

Actions of State Administrative Officers That Cause State Financial Loss in Corruption Law Enforcement in Indonesia

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Abstract

In the context of corrupt activities, there are components involving "violation of the law" and "abuse of power," coupled with factors resulting in "state losses." The issue arises when state officials engage in actions deemed as a misuse of authority and a breach of the law, whether under administratif or criminal law, both of which have the jurisdiction to address such matters. This study adopts a normative juridical approach with analytical-descriptive specifications. Findings indicate that after the Constitutional Court Decision Number 003/PUU-IV/2006, lawmakers enacted Legislation No. 30 of 2014 regarding Administration of Government. Consequently, mistakes in administration leading to financial losses incurred by the government and instances of abuse of power by government officials are not always classified as acts of corruption.

Keywords: *State Administration Officials, State Losses, Corruption.*

INTRODUCTION

Corruption in the Dictionary of Terms is defined as misappropriation or abuse of office for self-interest and harming the state and the society (Al Barry, 1996:208). In the Indonesian Encyclopedia it is called "Corruption" (from Latin: *corruptio* = *bribery*; *corruptore* = *damaging*) Symptoms in which officials, state bodies abuse authority by the occurrence of bribery, forgery and other irregularities (Hartanti, 2007:8). The illicit activity of corruption is an exceptional offense, requiring exceptional measures, such as resorting to actions outside the regular judicial process (extra-judicial action). The legal response to corruption demands resolute and bold actions from law enforcement authorities. Corruption poses a grave concern as it has the potential to jeopardize the stability of the state and community security, pose risks to social and economic development, disrupt politics, and undermine democratic values and morality. As corruption persists over time, it transforms into a cultural phenomenon, posing a significant threat to the aspirations of building a fair and prosperous society. The criminal activity known as corruption, commonly described as the misuse of power for personal benefit, fundamentally pertains to issues of social justice. In 2021, the Corruption Eradication Commission dealt with corruption cases involving a total of 123 suspects, marking an increase from the previous year's 109 suspects. The Commission's efforts in asset recovery amounted to Rp. 374.4 billion. In contrast, the

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additional penalty of substitute money imposed on the defendants was only 19.6 trillion, and the overall fine value reached Rp. 156 billion. Notably, the figures for criminal reimbursement and fines fail to align adequately with the actual losses incurred by the state.

The comprehensive elimination of corruption necessitates an integrated approach within the criminal policy perspective, encompassing both punitive and non-punitive measures. Relying solely on punitive measures has inherent limitations in addressing crime issues, particularly corruption, as clarified by the Law of the Republic of Indonesia number 20 of 2001 amending law number 31 of 1999 concerning the Eradication of Corruption Crimes, which designates corruption as an extraordinary offense. The effort to eradicate corruption should commence with preventive measures and move on to law enforcement actions. In the prosecution phase, the role is simplified to presenting evidence that the defendant engaged in corrupt activities, with the burden of proving innocence placed on the defendant. Consequently, the fight against corruption demands a distinctive and specialized approach. The eradication of corruption that has been running and implemented by three institutions, namely the Prosecutor's Office, the Police, and the Corruption Eradication Commission still has a negative impact, because the three institutions have not been able to recover state financial losses and with the criminal act of corruption, projects that are the object of corruption also cannot be utilized. Therefore, it is appropriate for the government together with its instruments to take a joint policy to overcome this or the return of state financial losses does not have implications for penalties, aspects against administratif law, government administration, mens rea, proportionality and subsidiarity.

Unlawful corruption (*Wederrechtelijk*) has evolved over the past few decades. Typically orchestrated by white-collar crime groups, this form of corruption involves individuals holding positions of power, including employees or government officials at both central and regional levels, as well as those in the private sector with personal, state, or a combination of capital (Sholahudin, 2021). Article 3 of the Corruption Eradication Law primarily focuses on the misuse of authority, a concept commonly associated with specific roles and positions within government bureaucracy in everyday studies. This means that there is a correlation between the position and the potential for criminal acts associated with elements of authority or position or position, so in considering aspects of Abuse of power cannot be separated from aspects of state administratif law. The Corruption Eradication Law, serving as the foundation for anti-corruption endeavors, has undergone significant revisions. The initial amendment took place on July 24, 2006, when the Constitutional Court deemed the Explanation of Article 2 Paragraph (1) of Law Number 31 of 1999 unconstitutional, thereby transforming it into a formal offense. The second amendment transpired on January 25, 2017, involving a modification in the phrasing of the Corruption Eradication Law. The Constitutional Court, in its ruling, declared that

the use of the term "may" in the formulation of Article 2 and Article 3 of the Corruption Eradication Law contradicted the constitution. Consequently, the word "may" was not binding, rendering Article 2 and Article 3 of the Corruption Eradication Law substantive offenses.

