progressive legal theory, emphasizes that the law should not be confined to normative texts, but should serve substantive justice that emphasizes social justice.[5] In this context, the law must function to create more equitable justice, not just a formality. This theory is highly relevant for criticizing the judicial inconsistency that occurs within the judicial system, especially in the case of PT Timah in Bengkulu, where the court decisions do not reflect substantive justice in accordance with the principles of social justice. In addition, Mochtar Kusumaatmadja, with his theory viewing law as a tool for social engineering, offers an important perspective: criminal law should create social stability and justice within society.[6] The law must be able to maintain social order and provide security for citizens. In the PT Timah case, the legal uncertainty arising from judicial inconsistency

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1 M. Novrianto and Indrajaya Indrajaya., Kedudukan Keterangan Ahli Di Sidang Pengadilan Dalam Pembuktian Perkara Korupsi, *Wajah Hukum*, Vol.8, No.1 (April 2024), page. 329, https://doi.org/10.33087/wjh.v8i1.1425.

2 Muhamad Zainul Arifin., *Tindak Pidana Korupsi Kerugian Ekonomi dan kerugian negara (perspektif Hukum dan Praktik*, Jakarta: Publica Indonesia Utama, 2024, page.1

3 Diandra Preludio Ramada and Indah Sri Utari., Unveiling the Surge in Corruptionpage. A Menacing Threat to Indonesia's Stability in Anti-Corruption Law Reform, *Journal of Law and Legal Reform*, Vol.5, No.1 (January 2024), page.179–200, https://doi.org/10.15294/jllr.vol5i1.2092.

4 Yackson Eustaquio Chaverra Mena., Corruption In The Shadow Of Justicepage. A Critical Analysis Of Embezzlement And Biases In Quibdó, *SSRN Electronic Journal*, 2025, https://doi.org/10.2139/ssrn.5012827.

5 Raden Ferdiandra Defry Yusdanial., Legal Uncertainty Regarding the Synergy of Tax Authorities and Corruption Court Authorities in Imposing Tax on Assets Proceedings of Corruption That Have Not Been Reported by Corrupt Perpetrators in Annual Tax Returns, *Syntax Idea*, Vol.6, No.11 (November 2024), page. 6716–29, https://doi.org/10.46799/syntax-idea.v6i11.11178.

6 Thommy Aruan., Restorative Justice in Criminal Law Enforcement from a Legal Perspective as a Social Engineering Tool, *Journal of Community Development in Asia*, January 2024, https://doi.org/10.32535/jcda.v7i1.2698.

creates space for manipulation and intervention by interested parties. This not only undermines public trust in the judicial system but also threatens the integrity of the legal system itself.

This aligns with the opinion expressed by Muladi and Romli Atmasasmita, who highlight the importance of law enforcement that is not solely based on formal procedures but also aims to create substantive justice that prioritizes the well-being of society. The abuse of power in handling corruption cases, such as in the PT Timah case, significantly hampers the creation of fair law enforcement. The injustice resulting from this abuse of power directly impacts the low quality of court rulings. Decisions that are disproportionate, both in terms of punishment and the calculation of state losses, worsen public distrust in judicial institutions.[7]

The principles of criminal law also play a crucial role in clarifying the boundaries and legal foundations that must be followed in judicial processes. The principle of legality, as outlined in Article 1, paragraph 1 of the Criminal Code, emphasizes that any act considered a criminal offense must be based on clear law.[8] In the context of the PT Timah case, the principle of legality is vital to ensure that each court ruling is based on clear law and that there is no room for interpretation that could lead to injustice. Additionally, the principle of proportionality found in Articles 2 and 3 of Law No. 31 of 1999 jo. Law No. 20 of 2001 reminds us that the punishment imposed should correspond to the level of fault and the impact of the crime.[9] The application of this principle in the PT Timah case is crucial to ensure that the punishment is appropriate to the amount of state loss caused by the corruption offense.

The PT Timah case in Bengkulu reflects a major challenge in Indonesia's criminal justice system, particularly regarding abuse of power and injustice in delivering rulings related to state losses.[10] In this case, there are significant inconsistencies in the assessment of state losses across different levels of the judiciary, indicating that the existing legal guidelines are insufficiently clear for calculating state losses resulting from corruption offenses. This lack of clarity opens the door for manipulation by interested parties and undermines the integrity of the judicial system itself. Moreover, the application of disproportionate punishments based on the level of state losses exacerbates the injustice.

Previous research by Amin found that disparities are influenced by variations in the calculation of state financial losses, the interpretation of regulations, the exercise of

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[7] Yasmirah Mandasari Saragih and Tengku Riza Zarzani., The Law Enforcement of Corruption Crimes in Terms of Authority Abuse, *International Journal of Law Reconstruction*, Vol.7, No.1 (April 2023), page.54, https://doi.org/10.26532/ijlr.v7i1.30563.

[8] Firman AMIR et al., Implementation of the Legality Principle in the Criminal Justice System of Indonesia, *Journal of Political And Legal Sovereignty*, Vol.1, No.4 (October 2024), page.123–29, https://doi.org/10.38142/jpls.v1i4.139.

[9] Ismaidar Ismaidar, Tamaulina Br. Sembiring, and Jesslyn Elisandra Harefa., Politik Hukum Yang Terdapat Pada Pertimbangan Hakim Dalam Perkara Pidana Di Indonesia, *Terang page. Jurnal Kajian Ilmu Sosial, Politik Dan Hukum*, Vol.1, No.4 (December 2024), page. 274–80, https://doi.org/10.62383/terang.v1i4.727.

[10] Wan Mutiara Aisyah, Abdurrakhman Alhakim, and Emiliya Febriyani., Criminal Law Policy In The Juvenile Criminal Justice System For Recidivist Offenders In Indonesia, *Bengkoelen Justice page. Jurnal Ilmu Hukum*, Vol.14, No.2 (December 2024), page. 212–25, https://doi.org/10.33369/jbengkoelenjust.v14i2.37793.

authority, public opinion, and the interests of specific parties.[11] This is corroborated by a study conducted by Puteh and Chaniago, which found that sentencing disparities persist at the Medan Corruption Court due to subjective interpretations, limitations in judges' knowledge and available resources, and varying quality in the evidentiary basis of cases.[12] Another study by Fadhil Jiwo et al. examined the calculation and recovery of state financial losses and identified a need for regulatory reform regarding calculation methods and competent authorities to ensure legal certainty.[13] The research gap addressed here lies in the absence of studies specifically linking sentencing inconsistencies in the PT Timah case to variations in state loss determinations, sentencing proportionality, and potential abuses of authority; furthermore, this study analyzes these factors simultaneously, employing Satjipto Rahardjo's progressive legal theory and Mochtar Kusumaatmadja's theory of law as a tool for development to evaluate the attainment of legal certainty and substantive justice.

