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The Application of Restorative Justice in Corruption Crimes

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Abstract

Corruption is an extraordinary crime with systemic impacts on state finances, government stability, and public trust, requiring a comprehensive legal approach to address it effectively. Meanwhile, the concept of restorative justice has increasingly developed within modern criminal justice systems as an alternative to the retributive justice paradigm, which primarily emphasizes punishment rather than repairing harm caused by criminal acts. This study aimed to examine the legal framework governing the application of restorative justice in corruption cases in Indonesia and analyze the extent to which this concept could be implemented within the practice of criminal law enforcement against corruption. This study employed a normative legal research method using statutory, conceptual, and case approaches. The legal materials consisted of primary, secondary, and tertiary legal sources collected through literature studies and analyzed qualitatively. The findings showed that the regulation of restorative justice in corruption cases had not been explicitly established under Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, as amended by Law Number 20 of 2001, and remained limited in scope. Its application was primarily reflected through mechanisms for recovering state losses rather than functioning as a basis for terminating investigations, prosecutions, or eliminating criminal liability. In practice, restorative justice in corruption cases was oriented toward the recovery of state losses, payment of replacement money (uang pengganti), and judicial consideration of the defendant's good faith, without eliminating criminal accountability, as affirmed in Article 4 of the Anti-Corruption Law. Therefore, clearer regulatory reform is required to enable the proportional application of restorative justice without undermining the deterrent effect of Indonesia's efforts to combat corruption.

INTRODUCTION

Corruption is a common and universal phenomenon occurring in various parts of the world, including Indonesia. Indonesia's corruption index indicates that corruption remains a serious concern affecting various sectors of development. Corruption practices that have persisted and expanded over time, both in terms of the number of cases and the amount of state financial losses incurred, have become a widespread issue affecting various aspects of society. Corruption is not a new problem in the legal and economic development of a country, as it has existed for centuries in both developed and developing countries.

The uncontrolled increase in corruption crimes is concerning because it may threaten not only national economic stability but also the broader functioning of the state. Consequently, corruption can no longer be classified as an ordinary crime but must be recognized as an extraordinary crime (extraordinary crime) due to its extensive and systemic impacts on state governance.

Corruption is increasingly perceived by some parties as a normal practice, often justified as merely a procedural matter. Individuals involved in corruption are sometimes no longer deterred by social or legal consequences, and some even openly display the benefits obtained from corrupt practices. In reality, corruption constitutes a serious threat because it endangers state stability and security. Social, political, and economic development can be significantly disrupted, and societal values may deteriorate as corrupt behavior becomes normalized. The primary concern arising from the increase in corruption crimes is not limited to state financial losses but also extends to their impact on economic development and the overall life of the nation and state. Therefore, legal breakthroughs and extraordinary measures are required to address corruption, as it has developed into an extraordinary crime (extraordinary crime).

The Prosecutor's Office of the Republic of Indonesia, as one of the law enforcement institutions authorized to investigate corruption crimes as mandated under Article 30 paragraph (1), has issued the Circular Letter of the Deputy Attorney General for Special Crimes (Jampidsus) Number B-765/F/Fd.1/04/2018 dated April 20, 2018, concerning Technical Guidelines for the Handling of Corruption Cases at the Investigation Stage. The circular emphasizes that investigations should not only focus on identifying unlawful acts but must also determine the amount of state financial losses resulting from corruption to support national development efforts.

Law enforcement efforts to achieve social order and justice include the issuance of the Circular Letter of the Deputy Attorney General for Special Crimes Number B-113/F/Fd.1/05/2010 dated May 18, 2010. One of the provisions in this circular instructed all High Prosecutor's Offices to consider a restorative approach in alleged corruption cases where perpetrators voluntarily return state losses. This reflects an attempt to apply restorative justice principles in corruption case handling, particularly in cases involving relatively minor state losses and efforts to restore state finances. Considering the importance of state finances for government administration and the provision of public services, effective management of state finances is necessary to prevent losses caused by corruption. Therefore, several parties have proposed the application of restorative justice as an alternative approach for recovering state financial losses in corruption cases.

