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Challenging Corruption: Impacts on State Finances, Economy, and the Ratification of UNCAC

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Abstract: This study aims to analyze the differences in meaning between "causing financial losses to the state" and "causing economic losses to the state" as stipulated in Law Number 20 of 2001 on the Eradication of Corruption (Anti-Corruption Law) and the implications of the ratification of the United Nations Convention Against Corruption (UNCAC) 2003 on the provisions of the law. The research employs a normative juridical method with a legislative and conceptual approach. The findings indicate that the term "causing financial losses to the state" has a narrower scope compared to "causing economic losses to the state," which encompasses broader dimensions. UNCAC 2003 does not explicitly define either term but categorizes any form of harm to state assets as corruption. Additionally, UNCAC establishes five formats for international cooperation, including extradition and joint investigations, which can strengthen anti-corruption efforts. In conclusion, harmonizing the provisions of the Anti-Corruption Law with UNCAC is necessary to clarify definitions, enhance legal certainty, and promote economic stability. It is recommended to implement stricter measures regarding UNCAC's cooperation framework.

Keywords: Corruption Crimes; State Financial Losses; Ratification of UNCAC

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1. Introduction

The development carried out by the Indonesian government has increasingly been felt by society, particularly in sectors such as education, economy, culture, security, and politics. These advancements, while rapid and significant, are not without negative consequences, as they contribute to a rise in various types of crimes that disrupt public order and harm both society and the state. According to I Made Darma Weda, the increase in criminal activity is an inevitable reality of the times, as crime has been a part of human existence throughout history. Wherever humans are present, there exists the potential for crime. Therefore, law enforcement officers (APH) must play an active role in addressing this issue by enforcing laws that regulate societal behavior. Their involvement is crucial in ensuring that communities adhere to normative legal principles, fostering justice, order, and peace.

Effective law enforcement requires both firmness and alignment with established regulations. However, this firmness must be exercised with humanity, as the primary purpose of law is to regulate human behavior without infringing on human rights. Law enforcement grounded in the principles of justice, utility, and legal certainty ensures that the rights of all citizens, including those of the government, are protected. This legal framework acts as a safeguard against violations and establishes accountability, ultimately creating a system where justice and order prevail.

One of the most pressing criminal issues in Indonesia is corruption, a problem that consistently attracts public attention due to its profound impact on national stability. Corruption not only disrupts social, economic, and political development but also undermines democratic values and ethics. Its prevalence has reached a level where it is perceived as a cultural phenomenon and a significant obstacle to achieving a just and prosperous society. As crimes, including corruption, continue to rise, law enforcement must act decisively, guided by the principles of legal certainty, justice, and utility. Only through strict implementation of the law can the nation prevent corruption, protect public interests, and ensure that societal aspirations for progress and democracy are safeguarded for future generations.[1]

Corruption in Indonesia has become so systematic that almost all infrastructure and superstructure within political and governmental management are tainted by corrupt practices, even reaching a state akin to vampiric exploitation. Anti-corruption agendas, which should serve as a means of addressing this pervasive issue, have often been reduced to mere political commodities for the elite. Rather than ensuring equitable legal action, these agendas are frequently weaponized to target specific individuals or groups, reflecting the preferences of those in power. Bribery-related corruption, in particular, causes significant harm to the public. However, the implementation of anti-bribery laws remains outdated and inadequate, failing to address the evolving and complex nature of corruption effectively.[2]

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[1] Ermansjah Djaja, Memberantas Korupsi Bersama KPK (Jakarta:Sinar Grafika, 2008).
[2] Klitgaard dkk, "Penuntut Pemberantasan Korupsi dalam Pemerintahan Daerah" (Jakarta, n.d.).

Corruption crimes in Indonesia are predominantly committed by individuals occupying both high and low positions, spanning from central to regional levels, and are intrinsically tied to the mechanisms enabling these offenses. This pervasive issue is well-known in the country, resembling an octopus whose grasp grows ever stronger, undermining the foundational principles of democracy and the nation-building process. The abundance of systemic loopholes and the exploitation of power and authority are key drivers of corruption. These factors facilitate the misuse of public trust and resources for personal or group gain, perpetuating this detrimental practice.

