PENA LAW
International Journal of Law
In collaboration with: International College Rajaman Gala University of Technology Krungthep (ICUTK), Thailand

State Loss Assessment in Transnational Corruption: Strengthening International Cooperation and Asset Recovery

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Abstract

Transnational corruption erodes state sovereignty and damages global financial integrity, with annual losses estimated at USD 20–40 billion, yet less than five percent are recovered. Although frameworks like the United Nations Convention against Corruption (UNCAC) promote cooperation, the lack of harmonized standards for assessing state losses weakens asset recovery efforts. Most studies focus on asset tracing and procedural barriers, while the importance of loss assessment in legitimizing claims remains underexplored. This study adopts a qualitative normative–empirical approach through case studies in Indonesia, Malaysia, Nigeria, Brazil, and Ukraine, supported by legal analysis and expert interviews. Results reveal methodological differences: some jurisdictions depend on forensic accounting for direct financial losses, while others consider broader economic impacts, such as lost investments and reputational damage. Adopting comprehensive methods gained stronger legitimacy and higher recovery rates, although on average, only 35–40 percent of claimed assets were returned. The research reframes state loss assessment as central to asset recovery in the context of transnational corruption. By integrating deterrence theory and the transnational legal process framework, it highlights the need for harmonized standards that combine legal, economic, and forensic perspectives. The findings fill a critical gap in scholarship and provide practical guidance for policymakers to strengthen international cooperation and asset recovery mechanisms.

Keywords: Transnational corruption; State loss assessment; Asset recovery; International cooperation; Deterrence theory; Transnational legal process

Introduction

Transnational corruption is one of the most complex and damaging forms of financial crime on a global scale (Bantekas, 2006; Christensen, 2012; Gottschalk, 2010; Haken, 2011; Kar & Spanjers, 2017; Nielsen, 2003; Shihata, 1997). A report by the World Bank and UNODC (2020) estimates that the value of assets lost due to cross-border corruption practices reaches US$20–40 billion annually; however, less than five percent is successfully recovered. A similar situation is also reflected in Indonesia. Data from the Corruption Eradication Commission (KPK) records several significant cases involving the flow of funds abroad, such as the BLBI and e-KTP cases, which caused trillions of rupiah in state losses. This fact shows that even though national and international legal instruments are available, the effectiveness of asset recovery and assessment of state losses is still far from optimal.

The urgency of this research is even more apparent when viewed from the crucial role of state loss assessment in the law enforcement process. Without accurate and accountable calculations, state

DOI: https://doi.org/10.56107/penalaw.v3i2.xxx

claims in international forums are often considered weak, thereby worsening the bargaining position in asset recovery negotiations. Furthermore, the complexity of the global financial networks used by corrupt actors makes international cooperation an absolute necessity, not just an option. Thus, comprehensive and cross-jurisdictionally acceptable state loss assessments are a crucial element in strengthening legal legitimacy while supporting the effectiveness of interstate collaboration.

From a criminological theory perspective, this is closely related to the concept of deterrence effect, which asserts that law enforcement will be effective if perpetrators face real risks, both in terms of criminal punishment and recovery of losses incurred (Nagin, 2013). If a country fails to adequately assess and prove the losses, the deterrent effect on perpetrators and transnational corruption networks will weaken. Conversely, a robust assessment of losses not only increases the chances of asset recovery but also strengthens the preventive effect for potential actors in the future.

Furthermore, from an international law perspective, this issue can be understood through the transnational legal process framework proposed by Harold Koh. According to this concept (Koh, 1991, 1996, 2001, 2004, 2005), the success of transnational law enforcement is determined by the extent to which interactions between countries can produce a shared interpretation that is then internalized into each country's national law. In the context of assessing state losses, the absence of universal standards actually leads to fragmentation, which weakens the internalization process and reduces the effectiveness of international cooperation. Therefore, there is a need for harmonization of assessment standards that are not only based on forensic accounting and economics but also have international legal legitimacy.

However, to date, there remains a significant gap in both research and practice. Most previous studies have focused more on the technical aspects of asset tracing or procedural obstacles in mutual legal assistance (MLA) mechanisms (Abraha, 2021; Arifin et al., 2023; Beqiraj & Scott, 2022; Nguyen, 2012; Prawira & Alamsyah, 2023; Suharto, 2022; Wright, 2019). Meanwhile, in-depth discussions reviewing state loss assessment standards are still minimal. In fact, differences in methodologies between countries in assessing losses have the potential to create legal uncertainty and hinder asset recovery efforts. In other words, there is an urgent need to develop a conceptual framework that integrates legal, economic, and forensic accounting aspects so that the assessment of state losses can be more universally recognized.