In corruption cases, the return of money or assets that have caused losses to state finances or the state economy cannot be used as a basis for terminating an investigation. This principle is based on Article 4 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes. However, the existing legal framework has not fully reflected comprehensive efforts to eradicate corruption while ensuring the protection and recovery of state assets harmed by corrupt actors. In the context of criminal liability for corruption offenders, Indonesian criminal law continues to adopt a retributive justice paradigm. Consequently, perpetrators of corruption crimes are primarily subjected to punishment based on the principle of retribution, with limited consideration of alternative approaches for resolving the resulting harm.

This policy is expected to serve as a legal breakthrough in the recovery of state finances, ensuring that corruption case handling is not solely oriented toward criminal enforcement but also incorporates efforts to restore state losses. However, such an approach must still comply with the principles of professional and proportionate law enforcement because improper implementation may create opportunities for abuse. This principle is consistent with Law Number 31 of 1999, as amended by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, particularly Article 4, which essentially stipulates that the return of state financial losses does not automatically eliminate criminal liability for offenses regulated under Articles 2 and 3.

For example, the case involving former prosecutor Pinangki Sirna Malasari, who was convicted of conspiring with corruptor Djoko Tjandra, demonstrates that corruption in Indonesia has structural, systematic, and damaging characteristics that affect the integrity of government institutions. The case also raised concerns regarding fairness in law enforcement processes. The Executive Director of the Center for Constitutional Studies (Pusako), Feri Amsari, stated that the court should have considered Pinangki's status as a law enforcement officer as an aggravating factor in determining the sentence based on the provisions of the Criminal Code. This case illustrates that corruption has developed into a persistent social phenomenon, making eradication efforts increasingly challenging because corrupt practices have become deeply embedded in certain institutional and social environments.

State financial losses incurred as a result of administrative violations or criminal acts, particularly corruption, must be recovered promptly. State finances play a vital role in the implementation of state administration, including the operation of government functions and the provision of public services. Therefore, any state financial losses must be addressed immediately to prevent disruption to government activities. The recovery of state losses may be pursued through administrative mechanisms, including compensation claims against responsible parties, civil litigation mechanisms, and criminal law enforcement mechanisms.

The handling of corruption cases requires substantial resources, particularly in complex cases. In certain circumstances, the costs of investigation and enforcement may exceed the amount of state financial losses recovered. This situation has encouraged the development of alternative approaches for resolving state financial losses caused by corruption crimes. One proposed approach is the application of the restorative justice paradigm within the enforcement of corruption criminal law.

The restorative justice approach represents one of the significant developments in the modern criminal justice system. The United Nations (UN), through its Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, recognizes that the restorative justice approach can be applied within a rational criminal justice system. This approach reflects a shift in criminal law enforcement from a retributive justice paradigm toward a restorative justice paradigm. Immanuel Kant argued that retributive justice views punishment as an inseparable consequence of the crime committed by an offender. Accordingly, every criminal act entails a corresponding punishment or sanction imposed upon the perpetrator.

In contrast to retributive justice, restorative justice is a form of criminal accountability oriented toward repairing harm, restoring losses, and returning conditions to their previous state before the occurrence of a criminal act. This concept represents an alternative approach that requires consideration by law enforcement authorities. Furthermore, Walgrave stated that restorative justice refers to actions aimed at achieving justice by repairing the harm caused by criminal acts.

Nevertheless, public perceptions regarding the eradication of corruption must also be considered. Many members of society continue to view retributive justice as an essential approach in combating corruption in Indonesia. Corruption offenders are expected to receive appropriate punishment to create a deterrent effect. Although various theories support restorative justice, it is necessary to consider societal expectations, as the public continues to experience significant harm from widespread corruption cases. Corruption is not merely an act of misappropriating state funds but also indirectly contributes to social inequality, economic hardship, and reduced public welfare. Therefore, imprisonment remains one of the legal responses expected by society in addressing corruption crimes.

Philip Nonet and Philip Selznick argued that law must be responsive to societal needs. This means that law should develop in accordance with changes in social conditions and circumstances. Responsive law aims to ensure that legal regulations can address the interests of all levels of society and be effectively implemented. A legal system that responds to societal developments reflects the community's expectations regarding the formulation and enforcement of legal rules. Therefore, if the principle of restorative justice is to be applied in corruption cases in Indonesia, meaningful public participation and consideration of societal expectations are necessary. The community's demand for effective law enforcement, particularly in relation to corruption crimes, cannot be disregarded.