This study aims to identify and analyze the abuse of power that occurs in handling corruption cases, particularly in determining state losses. The study will also examine the factors that contribute to judicial inconsistency and offer relevant solutions to improve justice and legal certainty in Indonesia's judicial system.[14] By focusing on the PT Timah case, this research aims to contribute to the academic development of criminal law studies and provide recommendations for improving the handling mechanisms of corruption cases, as well as improving legal guidelines related to the calculation of state losses. The urgency of this study lies in the importance of judicial system reform to prevent abuse of power and address inconsistencies in court rulings. Additionally, this study aims to provide recommendations related to strengthening legal guidelines, enhancing supervision of judicial independence, and improving mechanisms for calculating state losses. Thus, this research will not only contribute to the improvement of law enforcement quality but also support the creation of a fair, transparent, and accountable judicial system. The main issues to be discussed include how abuse of power occurs in court rulings, the factors causing judicial inconsistency, and concrete steps to ensure justice in Indonesia's legal system.

2. RESEARCH METHODS

This study used a normative juridical research method to analyze corruption cases related to state losses in the PT Timah case in Bengkulu. It examined legal norms and principles to

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[11] Muhammad Nur Amin., Disparitas Pemidanaan Tindak Pidana Korupsi Dalam Praktik Pengadilan, *Lex Librumpage. Jurnal Ilmu Hukum*, Vol.9, No.1 (2022), page.1–14, https://doi.org/httpspage.//doi.org/10.46839/lljih.v9i1.635.

[12] Ibrahim Puteh and Hidayat Chaniago., Evaluasi Penerapan Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2020 Tentang Pedoman Pemidanaan Pasal 2 Dan Pasal 3 Undang-Undang Pemberantasan Tindak Pidana Korupsipage. Disparitas Putusan Dalam Pengadilan Tindak Pidana Korupsi Di Pengadilan Neg, *Jurnal Transformasi Administrasi*, Vol.13, No.2 (2023), page.217–32, https://doi.org/httpspage.//doi.org/10.56196/jta.v13i02.253.

[13] Fadhil Jiwo, Bintang Wicaksono Ajie, and Ahmad Almaududy Amri., Law Enforcement on the Calculation of State Financial Loss Recovery in Corruption Crimes, *FOCUS:. Journal of Social Studies*, Vol.5, No.2 (2024), page. 193–202, https://doi.org/httpspage.//doi.org/10.37010/fcs.v5i2.1662.

[14] Yudi Kristiana and Benny Hutahayan., Judicial Corruption in the Post-Reform Erapage. Assessing the Effectiveness of Legal Reforms in Indonesia, *International Criminal Law Review*, (July 2024), page. 1–22, https://doi.org/10.1163/15718123-bja10208.

understand judicial inconsistency in verdicts.[15] The legislative approach reviewed regulations like Law No. 31 of 1999 on Corruption Eradication, while the conceptual approach evaluates principles of justice, legal certainty, and non-disparity in punishment. Secondary data, including legislation, court rulings, legal literature, and expert opinions, was analyzed qualitatively using a descriptive-analytical method.[16]

3. RESULTS AND DISCUSSION

3.1. The Judicial Inconsistency in Determining State Losses

Corruption is a global crime that weakens the rule of law, distorts public policy, and reduces the capacity of the state to provide fair public services. It does not only appear through bribery, but also through abuse of authority, manipulation of public decisions, conflict of interest, illicit enrichment, concealment of assets, and the use of administrative power for private or group benefit. In countries with developing legal institutions, corruption frequently grows from the interaction between political influence, economic interests, weak supervision, and low public accountability. For that reason, corruption law enforcement must be viewed as a central instrument for maintaining the integrity of government, protecting public finance, and preserving public trust in legal institutions.[17]

The relevance of law enforcement in corruption cases lies in its ability to ensure that every act of abuse of power is examined through a fair, transparent, and accountable legal process. Corruption has enormous destructive effects on various aspects of life.[18] Effective law enforcement is not limited to arresting and punishing perpetrators, but also includes prevention, investigation, prosecution, trial, execution of judgments, asset recovery, and protection of affected public interests. In a broader sense, corruption law enforcement must also pay attention to the restoration of social harm and the protection of vulnerable groups who suffer indirectly from the misuse of public resources.[19] Modern corruption schemes often involve private actors, corporate structures, shell companies, and complex financial arrangements used to conceal illegal benefits and disguise the origin of assets.[20]

Abuse of authority is one of the most important issues in corruption law because it connects public power with unlawful personal gain. Public officials or persons entrusted

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15 Atqo Darmawan Aji., Analisis Yuridis Hukum Pidana Dan Hukum Administrasi Dalam Perkara Tindak Pidana Korupsi Perspektif Critical Legal Studies, *Lex Renaissance*, Vol.9, No.2 (December 2024), page. 309–32, https://doi.org/10.20885/JLR.vol9.iss2.art4.

16 Asmawiah Nainggolan, Ismaidar Ismaidar, and Chairuni Nasution., Juridical Analysis of the Imposition of Punishment on Perpetrators of Corruption Crimes Committed Jointly, *International Journal of Law and Society*, Vol.1, No.4 (August 2024), page. 99–112, https://doi.org/10.62951/ijls.v1i4.170.

17 Nurun Najah et al., Membuka Tabir Corrupt Campaign Practices Di Akhir Masa Jabatan Pejabat Politik Di Indonesia, *Politicapage. Jurnal Hukum Tata Negara Dan Politik Islam*, Vol.11, No.2 (January 2025), https://doi.org/10.32505/politica.v11i2.10660.

18 Wahyu Benny Mukti Setyawan, etc., *Hukum Pidana Korupsi*, Serang: Sada Kurnia Pustaka, 2024, page.10

19 Egi Kurniawan., Restorative Justiceand Protection of Children's Rights in the Criminal Legal Process, *Journal of Strafvordering Indonesian*, Vol.1, No.3 (July 2024), page. 1–9, https://doi.org/10.62872/x4pq2h38.

20 Irma Yundira and Demson Tiopan., Urgensi Pengawasan Perusahaan Cangkang Sebagai Upaya Penghindaran Tindak Pidana Pencucian Uang Oleh Perusahaan Cangkang Di Indonesia, *AL-MANHAJ:. Jurnal Hukum Dan Pranata Sosial Islam*, Vol.5, No.2 (July 2023), page.1221–32, https://doi.org/10.37680/almanhaj.v5i2.2930.

with certain powers may use their position to influence licensing, procurement, public budgeting, supervision, or administrative decisions in ways that benefit themselves or other parties. In corruption cases, law enforcement must be able to prove the relationship between position, authority, unlawful conduct, and loss suffered by the state or society. Without this clear relationship, a corruption case may become weak at trial because the legal construction of criminal liability is not sufficiently supported by evidence.[21]

Corruption also frequently intersects with money laundering because the proceeds of crime are often hidden through financial transactions, corporate vehicles, nominee ownership, asset transfers, or fictitious business activities. This condition shows that corruption law enforcement must be integrated with financial investigation and asset tracing. The criminal justice system should not only focus on proving the predicate corruption offense, but also on identifying the flow of illicit proceeds, freezing suspicious assets, and ensuring that the state can recover losses through lawful mechanisms. The involvement of several actors may also require careful application of participation rules so that each person is held responsible according to his or her role, contribution, and intent.