In Indonesia, corruption is classified as an extraordinary crime, a designation that underscores its severe impact on society and governance. The term "extraordinary crime" is particularly apt in the context of criminal law enforcement policies and criminological studies, where corruption aligns with categories such as "white-collar crime," "serious crime," and similar classifications. This recognition highlights the grave nature of corruption and the urgent need for comprehensive, decisive measures to combat it, ensuring the protection of democratic values and the integrity of national development.[3] Therefore, law enforcement must be carried out by courageous and decisive legal authorities. Such enforcement is achievable through the implementation of robust legal systems. The impact of corruption perpetrated by irresponsible individuals has tarnished Indonesia's reputation on the global stage. According to various surveys, Indonesia has been ranked as the most corrupt country in Asia and the third most corrupt globally. However, these findings have been criticized for unfairly targeting Indonesia, warranting further research and reevaluation to ensure accuracy.

Andi Hamzah argues that "the third millennium is marked by the prominence of corruption worldwide, as evidenced by the emergence of numerous bilateral and multilateral conventions aimed at combating corruption globally, particularly toward the end of the twentieth century." This perspective underscores the global nature of corruption as an issue and highlights the international efforts and cooperation needed to address it effectively. Indonesia’s active engagement in these conventions is crucial to strengthen its legal framework and restore its credibility on the world stage.[4]

The reliance on national legal frameworks to address corruption has proven inadequate in significantly curbing the prevalence of corruption cases. In Indonesia, the primary anti-corruption measures are encapsulated in Law Number 31 of 1999, as amended by Law Number 20 of 2001 (State Gazette of 2001 Number 134, Supplement to the State Gazette Number 4150), collectively referred to as the Anti-Corruption Law (UU PTPK). This legislation serves as the cornerstone of Indonesia's efforts to combat

[3] Nur Faiqah Aireen, “Analisis Disparitas Putusan Mahkamah Konstitusi Terhadap Kedudukan Komisi Pemberantasan Korupsi Di Indonesia (Studi Putusan Mk No. 012-016-019/Puu-Iv/2006 Dan Putusan Mk No. 36/Puu-Xv/2017 Tentang Komisi Pemberantasan Korupsi)” (PhD Thesis, IAIN Bone, 2020), http://repositori.iain-bone.ac.id/id/eprint/571.
[4] dkk, “Penuntut Pemberantasan Korupsi dalam Pemerintahan Daerah.”

corruption, emphasizing the need for comprehensive and effective legal strategies to address this pervasive issue.[5]

The limitations of national legal instruments, such as Indonesia's Anti-Corruption Law, are not unique but rather a common occurrence in many countries worldwide. Recognizing this global challenge, the United Nations (UN), as the principal international body overseeing various global institutions, initiated the adoption of an anti-corruption convention.[6] This initiative also emphasized fostering societal discourse on corruption and developing international cooperation to comprehensively address corruption issues. Collaborative efforts among nations are particularly essential for tackling cross-border corruption cases. Such cooperation becomes more effective when participating countries share a mutual commitment to eradicating corruption as a demonstration of their seriousness in combating this issue. Consequently, on December 9, 2003, in Mérida, Mexico, the United Nations Convention against Corruption (UNCAC) was signed by 133 countries.

The UNCAC was introduced with high expectations as the first international instrument dedicated to the fight against corruption. It was hoped that corruption could not only be addressed at the national level but also through international mechanisms. Given that corruption is no longer a localized issue but a transnational phenomenon affecting global societies, international cooperation is imperative to jointly prevent and control its spread.

Based on this foundation, the article examines the following issues: the differences in meaning between "causing financial losses to the state" and "causing economic losses to the state" as stipulated in Law Number 20 of 2001 on the Eradication of Corruption Crimes, and the implications of the ratification of the United Nations Convention Against Corruption 2003 on the provisions of Law Number 20 of 2001. This analysis aims to provide a deeper understanding of how the UNCAC has influenced Indonesia's anti-corruption legal framework.

