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Reformulation of Criminal Law Policy and Islamic Law Perspective in Addressing Misuse of Regional Assets as an Effort to Prevent State Losses

Malikal Mulki
Universitas Islam Nusantara, Bandung, Indonesia
malikalmulki@uninus.ac.id

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Abstract:

This study aims to analyze criminal law policies regarding the misuse of Regional Government Property (Barang Milik Daerah/BMD) and to reconstruct a preventive framework against state financial losses through positive law and Islamic law perspectives. The key concepts and definitions utilized include criminal law policy, misuse of regional assets, state financial losses, asset governance, and *maqāṣid al-sharīʿah* principles (*ḥifẓ al-māl* and the prohibition of *ghulūl*). A normative-juridical research method was employed, incorporating statutory, conceptual, comparative, and Islamic legal approaches supported by primary legal materials and contemporary scholarly literature. The object and scope of the research focus on the national regulatory architecture of regional asset management—including laws on state finance and treasury, government regulations, and home affairs ministerial regulations—synchronized with anti-corruption enforcement and public governance ethics. The main findings indicate that foundational weaknesses stem from fragmented asset databases, weak internal controls, and a lack of integration between preventive controls and enforcement, resulting in the delayed detection of asset misappropriation until large-scale fiscal losses materialize. The challenges or constraints of the research involve bureaucratic regulatory dynamics that lag behind modern risk mitigation requirements and the complexity of proving non-cash economic losses. Recommendations and practical implications highlight the necessity of establishing interoperable digital asset information systems, risk-based internal auditing, standardized commercial utilization contracts, and integrated asset recovery mechanisms.

Keywords: asset recovery; corruption prevention; criminal law policy; regional government property; state financial losses.

INTRODUCTION

The management of regional government assets constitutes a fundamental dimension of public governance because regional assets are not merely administrative objects recorded in government inventories but public resources entrusted to government institutions to realize collective welfare. Land, buildings, vehicles, infrastructure, equipment, and other forms of regional property embody public value because their ownership and utilization are ultimately connected to the fiscal capacity of government and the delivery of public services. Consequently, the integrity of regional asset management is inseparable from the broader principles of accountability, transparency, efficiency, and public responsibility. Contemporary public-sector governance research demonstrates that weaknesses in the management of public resources create opportunities for corruption precisely because discretionary authority, information asymmetry, and weak monitoring can converge within administrative processes. Suardi et al. (2024), for example, demonstrate that stronger procurement governance, particularly through integrity, institutional capacity, fair competition, monitoring, and control, significantly reduces corruption risks in the Indonesian public sector (Suardi et al., 2024). This finding is important because it shifts the analytical emphasis from corruption as an isolated criminal event toward corruption as a governance failure that can emerge throughout the life cycle of public resources.

The problem becomes more complex when regional assets are placed within a decentralized governmental structure. Decentralization expands the authority of local governments to administer public resources, but the expansion of administrative discretion also creates new spaces in which assets may be misused, inadequately supervised, privately appropriated, or economically exploited for interests inconsistent with their public purpose. Regional assets therefore occupy a legally sensitive position at the intersection of administrative authority, public finance, economic value, and criminal responsibility. The significance of this problem is reflected in empirical research on Indonesian regional governance. Paranata (2022) found that corruption-control efforts and public complaint mechanisms have measurable implications for reducing regional budget leakage, while persistent weaknesses in accountability and fiscal governance continue to create vulnerabilities in local government financial management (Paranata, 2022). The study is particularly relevant because it demonstrates that fiscal leakage is not simply an accounting problem. It is a governance phenomenon in which institutional weakness, corruption risks, and inadequate oversight can interact to diminish the capacity of local governments to transform public resources into public welfare.

Within this context, the misuse of Regional Government Property, or Barang Milik Daerah (BMD), should not be reduced to an issue of administrative non-compliance. The unauthorized occupation of government land, the use of official vehicles for private purposes, the transfer or utilization of assets without adequate legal authorization, the underpricing of leases, the failure to remit rental revenues, and the manipulation of asset-related procurement can potentially transform administrative irregularities into conduct carrying criminal-law significance. The central difficulty lies in determining the precise boundary between an administrative violation, an abuse of authority, a civil breach, and a criminal offense. This boundary becomes particularly consequential when the misuse of an asset produces, or creates a substantial risk of producing, a financial loss to the state or region. Criminal law cannot therefore operate effectively merely by attaching punishment to misconduct after the loss has materialized. It must also be designed as a policy instrument capable of identifying risk, strengthening institutional deterrence, preventing illicit appropriation, and facilitating the recovery and protection of public assets.

The Indonesian anti-corruption framework provides a significant legal basis for addressing such conduct. Law No. 31 of 1999 concerning the Eradication of Corruption Crimes, as amended by Law No. 20 of 2001, particularly Articles 2 and 3, establishes legal consequences for unlawful enrichment and abuse of authority that may cause losses to state finances or the state economy. In cases involving regional assets, however, the application of these provisions cannot be separated from the regulatory architecture governing the management of state and regional property. Government Regulation No. 27 of 2014, as amended by Government Regulation No. 28 of 2020, together with Minister of Home Affairs Regulation No. 19 of 2016 as amended by Minister of Home Affairs Regulation No. 7 of 2024, establishes the administrative framework governing the use, utilization, safeguarding, administration, and transfer of regional assets. The existence of these regulations demonstrates that Indonesia does not suffer from a complete absence of normative rules. The more fundamental problem concerns the capacity of the existing legal framework to translate administrative standards into effective criminal-law prevention when violations of asset-management rules intersect with abuse of authority and public financial loss.

This problem is particularly visible in the evidentiary construction of state financial losses. In corruption cases involving regional assets, the existence of an irregularity does not automatically establish the amount or legal character of a state loss. The evidentiary process must establish the relationship between the unlawful conduct, the asset concerned, the economic value that should have been obtained by the government, and the actual or legally cognizable loss resulting from the conduct. This becomes difficult where the object of misuse is land or buildings whose economic value depends on location, duration of occupation, market conditions, potential utilization, rental rates, taxation, depreciation, and opportunity costs. The problem is therefore not simply how to calculate a numerical deficit, but how to construct a legally defensible concept of loss capable of capturing the economic consequences of the deprivation or suboptimal utilization of public assets. Recent Indonesian scholarship on state-loss reconstruction similarly demonstrates that determining economic losses in corruption cases remains a significant legal problem because conventional approaches may inadequately

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reflect the complex relationship between unlawful conduct, economic value, and actual state interests (Suprayoga et al., 2023).

The empirical dimension of this problem can be illustrated by the alleged misuse of regional government land involving the Margasatwa Tamansari Foundation in Bandung. The case concerns the utilization of approximately 117,129 square meters of regional land over an extended period without an adequately established lease arrangement and without the corresponding realization of rental revenues and property-tax obligations for the local government. Based on the audit calculation presented in the underlying research materials, the gross financial value associated with unpaid land use and taxation reaches approximately Rp2.34 trillion, while alternative calculations produce a net loss of approximately Rp873.20 billion and a conservative minimum estimate of approximately Rp59.29 billion. These figures are not merely expressions of accounting discrepancy. They illustrate the magnitude of public value that can be lost when an asset remains within the formal ownership of government while its economic benefits are effectively appropriated or withheld from the public treasury. More importantly, the case exposes an analytical gap between calculating the fiscal consequences of irregular asset utilization and establishing whether the conduct itself constitutes an actionable form of abuse under criminal law.

This distinction is crucial because a purely retrospective audit approach may identify the amount of financial loss without adequately investigating the institutional and behavioral mechanisms through which the loss occurred. The legal system may therefore become capable of quantifying damage only after public resources have already been compromised, while remaining less capable of preventing the conduct that produced the damage. Contemporary anti-corruption scholarship increasingly emphasizes the importance of preventive governance, internal control, monitoring, and institutional design rather than relying exclusively on post hoc criminal enforcement. Research on internal audit and public-sector governance shows that weaknesses in governance structures are closely connected to fraud and corruption risks, reinforcing the argument that corruption prevention must be embedded within institutional control systems rather than treated solely as a matter for law enforcement after an offense has occurred (Suardi et al., 2024).

The problem is further complicated by the relationship between asset misuse and procurement or utilization governance. Public assets may become vulnerable not only at the moment of physical appropriation, but throughout the decision-making process through which assets are acquired, allocated, leased, transferred, maintained, and monitored. In public procurement, corruption risks may emerge during planning, preparation, tendering, contract implementation, and post-contract administration. Suardi et al. (2024) demonstrate that procurement governance significantly reduces corruption when principles of integrity, capacity, competition, fairness, monitoring, and control are effectively implemented (Suardi et al., 2024). The implication for regional assets is substantial: criminal-law policy should not be conceived exclusively around punishment after the misuse of an asset has occurred, but should be integrated with preventive governance mechanisms capable of identifying suspicious transactions, conflicts of interest, unauthorized utilization, abnormal valuation, and failures to account for public property.

A further weakness concerns the conceptualization of state loss itself. Conventional approaches tend to privilege demonstrable financial losses, while the misuse of regional assets can generate broader forms of public harm. When government land is occupied without lawful compensation, the loss may consist not only of unpaid rent but also of foregone opportunities for public development, diminished public-service capacity, reduced regional revenue, and the erosion of citizens' trust in government. Likewise, the unauthorized use of official vehicles may involve fuel costs, maintenance expenditures, depreciation, and opportunity costs that are not always easily captured through conventional accounting. A narrow financial conception of loss therefore risks understating the social and institutional consequences of asset misuse. Recent scholarship on corruption and state-loss policy has emphasized the need to reconsider the relationship between financial loss and broader economic harm because excessive concentration on quantifiable losses may obscure the underlying corruption mechanism and weaken legal certainty in enforcement (Jamilah et al., 2024).

The existing literature reveals an important research gap at precisely this point. Previous studies have addressed regional asset management primarily from the perspectives of administrative governance, accountability, public-sector financial management, or corruption prevention. Other studies have concentrated on the reconstruction of state financial losses, asset recovery, procurement corruption, or the institutional authority of law-enforcement agencies. At the same time, scholarship concerning Islamic approaches to corruption has generally emphasized ethical prohibition, religious morality, or the condemnation of practices such as bribery, misappropriation, and betrayal of trust. What remains insufficiently developed is an integrated criminal-law policy framework that places regional asset misuse at the centre of analysis and simultaneously connects four dimensions: the governance of public assets, the construction of criminal liability, the prevention and recovery of state losses, and Islamic legal principles concerning public wealth and accountability. This gap is significant because the normative vocabulary of Islamic law offers concepts that can deepen the preventive dimension of criminal policy without replacing positive law.