Judicial inconsistency becomes a serious concern when courts impose different legal consequences in corruption cases with comparable patterns of conduct, comparable roles of defendants, and comparable levels of state loss. Differences in judicial outcomes are not always problematic because every case has its own factual background. However, disparity becomes a legal problem when the court does not provide sufficient reasons for why one defendant receives a heavier or lighter punishment than another. In corruption cases, inconsistency may arise from the absence of uniform sentencing guidelines, differences in the interpretation of abuse of authority, unequal assessment of mitigating and aggravating factors, or inadequate judicial reasoning at the appellate level.[22]

The global discussion on corruption shows that the credibility of law enforcement depends on consistency, independence, and transparency. A court decision must not only declare that a defendant is guilty or not guilty, but must also explain how the court assesses the evidence, interprets the elements of the offense, determines the amount of loss, and formulates the sanction. This is particularly important in corruption cases because the public often evaluates the seriousness of anti-corruption efforts through the clarity and proportionality of judicial decisions. When judgments are inconsistent or poorly reasoned, society may suspect that the justice process is influenced by political pressure, economic interests, or selective enforcement.

The determination of state financial loss is a central issue in many corruption cases because it affects the construction of the indictment, the severity of punishment, the amount of replacement money, and the scope of asset recovery. Different audit methods may produce different conclusions, especially when the calculation includes direct loss, potential loss, lost

[21] Putusan Nomor 80/Pid.Sus-TPK/2024/PN Jkt.Pst, Pengadilan Negeri Jakarta Pusat, 2024.

[22] Diah Septi Haryani, etc., Judicial Reasoning in Appellate Sentencing for Major Corruption Cases, *JDH: Jurnal Daulat Hukum*, Vol.8, No.4 (December 2025), page.624-633 DOI: httpspage.//dx.doi.org/10.30659/jdh.v8i4.49042

income, or economic damage caused by illegal conduct.[23] Therefore, law enforcement agencies need a clear and accountable method for calculating state losses so that the figures used in court can be tested, explained, and applied consistently.

The absence of clear standards for determining state losses may create uncertainty for investigators, prosecutors, judges, defendants, victims, and the public. If the amount of loss changes from one stage of the process to another without adequate explanation, the legal basis for punishment and recovery becomes unclear.[24] In this context, the idea of restorative justice is relevant not as a substitute for punishment in serious corruption cases, but as a reminder that corruption law enforcement must also aim to restore public losses and social harm caused by the offense.[25]

Judicial discretion remains necessary because judges must examine the facts and circumstances of each case. Nevertheless, discretion should operate within rational and measurable limits. When the law does not provide sufficient guidance, judicial freedom can create broad variations in the assessment of culpability, state loss, and sentencing.[26] This risk becomes greater in corporate corruption cases because responsibility may involve public officials, company executives, beneficial owners, intermediaries, and other private actors whose roles differ but remain connected in one unlawful scheme.[27]

Transparency in judicial reasoning is an essential requirement for effective corruption law enforcement. A judgment must clearly explain the legal basis, the evidence relied upon, the calculation of state loss, the role of each defendant, and the reasons for imposing a particular sanction.[28] Such explanation is needed so that higher courts, legal scholars, law enforcement agencies, and the public can review whether the decision is consistent with the law.[29] In countries where public trust in the judiciary is fragile, transparent reasoning

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[23] Rahmayanti and Fikri Hakim Hasibuan., Proof Of Financial Loss State of Financial Audit Audit Results Against Action Criminal Corruption, *International Journal of Society and Law*, Vol.2, No.1 (February 2024), page. 44–51, https://doi.org/10.61306/ijsl.v2i1.72.

[24] Reza Noor Ihsan, Erry Fitrya Primadhany, and Novita Angraeni., Mekanisme Ganti Kerugian Dalam Proses Praperadilan Dan Peradilan page. Tinjauan Hukum Dan Praktik, *Rechtsregel page. Jurnal Ilmu Hukum*, Vol.7, No.2 (December 2024), page.170–81, https://doi.org/10.32493/rjih.v7i2.45870.

[25] July Esther et al., The Application Of Restorative Justice In Handling Corruption Offenders As An Effort To Recover State Losses, *Jurnal Hukum Samudra Keadilan*, Vol.19, No.2 (January 2025), page. 250–60, https://doi.org/10.33059/jhsk.v19i2.10647.

[26] Suwitno Y IMRAN and Apripari., Determination Of The Judges Freedom In Indonesia On The Straf Minimum Rules, *Protectionpage. Journal Of Land And Environmental Law*, Vol.1, No.1 (July 2022), page. 5–11, https://doi.org/10.38142/pjlel.v1i1.281.

[27] Fauzan Azima Faturachman, Tomi J.E Hutasoit, and Asmak Ul Hosnah., Pertanggungjawaban Dan Penegakan Hukum Pidana Korporasi Dalam Tindak Pidana Korupsi Di Indonesia, *AKADEMIK: Jurnal Mahasiswa Humanis*, Vol.4, No.2 (May 2024), page. 197–212, https://doi.org/10.37481/jmh.v4i2.731.

[28] Bima Suprayoga, Hartiwiningsih, and Muhammad Rustamaji., Reconstruction of State Economic Losses in Criminal Acts of Corruption in Indonesia, *Revista de Gestão Social e Ambiental*, Vol.17, No.4 (June 2023), page. e03453, https://doi.org/10.24857/rgsa.v17n4-024.