Based on this description, this study aims to analyze methods of assessing state losses in transnational corruption cases, evaluate the effectiveness of international cooperation in supporting asset recovery, and offer a conceptual framework for harmonizing the assessment of state losses across jurisdictions. The contribution of this research is twofold: scientifically, this research fills a gap in the literature by expanding the study of state loss assessment standards; while practically, the results of this research are expected to serve as a basis for governments, law enforcement agencies, and international institutions in formulating more effective, fair, and sustainable asset recovery policies.

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Research Objectives

This study aims to provide a deeper understanding of how the assessment of state losses in transnational corruption cases can be strengthened through effective international cooperation mechanisms. The primary focus is on analyzing the methods used to measure state losses, both direct losses in the form of state finances and indirect losses such as long-term economic impacts and damage to institutional reputation. By examining practices in various jurisdictions, this study aims to identify patterns, weaknesses, and potential areas for harmonization in the development of standards for assessing state losses.

In addition, this study aims to assess the extent to which international cooperation established through global legal instruments, such as the United Nations Convention against Corruption (UNCAC), can address the challenges posed by methodological and legal differences between countries. The evaluation not only looks at the formal procedural aspects of mutual legal assistance and asset recovery mechanisms, but also assesses the substantive dimensions related to the legitimacy of state loss claims before international forums.

Ultimately, this study aims to develop a conceptual framework that integrates legal, economic, and forensic accounting perspectives in assessing state losses resulting from transnational corruption. This framework is expected to strengthen the bargaining position of victim countries in litigation and negotiation processes, while also expanding academic contributions to the fields of economic criminal law and global financial governance. Thus, this research is not only academically relevant in filling a gap in the literature but also provides practical contributions in supporting the effectiveness of asset recovery and cross-jurisdictional anti-corruption policies.

Research Methodology

This study employed a qualitative approach that combines normative and empirical analysis (Porta & Keating, 2008). This approach was chosen based on the need to not only examine international legal instruments doctrinally, but also to examine how these instruments are implemented in cross-border practice. Thus, this study attempts to bridge the gap between normative legal texts and the empirical realities faced by countries in the process of asset recovery.

In its implementation, this study relies on primary and secondary data collected in a complementary manner. Primary data was obtained through case studies of five transnational corruption cases involving Indonesia, Malaysia, Nigeria, Brazil, and Ukraine. The cases were selected purposively, taking into account the involvement of cross-border mechanisms, the existence of relevant court decisions, and the existence of concrete asset recovery efforts. To enrich the field data, semi-structured interviews were conducted with five informants, comprising international legal practitioners, officials from anti-corruption agencies, and academics with expertise in the field of asset recovery.

Meanwhile, secondary data were obtained from various credible sources, including international legal documents (such as the United Nations Convention against Corruption and the OECD Anti-Bribery Convention), domestic and international court decisions, and reports from international institutions like the UNODC and the World Bank's StAR Initiative. Academic literature, including journal articles, monographs, and policy reports, was also reviewed to provide a theoretical framework and strengthen the analysis.

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Data analysis was conducted in three complementary stages. First, content analysis was employed to examine legal instruments and court decisions, identifying general principles regarding the assessment of state losses. Second, a comparative study was applied to reveal differences in methodology between countries and their impact on the effectiveness of international cooperation. Third, the interview results were analyzed through a thematic coding process to find thematic patterns related to the obstacles and opportunities for standard harmonization. All analysis results were then validated through data triangulation by comparing findings from legal documents, case studies, and interview results.

To ensure the reliability of the research, the case selection criteria and analysis procedures were described transparently, allowing them to be replicated by other researchers. All legal documents, policy reports, and court decisions used were sourced from official publications and are publicly accessible. With this research design, the study is expected to yield valid and comprehensive findings that can contribute to the development of academic studies and asset recovery practices in the context of transnational corruption.