Islamic law provides a particularly relevant normative framework because the misuse of public resources implicates not merely individual property rights but a broader conception of trust, accountability, and public welfare. The concepts of amānah, khiyānah, and ghulūl frame the unlawful appropriation or misuse of resources entrusted to an individual as a violation of public trust. Within the broader framework of maqāṣid al-sharīʿah, the protection of wealth, or ḥifẓ al-māl, extends beyond the preservation of private ownership and can be interpreted in relation to the protection of socially valuable resources. Recent scholarship on Islamic ethical governance argues that principles of justice, trust, consultation, transparency, accountability, and public benefit can be integrated into institutional mechanisms for corruption prevention rather than functioning solely as abstract moral exhortations (Z. Abdurrahman, 2025). Likewise, contemporary research on Islamic perspectives on corruption in Indonesia identifies ghulūl, risywah, and khiyānah as ethical categories that condemn the misuse of public resources and abuse of entrusted authority, while simultaneously emphasizing that religious morality requires institutional reinforcement through law, transparency, and accountable governance (Shaukat et al., 2024).

The Islamic perspective therefore becomes analytically productive when it is positioned not as an alternative to the Indonesian criminal justice system, but as a normative foundation for reformulating its preventive orientation. The principle of ḥifẓ al-māl can support a broader understanding of public-asset protection in which government property is treated as a trust whose value must be preserved for present and future beneficiaries. The principle of maṣlaḥah requires public authorities to orient the utilization of state resources toward collective welfare, while the avoidance of mafsadah requires the state to intervene before institutional practices generate foreseeable harm. Such principles can reinforce the preventive logic of criminal policy by shifting attention from the mere punishment of completed misconduct toward the identification and interruption of conditions that make misuse possible. Importantly, this approach does not imply that every administrative violation should be criminalized. Rather, it requires a calibrated criminal policy that distinguishes negligent administration, regulatory non-compliance, abuse of authority, intentional enrichment, and deliberate appropriation according to their respective degrees of culpability and social harm.

The preventive dimension is particularly important because the effectiveness of anti-corruption law cannot be measured exclusively by the number of prosecutions or convictions. A criminal policy that responds only after public assets have been depleted remains structurally reactive. The more sophisticated objective is to construct a legal architecture in which asset registration, authorization, utilization, valuation, monitoring, auditing, reporting, and criminal accountability operate as interconnected layers of protection. Recent research on anti-corruption and asset recovery emphasizes that successful enforcement depends not merely on formal criminal sanctions but also on institutional coordination, political context, monitoring capacity, and the ability of justice systems to recover public assets effectively (Kassa, 2024). This suggests that the reformulation of criminal policy concerning regional assets should be directed toward an integrated model combining preventive controls, clearer thresholds of criminal liability, reliable methodologies for establishing state loss, institutional coordination, proportional sanctions, and effective asset recovery.

Accordingly, the central argument of this study is that the misuse of regional assets should be understood as a multidimensional legal problem rather than as a simple violation of administrative property-management rules. The adequacy of criminal-law policy must be evaluated according to its capacity to protect public assets before losses become irreversible, to establish clear criteria for criminal responsibility when administrative authority is deliberately abused, and to ensure that sanctions are connected to both deterrence and restoration of public value. Islamic legal principles can contribute to this reformulation by providing a normative architecture centred on amānah, ḥifẓ al-māl, maṣlaḥah, justice, accountability, and the prevention of mafsadah. The resulting framework would not collapse Islamic law into positive criminal law, nor would it transform criminal policy into a purely moral instrument. Instead, it would establish a complementary relationship in which positive law supplies institutional enforceability while Islamic legal principles strengthen the ethical and public-welfare orientation of the regulatory system.

Against this background, this study aims to critically examine the existing criminal-law policy governing the misuse of regional assets in Indonesia, particularly its capacity to establish criminal responsibility, prove state financial losses, prevent recurring misuse, and support the recovery of public resources. It further seeks to

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identify the structural weaknesses that allow administrative violations and abuse of authority to develop into substantial fiscal losses and to formulate a preventive criminal-law policy that is more responsive to the economic, institutional, and social dimensions of regional asset misuse. Finally, the study aims to develop an Islamic law perspective as a normative foundation for such reformulation by examining how amānah, ḥifẓ al-māl, maṣlaḥah, and the prohibition of ghulūl and khiyānah can be translated into principles of public-asset protection, accountability, proportionality, and prevention. Through this approach, the study seeks to move the discussion from a predominantly reactive model of corruption enforcement toward a more integrated paradigm in which criminal law functions not only to punish the misuse of public assets after losses occur, but also to prevent the conditions that make such losses possible.

METHOD

This study employs a normative juridical legal research method to examine the criminal law policy governing the misuse of regional government assets and to formulate a preventive framework for protecting state finances. Normative legal research is appropriate because the study focuses on the interpretation, coherence, and adequacy of legal norms rather than on statistical measurement of criminal behavior (Prasetyo et al., 2025). The analysis examines the relationship between anti-corruption legislation, regulations governing regional assets, criminal liability, state financial losses, and Islamic legal principles concerning public property and accountability. This approach is particularly relevant to corruption research because effective prevention depends not only on criminal sanctions but also on institutional governance, internal controls, monitoring, and accountability mechanisms.

The primary legal materials consist of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Corruption Crimes, Government Regulation No. 27 of 2014 as amended by Government Regulation No. 28 of 2020 concerning the Management of State/Regional Government Property, and Minister of Home Affairs Regulation No. 19 of 2016 as amended by Minister of Home Affairs Regulation No. 7 of 2024 concerning the Management of Regional Government Property. Relevant provisions of the Indonesian Criminal Code and legislation concerning public finance and regional financial management are also examined where necessary. Secondary legal materials include recent international and national scholarly literature on corruption prevention, public-sector governance, state financial losses, regional asset management, criminal policy, and Islamic law. Recent research indicates that effective internal control and audit mechanisms are important in reducing corruption risks within local governments (Shidqi & Arfiansyah, 2025), while stronger procurement governance contributes to corruption prevention through integrity, monitoring, competition, and institutional control (Wekke et al., 2024).

The study applies statutory, conceptual, comparative, and Islamic legal approaches. The statutory approach examines the structure and interaction of legal provisions governing regional assets, abuse of authority, corruption, and state financial losses. The conceptual approach is used to clarify the meaning and boundaries of key concepts, particularly misuse of regional assets, abuse of authority, criminal liability, state financial loss, prevention, and asset recovery. The comparative approach examines selected approaches to public-asset protection and corruption prevention in other jurisdictions to identify mechanisms that may inform the reformulation of Indonesian criminal policy. Comparative analysis is used functionally rather than for direct legal transplantation.

The Islamic legal approach examines the principles of *amānah*, *khiyānah*, *ghulūl*, *ḥifẓ al-māl*, *maṣlaḥah*, and *mafsadah* as normative foundations for protecting public wealth and preventing the misuse of entrusted resources. Recent scholarship demonstrates that Islamic ethical principles concerning justice, trust, accountability, transparency, and public benefit can contribute to institutional approaches to corruption prevention (H. M. Abdurrahman, 2025). Thus, Islamic law in this study is positioned not as a substitute for positive criminal law, but as a normative framework that can strengthen its preventive and public-interest orientation.

Legal materials are collected through documentary research and analyzed qualitatively through grammatical, systematic, and teleological interpretation (Syafira & Habibi, 2023). Grammatical interpretation examines the textual meaning of relevant provisions, systematic interpretation evaluates their relationship within the broader legal system, and teleological interpretation considers their underlying objectives, particularly the protection of public assets and prevention of state financial losses. The analysis also considers the evidentiary difficulties associated with calculating losses arising from the misuse of regional assets, including economic value, rental value, opportunity costs, and potential utilization. Such difficulties demonstrate why the reconstruction of state financial losses requires careful integration between legal norms and economic consequences.

Finally, the findings are synthesized through normative reconstruction to identify weaknesses in the existing criminal law policy and formulate a more preventive framework. The reconstruction focuses on clearer criteria for distinguishing administrative violations from criminal conduct, stronger preventive controls, more reliable mechanisms for establishing state financial losses, proportional criminal sanctions, and effective asset recovery. The analysis ultimately seeks to formulate a criminal law policy in which the protection of regional assets is not limited to punishment after losses occur, but operates preventively through accountability, institutional control, legal certainty, and the protection of public welfare.

RESULTS AND DISCUSSION

Review of Regulations and Practices in the Management of Regional Property for Commercial Purposes

Regional government property, or *Barang Milik Daerah* (BMD), occupies a distinctive position within the architecture of public financial governance because it represents more than a collection of physical objects owned by a local government. Land, buildings, vehicles, infrastructure, equipment, and other assets constitute material instruments through which governmental authority is translated into public services, economic activity, and regional development. The legal significance of BMD therefore lies not merely in its ownership status, but in the public purpose attached to its existence. The management of such property must ensure that its use, utilization, transfer, and administration remain connected to public interests, accountability, and the principles of sound financial governance. Law No. 1 of 2004 on State Treasury expressly places the management of state and regional property within the broader framework of state financial administration, while the regulatory framework governing BMD establishes mechanisms for planning, utilization, administration, supervision, and accountability.

The commercial utilization of BMD presents a particularly important legal problem because public assets may simultaneously possess administrative, economic, and social values. A regional building, for example, may be used directly for governmental services, leased to a private party, or incorporated into a form of cooperation intended to generate regional revenue. The commercial orientation itself is not legally problematic. The problem emerges when commercialization becomes detached from the legal status of the asset, the authority of the official granting its use, the valuation of its economic benefits, or the obligation to return the resulting revenue to the regional treasury. In this sense, misuse cannot be reduced to the physical appropriation of an asset. It may also occur through unauthorized occupation, underpricing, fictitious cooperation, undocumented leasing, manipulation of utilization agreements, failure to collect revenue, or the diversion of economic benefits generated from public property. Contemporary research on public-sector asset management in Indonesia confirms that governance and information technology have a significant relationship with the effectiveness of government asset management, demonstrating that asset protection is inseparable from institutional and informational capacity (Rosidi, 2023).