[29] Bambang Daud., Determination of State Financial Damages Performed by the Prosecutor in the Settlement of the Crime of Corruption, *International Journal of Multidisciplinary Research and Analysis*, Vol.05, No. 03 (March 2022), https://doi.org/10.47191/ijmra/v5-i3-06.

also functions as a safeguard against suspicion of external intervention or arbitrary decision-making.[30]

Judicial inconsistency in corruption cases has consequences beyond the individual case. It weakens legal certainty because similar cases may be treated differently without a clear legal explanation. It also creates difficulties for prosecutors and defense lawyers in building legal arguments because the standards applied by courts become difficult to predict. More importantly, inconsistency may reduce public trust in anti-corruption institutions because society may believe that corruption cases are decided not only by law and evidence, but also by power, influence, or negotiation.[31]

The weakening of legal certainty directly affects the effectiveness of anti-corruption law enforcement. If the criminal justice system fails to produce fair and consistent decisions, offenders may exploit uncertainty to seek lighter punishment, challenge the calculation of losses, or avoid asset recovery obligations.[32] Therefore, reform should focus on standardizing the method of calculating state losses, strengthening asset recovery mechanisms, and ensuring that the return of state losses does not automatically eliminate criminal liability unless the law expressly provides otherwise.[33]

Strengthening judicial oversight is also necessary to maintain the integrity of corruption adjudication. Oversight should not be understood as interference with judicial independence, but as a mechanism to ensure that independence is exercised responsibly.[34] Judges must remain free from political pressure, business influence, and institutional intervention, while at the same time being accountable for the reasoning and legal standards used in their decisions. Specific guidelines for corruption cases can help reduce sentencing disparity by providing parameters for assessing abuse of authority, bribery, corporate involvement, state loss, aggravating factors, mitigating factors, and asset recovery obligations.[35]

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[30] Simon BUTT., Judicial Reasoning and Review in the Indonesian Supreme Court, *Asian Journal of Law and Society*, Vol.6, No.01 (May 2019), page. 67–97, https://doi.org/10.1017/als.2018.26.

[31] Subiarto Aprido Tampubolon, Irawan Harahap, and Bagio Kadaryanto., Kedudukan Hukum Surat Telegram Kabareskrim Kepolisian Republik Indonesia Tentang Pengembalian Kerugian Keuangan Negara Mengenyampingkan Tindak Pidana Korupsi, *The Juris*, Vol.8, No.2 (December 2024), page. 452–69, https://doi.org/10.56301/juris.v8i2.1347.

[32] Andriy Yuzyuk et al., Addressing Corruption through Legal Reformpage. Exploring Connections and Pathways for Change, *Multidisciplinary Reviews*, Vol.8 (December 2024), page. 2024spe082, https://doi.org/10.31893/multirev.2024spe082.

[33] July Esther July Esther et al., The Application Of Restorative Justice In Handling Corruption Offenders As An Effort To Recover State Losses, *Jurnal Hukum Samudra Keadilan*, Vol.19, No.2 (January 2025), page. 250–60, https://doi.org/10.33059/jhsk.v19i2.10647.

[34] Ishana Shastri et al., Automating Transparency Mechanisms in the Judicial System Using LLMspage. Opportunities and Challenges, *Proceedings of the AAAI/ACM Conference on AI, Ethics, and Society*, Vol.7 (October 2024), page. 1357–67, https://doi.org/10.1609/aies.v7i1.31729.

[35] Welisa Tryana, Vivi Arfiani Siregar, and Feni Puspita Sari., Analisis Hukum Terhadap Tindak Pidana Korupsi Dengan Penyalagunaan Jabatan Dalam Bentuk Penyuapan Aktif, *Selodang Mayang: Jurnal Ilmiah Badan Perencanaan Pembangunan Daerah Kabupaten Indragiri Hilir*, Vol.10, No.3 (December 2024), page. 233–40, https://doi.org/10.47521/selodangmayang.v10i3.406.

The principle of legal certainty is highly relevant in evaluating corruption law enforcement because it requires the law to be clear, predictable, and consistently applied.[36] In corruption cases, legal certainty demands that the calculation of state loss be based on official, reliable, and accountable mechanisms. When the determination of loss is uncertain, the entire process of prosecution, adjudication, sentencing, and recovery may be questioned. Clear standards are therefore needed to prevent differences in calculation from becoming a source of judicial inconsistency.[37]

The principle of non-disparity in sentencing is equally important because corruption cases often involve several defendants with different roles within the same unlawful conduct. Fair punishment does not mean identical punishment, but proportional punishment based on the degree of fault, level of participation, amount of benefit received, impact on state finance, and cooperation in restoring losses.[38] When comparable defendants receive significantly different sentences without adequate justification, the legitimacy of anti-corruption law enforcement is weakened.

3.2. Abuse of Power by Judicial Authorities in Criminal Acts of Corruption

Judicial independence and accountability are fundamental pillars of corruption law enforcement in any legal system. Corruption is not merely an economic offense, but a crime that weakens public administration, distorts the allocation of state resources, and damages public confidence in legal institutions. In this context, the principle of judicial independence, as recognized in constitutional and statutory frameworks, requires judges to decide corruption cases free from external influence, political pressure, or economic interests. Strengthening law enforcement institutions has become an urgent necessity for building an effective and trustworthy legal system.[39] At the same time, independence must be accompanied by accountability, because court decisions in corruption cases must be supported by clear reasoning, transparent evidentiary assessment, and a measurable legal basis, especially when the decision relates to state financial losses and public interests.[40]

Abuse of power in corruption law enforcement is a broader problem that may arise at various stages, including investigation, prosecution, trial, and execution of judgments. In many jurisdictions, corruption cases frequently involve public officials, corporate actors, political networks, and private beneficiaries who use authority, influence, or institutional access to obtain unlawful benefits. When law enforcement institutions fail to control the

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[36] Gultom Rosmaida Feriana and Zainal Arifin Hosein., Discontinuity in Regulations Regarding Health Workers in Health Law Legislation with the Principle of Legal Certainty," *Majelispage. Jurnal Hukum Indonesia*, Vol.1, No. 4 (November 2024)page. 58–69, https://doi.org/10.62383/majelis.v1i4.279.

[37] Jefri Hardi., Determination Authority of State Financial Loss in Criminal Acts of Corruption Post Constitutional Court Decision Number 25/Puu-Xiv/2016, *International Journal of Social Science And Human Research*, Vol.05, No. 01 (January 2022), https://doi.org/10.47191/ijsshr/v5-i1-13.

[38] I Nengah Aryata, Ria Delta, and Dwi Putri Melati., "Disparitas Pidana Pada Putusan Pengadilan Terhadap Pertanggungjawaban Pelaku Tindak Pidana Penggelapan," *Justicia Sainspage. Jurnal Ilmu Hukum*, Vol.9, No.1 (June 2024), page. 202–18, https://doi.org/10.24967/jcs.v9i1.3283.