Expanding on this standpoint, two explanations will emerge, specifically focusing on Abuse of power (*detournement de pouvoir*) and wrongful acts (*onrechtmatigdaad*). According to Supandi, the concept of Abuse of power (*detournement de pouvoir*) within state administratif law frequently leads to misinterpretations. In practical terms, *detournement de pouvoir* is often confused with arbitrary acts (*willekeur/abus de droit*), the improper use of means and opportunities, actions against the law (*wederrechtelijkheid, onrechmatige daad*), or even extended to include any behavior contravening rules or policies in diverse fields (Djadja, 2008:2). During the enforcement of laws against corrupt practices, there are frequently components involving "violation of the law" and "Abuse of power," accompanied by factors leading to "state loss." These factors provide a basis for charging an official with involvement in corrupt activities solely based on the perspective of criminal law, without considering that officials, in the execution of their responsibilities, are bound by and subject to regulations within administratif law.

METHODS

The approach method used by the author in this study uses a normative juridical approach (Yanuar, 2007:37). The normative juridical climbing method is a study that deductively begins the analysis of articles in laws and regulations that regulate the object of the problem. The utilized research methodology is descriptive-analytical, a type of study designed to systematically, factually, and accurately compare and analyze existing facts in alignment with positive legal theories related to the researched issue. The research process involves several stages. Firstly, literature research involves legal researchers reviewing library materials or secondary data. Secondly, field studies encompass the examination and analysis of primary data through interviews to gather opinions and perspectives from the Police and Prosecutor's Office.

Information acquired from both literature reviews and field studies undergoes qualitative normative analysis, an analytical descriptive research method aimed at presenting comprehensive data concerning individuals, conditions, or other observable phenomena (Rozie, 2022).

RESULTS AND DISCUSSION

Conception Of Abuse of power In State Administratif Law

The term "authority" aligns with "authority" in English and "bevoegdheid" in Dutch. In Black's Law Dictionary, authority is defined as legal power; the entitlement to give commands or take actions; the power and jurisdiction granted to public officials to require compliance with their lawful orders within the scope of their public duties. According to Abdul

Latif, authority is a foundational concept in public law, particularly within Constitutional Law or State Administratif Law. Consequently, within the realm of public law, authority is intricately connected to the concept of power (Girsang, 2012:87). The 2014 Government Administration Law, also known as Law Number 30 of 2014, defines authority as the right possessed by Government Agencies, Officials, or other state administrators to make decisions and undertake actions in the domain of government administration. In contrast, Aminuddin Ilmar characterizes authority as the ability to carry out specific legal actions (Adji, 2009:374).

The State Administration Law governs the processes involved in a state administratif action, be it a decision or a required procedure, and defines the scope of substance or object for administratif acts within its jurisdiction. In the capacity of a state administratif official, an individual is required to fulfill their responsibilities and carry them out by employing their authority to execute actions in compliance with the specified procedures. The acts of state administration according to law can be classified as:

1. *Legal Acts According to Private Law*

The class of legal acts that give rise to legal relations in private law, generally does not include State Administration Law, while the issue of state instruments that are authorized or authorized to carry out legal acts that give rise to legal relations in private law is included in constitutional law. Although in some cases it is included in the State Administration Law, for example the state administration conducts legal acts of leasing (Article 1548 of the Civil Code), buying and selling land (Article 1457 of the Civil Code), and others.

Kranenburg-Vegting and Donner say that in certain cases private law can be used, provided that if the case is available or regulations in public law are needed, private law cannot be used. If private law is still used, it does not apply because it is contrary to public order (Article 23 Algemene Van Wet Bealingen and Article 1335 of the Civil Code).