The normative foundation of BMD management is relatively extensive. Law No. 17 of 2003 on State Finance provides the general architecture of state financial accountability, while Law No. 1 of 2004 on State Treasury specifically incorporates the management of state and regional property into the public financial system. The more operational framework is established through Government Regulation No. 27 of 2014 concerning the Management of State/Regional Property, as amended by Government Regulation No. 28 of 2020. The latter confirms the continuing development of a regulatory system designed to accommodate more sophisticated forms of asset management and utilization. At the regional level, Minister of Home Affairs Regulation No. 19 of 2016 provides detailed guidance for BMD management and has subsequently been amended by Minister of Home Affairs Regulation No. 7 of 2024. The 2024 amendment is significant because it demonstrates that BMD governance is not a static administrative field but a regulatory domain that continues to evolve in response to changing institutional and economic conditions.

Commercial utilization consequently cannot be understood as an autonomous economic activity conducted by local governments according to ordinary market logic. It remains an exercise of public authority over public property. This distinction is legally consequential. Private ownership ordinarily allows an owner considerable discretion in deciding how an asset will be used, leased, transferred, or monetized. Public ownership operates under a different logic because discretion is constrained by legality, public purpose, transparency, accountability, and institutional authorization. A regional official therefore cannot treat BMD as though it were a privately owned asset simply because the asset is physically under the official's control. The legal authority to administer an asset is fundamentally different from personal ownership of the economic benefits attached to that asset (RIdwan & Mahmud, 2025). The central question in commercial BMD utilization is consequently not merely whether an economic transaction has occurred, but whether the transaction remains legally connected to the public purpose for which the asset is entrusted.

This distinction becomes increasingly important when examining the boundary between administrative irregularity and criminal conduct. Not every violation of BMD management rules should automatically be transformed into a criminal case. Conversely, an unlawful use of BMD should not be shielded from criminal accountability merely because it is initially presented as an administrative matter. The legal system therefore requires a principled mechanism for distinguishing errors of administration, procedural violations, negligence, abuse of authority, and conduct intentionally directed toward obtaining unlawful benefits or causing losses to public finances. This problem is particularly relevant in decentralized governance because the expansion of local administrative discretion may also create opportunities for corruption when internal controls fail to operate effectively. Empirical evidence from 519 Indonesian local governments indicates that stronger internal controls and more mature internal audit functions are associated with lower levels of corruption, demonstrating that corruption prevention cannot be separated from the quality of institutional control (Shidqi & Arfiansyah, 2025).

The weakness of internal control is therefore not simply an administrative inconvenience. It may become a structural condition that allows irregular asset utilization to persist. Earlier empirical research involving Indonesian local governments similarly demonstrates a relationship between weaknesses in internal control systems and corruption, reinforcing the argument that corruption frequently develops within organizational environments where control mechanisms are fragmented or ineffective (Annahar et al., 2023). The implication for BMD management is clear: criminal law cannot be expected to function effectively if the administrative system itself fails to produce reliable records concerning ownership, physical condition, legal status, valuation, utilization agreements, rental payments, and changes in asset status. Criminal enforcement frequently begins with administrative evidence. When the administrative trail is incomplete, the evidentiary foundation for establishing unlawful conduct and financial consequences becomes correspondingly fragile.

The problem is even more pronounced in the commercialization of land and buildings. Unlike ordinary movable assets, land and buildings may generate economic benefits over extended periods, and the resulting loss may not be immediately visible as a simple reduction in the government's cash balance. Unauthorized occupation, below-market leasing, failure to collect rent, prolonged use without a valid agreement, or diversion of rental proceeds may generate an accumulation of economic consequences. Consequently, the concept of state financial loss in BMD cases requires a careful distinction between the physical disappearance of public property and the loss of economic benefits that should have accrued to the regional government. Recent legal research on Indonesian corruption law demonstrates that the concept of state economic loss remains doctrinally difficult because the law must distinguish between state financial loss and broader economic consequences generated by corruption (F. Rachman & others, 2023).

This difficulty has direct consequences for criminal liability. The existence of an irregularity in BMD utilization does not automatically establish a criminal offense. The prosecution must establish the relevant legal elements, including unlawful conduct, abuse of authority where required, causation, mens rea or other legally relevant forms of responsibility, and the existence of state financial loss where the offense requires it. The jurisprudential significance of this issue has become more pronounced following Constitutional Court Decision No. 25/PUU-XIV/2016, which rejected the interpretation of potential state losses as sufficient for Articles 2 and 3 of the Anti-Corruption Law and emphasized the requirement of actual loss. Recent scholarship continues to identify tensions between statutory provisions, judicial interpretation, and the evidentiary practice surrounding state financial losses (Fajri & Syahputra, 2025). Therefore, the argument that every potential loss arising from unauthorized BMD use is automatically sufficient for criminal prosecution should be avoided. A stronger legal formulation is that potential economic consequences may provide an important basis for audit, investigation, or preventive intervention, but criminal liability must ultimately satisfy the applicable evidentiary and statutory requirements.

The increasing digitalization of public administration offers an important avenue for resolving some of these weaknesses. An integrated BMD information system can connect asset identification, legal documentation, valuation, utilization agreements, rental obligations, payment records, and supervisory activities within a single traceable administrative architecture. Digitalization can reduce opportunities for undocumented transactions because each stage of asset utilization can theoretically generate an auditable record. Nevertheless, technology should not be romanticized as an autonomous solution to corruption. Research on Indonesian public administration demonstrates that digitalization may reduce corruption vulnerabilities, but organizational restructuring, regulatory adaptation, governance design, and separation of responsibilities must accompany technological transformation (Darusalam, 2024). The central problem is therefore not whether a local government possesses an electronic asset platform, but whether the platform is integrated with decision-making authority, audit mechanisms, financial systems, and enforcement institutions.

Interoperability is particularly important because fragmented information systems can reproduce the very administrative weaknesses that digitalization is expected to eliminate. If the asset registry is disconnected from financial reporting, procurement records, regional revenue systems, and supervisory databases, the existence of digital data does not necessarily create effective accountability. Research on digital government at the local level shows that interoperability has become an important governance issue because digital transformation requires institutional coordination rather than isolated technological adoption (Leader Maynard, 2024). For BMD, interoperability should therefore enable supervisors to identify discrepancies between the legal status of an asset, its physical utilization, its contractual status, and the revenue recorded by the regional government. Such integration would shift BMD supervision from periodic verification toward continuous risk detection.

The commercial utilization of BMD also requires a stronger conception of preventive governance. Prevention should begin before an asset is leased, cooperatively utilized, or otherwise commercially exploited. A preventive framework should require clear authorization, transparent valuation, standardized contractual documentation, traceable payment mechanisms, conflict-of-interest screening, periodic monitoring, and automatic reporting of deviations. The role of internal auditors should consequently move beyond post hoc examination toward risk-based supervision. The significance of this approach is reinforced by evidence that the maturity of internal audit and internal control systems can influence corruption risks at the local-government level (Aldzakhiroh et al., 2024). The implication is that criminal policy should not be positioned exclusively at the final stage of the regulatory chain. It should be embedded within the asset management cycle itself.

The same principle applies to asset recovery. When misuse of BMD has already produced a financial loss or deprived the regional government of an economic benefit, criminal prosecution should not become an end in itself. The protection of public finances requires mechanisms capable of restoring the asset, recovering unlawful proceeds, collecting unpaid obligations, and correcting the administrative conditions that enabled the violation. Research on the recovery of state financial losses in corruption and money-laundering cases emphasizes the importance of asset recovery and forfeiture mechanisms in restoring public resources (Agustanti, 2023). In the BMD context, recovery may take different forms depending on the nature of the violation, including the return of physical assets, payment of outstanding rental obligations, restitution of unlawful benefits, or recovery of other measurable financial consequences. Criminal sanctions therefore need to operate alongside administrative correction and civil recovery rather than replacing them (Aisy et al., 2024).

The relationship between administrative, civil, and criminal law is consequently central to the reformulation of BMD policy. Administrative law provides the first line of legality by defining authority, procedure, documentation, and supervisory obligations. Civil law provides mechanisms for enforcing contractual obligations and recovering property or economic benefits (Nurbaedah & Hayeemaming, 2025). Criminal law becomes necessary when conduct crosses the threshold into legally defined criminality, particularly where abuse of authority, unlawful enrichment, corruption, or intentional manipulation of public resources can be established. Treating these three domains as mutually exclusive creates a fragmented enforcement structure. A more coherent approach recognizes them as interconnected layers of public asset protection. Recent scholarship on public-official corruption similarly argues that the administrative law dimension should play a stronger preventive role, particularly through early supervision and recovery of state losses before violations develop into more serious criminal conduct (Zaid, 2023).

The Bandung case involving the Tamansari Wildlife Foundation can be read within this broader structural problem, particularly in relation to the utilization of regional land and the difficulty of translating long-term asset use into legally demonstrable financial consequences. Rather than treating the case merely as an isolated dispute over a particular parcel of land, its analytical significance lies in revealing the vulnerability of public assets when legal documentation, valuation, monitoring, and revenue collection are not integrated. The case also illustrates why the legal status of an asset must be accompanied by a reliable evidentiary trail concerning who is authorized to use it, under what conditions, for what period, and with what financial obligations. For purposes of criminal-law analysis, the case should therefore be approached cautiously as a contextual illustration rather than as empirical proof of a general national pattern.

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From the perspective of Islamic law, the commercialization of BMD introduces a deeper normative dimension because public assets constitute a form of *amānah*. The official entrusted with public property does not possess an unrestricted proprietary right but exercises delegated authority for the realization of public benefit. Unauthorized appropriation or diversion of public assets can consequently be conceptualized through the principle of *ghulūl*, which concerns the wrongful appropriation of property entrusted to a person by virtue of a public or collective responsibility. Contemporary Islamic legal scholarship has emphasized the relevance of *khiyānah*, *ghulūl*, and *risywah* in understanding corruption as a violation not only of positive law but also of ethical and social obligations (Ali et al., 2023). This perspective is significant because it expands the meaning of loss beyond a numerical reduction in public finances. Misuse of BMD represents a breach of trust because an asset intended for collective welfare is redirected toward interests inconsistent with its public purpose.