[39] Eko Saputra., *Peran Penegak Hukum Dalam Sistem Pidana Indonesia*, Solok: Mafy Media Literasi Indonesia, 2025, page.46

[40] Mellisa Anggraini., Optimalisasi Good Governance Melalui Prinsip Akuntabilitas Hukum Dalam Pengelolaan Keuangan Negara, *Coopetitionpage. Jurnal Ilmiah Manajemen,* Vol.15, No.3 (October 2024), page. 627–38, https://doi.org/10.32670/coopetition.v15i3.4826.

misuse of authority, the process of handling corruption cases may produce inconsistent outcomes, disproportionate sentencing, or selective enforcement. This condition harms legal certainty, reduces public trust in the judiciary, and weakens the deterrent function of anti-corruption law.[41]

Judicial inconsistency in corruption cases often appears in the determination of state financial losses, the interpretation of abuse of authority, and the proportionality of punishment. Corruption laws generally require that unlawful conduct, abuse of position, and loss to the state be proven through valid evidence and reliable institutional assessment.[42] Administrative enforcement mechanisms are also relevant because abuse of authority often begins from weaknesses in public administration, licensing, budgeting, procurement, or supervision systems.[43] The absence of clear legal reasoning in determining loss, liability, or punishment may create uncertainty and open space for manipulation.[44] In addition, the concept of abuse of power shows that domination, pressure, and control can influence institutional decisions when oversight is weak.[45] Therefore, judicial independence must be maintained through a strong legal framework for judges, transparent recruitment, ethical supervision, and institutional safeguards.[46] Judicial integrity is necessary so that judges remain impartial and their decisions are based on law and evidence rather than external political or economic interests.[47]

The relevance of law enforcement in corruption cases lies in its ability to connect legal norms with effective institutional action. Anti-corruption law will lose its meaning if it only provides formal prohibitions without ensuring consistent investigation, credible prosecution, careful judicial examination, and enforceable sanctions. A strong law enforcement system must guarantee that corruption cases are handled based on legality, proportionality, transparency, and equality before the law. When similar cases are treated differently

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[41] M. Rizal Bagaskoro and Irda Nur Khumaeroh., Determinan Tindak Pidana Korupsi Penyalahgunaan Wewenang Yang Dilakukan Oleh Pejabat Publik, *Collegium Studiosum Journal*, Vol.7, No.1 (June 2024), page. 299–306, https://doi.org/10.56301/csj.v7i1.1459.

[42] Dian Permata Sari et al., Analisis Hubungan Antara Kasus Korupsi Harvey Moeis Dan Setya Novanto Serta Kaitannya Dengan Hukum Tata Negara Dan Undang-Undang NRI 1945, *Eksekusi page. Jurnal Ilmu Hukum Dan Administrasi Negara*, Vol.3, No.1 (December 2024), page. 112–22, https://doi.org/10.55606/eksekusi.v3i1.1667.

[43] Wahbi Rahman et al., Prevention of the Corruption Crime through Administrative Enforcement Mechanism against Abuse of Authority, *Journal of Law and Legal Reform*, Vol.5, No. 4 (December 2024), page. 2013–44, https://doi.org/10.15294/jllr.v5i4.1849.

[44] Mario T. Emadjaik, Saryono Yohanes, and Yohanes G. Tuba Helan., Kewenangan Mahkamah Konstitusi Dalam Memutus Perkara Open Legal Policy Menurut Sistem Ketatanegaraan Indonesia, *Journal of Comprehensive Science (JCS)*, Vol.3, No.12 (December 2024), page.5562–72, https:.//doi.org/10.59188/jcs.v3i12.2941.

[45] Elitsa Petrova., Abuse Through Power and Control in Human Societies – Essence, Characteristics and Effects, *Land Forces Academy Review*, Vol.29, No.4 (December 2024), page.522–32, httpspage.//doi.org/10.2478/raft-2024-0054.

[46] Retno Mawarini Sukmariningsih et al., Ensuring Judicial Independence By Evaluating The Recruitment Process And Legal Framework For Judges In Indonesia, *Jurnal Pembaharuan Hukum*, Vol.11 No.2 (September 2024), page. 403, https://doi.org/10.26532/jph.v11i2.38395.

[47] Dadah Cholidah., Peran Hakim Dalam Memperkokoh Integritas Peradilan Sebagai Pemenuhan Kepercayaan PubIik, *SALAM:. Jurnal Sosial Dan Budaya Syar-I*, Vol.10, No.2 (May 2023), page. 627–46, https:.//doi.org/10.15408/sjsbs.v10i2.32134.

without clear justification, the public may perceive that legal outcomes depend more on power, influence, or institutional bargaining than on objective legal standards.

Weak law enforcement in corruption cases has a direct impact on the effectiveness of anti-corruption policy. If offenders believe that legal outcomes can be negotiated, delayed, manipulated, or influenced, the deterrent effect of criminal law will decline.[48] Corruption law enforcement also functions as a tool of social engineering because it shapes public behavior, strengthens ethical governance, and encourages obedience to the law. When judicial decisions are inconsistent or lack transparent reasoning, this function is weakened, and corruption may continue to reproduce itself within public institutions and private-sector relations.[49]

For that reason, reform of corruption law enforcement must emphasize clearer standards for assessing state losses, proportional sentencing, and judicial reasoning. Special sentencing guidelines are needed to help courts determine the relationship between the amount of loss, the role of the offender, the level of responsibility, restitution obligations, and aggravating or mitigating circumstances.[50] In addition, supervision over judges must be strengthened to ensure that judicial independence is exercised responsibly and does not become a shield for arbitrary or unaccountable decisions. Oversight by judicial institutions should focus on ethical compliance, professional discipline, and the integrity of decision-making without interfering with the substance of judicial independence.[51]

Increasing transparency in court rulings is essential for strengthening public accountability in corruption law enforcement. Every decision should explain the legal basis, the evidence relied upon, the method of assessing state losses, the role of each offender, and the reason for imposing a particular sanction. Public access to court decisions also allows academic scrutiny, legal evaluation, and public monitoring of judicial performance. The development of specific guidelines for corruption cases can reduce sentencing disparity and prevent abuse of discretion. These reforms are relevant not only for Indonesia, but also for the global fight against corruption, because effective law enforcement requires a judiciary that is independent, transparent, consistent, and trusted by society.

3.3. The Comparison of Corruption Case Handling in Indonesia and the Philippines

The handling of corruption cases in Indonesia and the Philippines shares several similarities and differences in terms of calculating state losses, judicial mechanisms, and challenges in

[48] Dian Hardian Silalahi., Penerapan Hukum Tindak Pidana Korupsi Dalam Lingkaran Pejabat Negara Republik Indonesia, *Warta Dharmawangsa*, Vol.18, No.4 (October 2024), page. 1463–72, https://doi.org/10.46576/wdw.v18i4.5691.

[49] Andi Harunsyah Peter Noel Weenas., Efektivitas Undang-Undang Tindak Pidana Korupsi Sebagai Alat Rekayasa Sosial, *Jurnal Yustika: Media Hukum Dan Keadilan*, Vol.27, No.01 (December 2024), page. 24–41, https://doi.org/10.24123/yustika.v27i01.6529.

[50] Andi Muhammad Alief., Reconstruction of Special Sentencing Guidelines on State Loss Crime in the Indonesian Civil Code, *Integritas : Jurnal Antikorupsi*, (June 2024), https://doi.org/10.32697/integritas.v10i1.1069.