Result

Variations in State Loss Assessment Methodology

This study reveals significant methodological variations in assessing state losses. Indonesia and Nigeria, for example, tend to adopt a forensic accounting approach that focuses solely on calculating direct financial losses to state coffers (Nengak et al., 2025; Paramole, 2025; Simbolon et al., 2024). Although this method is considered practical and relatively easy to implement, its main weakness lies in its partial nature. As a result, in international forums, this approach is often considered insufficiently comprehensive because it fails to capture the broader and longer-term economic impact of corruption.

In contrast, Brazil and Ukraine have demonstrated methodological evolution by applying a much more holistic approach. They not only calculate direct losses, but also take into account various intangible losses, such as lost investment potential, inflated social costs, and damage to reputation in the global market (Achim, 2023; Kravets et al., 2024). Although more complex and resource-intensive, this comprehensive approach provides greater legitimacy and persuasiveness when presented in cross-border asset recovery claims, as it is considered to represent better the real impact of corruption on the national economy.

Meanwhile, Malaysia has adopted a hybrid strategy that seeks to combine the best elements of both approaches, namely by calculating both direct and indirect losses. In theory, this mixed approach offers better balance and fairness (Rahman et al., 2024). However, in practice, this approach faces substantive obstacles in the legal process, especially when the results of hybrid calculations must be tested and accepted by courts in foreign jurisdictions that may only recognize direct financial losses.

Thus, these findings highlight a vital policy dilemma: there is a clear trade-off between administrative convenience and legal force. A country's methodological choice will ultimately significantly affect the effectiveness of its efforts to obtain recognition and asset recovery at the global level.

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Relevance to Deterrence Effect Theory

The findings of this study show that a comprehensive assessment of state losses not only serves as the basis for legitimizing claims but also supports a deterrent effect for transnational corruption perpetrators. The deterrence effect theory asserts that law enforcement will be more effective if the risks faced by perpetrators are tangible and measurable (Apel, 2013; Fagan & Meares, 2008; Jacobs, 2010). With precise and recognized loss calculations, the chances of perpetrators fleeing with assets are reduced, while increasing the deterrent effect against future corruption practices.

Moreover, the findings of this methodological variation have profound implications for the effectiveness of the deterrence effect theory in the enforcement of transnational corruption law (Bhattacherjee & Shrivastava, 2018; de la Feria, 2020; Dimant & Schulte, 2016; Fürstenberg et al., 2023; Goudie & Stasavage, 1998; Ku & Nzelibe, 2006; Reganati & Oliva, 2018; Rodriguez et al., 2006; Yogi Prabowo, 2014). The comprehensive loss assessments in Brazil and Ukraine not only produce larger figures but also strategically construct an irrefutable narrative of loss before international courts. Conversely, approaches limited to direct cash losses, as applied by Indonesia and Nigeria, have the potential to weaken the deterrent effect because they can be easily refuted or reduced in value by perpetrators in foreign jurisdictions, which in turn sends the wrong signal that the risk of corruption can be managed. Therefore, the choice of methodology is essentially a political choice: whether a country is serious about building credible deterrence on the global stage, or merely fulfilling administrative procedures at the domestic level.

Linkage with the Concept of Transnational Legal Process

The research results are also in line with the concept of transnational legal process, which emphasizes the importance of interaction, interpretation, and internalization of international law into the domestic legal system (Berman, 2004; Jefferies, 2020; Koh, 1996; Slaughter & Tulumello, 1998; Twining, 2004; Waters, 2005; Yasuaki, 2003). The inconsistency of the methodology for assessing state losses hinders the internalization process, thereby reducing the effectiveness of international cooperation. Harmonization of assessment standards is necessary to enable countries to develop a more consistent understanding of filing loss claims.

In line with this, the findings regarding methodological variations reveal a substantive conflict with the concept of transnational legal process. Transnational legal processes, which depend on the interaction and internalization of global norms, are hampered by the absence of universal standards for assessing damages (Berman, 2004; Shaffer, 2012). As a result, rather than harmonization, what occurs is fragmentation of interpretation, with each jurisdiction adhering to its own domestic parameters. This condition creates a wide gap in asset recovery cooperation, due to the absence of a common language regarding what actually constitutes a state's loss. Therefore, efforts to harmonize standards are not merely a technical administrative matter, but a fundamental prerequisite to ensure that legal interactions between countries can lead to the internalization of norms and, ultimately, greater legal certainty.