The Islamic perspective therefore reinforces, rather than replaces, the preventive orientation of public asset regulation. The principles of *amānah*, *ḥifẓ al-māl*, *maṣlaḥah*, and the prohibition of *ghulūl* establish a normative expectation that public property must be protected, administered transparently, and directed toward collective welfare. This ethical dimension is particularly relevant because formal compliance may coexist with substantive misconduct (Begum et al., 2024). A transaction may appear procedurally complete while still producing an unjust distribution of public resources if valuation, access, or economic benefits are manipulated. Islamic legal reasoning thus adds a substantive ethical question to the administrative question of legality: whether the management of public property actually preserves the public benefit for which the property is entrusted.

The regulatory and practical review ultimately demonstrates that the principal weakness of BMD governance does not necessarily lie in the complete absence of legal rules. Indonesia already possesses a multilayered regulatory framework covering state finance, treasury administration, regional government, state and regional property management, and anti-corruption enforcement (Suramin, 2021). The more fundamental problem lies in the distance between normative regulation and institutional practice. This distance emerges through fragmented databases, weak internal controls, incomplete documentation, inconsistent valuation, limited interoperability, unclear responsibility for early detection, and difficulties in converting administrative irregularities into legally sustainable findings of criminal liability. The challenge is therefore not simply to add another criminal provision, but to construct a regulatory architecture in which prevention, detection, investigation, recovery, and accountability operate as a continuous chain.

Accordingly, the reformulation of criminal law policy concerning BMD should move from a predominantly reactive model toward an integrated preventive model. Such reformulation should establish a clearer threshold between administrative violations and criminal conduct, strengthen the evidentiary value of integrated asset documentation, improve mechanisms for calculating actual financial losses, connect digital asset systems with internal control and audit structures, and prioritize recovery of public property and unlawful economic benefits. The objective is not to criminalize every failure in asset administration, but to ensure that serious abuse cannot hide behind administrative complexity. In this framework, criminal law becomes the final but indispensable layer of protection within a broader system of public asset governance. The effectiveness of the policy ultimately depends on whether regional assets can be continuously identified, legally controlled, economically valued, transparently utilized, digitally monitored, and promptly recovered when misused. Such an approach provides a more coherent foundation for reconstructing criminal law policy as an instrument of structural prevention rather than merely a mechanism for punishment after state losses have already become irreversible (Joko Budi Darmawan et al., 2025).

Efforts to Prevent State Losses in Corruption Crimes Involving the Misuse of Regional Property

The prevention of state losses arising from corruption involving regional property requires a shift in perspective from asset administration to asset governance. Regional property, or *Barang Milik Daerah* (BMD), is not merely an accounting category recorded on the balance sheet of a local government. It represents a materialization of public wealth whose ownership is juridically vested in the public authority and whose utilization must ultimately serve public interests. Land, buildings, vehicles, infrastructure, and other regional assets may generate direct or indirect economic benefits, particularly when they are leased, utilized through cooperation schemes, or otherwise commercially exploited. Consequently, the quality of BMD management has implications not only for the reliability of regional financial reporting but also for the capacity of local governments to preserve public wealth and generate legitimate regional revenues. Empirical research in West Java demonstrates that regional asset management and internal control systems are significantly associated with the quality of local government financial reporting, indicating that asset governance constitutes an important component of broader public financial accountability (Muhlisoh, 2023). The prevention of state losses must therefore begin with the proposition that every stage of the asset cycle, from identification and valuation to utilization and recovery, is a potential site of legal and financial vulnerability.

This proposition becomes increasingly important when BMD is utilized for commercial purposes. Commercial utilization is not inherently contrary to public law. On the contrary, appropriately designed utilization can transform idle public assets into productive resources and contribute to regional fiscal capacity. The legal difficulty emerges when commercial exploitation becomes detached from the legal authority attached to the asset. A regional building that is leased without proper authorization, land occupied without a valid agreement, or an asset utilized by a private party without the corresponding payment to the regional treasury does not merely present an administrative irregularity. Such conduct may indicate a progressive deterioration of public accountability in which the legal status of the asset, the economic value of its utilization, and the responsibility of the officials involved become disconnected. Recent research on the implementation of regional asset policy demonstrates that asset governance remains closely connected with the effectiveness of regional financial administration, reinforcing the proposition that asset utilization must be treated as part of public financial governance rather than as an isolated administrative transaction (Kristiansen et al., 2009).

The current regulatory framework already provides a substantial normative basis for preventing such deviations. Law No. 17 of 2003 concerning State Finance and Law No. 1 of 2004 concerning State Treasury establish the general architecture of accountability for public financial resources, while Government Regulation No. 27 of 2014 as amended by Government Regulation No. 28 of 2020 provides a more specific framework for the management of state and regional property. At the technical level, Minister of Home Affairs Regulation No. 19 of 2016, as amended by Minister of Home Affairs Regulation No. 7 of 2024, regulates the operational management of BMD. These instruments establish procedures concerning planning, administration, utilization, security, supervision, and reporting. The regulatory problem, therefore, cannot simply be described as a vacuum of law (Arifin & Wibowo, 2025). The more significant difficulty lies in the capacity of institutions to translate normative requirements into continuous control. This distinction is crucial because a sophisticated regulatory framework may coexist with weak asset governance when documentation is incomplete, asset databases are outdated, supervisory responsibilities are fragmented, or officials possess substantial discretion without corresponding accountability.

The amendment of the technical BMD framework should consequently be understood as an opportunity to strengthen preventive governance rather than merely as an administrative revision (Marune, 2021). A regulatory requirement becomes meaningful only when it produces an auditable chain connecting the identity of an asset, its legal status, its authorized user, the duration and conditions of utilization, the economic value generated, and the destination of the resulting revenue. The absence of such continuity creates what may be described as an accountability gap. Within that gap, the physical asset may remain visible while its economic utilization becomes opaque. The danger is especially acute for land and buildings because their misuse may persist for years without producing the kind of immediately observable deficit associated with the disappearance of cash. The loss may instead accumulate through unpaid rent, unauthorized occupation, undervaluation, forgone revenue, or the diversion of economic benefits that should have accrued to the regional treasury.

The prevention of such losses therefore requires an institutional architecture based on traceability. Every commercially utilized BMD should possess a complete administrative identity consisting of ownership documentation, physical identification, valuation, utilization status, contractual basis, authorized decision-maker, payment obligations, and monitoring history. Digitalization can strengthen this architecture by creating a continuously updated information trail. Research on regional asset management information systems demonstrates that information systems have a significant relationship with the effectiveness of regional asset management, suggesting that technology can improve the capacity of institutions to identify, monitor, and administer public assets (Zanaria, 2022). Yet digitalization should not be interpreted as a technological substitute for legal responsibility. An electronic database containing inaccurate or incomplete information simply reproduces administrative weaknesses in digital form. Technology becomes a meaningful anti-corruption instrument only when it is integrated with authorization, verification, internal control, and audit processes (Putra Pratama et al., 2025).

The preventive significance of internal control is supported by broader empirical evidence concerning Indonesian local governments. An analysis of 508 local governments covering 4,530 observations found that weaknesses in internal control systems were associated with corruption, confirming that corruption risk cannot be separated from organizational control structures (Muhtar et al., 2023). The implication for BMD management is profound. An asset can be legally registered and formally reported while remaining vulnerable to misuse if no effective mechanism exists to verify its physical utilization, contractual status, valuation, and financial return. Internal control must therefore operate across the entire asset cycle. Preventive controls should verify the legality of proposed utilization before authorization; detective controls should compare contractual obligations with actual field conditions; and corrective controls should ensure that identified deviations result in timely recovery and institutional remediation. The objective is not to multiply bureaucratic procedures but to ensure that each critical decision concerning public assets leaves an accountable and verifiable record.

The procurement and acquisition dimension of BMD presents another significant vulnerability. The risk of corruption does not begin when an asset is physically misappropriated. It may begin much earlier through manipulated planning, inflated prices, restricted competition, tailored technical specifications, or collusive arrangements that distort the acquisition process. Recent research involving 744 public-sector institutions in Indonesia demonstrates that procurement governance based on integrity, capacity, competition, fairness, monitoring, and control is associated with lower procurement corruption, with the preparation phase appearing particularly vulnerable (Suardi et al., 2024). Although procurement and post-acquisition asset management constitute distinct regulatory stages, the relationship between them is inseparable. An asset acquired through a corrupted process carries the consequences of that corruption into the asset-management system. Reforming BMD governance must therefore encompass the entire asset lifecycle rather than treating procurement, registration, utilization, and disposal as disconnected administrative compartments.

The legal response to misuse must also preserve a principled distinction between administrative error and criminal conduct. This distinction is essential to prevent two opposite forms of legal dysfunction. The first is overcriminalization, in which every procedural defect is transformed into a corruption case despite the absence of the elements required for criminal liability (Sarwono, 2023). The second is under-enforcement, in which deliberate abuse of public property is concealed behind the language of administrative irregularity (Adinugraha et al., 2025). Criminal law should intervene when conduct satisfies the elements of a criminal offense, particularly where unlawful enrichment, abuse of authority, intentional manipulation, or actual state financial loss can be established under the applicable legal framework (Sarwono, 2023). The existence of an administrative violation may constitute an important indicator of risk, but it does not by itself establish criminal responsibility. Conversely, administrative status should never become a protective shield for conduct that substantively constitutes corruption.

This distinction becomes particularly important in relation to Articles 2 and 3 of Law No. 31 of 1999 as amended by Law No. 20 of 2001. Article 2 addresses unlawful enrichment that causes state financial or economic losses, while Article 3 concerns abuse of authority, opportunity, or means arising from an official position for the purpose of obtaining unlawful benefit. In BMD cases, Article 3 may become particularly relevant where an official exercises formal authority over an asset but employs that authority for purposes inconsistent with the public interest. Nevertheless, the application of criminal provisions must remain evidence-based. The existence of unauthorized use, for example, must be connected to legally relevant evidence concerning authority, conduct, benefit, causation, and financial consequences. The prevention strategy should consequently be designed to produce reliable evidence before a violation escalates into a criminal investigation.

The question of state financial loss is particularly sensitive because BMD misuse does not always manifest itself as a straightforward cash deficit. The economic consequence may arise from unpaid rental obligations, below-market utilization, unauthorized occupation, loss of potential revenue, or deterioration of the asset itself. Indonesian legal scholarship continues to identify conceptual difficulties in distinguishing state financial loss from broader state economic loss, demonstrating that the assessment of economic consequences remains an important problem in corruption law (A. Rachman et al., 2023). This difficulty suggests that the preventive strategy should not wait until a loss becomes the subject of judicial proceedings. Asset valuation, rental determination, periodic reassessment, and monitoring of revenue obligations should occur continuously so that potential deviations can be identified while the financial consequences remain reversible.