2. *Legal Acts According to Public Law*

There are at least two types of legal acts that give rise to public law relations, which are as:

- a. *Two-sided Public Law Acts (Tweezijdige Publiek Rechtselijke Handeling)*

Van der Pot, Van Praag, Wiardo, Kranenbrug-Vegting, Donner, and Utrech acknowledge the presence of two-sided acts or agreements falling under public law or state administratif law. An example of such agreements includes short-term contracts (kort verbant kontrakt). When a participant holds a short-term employment agreement, it constitutes a two-sided legal act or agreement due to the alignment of intentions between the worker and the employer. This legal act is subject to specific legal regulations, specifically public law regulations, as the employment can be designated in a decree as a civil servant with a short-term contract lasting two or three years.

b. *One-sided Legal Acts*

Van der Pot and Van Vollenhoven termed this action as "Beschikking," while Van Poelje named it "Besluit." A.M. Donner and Van der Wei extensively discussed the latter term. Subsequently, Prins introduced this action to Indonesia, where Utrech and Koentjoro Poerbopranoto translated it as "Decree."

As per Philipus M. Hadjon, establishing the existence of Abuse of power (detournement de pouvoir) necessitates concrete proof indicating that the official employed their authority for objectives beyond its intended scope. Abuse of power is not a result of negligence; rather, it involves a purposeful action wherein the individual consciously deviates from the goals assigned to their authority. This deviation is motivated by personal interests, whether for personal gain or the advantage of others (Adji, 2009:318). An authority originates from law (attribution), delegation (delegation) or assignment (mandate). Abuse of power (Detourment de Pouvoir) is only possible by those who obtain authority on the basis of attribution and delegation. In the case of a mandate, the party that may abuse authority is the mandans (assignor) and not the mandataris (executor). Those who are given and who abuse authority are those who are burdened with legal responsibility. This is in line with legal principles "geen bevoegdheid zonder verantwoordelijkheid dan geen verantwoordelijkheid zonder verantwoording" (No authority without accountability and no accountability without obligation). The acting party (mandataris) is not attached to authority, therefore it is not burdened with legal responsibility (Putusan Mahkamah Konstitusi Nomor 003/PUU-IV/2006).

Classifying unlawful acts against acts of Abuse of power (*Detourment de Pouvoir*) Administratify by the government apparatus, this discussion will be described through 3 (three) main things, namely the actions of government officials who exceed authority, mix authority, and act arbitrarily. *The abuse of power can only be carried out by individuals who acquire authority through attribution and delegation. In situations involving a mandate, the entity capable of abusing authority is the mandans (assignor), not the mandataris (executor). The executing party (mandataris) is not vested with authority; hence, the abuse of authority is implausible, and consequently, there is no legal responsibility attached to it (Putusan Mahkamah Konstitusi Nomor 25/PUU-XIV/2016). Criteria for Abuse of power in authority governed by laws and regulations (written rules) follow the fundamental parameters of legality. On the other hand, in discretionary authority, the criteria for Abuse of power rely on the general principles of good governance due to the inadequacy of the "wetmatigheid" principle. The issue of discretion often linked to acts of Abuse of power or arbitrary actions may not necessarily arise from public officials exercising discretion. However, discretion is frequently treated as a criminal act in the form of Abuse of power leading to corruption, primarily due to the positivistic perspective of law enforcement officials who consider discretion as an action lacking legal justification.*

Regulation on Abuse of power as an Element of Corruption

Corruption has permeated every facet of public existence, extending across the executive, legislative, judicial, and business sectors of authority. On a near-daily basis, both national and local media extensively cover the topic of corruption. The escalating prevalence of corruption has positioned the public, whether knowingly or unknowingly, as the primary victims, leading to substantial material and non-material losses for the state. Despite numerous government initiatives aimed at combating corruption since the inception of the reform, the outcomes have fallen short of expectations, and the broader community has yet to experience the full benefits. Based on the results of the 2022 Corruption Perception Index issued by *Transparency International*, shows that Indonesia is ranked 110/180th with a score of 34/100. This position makes Indonesia still included in the list of the most corrupt country groups in the world. The causes of the high rate of corruption in Indonesia are at least 5 (five) reasons, of which 2 (two) are "low professionalism", and "weak commitment and consistency in law enforcement and laws and regulations". While the other 3 (three) reasons are related to law behavior and achievement (Jasin, 2007). The essence of the corruption offense is reflected in Article 3 of the Corruption Eradication Law, where the crucial component is the "abuse of authority".