2. Method

This research employs a normative juridical method (legal research) aimed at examining the norms and principles within Indonesia's positive law. The approaches utilized include the statute approach, which involves analyzing various relevant legislative regulations, and the comparative approach, which seeks to understand the differences and similarities in legal frameworks between Indonesia and other countries. The primary legal sources used in this study are primary legal materials, such as Law Number 20 of 2001 on the Eradication of Corruption Crimes, Law Number 7 of 2006 on the Ratification of the UNCAC 2003, and other relevant

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[5] Nur Basuki Minarno, Penyalahgunaan Wewenang dan Tindak Pidana Korupsi dalam Pengelolaan Keuangan Daerah, Laksbang Mediatama, Yogyakarta, 2009, hlm 1.

[6] Muhammad Iqbal Mustapa, Zamroni Abdussamad, and Mellisa Towadi, Rasiolegis Kewenangan Mengadili Perkara Fiktif Positif Dalam Perundang-Undangan, 1st ed. (UII Press), accessed December 19, 2024, https://dpsd.uii.ac.id/uii-press/katalog/rasiolegis-kewenangan-mengadili-perkara-fiktif-positif-dalam-perundang-undangan/.

regulations. Data collection is conducted through the analysis of legal documents, academic journals, textbooks, and related court decisions.[7] Through this method, the author aims to provide appropriate solutions and recommendations to address the legal issues raised in this study.[8]

3.1. The Differences in Meaning between Causing Financial Losses to the State and Causing Economic Losses to the State in Law Number 20 of 2001 on the Eradication of Corruption Crimes and the United Nations Convention against Corruption 2003

3.1.1 Meaning of Harm to State Finances

Article 1, Point 22 of Law Number 1 of 2004 on State Treasury defines "State/Regional Financial Losses" as a shortage of funds, tangible securities, or definite amounts resulting from unlawful acts committed either intentionally or negligently.[9] Article 32 Paragraph (1) of Law Number 31 of 1999 on the Eradication of Corruption Crimes defines state financial losses as tangible and calculable losses identified through findings by authorized institutions or public accountants. This provision highlights that state financial losses must be determined by institutions with specific authority in the matter. According to the State Audit Law and Presidential Decree Number 103 of 2001, which regulates the roles and structures of non-ministerial government agencies, the Supreme Audit Agency (BPK) and the Financial and Development Supervisory Agency (BPKP) are responsible for assessing and establishing whether state financial losses have occurred.

In cases of corruption, state financial losses are further elaborated under Law Number 20 of 2001. This law stipulates that any individual who unlawfully enriches themselves, others, or a corporation, causing harm to state finances or the economy, is committing a crime. It also covers the abuse of authority, opportunities, or facilities afforded by a person's position to the detriment of state finances or the economy. Given that state finances are tied to public interests, the determination of losses must involve state institutions authorized to oversee and audit financial activities. Specifically, the Supreme Audit Agency (BPK) is tasked with assessing and determining the amount of financial losses resulting from unlawful acts, as mandated by Article 10 of Law Number 15 of 2006 on the Supreme Audit Agency. This provision ensures accountability in cases where state financial losses arise from intentional or negligent actions by officials managing public funds or state-owned enterprises.

3.1.2 Meaning of Harming the State Economy

The term *state economy* refers to economic activities organized into cooperative enterprises based on mutual assistance or independently managed community businesses, grounded in government policies at both central and regional levels, in

[7] Soerjono Soekanto and Sri Mamudji, Penelitian Hukum Normatif : Suatu Tinjauan Singkat, 17 (Jakarta: Rajawali Pers, 2015).
[8] Zainuddin Ali, Metode Penelitian Hukum (Sinar Grafika, 2021).
[9] "Undang-undang Nomor 1 Tahun 2004 tentang Perbendaharaan Negara" (n.d.).

accordance with statutory regulations. These activities aim to provide benefits, prosperity, and welfare for the people. This definition includes two key elements: first, cooperative enterprises based on mutual assistance, which are established to achieve shared goals through mutual support and solidarity; and second, independently managed community businesses, which possess self-sustaining capabilities to maintain their operations. For example, fostering self-reliance in businesses can be achieved through the independent production of goods and services.

Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 on the Eradication of Corruption Crimes recognizes that corruption can harm both *state finances* and the *state economy*. However, the boundaries of what constitutes harm to the state economy remain ambiguous. Articles 2 Paragraph (1) and 3 of the law suggest that financial and economic harm to the state are inherently interconnected. Harm to the state economy is understood as actions that directly or indirectly disrupt cooperative enterprises based on mutual assistance or independently managed community businesses. Such actions undermine government policies designed to promote benefits, prosperity, and welfare for the public. Consequently, corruption not only impacts state finances but also has broader implications for the state economy, endangering the collective well-being of society.

3.1.3 The meaning of harming state finances and the state economy in UNCAC (United Nations Convention Against Corruption)

The United Nations Convention Against Corruption (UNCAC) does not explicitly define the concept of state losses. Article 3 Paragraph (2) of UNCAC, under the Scope of Application, states: "For the purposes of implementing this Convention, it shall not be necessary, except as otherwise stated herein, for the offenses set forth in it to result in damage or harm to state property." When interpreted directly, this provision indicates that the scope of UNCAC's application, as well as its intended implementation, does not require that the offenses described within it necessarily result in damage or harm to state property, unless explicitly stated otherwise.

This approach underscores the broad nature of corruption offenses under UNCAC, emphasizing that such crimes are not solely defined by their tangible financial impact on state assets. Instead, the convention focuses on the broader implications of corruption, addressing its structural and systemic effects regardless of whether direct material harm to state property occurs. This perspective reflects a more comprehensive and preventive approach to combating corruption on a global scale.[10]

There are two differing arguments regarding the necessity of including the element of "causing state financial losses" in the revised Corruption Law (RUU Tipikor). The first argument suggests that the inclusion of "causing state financial losses" as an element

[10] Indonesia Corruption Watch, "Penerapan Unsur Merugikan Keuangan Negara dalam Delik Tindak Pidana Korupsi" (Jakarta, 2014).

of corruption crimes should be abolished and excluded from the draft law. Removing this element is supported by several considerations.

First, "causing state financial losses" is not part of the elements of corruption crimes as outlined in the United Nations Convention Against Corruption (UNCAC), which has been ratified through Law Number 7 of 2006. Second, many corruption crimes do not directly result in state financial losses, such as bribery offenses. In these cases, the harmed party is the public, not the state. Although bribery may not directly harm state finances, it significantly disrupts market participants, which can indirectly harm the economy.

This argument highlights the need to focus on the broader implications of corruption rather than limiting its scope to measurable financial losses. By addressing corruption's systemic effects, such as market distortion and economic harm, the law could adopt a more comprehensive approach to combating corruption in all its forms.[11]

The definitions of Corruption according to UNCAC include:

"(a) Bribery, agreements, offers, and giving to private or public officials, soliciting or accepting by private or public or international officials, directly or indirectly, improper functions for their own officials or other persons or entities with the aim that these officials perform acts or refrain from performing them while carrying out all their official duties in order to benefit from such acts; (b) Embezzlement, misappropriation, or other irregularities by private or public or international officials; (c) Making oneself unlawfully rich".

In Constitutional Court Decision Number 003/PUU-IV/2006, it is stated that the phrase "may cause losses to state finances or the state economy" encompasses both actual losses and potential losses. The interpretation of the word "may" in Article 2 Paragraph (1) and Article 3 of the Corruption Law (UU Tipikor) implies that an act can be brought to court not only if it has caused actual losses to state finances or the economy but also if it has the potential to cause such losses. Once the elements of a corruption offense are fulfilled, the act can be submitted to the court for further legal proceedings. This broadened interpretation allows for the prosecution of corruption offenses even in cases where harm has not yet materialized but remains a significant possibility.