[51] Zamroni Faizal Abdi and Chintya Khaerunnisa., Revitalization of Supervision of the Judicial Commission as Strengthening Judicial Institutions in Maintaining the Independence and Integrity of Judges, *Justices:. Journal of Law*, Vol.3, No.3 (October 2024), page. 184–96, https://doi.org/10.58355/justices.v3i3.110.

enforcing penalties. The PT Timah case in Indonesia and the Imelda Marcos case in the Philippines serve as examples of how the legal systems of both countries handle corruption scandals involving large sums and widespread impacts on national finances. Although anti-corruption regulations in both countries have evolved, their implementation still faces various obstacles, including legal inconsistencies, political influence, and difficulties in executing penalties.

One of the crucial aspects in handling corruption cases is how the state determines the amount of state losses caused by the criminal acts. In Indonesia, the differences in the methods used by the Audit Board of Indonesia (BPK) and the Financial and Development Supervisory Agency (BPKP) for calculating state losses often lead to legal uncertainty.[52] In the PT Timah case, the figures for state losses used at different levels of the judiciary varied, leading to sentencing disparities for the defendants. According to Articles 2 (1) and 3 of Law No. 31 of 1999 jo. Law No. 20 of 2001, every state loss must be based on a valid audit, but the flexibility in choosing the figures used in court rulings often becomes a loophole in the legal system.

In contrast, the Philippines' system for calculating state losses is more centralized through the Commission on Audit (COA), an independent auditing agency responsible for assessing the economic impact of corruption crimes. In the Imelda Marcos case, COA worked in collaboration with the Office of the Ombudsman to identify the funds misused in various corruption transactions.[53] However, despite having a more standardized calculation method compared to Indonesia, the Philippines still faces challenges in ensuring that audit results are effectively implemented in court proceedings. For example, despite the court ruling that Imelda Marcos was found guilty in 7 corruption cases with a total value of billions of dollars, most of the assets declared as missing have still not been recovered by the state.[54]

Judicial independence in handling corruption cases is crucial to ensure that the judicial process is fair and transparent. In Indonesia, despite the existence of institutions such as the Judicial Commission (KY) and the Supreme Court (MA) to oversee the conduct of judges, the PT Timah case shows that judges at various levels of the judiciary still have wide discretion in determining verdicts. The differing verdicts against the main defendants in this case indicate that external pressures, both from the economic and political sectors, still influence the course of the trial. This contradicts Article 24 of the 1945 Constitution, which emphasizes that judicial power must be free from the intervention of any party.

In the Philippines, there is the Sandiganbayan, a special court for corruption cases, which allows the legal system to focus more on handling large corruption cases. However, the

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[52] Hartati et al., Authority for Calculating State Economic Losses in Criminal Acts of Corruption in Indonesia, *Jurnal IUS Kajian Hukum Dan Keadilan*, Vol.12, No.3 (December 2024), page. 530–41, https://doi.org/10.29303/ius.v12i3.1480.

[53] Achmad Rilyadi Sholeh and Setiawan Noerdajasakti., Legal Consequences of Calculating State Financial Losses by Prosecutors in Corruption Crimes Based on Decision Numberpage. 69 K/Pid.Sus/2013, *International Journal of Business, Law, and Education*, Vol.5, No.1 (April 2024), page.1190–96, https://doi.org/10.56442/ijble.v5i1.535.

[54] Thomas Elliot A. Mondez and Jocelyn P. Cruz., Corruption and Illegality in Asian Investment Arbitrationpage. The Philippines, in *Corruption and Illegality in Asian Investment Arbitrationpage. The Philippines*, (2024), page. 343–67, https://doi.org/10.1007/978-981-99-9303-1_13.

legal uncertainty in Indonesia, as seen in the PT Timah case, creates gaps that allow perpetrators to avoid deterrence, as the penalties are often inconsistent.[55] Romli Atmasasmita argues that the need for an extraordinary approach in handling corruption is also relevant, as both Indonesia and the Philippines face similar challenges in executing verdicts. In Indonesia, despite the existence of institutions such as the Corruption Eradication Commission (KPK), asset recovery processes are still hindered by legal and political obstacles, as seen in the PT Timah case. In the Philippines, although Imelda Marcos was convicted, the execution of her sentence has also been impeded by political factors, showing that even with special institutions like the Sandiganbayan, challenges remain in ensuring effective execution.[56]

In the Philippines, the judicial system for handling corruption cases also faces similar challenges. The Imelda Marcos case, which has spanned several decades, reflects how political influence can slow down or even block legal processes. Although Imelda Marcos was sentenced to 6 to 11 years in prison for each of the 7 corruption cases, she has yet to fully serve her sentence.[57] The Philippines has the Sandiganbayan, a special court for high-level corruption cases, but its effectiveness is often questioned due to political and economic pressures that hinder the enforcement of verdicts. The fact that Imelda Marcos remains free and still active in Philippine politics shows that the judicial system in the country remains weak in dealing with elites who hold significant influence.

One of the biggest obstacles in the fight against corruption in Indonesia and the Philippines is how to ensure that the execution of verdicts can proceed effectively without political or administrative barriers. In Indonesia, although several defendants in the PT Timah case have been sentenced, the execution of asset recovery from corruption still faces challenges. According to Article 18 (1) of Law No. 31 of 1999, perpetrators of corruption are required to pay restitution equivalent to the state losses incurred. However, in practice, asset recovery often encounters legal challenges, such as the defendants' appeals and difficulties in tracing assets hidden through money laundering schemes.

The Philippines also faces similar challenges in executing penalties for corruption offenders. Although a sentence has been imposed on Imelda Marcos, the government faces difficulties in ensuring that the illegally acquired assets are truly returned to the state. The Philippines has the Presidential Commission on Good Government (PCGG), an agency tasked with recovering embezzled funds, but it often faces legal and political hurdles that delay the

[55] Sebastian Axbard., Convicting Corrupt Officialspage. Evidence from Randomly Assigned Cases, *Review of Economic Studies*, (June 2024), https://doi.org/10.1093/restud/rdae069.

[56] Nidia Putri Kusumawardhani and Jenny Puno Diokno., Strengthening Integrity by Building Integrated Systemspage. A Comparative Case Study of Indonesia and the Philippines, *World Customs Journal*, Vol.16, No.1 (March 2022), https://doi.org/10.55596/001c.116466.

[57] Oscar Bulaong, Gabrielle Ann S. Mendoza, and Ronald U. Mendoza., Cronyism, Oligarchy and Governance in the Philippinespage. 1970s vs. 2020s, *Public Integrity*, Vol.26, No.2 (March 2024), page.174–87, https://doi.org/10.1080/10999922.2022.2139656.

asset recovery process. Even after several decades, much of the money embezzled by the Marcos family has still not been returned to the national treasury.[58]

Indonesia and the Philippines share challenges in handling corruption cases, including political interference in the judicial process, difficulties in executing penalties, and inconsistencies in law enforcement, leading to legal uncertainty. Both countries struggle with offenders evading full punishment, as seen in the Imelda Marcos case and PT Timah case. However, differences exist in handling corruption cases. The Philippines has the Commission on Audit (COA) for calculating state losses, while Indonesia faces discrepancies between BPK and BPKP. The Philippines also has the Sandiganbayan, a special court for high-level corruption cases, while Indonesia uses the Corruption Court (Tipikor) within the general judicial system. In asset recovery, the Philippines has the Presidential Commission on Good Government (PCGG), while Indonesia relies on the KPK, Attorney General's Office, and PPATK, often facing coordination challenges.