At the same time, caution is required in discussing the authority and methodology of loss calculation. It would be legally imprecise to assume that every audit report automatically establishes criminal liability or that every estimated economic opportunity automatically constitutes a legally proven state financial loss. The role of audit findings is to provide authoritative financial and factual information within the institutional and legal framework governing the audit. Criminal adjudication still requires proof of the elements of the offense. Recent research on criminal responsibility for state financial losses emphasizes the importance of standardized and legally accountable methods of loss calculation in providing certainty in corruption proceedings (Munafri, 2023). The preventive implication is straightforward: institutions should establish reliable valuation and documentation practices before disputes arise, rather than attempting to reconstruct years of undocumented transactions after law enforcement has already commenced.

The relationship between APIP, BPKP, BPK, and law enforcement agencies should therefore be framed through functional coordination rather than institutional competition. APIP possesses an important preventive role within the internal control architecture of government, while external audit and law enforcement operate according to their respective legal mandates. What is needed is a coordinated evidentiary chain in which administrative findings can be escalated appropriately when indicators of serious misconduct emerge. Investigative audit mechanisms become particularly important where the suspected loss involves complex transactions, asset utilization, or non-cash benefits. Recent research on investigative auditing emphasizes that the investigation of state financial losses requires coordination between law enforcement institutions and audit bodies because the evidentiary reconstruction of corruption often extends beyond ordinary financial examination (Andini & Sumanto, 2025). The reform should therefore prioritize clear protocols concerning referral, evidence preservation, asset tracing, and the transition from administrative examination to criminal investigation.

Prevention must also extend to the contractual architecture of BMD utilization. A lease agreement should not be treated as a ceremonial document completed merely to satisfy formal requirements. It is the legal instrument through which the state defines the identity of the asset, duration of use, economic obligations, rights and duties of the parties, payment mechanism, security requirements, and consequences of breach. Standardization can therefore reduce interpretive ambiguity and limit opportunities for officials or private users to exploit contractual gaps. More importantly, the contractual system should be digitally connected to the asset registry and regional financial system. When a lease expires, payment is overdue, or utilization deviates from the authorized purpose, the system should generate an administrative alert capable of triggering supervisory intervention. Prevention becomes substantially stronger when legal obligations are transformed into operational control points (Bonfanti et al., 2023).

The same logic applies to asset security and certification. Land and buildings are particularly vulnerable when legal ownership documents are incomplete, physical boundaries are unclear, or administrative records diverge from field conditions. Certification and inventory should therefore be treated not simply as accounting activities but as instruments of legal protection. An asset that cannot be readily connected to valid ownership documentation, precise physical identification, and an authorized utilization status is structurally vulnerable to occupation, transfer, or commercial exploitation without adequate public accountability. The development of standardized operational procedures is consequently necessary to transform asset registration from passive recordkeeping into an active mechanism of asset protection (Swardhana & Monteiro, 2023).

The prevention framework should also incorporate risk-based auditing. Routine annual examination is valuable but insufficient when assets generate continuous economic benefits and when misuse can occur between audit cycles. Risk-based supervision permits institutional resources to be directed toward assets with higher exposure, such as commercially utilized land, buildings leased to private parties, assets managed through cooperation arrangements, or properties with significant differences between book value and market value (Visioli et al., 2022). Surprise inspections can complement documentary audits by comparing administrative records with actual conditions. This approach recognizes that corruption frequently operates through discrepancies between what the documents say and what happens in the field. Effective BMD supervision must therefore examine both dimensions simultaneously.

Transparency and public participation provide an additional layer of preventive protection. Public assets are ultimately held for collective purposes, and information concerning their utilization should therefore be subject to appropriate public accountability. Transparency does not mean that every document must be disclosed without qualification. Rather, it requires sufficient disclosure to enable public institutions, civil society, journalists, and citizens to identify the existence, utilization status, and economic accountability of significant public assets. A public information system that displays selected information concerning commercially utilized assets, contractual periods, rental obligations, and realized regional revenues could create an additional layer of social oversight. The preventive value of transparency lies not only in exposing violations after they occur but also in increasing the perceived probability that irregular conduct will be detected (Thahir & Tongat, 2024).

Whistleblowing mechanisms should operate within the same architecture. A reporting channel becomes meaningful when complaints concerning public assets can be received, protected, verified, and followed up through a clearly defined institutional procedure. Without protection for informants and mechanisms for evidence preservation, reporting systems may become symbolic rather than functional. The objective should be to create an institutional environment in which the earliest indication of unauthorized asset utilization can

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trigger verification before the situation develops into a large and irreversible loss. This principle is consistent with evidence that fraud risk management can reduce asset misappropriation and that religiosity, ethical leadership, and local wisdom may strengthen the preventive effect of such mechanisms within Indonesian local government (Tarjo et al., 2024).

Asset recovery should constitute the final component of the preventive cycle because deterrence loses much of its public meaning when unlawful benefits remain beyond effective recovery. The objective of anti-corruption policy is not merely to impose imprisonment but to restore the public resources affected by corruption. Contemporary Indonesian scholarship emphasizes that asset recovery should be integrated into the broader architecture of corruption enforcement because fragmented recovery mechanisms and institutional coordination problems can reduce the effectiveness of returning public resources (Singaperbangsa & Tanumihardja, 2024). In BMD cases, recovery should be tailored to the nature of the asset and the violation. The appropriate response may involve restoration of physical possession, collection of unpaid obligations, restitution, confiscation of unlawful proceeds, or civil mechanisms for recovering assets where legally appropriate. Criminal punishment and asset recovery should therefore operate as complementary instruments rather than competing objectives.

The Islamic legal perspective strengthens this preventive orientation by placing public property within a moral framework of *amānah*. The misuse of entrusted public resources may be conceptualized through *ghulūl* and *khiyānah*, while the protection of public wealth corresponds to the broader objective of *ḥifẓ al-māl*. Such principles transform the question of asset misuse from a purely technical problem of financial administration into a question of public trust. Recent scholarship on Islamic ethical governance identifies *amānah*, justice, consultation, transparency, accountability, *maṣlaḥah*, and *taqwa* as mutually reinforcing elements of an anti-corruption governance framework (Abdurrahman, 2025). Empirical research in Indonesian local government further indicates that religiosity and ethical leadership can strengthen fraud-risk management and reduce vulnerability to asset misappropriation (Tarjo et al., 2024). Islamic norms therefore provide an ethical infrastructure capable of complementing, rather than replacing, positive law.

The prevention of state losses caused by BMD misuse should ultimately be conceptualized as a continuum rather than a sequence of disconnected institutional responses. At the first level, legal norms determine the authority and permissible forms of asset utilization. At the second level, administrative systems translate those norms into documentation, valuation, contracting, and reporting. At the third level, internal controls and risk-based audits detect deviations before they mature into significant losses. At the fourth level, investigative mechanisms determine whether deviations constitute serious misconduct requiring law enforcement intervention. At the fifth level, criminal, civil, and administrative mechanisms impose proportionate consequences and recover public resources. Each level depends upon the integrity of the level preceding it. A failure at the documentation stage weakens auditing; weak auditing complicates investigation; weak investigation undermines prosecution; and ineffective recovery ultimately leaves the public bearing the consequences.

The central policy implication is therefore that criminal law reform concerning regional property should not be reduced to the creation of a new offense or the escalation of imprisonment. The more fundamental reform lies in constructing an integrated prevention architecture capable of closing the institutional spaces in which misuse occurs. This architecture should combine regulatory clarity, standardized contractual procedures, reliable asset valuation, digital traceability, risk-based internal control, investigative auditing, inter-agency coordination, public transparency, whistleblower protection, and effective asset recovery. Criminal law remains indispensable, but its most strategic position is as the final safeguard within a broader system of public asset governance. When prevention functions effectively, criminal law does not need to wait for a large state loss to emerge before intervening. It becomes part of a legal system designed to identify vulnerability, interrupt misuse, preserve evidence, protect public property, and restore losses before the damage becomes structurally irreversible (Rustamaji et al., 2025).

In this framework, the management of BMD acquires a significance that exceeds the technical administration of government property. It becomes a test of whether decentralization can be accompanied by accountable power. Regional autonomy creates space for local innovation and economic utilization, but such discretion must remain bounded by legality, transparency, and public responsibility. The protection of regional property therefore requires an equilibrium between economic productivity and fiduciary restraint. Public assets may generate revenue, but they cannot become private opportunities for those entrusted with their administration. The ultimate purpose of preventive criminal policy is precisely to maintain this boundary. Through an integrated framework combining positive law, institutional governance, technological traceability, financial accountability, asset recovery, and Islamic ethical principles of *amānah* and *maṣlaḥah*, the prevention of state losses can be repositioned from a reactive exercise in punishment toward a structural project of protecting public wealth and preserving public trust.

Review of Regulations and Practices in the Commercial Management of Regional Property

Regional Property (Barang Milik Daerah or BMD) occupies a distinctive position within the framework of public finance because it simultaneously represents wealth controlled by the government and a material instrument for delivering public services. Land, buildings, vehicles, infrastructure, and other assets are not merely items recorded on the balance sheets of local governments. They constitute public resources endowed with social, economic, administrative, and political functions. Consequently, when BMD is utilized for commercial purposes, the legal issue does not end with the question of whether an asset generates revenue. It extends to more fundamental questions: whether such utilization remains within the boundaries of public interest, whether it is conducted on the basis of legitimate authority, whether it generates proportionate benefits for the region, and whether it can be transparently accounted for. This perspective is particularly important because local public asset management frequently encounters fragmented authority, weak coordination, outdated inventories, and inconsistencies between asset management policies and regional development agendas. Studies on local government asset management in Indonesia indicate that these problems are not merely administrative in nature but constitute governance challenges involving transparency, coordination, planning, and policy evaluation (Sumaryana et al., 2024).