3.2. The impact of the ratification of the 2003 United Nations Convention Against Corruption on the regulation of Law Number 20 Year 2001 on the Eradication of Corruption Crime

Corruption in human history is not a new phenomenon. In Indonesia, corrupt practices have been recorded since the era of kingdoms. Before the enactment of the Law on the Eradication of Corruption Crimes, corruption offenses were included as

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[11] ibid hlm 41

crimes under Chapter XXVIII of Book II of the Indonesian Criminal Code (KUHP). This historical continuity highlights how deeply rooted corruption has been in societal structures, necessitating comprehensive legal frameworks to address it effectively.[12] Corruption has evolved over time, starting from simpler forms that were aligned with traditional criminal law, such as coercing someone to provide bribes or offering undue advantages to officials. During the New Order era in Indonesia, corruption shifted to a more policy-oriented practice, where the government deliberately ignored corruption in exchange for loyalty from officials and conglomerates. This era saw the granting of special concessions and monopolies to select individuals, including family members and close associates of those in power, often referred to as "cronies." At the start of the Reform era, anti-corruption efforts were virtually non-existent. Despite numerous public complaints and findings of suspected corruption, the resolution process was slow and investigations often seemed stagnant.

Corruption, classified as a white-collar crime, has continually increased in Indonesia, with its modes of operation expanding and the number of cases and the financial losses to the state escalating year by year. This trend necessitates continuous legal reforms and improvements. Starting with Regulation No. 24 of 1960 (Old Order), which was later replaced by Law No. 3 of 1971 (New Order), subsequent reforms led to Law No. 31 of 1999 (Reform Era), and its latest amendment through Law No. 20 of 2001 on the Eradication of Corruption Crimes. Internationally, Indonesia's commitment to combating corruption was demonstrated by its participation in the United Nations Convention Against Corruption (UNCAC) in 2003, which it ratified through Law No. 7 of 2006.

With the advent of globalization, corruption increasingly transcends national borders, involving assets and evidence located in multiple countries. This underscores the need for strong international cooperation, particularly in asset recovery. The objective of combating corruption extends beyond arresting and detaining perpetrators; it must also focus on recovering stolen assets. Indonesia’s ratification of UNCAC has enriched its legal framework for addressing corruption. Corruption undermines democratic principles, such as transparency, accountability, and integrity, as well as the nation’s security and stability. As a systematic crime that hampers sustainable development, corruption demands comprehensive, systematic, and continuous preventive and repressive measures, both nationally and internationally. Effective anti-corruption efforts require good governance practices, international collaboration, and robust mechanisms for asset recovery.

The negative impacts of corruption are profound. First, it leads to state capture, obstructing democratic processes and good governance by weakening a country’s bureaucracy. Second, it affects the economy by hindering national economic growth and disrupting development programs, ultimately reducing the welfare of citizens. Recognizing these consequences, the Indonesian government adopted UNCAC into its national legislation, resulting in the enactment of Law No. 7 of 2006 on the

[12] Andi Hamzah, Pemberantasan Korupsi Melalui Hukum Pidana Nasional dan Internasional (Jakarta: Raja Grafindo Persada, 2012).

Ratification of the United Nations Convention Against Corruption 2003. This law underscores Indonesia's commitment to eradicating corruption and restoring public trust in governance.[13]

During the signing stage of the United Nations Convention Against Corruption (UNCAC) from December 9 to 11, 2003, in Mérida, Mexico, the Indonesian Minister of Justice and Human Rights, acting under a full powers mandate from the president, was tasked with signing the convention. However, due to unforeseen circumstances, the minister was unable to attend, resulting in Indonesia missing the opportunity to sign UNCAC at the designated event. Ideally, the signing of such a significant international convention should have been undertaken by the president, rather than a minister, to signal Indonesia's top leadership's commitment to global anti-corruption efforts and to demonstrate serious intent to combat corruption at the national level. At the time, President Megawati Sukarnoputri opted not to leverage this dynamic moment, delegating the responsibility to a ministry representative instead of involving the vice president or attending personally.

This approach stood in contrast to countries such as Austria, Hungary, Jordan, Nigeria, Peru, and the Philippines, which sent high-level representatives to the event. The absence of the Indonesian Minister of Justice and Human Rights in Mérida, Mexico, at the time, has not been officially clarified. It was only on December 18, 2003, that Minister Yusril Ihza Mahendra signed the convention at the United Nations headquarters in New York, marking Indonesia's formal accession to UNCAC. This delay in representation and signing raised questions about Indonesia's level of seriousness and commitment to the global fight against corruption during that period.[14] Subsequently, Indonesia ratified the convention on April 18, 2006, through Law Number 7 of 2006 concerning the Ratification of the United Nations Convention Against Corruption. With this ratification, the UNCAC officially became applicable to Indonesia as a state party to the convention. The ratification also imposes an obligation on Indonesian citizens to comply with the provisions outlined in the 2003 Framework Convention.