Comparative discussion of corruption law enforcement shows that corruption is not merely a domestic criminal offense, but a global governance problem that weakens public accountability, damages state finances, and erodes trust in public institutions. In countries facing major corruption cases, the core issue is often not only the existence of anti-corruption statutes, but the consistency of law enforcement in proving state losses, adjudicating responsibility, executing sanctions, and recovering assets. The novelty of this study lies in positioning judicial inconsistency as a law-enforcement problem that must be addressed through an integrated model connecting audit standardization, judicial independence, special corruption adjudication, and asset recovery mechanisms.

The comparative study between Indonesia and the Philippines demonstrates that the calculation of state losses is a decisive element in corruption cases because it influences indictment formulation, judicial reasoning, sentencing severity, and asset recovery. Indonesia still faces difficulties arising from differences in institutional approaches to calculating state losses, while the Philippines provides a comparative lesson through the Commission on Audit as a more centralized audit institution. The construction offered by this study is that Indonesia needs a single authoritative and accountable audit framework for corruption cases, supported by clear procedural standards so that judges do not rely on competing figures without transparent legal justification.

The first element of the ideal construction is the standardization of state-loss calculation. In corruption cases, state loss should be determined through a legally recognized audit institution using a transparent, measurable, and reviewable method. Prosecutors must be required to explain the causal relationship between unlawful conduct, abuse of authority, and the loss suffered by the state, while judges must state clearly why a particular audit result is accepted or rejected. This construction prevents state-loss assessment from becoming a subjective instrument and ensures that the amount of loss used in sentencing can be tested legally and academically.

[58] Saleem Isaaf Alazab2 & Shaima "Moh'd Said" Al-Hussien Ali Ahmad Alzubi1., The Legal Framework for the Recovery of Proceeds from Corruption Crimespage. Reality and Ambitions, *Pakistan Journal of Criminology*, Vol.16, No.3 (June 2024), page. 1190–1210, https://doi.org/10.62271/pjc.16.3.1199.1210.

The Philippines provides an important comparative point because centralized audit authority can reduce methodological conflict, although its effectiveness still depends on whether audit results are properly used in judicial proceedings and followed by asset recovery. The lesson obtained from this comparison is that audit centralization alone is insufficient if it is not linked with evidentiary rules, judicial reasoning, and execution mechanisms. Therefore, the ideal model for Indonesia should combine standardized audit methodology with mandatory judicial explanation, so that state-loss calculation becomes part of accountable legal reasoning rather than a mere administrative figure placed in the judgment.

The second element is the strengthening of special corruption adjudication. Comparative experience shows that corruption cases involving public officials, corporations, and large financial losses require judges who are trained in corruption law, financial evidence, corporate liability, money laundering patterns, and asset recovery. The Philippines has the Sandiganbayan as a special court for high-level corruption cases, while Indonesia has the Corruption Court within the general judiciary. The novelty proposed in this study is not simply to create a new institution, but to strengthen specialized competence, case management, and sentencing consistency in corruption courts so that complex corruption cases are handled by judges with adequate technical capacity and stronger integrity safeguards.[59]

The third element is the integration of law-enforcement institutions. Effective corruption enforcement requires coordination among investigators, prosecutors, auditors, financial-intelligence authorities, courts, and asset-recovery agencies. Comparative study shows that fragmented institutions may weaken execution even when a conviction has been obtained. The ideal construction therefore requires an integrated corruption case-management system, beginning from investigation and audit, continuing through prosecution and trial, and ending with the execution of imprisonment, fines, replacement money, confiscation, and asset return to the state. This model makes law enforcement relevant not only as punishment, but also as a mechanism for restoring public losses and preventing future corruption.[60]

The fourth element is the protection of judicial independence from political and economic influence. Corruption cases often involve powerful actors, business networks, and public officials, making the judiciary vulnerable to external pressure. Comparative experience from countries dealing with elite corruption shows that the strength of anti-corruption enforcement depends heavily on whether courts can decide cases independently and whether verdicts can be executed against influential offenders. The ideal construction therefore requires stronger judicial supervision, transparent case assignment, publication of

[59] Sebastian Axbard., Convicting Corrupt Officialspage. Evidence from Randomly Assigned Cases, *Review of Economic Studies*, (June 2024), https://doi.org/10.1093/restud/rdae069.

[60] Nidia Putri Kusumawardhani and Jenny Puno Diokno., Strengthening Integrity by Building Integrated Systemspage. A Comparative Case Study of Indonesia and the Philippines, *World Customs Journal*, Vol.16, No.1 (March 2022), https://doi.org/10.55596/001c.116466.

judicial reasoning, and ethical sanctions for judges who misuse discretion or fail to provide accountable reasoning in corruption judgments.[61]

The fifth element is asset recovery as the central orientation of corruption law enforcement. A corruption verdict should not stop at imprisonment because corruption produces economic harm that must be restored to the state and society. Comparative experience shows that the effectiveness of anti-corruption law is often weakened when stolen assets remain hidden, transferred, or unrecovered. The ideal model must therefore strengthen early asset tracing, freezing, confiscation, international cooperation, beneficial-ownership disclosure, and coordination between prosecutors, financial intelligence units, and courts. Asset recovery should be placed as a mandatory component of corruption enforcement, not merely as an additional sanction after conviction.[62]

Based on these comparative findings, the ideal construction of law enforcement for corruption crimes consists of five integrated pillars: standardized state-loss calculation, specialized corruption adjudication, coordinated law-enforcement institutions, protected judicial independence, and effective asset recovery. These pillars respond to the weaknesses commonly found in corruption enforcement, namely inconsistent calculation of losses, sentencing disparity, weak judicial reasoning, political interference, and ineffective execution of verdicts. The contribution of this construction is to shift the focus of corruption law enforcement from case-by-case punishment toward a more systematic model that guarantees legal certainty, proportional justice, institutional accountability, and restoration of state finances.

Thus, the novelty of this study is reflected in its comparative legal construction that links law enforcement, judicial consistency, and asset recovery into one integrated anti-corruption framework. The proposed model does not only borrow institutional features from other countries, but adapts comparative lessons to the needs of Indonesian corruption law enforcement. Through this construction, corruption cases can be handled more transparently, judges can exercise discretion within measurable standards, public trust in the judiciary can be strengthened, and the legal system can better prevent corruption from becoming a recurring abuse of public power.