Normatively, BMD management is grounded in the legal regime governing state finance and the state treasury, which positions government assets as part of public wealth that must be managed according to principles of orderliness, compliance with laws and regulations, efficiency, economy, effectiveness, transparency, and accountability. Law No. 17 of 2003 on State Finance and Law No. 1 of 2004 on State Treasury provide the foundational framework for the position of state and regional assets within the public financial management system. This framework is subsequently operationalized through Government Regulation No. 27 of 2014, as amended by Government Regulation No. 28 of 2020, concerning the Management of State/Regional Property, as well as Minister of Home Affairs Regulation No. 19 of 2016, as amended by Minister of Home Affairs Regulation No. 7 of 2024, concerning Guidelines for the Management of Regional Property. Accordingly, the commercial utilization of BMD is not, in principle, prohibited. Rather, the regulatory framework allows assets that are not being optimally used for governmental purposes to generate economic benefits for the region, provided that their utilization remains subject to the principles of legality, optimization, legal certainty, and accountability.

It is at this point that the management of BMD for commercial purposes becomes more complex. The commercialization of public assets is not inherently synonymous with the privatization of public interests, but it can become a space for abuse when revenue-oriented considerations override the principle of stewardship over public assets. Local governments may lease land or buildings, enter into cooperation arrangements for asset utilization, or employ other legally recognized forms of utilization. However, every such arrangement must have a clear legal basis, an identifiable asset, an accountable partner, a definite duration, a rational utilization value, and a mechanism ensuring that revenues are deposited into the regional treasury in accordance with applicable regulations. The central issue, therefore, is not whether commercial activity exists, but whether that activity can be traced from beginning to end. The OECD conceptualizes public property management as portfolio management covering the entire asset lifecycle, including acquisition, use, utilization, maintenance, adaptation, and disposal. Public assets should consequently not be treated as isolated administrative objects but as a portfolio requiring strategic objectives, performance indicators, and financial discipline (OECD, 2026).

In the Indonesian context, this issue is particularly significant because regional assets may possess substantial economic value, while the quality of their governance does not always correspond to the complexity of the asset portfolio being managed. Studies of public-sector asset management in Indonesia indicate that local governments continue to face challenges involving inventory management, institutional coordination, planning, and gaps between asset information and managerial decision-making (Bağış, 2021). These problems become particularly serious when assets enter the commercial sphere because the transition from administrative use to economic utilization intensifies interactions between government institutions and third parties. The greater the economic value of an asset, the greater the incentives for conflicts of interest, collusion, value manipulation, discriminatory access, or the use of assets without an adequate legal basis. Research on asset misuse in the public sector indicates that pressure and opportunity can influence the likelihood of asset misappropriation,

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demonstrating that asset controls cannot rely solely on formal compliance but must also anticipate opportunistic behavior within public organizations (Lloret et al., 2025).

The commercial utilization of BMD should therefore be examined through two layers of accountability. The first is administrative accountability, namely whether the asset-utilization process satisfies requirements concerning authority, documentation, valuation, approval, contracting, recording, and reporting. The second is substantive accountability, namely whether such utilization actually generates benefits for the local government and society, avoids conflicts of interest, does not provide illegitimate benefits to particular parties, and does not diminish the economic value or social function of the asset. This distinction is crucial because procedural compliance does not necessarily equate to good governance. Recent studies on regional asset supervision indicate that local governments may receive favorable audit opinions while problems concerning asset documentation, legal protection, and the effectiveness of internal controls remain. This condition demonstrates a gap between formal compliance and effective asset governance (Hago et al., 2025). Consequently, the success of BMD management should not be measured merely by the existence of documents or the status of an audit opinion, but by the government's capacity to ensure that assets are actually managed in accordance with their public purposes.

Weaknesses at the inventory stage constitute one of the earliest entry points for potential abuse. Assets without clear identification, uncertain legal status, outdated valuation or physical-condition information, or adequate ownership documentation are difficult to supervise once they begin to be utilized by other parties. The problem becomes more complicated when asset data are dispersed across different organizational units and there is no single reliable source of information. Longitudinal research based on audit findings concerning public asset management in Indonesia demonstrates that weaknesses in internal controls continue to emerge systematically in the control environment, risk assessment, control activities, information and communication, and monitoring. These findings indicate that asset problems are not merely isolated recording errors but may reflect structural weaknesses in the control architecture (Puspitarini & Fuad, 2026). Therefore, before discussing criminal enforcement, BMD management reform should begin with the simplest yet most fundamental questions: does the local government know precisely what it owns, where the asset is located, who controls it, under what status it is being used, what its economic value is, and under what authority it is being utilized?

Another important dimension concerns the quality of contracts and mechanisms for determining utilization value. For leased or jointly utilized assets, a contract is not merely an administrative formality. It is a legal instrument that establishes rights, obligations, duration, economic value, payment mechanisms, supervision, and consequences in the event of breach or misuse. An unclear contract creates opportunities for assets to be used beyond their original purpose, relationships to be extended without adequate evaluation, payments to be delayed, or assets to remain under de facto control after the utilization period has expired. From a public policy perspective, this demonstrates that asset utilization requires a lifecycle-management approach rather than short-term transactional decision-making. The OECD emphasizes the importance of comprehensive inventories, standardized valuation frameworks, periodic information updates, and asset performance measurement so that governments can determine what they own, how much it is worth, and what costs are required to maintain it (OECD, 2026). This principle is highly relevant to BMD because the value of an asset should not be understood merely as a figure recorded in financial statements, but as a resource capable of generating public value.

Digitalization consequently emerges as a structural necessity rather than merely an administrative innovation. An asset information system can connect asset identification, legal documents, location, physical condition, users, contracts, utilization values, payments, and changes in status within a single data ecosystem. Such a system makes changes in asset status traceable and facilitates the detection of anomalies. Nevertheless, digitalization should not be regarded as a universal solution to all governance problems. Even sophisticated systems will produce weak governance when the underlying data are inaccurate, input authority is inadequately controlled, physical reconciliation is absent, or responsible officials lack sufficient competence. Research on public asset governance at the local-government level demonstrates that the combination of e-governance, the Government Internal Control System, and whistleblowing mechanisms is relevant to asset integrity and fraud prevention (Yuniati et al., 2025). Technology should therefore be positioned as part of the control system rather than as a substitute for control itself.

This perspective simultaneously reinforces the importance of integrating internal oversight with public participation. APIP should not be positioned merely as an examiner that intervenes after problems have occurred. It should also perform assurance and early-warning functions for transactions or asset utilization arrangements presenting elevated risks. Risk-based supervision may focus on high-value assets, assets located in strategic areas, utilization involving private parties, long-term contracts, changes in asset functions, and transactions presenting potential conflicts of interest. At the same time, whistleblowing mechanisms should be designed to provide secure, documented, and actionable reporting channels. Public participation is equally important because BMD fundamentally constitutes wealth intended to serve societal interests. Transparency concerning commercially utilized assets, the purpose of utilization, duration, partners, and revenues generated can narrow the space for undisclosed negotiations between officials and private parties.

At this stage, it is necessary to establish a clear boundary between administrative violations and corruption offenses. Not every procedural error in BMD management can automatically be classified as a criminal offense. Recording errors, administrative delays, incomplete documentation, or procedural irregularities should first be assessed according to the nature of the violation, the authority of the responsible actor, the consequences produced, the relevant form of fault, and whether any unlawful benefit was obtained. Conversely, when there is intentional abuse of authority, a conflict of interest, document manipulation, the provision of benefits to particular parties, or unlawful control of assets resulting in state financial losses and satisfying the constituent elements of a criminal offense, criminal law mechanisms may properly be invoked. This distinction is essential to prevent two opposing extremes: the criminalization of administrative mistakes and permissiveness toward corruption concealed as an administrative matter (Muhammad & Yardi, 2025).

The problem of proving state financial losses becomes more complicated when the object of misconduct consists of non-cash assets. The unlawful use of government land, occupation of regional buildings without payment, use of official vehicles for private purposes, or alteration of an asset's function may generate losses that do not necessarily appear as immediately identifiable cash outflows. Proof therefore requires reconstruction of the relationship between the asset's legal status, the rights of the local government, the utilization value that should have been received, the economic benefits enjoyed by another party, and the actual consequences for regional finances. In audit practice, the Supreme Audit Board (BPK) plays an important role in conducting examinations and calculating state losses in accordance with applicable legal authority and, where relevant, the requirements of law enforcement. A number of BPK investigative audit reports in 2024 demonstrate how state-loss calculations can support the handling of suspected corruption offenses by law enforcement agencies (Hendri et al., 2024). This framework demonstrates that the calculation of losses cannot be based on assumptions alone but must be supported by evidence that is methodologically and legally testable.

The need to strengthen the evidentiary process also demonstrates why a purely criminal-law approach is insufficient. BMD management requires a legal ecosystem that brings together administrative law, civil law, public finance law, criminal law, information law, and audit mechanisms. Administrative law determines the legality of governmental action; civil law governs contractual relationships and remedies for breach; public finance law determines the consequences of financial losses; while criminal law operates when misconduct satisfies the elements of a criminal offense (Maria, 2018). Fragmented enforcement may create grey areas because each institution approaches the problem from a sectoral perspective. Legal-policy reform should therefore not be directed merely toward creating new criminal offenses, but toward developing mechanisms capable of connecting administrative detection, auditing, evidence collection, loss determination, prosecution, and asset recovery in a proportionate manner.

The asset-recovery dimension is increasingly important because the success of anti-corruption efforts cannot be measured solely by the number of offenders convicted. When misappropriated regional assets do not return to the government, the substantive objective of protecting public finances remains unfulfilled. Research on the implementation of the anti-money-laundering regime in Indonesian corruption cases indicates that asset recovery continues to face significant challenges and that anti-money-laundering instruments have not yet been fully optimized in pursuing the proceeds of corruption (Yoserwan & Dias, 2024). In the context of BMD, asset recovery has a broader character than the repayment of money. When the object of misconduct is regional land or buildings, recovery must restore control and the intended function of the asset to the local government. When the object involves revenues that were not deposited, recovery should restore the economic value that should have entered the regional treasury. Asset recovery should therefore be incorporated from the earliest stages of investigation rather than considered only after a criminal judgment becomes final and binding.