However, the challenge arises from the lack of detailed explanation about the concept of Abuse of power within this legislation. The ambiguous nature of Abuse of power in the PTPK Law leads to varying interpretations of the actions of state administratif officials. On one side, there is a viewpoint expressly asserting that the authority and wrongful deeds of state administration officials should not be evaluated through criminal law, as articulated by Indrianto Seno Adji. "Paradigm fallacy of the doctrine of unlawful acts (as *genuus delict*) is the criminalization of authority or policy against the state apparatus as occurs in Indonesia. From the academic juridical side, a policy (*beleid*) that, both as a policy (*diskresioner*) which is bound as well as policy (*diskresioner*) which is active, not the realm of judgment of the Criminal Law". This argument can be understood as an attempt to create a legal opinion, that even if there is a violation of the law committed by state administration officials when exercising their authority, it is certainly a violation of the methods of administratif law, so that the resolution process must use the methods adopted by administratif law, not the methods in criminal law. So, the only sanctions that can be imposed are sanctions regulated in the jurisdiction concerned, namely state administratif law not sanctions in criminal law.

The weak concept of Abuse of power in corruption offenses as stipulated in Article 3 of the Corruption Eradication Law, further confirms that corruption is "*invisible crime*" That is, when a corrupt state apparatus or corrupt acts take refuge behind policies. In this regard, Marwan Effendy views that "there has been a shift in the law that will cause confusion for the state administration official, when he

must carry out his duties, functions and authority to determine a policy” (Effendy, 2011). The confusion arises from concerns if later the policies he makes are entangled in criminal law. Based on the State Administration Law, policy is intended as a government plan or program regarding what will be done in dealing with a certain problem in a certain way that has been planned. The definition of this policy seems to be still very simple and gives the impression as if every government program is a policy of the government. This cannot be blamed either, because there is actually an assumption that public policy is the real form or "spirit" of the state. Thus, public policy is a concrete form of the process of contact between the state and its people (Arief, 1994:63).

As outlined by Tatiek Sri Djatmiati, corruption within the framework of administratif law at the State level is perceived as the personal responsibility of officials, primarily evaluated based on the criteria of power misuse and unreasonableness. The manifestation of maladministration, coupled with involvement in unlawful acts, becomes apparent when elements of power abuse and unreasonableness are present, ultimately constituting the personal accountability of the implicated officials (Soekanto, 2008:10). In a broader context, Indriyanto Seno Adji suggests that corruption, in a general sense, encompasses the inappropriate use of power associated with the roles of civil servants or government officials, showcasing deviant and condemnable conduct. Adami Chazawi adds that corrupt practices have evolved into more sophisticated forms, sometimes concealed within well-crafted public policies, making their formal illegality less evident externally. Consequently, it can be asserted that, fundamentally, criminal acts of corruption and State financial losses pertain to different disciplines (Black, 1990:3). Corruption, as a criminal offense, adheres to the principles of criminal law, whereas State financial losses, particularly those connected to management and responsibility, follow the principles of State Administration Law.

In State administratif law, the accountability of officials is distinguished between the responsibilities of office and personal responsibilities. *Fautes personnelles* is the loss to a third party imposed on the official who because of his actions has caused harm and the burden of responsibility is shown to the official as a person (*privepersoon*). While *Fautes de service* is the loss to the third party that is imposed on the agency of the official concerned and the burden of responsibility is placed on the position (Latif, 2014:46). From the standpoint and principles of criminal law, any deed carried out that fulfills the criteria of a criminal act invariably necessitates responsibility through the application of criminal penalties, provided it satisfies the prerequisites for accountability. Criminal responsibility is inherently presumed unless there are grounds for exoneration. The factor that negates the unlawfulness in a criminal act is referred to as the justifying factor, while the factor that absolves one of guilt is termed the forgiving factor (Ilmar, 2013:115-116).

If the concept of Abuse of power (*detournement de pouvoir*) and the teaching of unlawfulness (*wederrechtelijk*) in the criminal act of corruption as above is maintained, the clash of concepts between criminal law and administrative law will continue to occur (Hadjon et al., 2010:26). Above all, the chaos of this concept will result in the release of a corrupt state administration official from the bondage of criminal law, which of course is very unexpected. Therefore, improvement of the concept of Abuse of power and unlawful nature in the Corruption Eradication Law is urgently needed (Ridwan, 2010:383).

Consequences of the misuse of authority in State Administration Law on the legal certainty of corruption.