According to the Monism theory, international law and national law are viewed as two aspects of the same overarching legal system. In contrast, the Dualism theory posits that international and national law are two fundamentally distinct systems. International law is intrinsically different in character from domestic law, requiring careful separation. Due to the significant involvement of domestic legal systems, the Dualism theory, also referred to as the "pluralistic theory" in some contexts, is considered more appropriate for understanding the interaction between the two. The

[13] "Undang-undang Nomor 7 Tahun 2006 tentang Pengesahan United Nations Convention Against Corruption" (2003).
[14] "Penandatanganan di New York berdasarkan Pasal 67 UNCAC," 2022, http://www.suarakarya-online.com/news.html?id=167205.

term "dualism" is preferred as it avoids ambiguity and better reflects the distinct nature of these legal systems.[15]

As with the ratification of the United Nations Convention against Corruption (UNCAC) 2003, which is now incorporated into Law Number 7 of 2006 concerning the Ratification of the United Nations Convention against Corruption 2003, Indonesia has approached the ratification process selectively. Indonesia did not automatically adopt all provisions outlined in the UNCAC but instead tailored its implementation according to national priorities. This approach aligns with Indonesia's adherence to the Dualism theory in applying international law within its domestic legal framework.

The creation and ratification of international agreements between the Indonesian government and other nations, international organizations, or other subjects of international law are significant legal activities. These agreements establish binding commitments between the state and other international entities. Consequently, the process of formulating and ratifying international treaties is conducted based on legal principles enshrined in national legislation, ensuring that such commitments align with Indonesia's constitutional and legal frameworks.[16]

The ratification of this convention represents a national commitment to enhancing Indonesia's image in international political arenas. Beyond this symbolic gesture, the ratification holds several critical meanings:

1. To strengthen international cooperation, particularly in tracing, freezing, seizing, and recovering assets obtained through corruption that have been placed abroad;
2. To enhance international collaboration in establishing good governance;
3. To improve international cooperation in the implementation of extradition treaties, mutual legal assistance, prisoner transfers, criminal prosecution handovers, and law enforcement collaboration;
4. To promote technical cooperation and information exchange in preventing and eradicating corruption under the umbrella of economic development and technical assistance within bilateral, regional, and multilateral frameworks;
5. To harmonize national legislation for the prevention and eradication of corruption; and
6. To ensure alignment with the provisions of this convention in combating corruption.

The provisions for international cooperation outlined in Articles 43 to 50 of the United Nations Convention Against Corruption (UNCAC) emphasize the hope that countries harboring corrupt individuals can work together to address corruption cases in Indonesia. These provisions establish a moral obligation for such countries to refrain

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[15] Islam Cendikia, “Hubungan Hukum Nasional dan hukum internasional”,” n.d., http://www.islamcendekia.com/2014/01/hubungan-hukum-nasional-hukum-internasional.html,.
[16] S.H. Sefiani and M.H.U.M., Hukum Internasional : Suatu Pengantar (Jakarta: Raja Grafindo Persada, 2011).

from providing protection or undue privileges to fugitives. If a country offers favorable conditions that benefit corrupt individuals, while UNCAC does not explicitly stipulate legal sanctions against such nations, under the general principles of international law, they may face moral sanctions. In the international sphere, moral sanctions can sometimes be more damaging than legal penalties.

UNCAC establishes five formats for cooperation: extradition (regulated under Law No. 1 of 1979 on Extradition), mutual legal assistance in criminal matters (Law No. 1 of 2006), transfer of sentenced persons, transfer of criminal proceedings, and joint investigations. In Indonesia, a Corruptor Hunt Task Force was formed under the coordination of the Coordinating Minister for Political, Legal, and Security Affairs. This task force included various agencies such as the National Police, the Attorney General's Office, the Ministry of Foreign Affairs, and the Financial Transaction Reports and Analysis Center (PPATK). The formation of this task force originated from a coordination meeting on December 9, 2004, where a commitment was made to pursue perpetrators of corruption fleeing abroad and to recover their corruptly acquired assets.