Experiences from various jurisdictions also demonstrate that effective public asset management requires a portfolio orientation, transparency, and institutional coordination. Within regional development policy, public assets can be used to generate revenues through leasing or other forms of utilization, but such policies must preserve long-term public interests. The G20-OECD policy framework emphasizes that subnational governments may generate revenues from public land and property, but such utilization requires strong regulatory and

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institutional frameworks to ensure that commercial interests do not undermine public control over assets (Martínez-Bravo et al., 2022). This principle is particularly relevant to Indonesia because strategic regional assets often possess both economic and social value that cannot be reduced to market prices. Land leased to private parties, for example, may generate short-term revenue, but the decision must also consider spatial functions, public service needs, sustainability, and the interests of future generations.

From the perspective of Islamic law, BMD management acquires a deeper normative dimension because public wealth is connected to the trust entrusted to those who exercise public authority. The misuse of public assets should therefore not be understood merely as a violation of governmental procedures, but also as a breach of social trust. The concept of *amānah* requires power and resources entrusted to public officials to be used consistently with the purposes for which authority was granted. The concept of *ghulūl* provides an ethical foundation for prohibiting the appropriation or misuse of resources placed under one's control because of public office. Meanwhile, the principle of *ḥifẓ al-māl* within *maqāṣid al-sharīʿah* positions the protection of wealth as one of the fundamental objectives of Islamic law. Corrupt management of BMD can therefore be understood as conduct that produces *mafsadah* because it damages public wealth, reduces the government's capacity to provide services, and undermines distributive justice. Recent research on Islamic ethical governance demonstrates that corruption prevention requires an integration of personal integrity, ethical leadership, control mechanisms, and an orientation toward *maṣlaḥah*, meaning that morality should not stand outside institutional structures but should become part of governance design (Mat & Halim, 2025).

On this basis, reformulating the policy framework for the commercial management of BMD should be directed toward establishing an integrated prevention architecture. Regulations must provide certainty concerning who has authority to make decisions, how utilization values are determined, how contracts are established and supervised, how revenues are recorded, and when an irregularity crosses the boundary from an administrative violation into a criminal matter. Information systems should enable the entire asset lifecycle to be digitally traced, while supervision should shift from post-event examination toward risk-based early detection. APIP, BPK, BPKP, law enforcement agencies, and local governments should operate according to clearly differentiated institutional functions so that audits do not end as administrative documents but can serve as instruments of governance improvement and as a legal basis for further action when criminal indications are identified. At the same time, public participation and whistleblowing mechanisms should be strengthened to broaden the sources through which irregularities can be detected (Maryuni et al., 2025).

Accordingly, the issue of BMD intended for commercial purposes does not fundamentally involve a choice between economic utilization and the protection of public interests. The two can coexist when assets are managed within a framework of stewardship, transparency, accountability, and *maṣlaḥah*. Problems arise when asset commercialization is separated from public responsibility and administrative procedures are used as a cover for transactions that benefit particular parties. Legal policy should therefore shift from a paradigm of punishment after losses have occurred toward a preventive paradigm operating from asset identification, utilization planning, economic valuation, contracting, supervision, detection of irregularities, proof of losses, and asset recovery. Within this framework, criminal law remains necessary as a firm *ultima ratio* against misconduct that satisfies the elements of a criminal offense, but its effectiveness depends heavily on the quality of administrative law, internal control systems, information technology, auditing, transparency, and an ethical culture of trust in the management of public wealth. BMD is ultimately not merely a list of assets recorded in the name of a local government. It is a material trust whose economic value must be returned to its social purposes. This is where legal-policy reform acquires its substantive meaning: not merely by increasing criminal penalties, but by constructing a system that makes asset misuse more difficult, enables earlier detection, facilitates proof, and increases the possibility of recovery.

Efforts to Prevent State Losses in Corruption Involving the Misuse of Regional Property

Preventing state losses arising from the misuse of Regional Property (Barang Milik Daerah or BMD) cannot be confined to enforcement measures taken after losses have occurred. Given the character of BMD as public wealth, its protection requires a governance model that operates throughout the entire asset lifecycle, from planning and acquisition to registration, utilization, commercial exploitation, supervision, safeguarding, and recovery. Prevention, therefore, should not be understood merely as an administrative exercise aimed at ensuring the availability of documents. Rather, it constitutes a governance strategy designed to ensure that every regional asset has a clearly identifiable legal status, possession status, economic value, public function, and accountability mechanism that can be systematically traced. Recent studies on strengthening regional asset management in

Indonesia indicate that the central problems often lie not in the absence of regulations, but in policy fragmentation, weak coordination across organizational units, and limited bureaucratic connectivity in translating asset policies into consistent practices (Taufike & Sudirman, 2025). Accordingly, preventing state losses should be understood as an effort to establish an integrated chain of control rather than simply multiplying inspection procedures.

The legal framework governing BMD has in fact established a relatively comprehensive foundation. Law No. 17 of 2003 on State Finance and Law No. 1 of 2004 on State Treasury place regional assets within the broader framework of public financial accountability. More operational provisions are contained in Government Regulation No. 27 of 2014, as amended by Government Regulation No. 28 of 2020, as well as Minister of Home Affairs Regulation No. 19 of 2016, as amended by Minister of Home Affairs Regulation No. 7 of 2024. Minister of Home Affairs Regulation No. 7 of 2024 should therefore be understood as an amendment to the existing regulatory framework rather than as a regulation that entirely replaces Minister of Home Affairs Regulation No. 19 of 2016. The important implication of this legal construction is that local governments should not regard regulatory amendments merely as new administrative obligations. Instead, they should use such amendments as an opportunity to improve the entire asset management cycle. Recent research on BMD management under Minister of Home Affairs Regulation No. 7 of 2024 indicates a tension between formal compliance and substantive accountability. Compliance with documentary and procedural requirements does not necessarily mean that assets are being managed effectively and responsibly (Wahyuni et al., 2026).

This issue becomes particularly significant when BMD is utilized for commercial purposes. The leasing of regional land and buildings, cooperation in asset utilization, the commercial use of government facilities, and other forms of economic optimization may, in principle, increase the utility and economic value of public assets. Nevertheless, the closer public assets become to commercial interests, the greater the need for controls capable of ensuring that the resulting economic benefits ultimately serve regional public interests. Asset utilization must not evolve into indefinite private control, nor should it become an economic arrangement that disproportionately benefits particular parties. Every decision to commercialize BMD should therefore be based on a clear justification of need, the legal status of the asset, functional compatibility, economic valuation, duration of utilization, identification of the private partner, and mechanisms for ensuring that the resulting benefits are returned to the region. Research on operational standards for regional asset management demonstrates that the effectiveness of BMD management is closely related to procedural clarity, the distribution of responsibilities, documentation, and organizational capacity to translate regulations into operational practices (Kartini et al., 2024).

The first preventive measure should therefore begin with strengthening the asset information base. Effective supervision is impossible if local governments themselves lack accurate information regarding the quantity, location, legal status, condition, value, users, and utilization arrangements of their assets. Every commercially utilized asset should ideally have a digital trail connecting ownership documents, handover records, utilization decisions, contracts, valuations, payments, and subsequent changes in status. Developing such an information system is not merely a matter of technological modernization. It is directly related to the government's capacity to establish an effective audit trail. Innovations in regional asset management information systems demonstrate that the integration of spatial, visual, and administrative data can reduce dependence on manual processes while improving transparency in asset management (Aminy et al., 2025). Digitalization of BMD should therefore be directed toward creating an institutional memory that is not easily disrupted by changes in officials, organizational structures, or administrative authority.

Digitalization, however, should not be treated as a substitute for human control. An effective information system can only generate effective governance when the data entered into the system are accurate, access rights are appropriately restricted, changes to data can be traced, and administrative records are reconciled with physical conditions in the field. Research on local government institutions in West Java indicates that human resource competency and the Government Internal Control System positively influence the quality of regional asset management, while asset-recording problems may still occur in the form of over-recording and under-recording (Azizah & Hendaris, 2025). This finding provides an important lesson: preventing state losses cannot be delegated to technological applications alone. Technology requires competent operators, clear procedures, and an organizational culture that regards asset data as an instrument of public accountability rather than merely as a reporting requirement.

The next stage concerns strengthening the planning and selection mechanisms for assets intended for commercial utilization. Not every asset that is no longer actively used by a regional government unit is

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automatically suitable for leasing or cooperation arrangements. Local governments must first determine whether the asset continues to have strategic relevance for public services, whether commercial utilization is consistent with regional development plans, and whether the expected economic benefits are proportionate to the potential loss of alternative public uses. From this perspective, commercialization decisions should no longer be based solely on the question, "How much revenue can this asset generate?" but also on the question, "What are the public consequences of this decision?" Such an approach is important because the value of a government asset cannot always be reduced to its market price. Land that could generate substantial rental income may have far greater social value if it is used for public service facilities. Corruption prevention must therefore begin with an accountable decision-making process rather than merely with supervision after a contract has been signed.

The utilization contract subsequently becomes a critical layer of defense. Every commercial relationship between a local government and a third party should be documented in an agreement that clearly identifies the object, legal authority, duration, utilization value, payment obligations, maintenance responsibilities, restrictions on transfer, monitoring mechanisms, and consequences of non-compliance. The absence of a contract, or the use of an ambiguous contract, creates substantial room for assets to be used beyond their intended purposes. Even when asset utilization is initially lawful, a weak contractual framework may make it difficult for local governments to recover the asset when the utilization period expires. Contract standardization for BMD should therefore be regarded as an anti-corruption instrument rather than merely as a civil-law mechanism. Every contract should be sufficiently structured to enable auditors to trace the relationship between governmental decisions, the economic value of the asset, third-party obligations, and regional revenues.

At the supervision stage, what is required is a shift from compliance-based auditing toward risk-based oversight. Not all assets present the same level of risk. Land with high economic value, assets located in strategic areas, buildings leased to private parties, assets undergoing functional changes, and utilization arrangements involving direct relationships between officials and third parties should receive greater supervisory attention. Internal Government Supervisory Apparatus (APIP) oversight can focus on risk indicators such as delayed payments, changes in contractual value, extensions of utilization without evaluation, discrepancies between actual use and documented arrangements, or changes in asset status that are not promptly reflected in information systems. Research on regional asset management practices based on APIP supervision demonstrates that the existence of procedures alone is insufficient when oversight mechanisms cannot identify substantive problems occurring throughout the asset management cycle (Kartini et al., 2024). APIP should therefore move beyond the role of administrative examiner toward risk-oriented oversight capable of understanding transaction patterns, asset characteristics, and potential forms of misconduct.