The authority of the government is constrained by the Speciality of Principle, the legality of principle, and the general principles of effective governance. Consequently, any actions by government or state administration officials that contravene these principles are deemed instances of the Abuse of power. Criminal law also incorporates a normative tool that constrains the unrestricted exercise of power by an authority figure through the articulation of elements defining Abuse of power (stipulated in Article 3 of the Corruption Eradication Law) (Hadjon, 2015). Additionally, criminal law categorizes the act of abusing authority as a form of corruption, classifying it as an extraordinary offense. Nevertheless, a difficulty emerges as the two concepts have now merged into a complex dimension that is challenging to differentiate. Additionally, applying these two concepts, which originate from different legal domains, introduces complications. Indrianto Seno Aji argues that "in the midst of various technical challenges in the criminal process, the Abuse of power concept enters a gray area (Adji, 2009:284).

This suggests a quandary in deciding the favored method for assessing wrongdoings committed by state administration officials whether to use, or at least give precedence to, administrative law of instrument, or alternatively, use, or at least give precedence to, criminal law instruments.

The misuse of power, examined through the lens of both state administrative law and the principles of unlawfulness in criminal law, represents an illicit act in both formal and substantive aspects. When scrutinized as a criminal offense, "against the law" is a general delict while "Abuse of power" is a specific delict derived from the general category. The offense of "Abuse of power" lacks any explicit elucidation, resulting in a lack of precise criteria in criminal law, particularly in laws addressing the eradication of criminal acts of corruption. This absence of normative clarity redirects the evaluation of Abuse of power to doctrines and teachings within state administrative law. In the context of state administrative law, the evaluation and determination of the presence of Abuse of power (*detournement de pouvoir*) involve two criteria. Initially, the assessment employs a measure of confined authority, incorporating the Principle of Speciality, which entails evaluating an act of Abuse of power derived from the provisions of

statutes and rules, serving as the groundwork and purpose of its power. Secondly, the assessment allows the use of the General Principles of Good Government, given that the Legality of Principle (*wetmatigheid van bestuur*) is no longer adequate as the sole legal basis for the governing body action in Indonesia.

The utilization of the Misuse of power assessment tool in accordance with administratif law continues to be a subject of debate regarding whether these two methods are applicable when identifying Abuse of power as a criminal act associated with corruption. Moreover, the adoption of both assessment criteria also impacts the categorization of the offense of Abuse of power. Employing both measuring instruments in administratif law makes it evident that Abuse of power constitutes a criminal offense of both formal and material nature. This is because instances of Abuse of power arise not only due to conflicts with the Principle of Legality as stipulated in written laws but also with the General Principles of Good Government, an unwritten legal method. This is particularly relevant given that the Legality of Principle (*wetmatigheid van bestuur*) and the evaluation of governmental activities in accordance with established laws and regulatory provisions cannot be applied to discretionary government actions or *freies ermesen*, which also run counter to the rule of discretion (*beleidsvrijheid*). In essence, any government authority that is discretionary cannot be promptly scrutinized since there is no explicit legal basis in written laws and regulations.

Judicial trends indicate a preference for deciding Abuse of power (*detournement de pouvoir*) cases based on the criteria of the "Propriety Principle," the "Principle of Scrupulity," and the "General Principles of Good Government." Consequently, very few judgments appear to consider or be grounded in the Principle of Legality (*wetmatigheid van bestuur*). This description suggests that, by associating the nature of the offense "Abuse of power" with the offense "against the law" in the Law on the Eradication of Criminal Acts of Corruption and the principles guiding the assessment of Abuse of power in the state administratif law concept, it can be inferred that Abuse of power (*detournement de pouvoir*) essentially possesses an unlawful character both formally and substantively.

The evolution of Indonesian law pertaining to the substantive unlawfulness in criminal law was ultimately nullified by the Constitutional Court of the Republic of Indonesia in its decision, Number 003/PUU-IV/2006, issued on July 25, 2006. In this verdict, the Constitutional Court deemed that the substantive unlawfulness principle in criminal law was inconsistent with the 1945 Constitution of the Unitary State of the Republic of Indonesia. In the case of the elimination of material lawlessness in the offense of "Abuse of power", the conception of law gives rise to new problems. In addition to the old problem of the absence of specific measures provided by criminal law to determine and test the occurrence of Abuse of power, this new problem actually limits other legal instruments that can be used to determine

the occurrence and at the same time test an Abuse of power. Thus, Abuse of power can only be tested against the principle of legality (*wetmatigheid van bestuur*). While the principle of legality (*wetmatigheid van bestuur*) has been agreed that it is no longer adequate to be the basis and limitation of all actions of state administration officials. Especially if it is related to the system and nature of government power in Indonesia today, where government power in practice is not pure power to implement laws. In other words, the power of government is not merely a binding power but also as a free power (*vrij bestuur, freies ermesen*). So that by eliminating the material unlawful nature of the offense of Abuse of power, the power is free (*vrij bestuur, freies ermesen*) The government cannot be determined and measured using criminal law methods, especially the offense of Abuse of power in Article 3 of the Corruption Eradication Law.