Discussion

The results of the study show that variations in the methodology for assessing state losses not only create diversity in practice but also give rise to legal uncertainty in international forums. Countries that use a purely forensic accounting approach are often considered weak in filing claims,

DOI: https://doi.org/10.56107/penalaw.v3i2.xxx

as these calculations do not reflect the full extent of economic losses. Conversely, countries that can combine direct and indirect losses gain a stronger bargaining position in the asset recovery negotiation process. This emphasizes the importance of harmonizing standards that are acceptable across jurisdictions.

This finding is relevant to the theory of deterrence effect, which emphasizes that the effectiveness of the law is highly dependent on the certainty and magnitude of the consequences borne by the perpetrator (Nagin, 2013). If the assessment of state losses is comprehensive and internationally recognized, the legal risks faced by perpetrators of corruption will increase. This, in turn, strengthens the deterrent effect, as corruption no longer merely carries criminal penalties but also leads to the obligation to return significant amounts of assets, which can nullify illegal gains.

Within the framework of the transnational legal process, harmonization of loss assessment standards plays a vital role in building understanding between countries. Interactions that occur through mutual legal assistance (MLA) and asset recovery mechanisms can only be effective if there is consistent legal interpretation. The current methodological differences actually slow down the process of internalizing international law into domestic practice, thereby limiting the effectiveness of UNCAC and similar instruments. Thus, this study emphasizes that harmonization efforts are not merely a technical matter, but part of a broader transnational legal process.

Unlike the World Bank and UNODC reports, which focus more on the technical obstacles of asset tracing, this study adds the perspective that the legitimacy of state loss claims is a crucial factor in the success of asset recovery. In other words, even if asset tracing is successful, weak loss calculations can lead to state claims being rejected or reduced in international forums.

Therefore, this study makes an academic contribution by filling a gap in the literature on the direct relationship between the quality of loss assessment and the effectiveness of international cooperation. From a policy perspective, this study suggests that countries develop an integrated methodological framework that not only relies on forensic accounting but also takes into account long-term economic impacts.

This can be achieved through the development of international guidelines under the UNCAC or through regional forums such as ASEAN and the African Union, which share a common interest in combating cross-border corruption. In addition, technical training and data exchange between authorities are also key to strengthening trust and the legitimacy of state loss assessment results.

Scientific Novelty and Research Contribution

This study presents a novel approach by placing the assessment of state losses as a key factor in the successful recovery of assets in transnational corruption cases. Previous studies have focused more on asset tracing and mutual legal assistance procedures, while the legitimacy of loss assessments has rarely been considered. These findings show that accurate and comprehensive methodologies determine the strength of a state's claims in international forums.

The integration of deterrence effect theory and the concept of transnational legal process also adds value, as it emphasizes that the harmonization of assessment standards is not only technical, but also has an impact on deterrence and the consistency of international law internalization. An

interdisciplinary approach that combines law, economics, and forensic accounting broadens the scope of academic study while enriching the literature on economic criminal law.

The practical contribution of this research is to encourage countries to adopt a loss assessment methodology that covers both direct and indirect losses and to promote the development of international standards through UNCAC and regional forums. Thus, this research strengthens the understanding of the interrelationship between loss assessment, legal legitimacy, and the effectiveness of international cooperation, while providing direction for the development of a more equitable, transparent, and effective asset recovery system.

Conclusion

This study confirms that assessing state losses is a crucial element in determining the success of transnational corruption asset recovery. Variations in methodology between countries demonstrate that a forensic accounting approach alone is insufficient. At the same time, more comprehensive models, such as those employed by Brazil and Ukraine, have been shown to enhance the legitimacy of claims and the effectiveness of international cooperation.

The results also show that the limitations of mutual legal assistance mechanisms and differences in standards of proof remain significant obstacles. Nevertheless, countries that can present a comprehensive assessment of losses tend to be more successful in recovering lost assets. Thus, harmonizing standards for assessing state losses is an urgent need to strengthen the legal position and promote the effectiveness of cross-jurisdictional collaboration.

Scientifically, this research provides an interdisciplinary framework that connects international law, economics, and forensic accounting, thereby enriching the literature on economic criminal law. Practically, this research provides direction for countries and international institutions to develop comprehensive assessment methodologies, formulate international standards and guidelines, and enhance technical cooperation in asset recovery. Thus, this research not only addresses academic gaps but also contributes to the development of a more equitable, transparent, and effective global asset recovery system.

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