Prevention must also focus on strengthening the competence of public officials. BMD management is an interdisciplinary field that combines law, governmental accounting, asset valuation, public administration, information technology, and risk management. Asset-management officials who understand only administrative procedures without understanding the legal and economic consequences of their decisions may easily become trapped in formal compliance. Conversely, officials with cross-disciplinary capabilities are better positioned to identify transactions that appear administratively regular but contain substantive risks. Such competence becomes even more important when assets involve private-sector parties, because commercial negotiations frequently employ economic information and instruments that may be unfamiliar to public bureaucracies (Zebarjad, 2024). Capacity development in BMD management should therefore include investigative auditing, conflict-of-interest analysis, fraud-pattern recognition, contract assessment, asset tracing, and the use of electronic evidence.

In the context of corruption offenses, prevention also requires a clear distinction between administrative errors and abusive conduct of a corrupt nature. Not every documentary deficiency or recording error should automatically be treated as a criminal offense. Conversely, administrative procedures must not be used as a shield to conceal conduct that from the outset was intended to provide benefits to oneself, another person, or a corporation. Articles 2 and 3 of the Anti-Corruption Law remain important legal instruments when their constituent elements are satisfied, but their application must be based on careful proof concerning unlawful conduct or abuse of authority, benefits obtained, causal relationships, and state financial losses in accordance with applicable legal developments. Prevention policy should therefore not become a mechanism for criminalizing every bureaucratic error. Rather, it should make the boundaries between administrative error, negligence, disciplinary violations, breach of contract, and corruption increasingly clear.

This issue is particularly relevant to cases involving third-party control of BMD for commercial purposes. Recent research on the criminal dimensions of regional asset control by a foundation for commercial activities demonstrates that the legal problem concerns not merely the existence or absence of authorization, but also the legal status of the asset, the legal basis of the relationship, the economic benefits obtained, and the relationship between such conduct and state losses (Sapsudin et al., 2025). This finding is important because it demonstrates that BMD misuse should be analyzed as a chain of legally significant events. Physical control of the asset, contractual relationships, official decisions, regional revenues, and third-party economic benefits must be examined simultaneously. Such an approach moves the legal inquiry beyond the question of who used the asset toward the more substantive questions of who benefited, under what authority, through what mechanism, and with what consequences for regional public interests.

Preventing state losses also cannot be separated from inter-institutional coordination. BMD management involves asset managers, treasurers, financial administration officials, APIP, the Financial and Development Supervisory Agency (BPKP), the Supreme Audit Board (BPK), law enforcement agencies, and third parties. Each institution has distinct functions, and it would therefore be inappropriate to construct a model in which all institutions are assumed to possess identical authority to determine losses or undertake enforcement. What is required instead is functional coordination, namely coordination based on clearly differentiated institutional responsibilities. Internal audit can serve as an early-warning mechanism, external audit can provide assurance regarding the management of public finances, while law enforcement agencies should intervene when there are sufficient grounds to suspect a criminal offense. Research concerning the relationship between the Prosecutor's Office and BPK in the recovery of state losses indicates that their respective functions are essentially complementary, although the absence of systematic coordination may still generate normative and operational gaps in asset recovery (Sitompul, 2026).

Prevention should therefore not be constructed through procedures that force one institution to become the center of the entire process. More important is the establishment of information-sharing protocols, documentation standards, mechanisms for referring findings, and auditable divisions of responsibility. When APIP identifies indications of irregularities, the audit findings should be documented in a manner that enables further examination when necessary. Conversely, when law enforcement agencies investigate cases involving BMD, information concerning asset status, contracts, utilization values, and administrative histories should be readily available. Such integration can reduce opportunities for offenders to exploit institutional gaps by shifting a problematic matter from one institution to another.

Another essential dimension is transparency. Information concerning commercially utilized BMD should, in principle, be accessible to the public insofar as it does not fall within legally exempt categories of information. Transparency may include information concerning the asset, the form of utilization, the utilization period, the identity of the partner, the contractual or rental value to the extent legally disclosable, and revenues received by the regional treasury. Such openness not only strengthens public oversight but also increases reputational risks for officials and private parties seeking to engage in misconduct. Public oversight should therefore not be positioned as an adversarial force against bureaucracy, but as part of a broader social accountability mechanism for assets that substantively belong to the public (Buitendag & Simuț, 2022).

Prevention should also incorporate whistleblowing mechanisms. Many forms of asset misuse are difficult to identify through routine audits because problematic transactions may be structured to appear procedurally compliant. Information provided by employees, community members, tenants, or other actors within the asset-management chain can therefore serve as an important source of early detection. Reporting systems should provide adequate protection for whistleblowers, establish verification channels, preserve confidentiality, and ensure that reports do not merely become administrative records. In a digital environment, reporting mechanisms can be connected to risk dashboards so that reports concerning particular assets can be cross-checked against contractual data, payment records, and changes in asset status. Such integration would create a more dynamic oversight mechanism than periodic inspections conducted only after the fiscal period has ended.

When losses have already occurred, policy should not stop at the punishment of offenders. Asset recovery must become an integral component of anti-corruption strategy (Onyango, 2024). This is particularly important in BMD cases because the damaged object may consist of a physical asset that can still be returned directly to the local government. Land, buildings, vehicles, or public facilities should not be treated solely as nominal values in criminal proceedings when they remain physically recoverable. Research on asset recovery policies in Indonesia indicates that approaches overly focused on criminal punishment have not yet fully produced optimal recovery of state losses (Rukmono et al., 2024). Asset tracing, safeguarding, lawful seizure, and restitution should therefore be considered from the earliest stages of law enforcement.

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Recent developments further demonstrate the importance of expanding the discourse on asset forfeiture mechanisms. Excessive dependence on conviction-based forfeiture may create difficulties when an offender absconds, dies, or transfers assets to another party. Research on the legal politics and legislative direction of non-conviction-based asset forfeiture in Indonesia indicates that the limitations of a regime entirely dependent on criminal convictions constitute an important challenge to optimizing the recovery of corruption proceeds (Wardani & Habibilah, 2025). In the context of BMD, this idea must be approached cautiously and remain within the boundaries of rights protection and due process of law. Nevertheless, from a policy perspective, it conveys an important principle: the state should not lose its capacity to recover public assets merely because criminal proceedings encounter procedural obstacles.

Ultimately, preventing state losses arising from BMD misuse requires a paradigm shift from asset administration toward asset governance. Administration ensures that assets are recorded, whereas governance ensures that assets are lawfully, productively, transparently, and publicly oriented in their utilization. This transformation requires integration among asset databases, utilization planning, contract standardization, economic valuation, risk-based supervision, official competency, transparency, whistleblowing, audit coordination, law enforcement, and asset recovery. No single instrument can close every channel of abuse. Regulation without supervision becomes text without effective control; digitalization without data integrity merely transfers manual weaknesses into electronic systems; audits without follow-up become documentation; and criminal punishment without recovery does not fully restore public rights (Andriawan & Ali, 2024).

From the perspective of Islamic law, this preventive architecture gains moral legitimacy through the concepts of *amānah*, *ghulūl*, *khiyānah*, *ḥifẓ al-māl*, *maṣlaḥah*, and *mafsadah*. BMD constitutes, in substantive terms, a public trust whose management is constrained by the social purposes of public authority. The misuse of government land, buildings, vehicles, or other public assets for private interests does not merely distort regional financial accounts. It also redirects benefits that should be enjoyed by society toward particular individuals or groups. Within the framework of *ḥifẓ al-māl*, the protection of wealth is not limited to prohibiting the appropriation of another person's property. It also encompasses the obligation to preserve resources so that they are not lost, misused, or destructively managed. Accordingly, oversight systems, transparency, auditing, and sanctions can be understood as institutional expressions of *amānah*. The Islamic criminal-law concept of *taʿzīr* provides room for the state to establish sanctions against conduct that harms the public interest, while the institution of *hisbah* provides a normative framework for supervising conduct that causes harm to society (Zuhdi, 2021).

Accordingly, preventing state losses arising from the misuse of BMD should not be reduced to the creation of new criminal prohibitions or the escalation of criminal penalties. The deeper problem lies in the state's capacity to ensure that every asset can be identified, every exercise of authority can be traced, every transaction can be verified, every economic benefit can be recorded, and every irregularity can be detected before it develops into a larger loss. Effective prevention should make corruption involving BMD increasingly difficult by narrowing opportunities for administrative manipulation, increasingly detectable through layered oversight mechanisms, increasingly provable through integrated documentation, and increasingly recoverable because asset-recovery mechanisms have been prepared from the outset. At this point, criminal law no longer functions merely as an instrument that arrives after public assets have been lost. Instead, it becomes part of an integrated ecosystem for protecting regional public wealth, operating alongside administrative law, auditing, technology, transparency, and public ethics. This represents a more substantive reformulation of legal policy: not merely multiplying prohibitions, but constructing a governance system that genuinely protects public wealth as a trust entrusted to the state for the benefit of society.

CONCLUSION

The management of Regional Government Property (Barang Milik Daerah/BMD) is not merely an administrative issue of asset recording, but rather a vital instrument of public financial governance that has direct implications for the achievement of collective welfare. This study finds that the vulnerability of regional asset misuse, such as cases of land utilization without adequate legal basis and the absence of revenue deposits, stems from the weak integration between administrative standards, the effectiveness of internal controls, asset data digitization, and the precision of state financial loss proof methodology. The main findings of this study emphasize that a reactive law enforcement model following the occurrence of losses will be ineffective without a preventive architecture based on asset lifecycle management, legal boundary certainty between administrative violations and corruption crimes, and the strengthening of public ethical principles through the integration of

Islamic values. The theoretical implications of this research expand the anti-corruption criminal law discourse by combining the dimensions of positive law, public financial governance, and normative Islamic values (*amānah*, *ḥifẓ al-māl*, and the prevention of *ghulūl*). The practical implications demand regional governments to transform asset management through data traceability digitization, risk-based supervision strengthening by the Government Internal Supervisory Apparatus (APIP), commercial contract standardization, and the optimization of asset recovery mechanisms. The limitations of this research lie in the use of a single contextual case study and the still limited comparative law doctrine that comprehensively integrates Islamic law into the national positive system. Therefore, recommendations for future research are directed at the need for cross-jurisdictional empirical studies examining the effectiveness of integrated information systems in reducing asset misuse risk, as well as the development of more accurate quantitative models in calculating state economic losses resulting from the loss of potential public asset utilization.

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