3.4. Findings of Judicial Inconsistency and Abuse of Power in the PT Timah Case

The PT Timah case reveals several weaknesses in Indonesia's judicial system, particularly related to judicial inconsistency, abuse of power, and disparities in determining state losses. Several findings indicate that, at various stages of the trial, the verdicts handed down to the defendants did not always reflect the principle of substantive justice but were influenced by external factors such as political pressure, differences in the methods used to calculate state losses, and the lack of clear standards in law enforcement. As a result, there

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61 Oscar Bulaong, Gabrielle Ann S. Mendoza, and Ronald U. Mendoza., Cronyism, Oligarchy and Governance in the Philippinespage. 1970s vs. 2020s, *Public Integrity*, Vol.26, No.2 (March 2024), page.174–87, https://doi.org/10.1080/10999922.2022.2139656

62 Saleem Isaaf Alazab2 & Shaima "Moh'd Said" Al-Hussien Ali Ahmad Alzubi1., The Legal Framework for the Recovery of Proceeds from Corruption Crimespage. Reality and Ambitions, *Pakistan Journal of Criminology*, Vol.16, No.3 (June 2024), page. 1190–1210, https://doi.org/10.62271/pjc.16.3.1199.1210.

is legal uncertainty that has the potential to weaken the effectiveness of anti-corruption efforts in Indonesia.

One of the key findings in the PT Timah case is the inconsistency in court rulings. Defendants received vastly different sentences with no clear justification. Mochtar Riza Pahlevi Tabrani, the former President Director of PT Timah, was initially sentenced to 12 years in prison and a fine of IDR 1 billion, but on appeal, his sentence was increased to 20 years despite no significant changes in the evidence.[63] Meanwhile, Harvey Moeis, a businessman involved in laundering corruption proceeds from the illegal tin trade, was sentenced to only 6 years and 6 months, despite his significant role in the crime. This disparity highlights the failure to apply the principle of proportionality in criminal law, where punishment should align with the level of fault and impact caused by the defendant. Such inconsistencies could erode public trust in the judicial system and open the door to potential judicial bias or external interference.

In addition to verdict inconsistencies, the PT Timah case reveals significant abuse of power by judicial authorities, from the investigation stage to the final verdict. A prominent issue is external intervention in the judicial process, suggesting political or economic pressure influencing the verdicts. Article 24 of the 1945 Constitution and Article 3 of Law No. 48 of 2009 on Judicial Power mandate that judicial decisions must be free from external influence, yet the drastic change in the verdicts at the appellate level raises concerns about such pressures. Another form of abuse is the lack of transparency in calculating state losses. Different audit results from institutions like the Audit Board of Indonesia (BPK) and the Financial and Development Supervisory Agency (BPKP) were used without clarity on the most valid methods for determining state losses. This caused discrepancies in the state loss figures used in the trial, leading to legal uncertainty and potential manipulation for specific interests. This contrasts with Constitutional Court Decision No. 25/PUU-XIV/2016, which requires that state losses be proven through an official audit and cannot change without clear justification. The varying figures for state losses across different court levels in the PT Timah case suggest possible manipulation.

In addition to the abuse of power in the verdicts, the PT Timah case highlights a disparity in determining the amount of state losses, which impacts the severity of the sentences. Different audit results show varying figures for state losses, with BPKP setting the figure at IDR 493.3 billion, while BPK presents a different amount. This discrepancy influences the sentences, as the amount of state loss is crucial in determining the penalty. In some cases, a higher figure led to harsher sentences, while a lower figure resulted in lighter sentences for defendants involved in similar crimes. This disparity underscores the need for standardization in calculating state losses, as mandated by Article 18 (1) of Law No. 31 of 1999, which requires calculations based on an official and transparent audit. However, the lack of transparency in the PT Timah case has resulted in inconsistent sentences, undermining the principle of substantive justice.

[63] Marie Manikis., The Evolution of Proportionality in Sentencing, in *Sentencing, Public Opinion, and Criminal Justice*, Oxford: Oxford University Press, 2025, page.53–68, https://doi.org/10.1093/9780191991936.003.0006.

Judicial inconsistency and abuse of power in the PT Timah case have serious consequences for Indonesia's judicial system, particularly in upholding substantive justice. One significant impact is the erosion of public trust, as the public perceives that corruption offenders are not receiving appropriate sentences. The disparity in sentencing and the inconsistent calculation of state losses creates an unclear legal precedent, potentially enabling future corruption offenders to secure lighter sentences. Without a consistent standard for determining state losses and penalties, the legal system will lose its deterrent effect on corruption. Additionally, the abuse of power weakens the rule of law, as it shows that the law can be manipulated for specific interests rather than serving justice. If this continues, the judicial system in Indonesia will become more susceptible to interference and manipulation, ultimately undermining efforts to combat corruption.

The PT Timah case demonstrates that inconsistency in court rulings, abuse of power by judicial authorities, and disparity in determining state losses have undermined the principle of substantive justice in Indonesia's legal system. To address these issues, standardization of the method for calculating state losses, transparency in court rulings, and stricter oversight of judicial independence are needed. Anti-corruption strategies are becoming increasingly vital. A comprehensive review reveals that corruption prevention and prosecution efforts require cross-sectoral and international collaboration, as well as the crucial role of individuals and institutions in strengthening justice systems and transparency.[64] Without reform in the judicial system, practices of inconsistency and abuse of power will continue, ultimately hindering the effectiveness of anti-corruption efforts in Indonesia.

The novelty of this research lies in the formulation of an integrated model for the enforcement of laws against corruption, based on an analysis of the PT Timah case and a comparison of the Indonesian and Philippine legal systems. This model links five elements: the standardization of accountable state loss calculations, the strengthening of specialized competencies within corruption courts, inter-agency law enforcement coordination, the protection of judicial independence, and the effectiveness of asset recovery. The study identifies inconsistencies in judicial reasoning as a key issue in law enforcement.

4. CONCLUSION

The potential scope of authority in handling corruption cases is evident in the lack of transparency regarding the selection of state financial loss audit results, the broad discretion exercised by officials and judges, and sentencing disparities often lacking a robust legal basis. These sentencing inconsistencies stem from the absence of standardized methods for calculating state financial losses, divergent interpretations of facts and legal provisions, varying evidence quality, weak inter-agency coordination, and suboptimal oversight of judicial independence. Such factors undermine legal certainty, sentencing proportionality, and public trust in the judicial system. The novelty of this research lies in the formulation of an integrated law enforcement model for corruption crimes based on the analysis of the PT Timah case and a comparative study between Indonesia and the

[64] Kiki Kristanto., *Strategi Anti Korupsi Pendekatan Mencegah, Mengungkap, Dan Mengatasi Kasus Korupsi*, Medan: Media Penerbit Indonesia, 2024, page.203

Philippines, which combines five elements into one complete unit, including standardization of compensation for state losses, increasing special competence for judges in corruption courts, coordination between law enforcement agencies, protection of judicial independence, and the effectiveness of asset recovery.

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