The formulation of the Corruption Eradication Law was undertaken in an environment characterized by a spiritual reform calling for the complete elimination of corruption, aiming to uproot the issue entirely. Consequently, the application of criminal law as *lex talionis*, or the law of revenge, is no longer in line with the contemporary criminal law paradigm that prioritizes utility. From a legal standpoint, addressing state financial losses involves both substantive law resolution and elements of Abuse of power through the administratif domain. The resolution of state financial losses, starting with administratif acts containing Abuse of power through administratif law, is more inclined towards viewing the state or region as a victim. This approach aims to ensure expediency and justice. In contrast, resolving state financial losses through criminal law is geared towards punishing offenders rather than providing benefits to victims. This process occurs without the determination of state financial losses by the Audit Board, indicating that not all formal legal procedures are adhered to appropriately.

Following the Constitutional Court Decision Number 003/PUU-IV/2006, the legislator enacted Law Number 30 of 2014 regarding Government Administration. This legislation aims to convey that administratif errors leading to state losses and instances of Abuse of power by government officials are not automatically treated as criminal acts of corruption. Consequently, in addressing state losses according to Law Number 30 of 2014 on Government Administration, the emphasis is placed on regarding the application of criminal sanctions as a last resort (*ultimum remedium*).

CONCLUSION

According to the State Administration Law, Abuse of power (*detournement de pouvoir*) is an act of a state administration official as an authority holder carried out outside the corridors of his authority, whether done by exceeding authority, mixing authority, and acting arbitrarily. Abuse of power (*detournement de pouvoir*) It is possible only by officials of the state administration who acquire authority on the basis

of attribution and delegation. In terms of mandates, the parties who may abuse authority are *mandans* not *mandataris*. Thus, state administration officials who commit acts of Abuse of power must be burdened with legal responsibility in accordance with the provisions of the State Administration Law in view of legal principles “*geen bevoegdheid zonder verantwoordelijkheid*” (no authority without accountability).

The component of "Abuse of power" constitutes an integral part of the fundamental offense of corruption, as outlined in Article 3 of Law Number 31 of 1999 and Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. The limited conceptualization of Abuse of power within corruption offenses underscores the elusive nature of corruption, wherein corrupt state administration officials or corrupt practices find refuge behind policies. This shift in the legal landscape has the potential to create uncertainty for state administration officials, who may be apprehensive about potential legal entanglements if the policies they enact become subject to criminal law scrutiny. Corruption, as a criminal act, is grounded in the principles of Criminal Law, while State financial losses, particularly those related to management and responsibility, adhere to the tenets of State Administration Law, which inherently possesses distinct principles. Nonetheless, both are integrated within the framework of the criminal act of corruption. The persistent retention of the concept of Abuse of power (*detournement de pouvoir*) and the consideration of unlawfulness (*wederrechtelijk*) in the criminal act of corruption perpetuate the clash of concepts between Criminal Law and Administratif Law.

The formulation of the Corruption Eradication Law was crafted within a context of spiritual reform, aiming for a thorough elimination of corruption, thereby conceptualizing criminal law as *lex talionis*, or the law of revenge. However, employing criminal law as *lex talionis* is no longer aligned with the contemporary criminal law paradigm that prioritizes utility. From a legal standpoint, addressing state financial losses involves both substantive law resolution and elements of Abuse of power within the administratif domain. Approaching the settlement of state financial losses starting from administratif acts containing Abuse of power through administratif law is primarily oriented towards viewing the state or region as a victim. This perspective aims to deliver both expediency and justice. Following the Constitutional Court Decision Number 003/PUU-IV/2006, the legislator enacted Law Number 30 of 2014 regarding Government Administration. This legislation aims to convey that administratif errors leading to state losses and instances of Abuse of power by government officials are not automatically treated as criminal acts of corruption. Consequently, in addressing state losses according to Law Number 30 of 2014 on Government Administration, the emphasis is placed on regarding the application of criminal sanctions as a last resort (*ultimum remedium*).

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