UNCAC also introduces three new measures for asset recovery. First, civil litigation allows the government to freeze state assets stored in foreign countries. This measure prevents corrupt individuals from further accessing these assets by enforcing full disclosure mechanisms. Second, UNCAC provides a framework for the forced confiscation of physical assets belonging to corrupt individuals located abroad. Third, the convention emphasizes the use of strong international conventions in countries suspected of being safe havens for corruption. These efforts align with Indonesia's hope of recovering corruption proceeds through the Stolen Asset Recovery Initiative (StAR).

Asset recovery under UNCAC can occur through direct or indirect methods. Direct recovery involves civil litigation, where claims are filed against suspected asset holders in foreign countries. This process, however, requires local prosecutors' involvement and can be costly. Indirect recovery involves criminal prosecution in countries where the assets are located, with court decisions being enforced to confiscate assets. Civil recovery is advantageous because it allows for reverse burden of proof as outlined in Article 31(8) of UNCAC, which requires the suspect to verify the legitimacy of their assets. However, this reverse proof principle cannot be solely used to prosecute individuals in corruption cases if they fail to demonstrate the legality of their assets.

While Indonesia has ratified UNCAC, its implementation presents challenges due to discrepancies between the UNCAC provisions and the Corruption Law (UU Tipikor). First, UNCAC functions as an international legal instrument for combating corruption, particularly for asset recovery, while UU Tipikor focuses on national-level enforcement. Second, while UNCAC emphasizes harmonization of civil and customary justice systems, UU Tipikor prioritizes the civil judicial paradigm. Third, UNCAC encourages extensive international cooperation, which must be upheld by Indonesia’s anti-corruption agencies such as the KPK and the Attorney General's

Office. Fourth, UNCAC does not explicitly define state financial losses as UU Tipikor does, focusing instead on offenses such as bribery, embezzlement, abuse of power, and money laundering. Fifth, UU Tipikor does not yet regulate corruption in the private sector, which UNCAC addresses under Article 21. Sixth, provisions for controlled delivery, as outlined in UNCAC Article 51, remain absent in UU Tipikor. Lastly, while UNCAC broadly defines asset recovery, the term differs from asset confiscation as understood in Indonesia. UNCAC's Chapter 5 on Asset Recovery emphasizes prevention, detection, and return of illicitly transferred assets through international cooperation, confiscation mechanisms, and restitution procedures.

These differences highlight the complexities of aligning domestic legislation with international standards, necessitating comprehensive reform and consistent efforts to harmonize legal frameworks. This approach will strengthen Indonesia's ability to combat corruption effectively and recover assets internationally.[17]

5. Conclusion

The findings of this study highlight the fundamental differences between the concepts of state finances and the state economy. State finances refer to all rights and obligations of the state that can be measured in monetary terms or assets, as stipulated in Article 1, point 1 of Law Number 17 of 2003. In contrast, the state economy, as described in the General Explanation of Law Number 31 of 1999, encompasses economic activities based on government policies aimed at supporting the prosperity of the people. The United Nations Convention Against Corruption (UNCAC) 2003 does not explicitly define state losses but emphasizes that corruption crimes under its provisions do not necessarily require direct harm to state assets, underscoring the importance of strengthening efforts to prevent and combat corruption.

The ratification of UNCAC 2003 reaffirms Indonesia's commitment to enhancing its international image through global cooperation, as outlined in Articles 43 to 50. This framework facilitates the recovery of corruption-related assets hidden abroad through mechanisms such as civil litigation, forced confiscation, and leveraging the strength of multilateral conventions. Such cooperation is crucial, given that corruption has become an extraordinary transnational crime. These efforts reflect the collective responsibility of nations to address corruption as a global threat while ensuring justice and recovering assets that have been wrongfully taken from the state.

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