The current application of retributive justice has not been fully effective in restoring state financial losses; therefore, the idea of applying restorative justice in corruption cases has emerged. The concept of restorative justice is also reflected in the United Nations Convention Against Corruption (UNCAC), which has been ratified through Law Number 7 of 2006, particularly in relation to asset recovery efforts. Several corruption cases that meet specific requirements have been addressed through restorative approaches based on circular letters issued by the Deputy Attorney General for Special Crimes. However, resistance remains because restorative justice has traditionally been associated with minor offenses, while corruption is classified as an extraordinary crime. Furthermore, circular letters issued by the Deputy Attorney General for Special Crimes do not possess the same binding legal authority as statutory regulations, resulting in many High Prosecutor's Offices continuing to apply a retributive justice approach.

The application of restorative justice in corruption crimes (tindak pidana korupsi) at the prosecution stage remains controversial and limited. This is primarily because Article 4 of the Corruption Eradication Law stipulates that the return of state losses does not eliminate criminal liability. However, a potential legal avenue exists through Prosecutor Regulation (Peraturan Jaksa Agung or Perja) Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice, although its application to corruption cases remains highly restricted. In practice, restorative approaches may only be considered in limited circumstances involving relatively minor losses, full recovery of losses, voluntary agreements, and limited public impact. Although policies such as Perja Number 15 of 2020 provide a legal basis for restorative mechanisms, the application of restorative justice at the prosecution stage of corruption cases remains subject to debate and is limited to specific circumstances. Its implementation prioritizes restitution and agreements aimed at resolving certain legal consequences without entirely eliminating criminal accountability.

RESEARCH METHODS

Types of Research

The research employed a normative legal research method, focusing on the analysis of legal norms and positive law. This method was selected to examine legal principles, doctrines, legal frameworks, specific cases, legal synchronization, comparative law, and legal history. The theoretical foundation applied in this study was derived from normative legal theory to analyze legal issues arising from gaps, ambiguities, or conflicts within existing legal provisions.

Problem Approach

In this study, the author uses three problem approaches, namely the statute approach, the conceptual approach, and the case approach. The statue approach is an approach that is carried out by examining all laws and regulations related to the problems (legal issues) being faced (Irwansyah, 2021). Conceptual approach is an approach that moves from the views and doctrines that develop in legal science, views or doctrines will clarify ideas by providing legal understandings, legal concepts and legal principles that are relevant to the problem (Irwansyah, 2021). The case approach is an approach that is carried out by examining cases related to the legal issues at hand (Irwansyah, 2021).

RESULTS AND RESEARCH

Restorative Justice *Legal Arrangements* in Corruption Crimes

The results show that the concept of *restorative justice* in the development of Indonesian criminal law has shifted from a *retributive justice* approach to an approach that emphasizes recovery from criminal acts. *Restorative justice* places the perpetrator, victim, and the community as parties who play a role in resolving cases through a recovery mechanism. In Indonesia's positive law, this concept has gained legitimacy through various regulations, such as the Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020 and the Regulation of the National Police of the Republic of Indonesia Number 8 of 2021.

However, the application of *restorative justice* in corruption crimes has limitations because the characteristics of corruption are different from other general crimes. Corruption is categorized as *an extraordinary crime* because it has an impact on state finances and the interests of the wider community. Normatively, the Law on the Eradication of Corruption does not explicitly regulate *restorative justice* as a mechanism for resolving corruption cases. In addition, Article 4 of the Law on the Eradication of Corruption Crimes emphasizes that the return of state financial losses does not abolish the crime against the perpetrator.

The form of applying the value *of restorative justice* in corruption cases can be found through the mechanism for recovering state losses, especially the payment of compensation as stipulated in Article 18 of the Law on the Eradication of Corruption Crimes. The mechanism shows concern for the recovery of state assets, but does not use the return of losses as a reason to remove criminal liability. Thus, the return of state losses is only part of the recovery effort in the corruption law enforcement process.

The application *of restorative justice* based on Prosecutor's Regulation Number 15 of 2020 also has limitations because it can only be applied to certain cases that meet the requirements, such as criminal acts with certain criminal threats and perpetrators who meet the specified criteria. Corruption crimes generally do not meet these requirements because they concern the public interest and have the character of a serious crime. In addition, the collective nature of corruption victims makes it difficult to implement dialogue and agreement mechanisms such as the concept of *restorative justice*.

The development of national criminal law through Law Number 1 of 2023 concerning the Criminal Code shows that there is a recognition of the value *of restorative justice* through the purpose of criminalization which includes conflict resolution, balance restore, and the creation of a sense of security in society. However, the application of this value does not change the position of corruption as a special crime (*lex specialis*) that still requires strict law enforcement.

Based on normative analysis, the application of *restorative justice* in corruption crimes has the potential to support the recovery of state losses and strengthen the asset recovery mechanism. However, its application also has limitations because it has the potential to reduce the deterrent effect, open up opportunities for abuse of authority, and create a perception of injustice if the perpetrator can avoid crime only through the return of state losses. Therefore, Indonesia's current positive law still places *restorative justice* in corruption cases on a limited basis, namely as part of recovery efforts without eliminating criminal enforcement obligations against perpetrators.

The Application *of Restorative Justice* in Corruption Crimes

The application of *the restorative justice* method in corruption crimes is oriented towards recovering losses experienced by victims, especially recovering state financial losses. This approach shows a paradigm shift in corruption eradication from *premium remidium* to *ultimum remidium*, which is the use of criminal sanctions after other efforts such as administrative or civil are unable to tackle criminal acts and recover state losses effectively.

The application of the concept of *restorative justice* has been implemented by the Attorney General's Office of the Republic of Indonesia through SE Jampidsus Number B-765/F/Fd.1/04/2018 concerning Technical Guidelines for Handling Corruption Cases at the Investigation Stage. The provision emphasizes that the investigation is not only aimed at finding unlawful acts, but also identifying the amount of state financial losses. Reimbursement of state losses by the parties involved and a cooperative attitude can be considered in determining the continuation of the legal process.

However, the application of *restorative justice* in corruption cases still has limitations so as not to create the perception that corruption crimes can be solved only by restoring state losses. These restrictions include cases that are not in the *big fish* category, the awareness of the parties involved to return state losses, cases that are not sustainable, and case settlement still considers the stability of local government and national development.

In its implementation, the settlement of corruption cases through *restorative justice* does not abolish criminal sanctions, but rather emphasizes recovery due to criminal acts. The process still follows the operational standards for handling special criminal acts, namely through the investigation stage, calculating state losses, proving the return of losses through proof of state deposits, and exposure to determine legal stance by the head of the prosecutor's office.

Not all corruption cases can be resolved through *the restorative justice* method. Settlement can only be carried out in cases that meet certain limitations, including considering the value of state losses and the form of the criminal act. In its implementation, this method is only applied at the investigation stage, while if the case has entered the investigation stage, the return of state losses does not abolish the crime as stipulated in Article 4 of the Law on the Eradication of Corruption.

The return of state losses after the investigation stage can only be a mitigating factor in the public prosecutor's demands and the judge's consideration in imposing a verdict. Therefore, the application of *restorative justice* in corruption cases still requires a balance between the recovery of state losses and law enforcement against perpetrators of corruption crimes.

In addition to the recovery mechanism, support is also needed in the form of additional sanctions from related agencies, such as dismissal from active positions, postponement of promotions or periodic salaries, and restrictions on involvement in development activities that use the state budget. The implementation of these additional sanctions still requires a supporting legal basis so that the implementation of *restorative justice* has legal certainty.

Based on the results of the discussion, *restorative justice* in corruption crimes is not a mechanism to eliminate crimes, but an approach that emphasizes the recovery of state losses while maintaining the legal accountability of the perpetrators. Its application is still limited because it must pay attention to the type of case, the value of the loss, the stages of the legal process, and the interests of law enforcement as a whole.

Victim Offender Reconciliation Program (VORP)

In 1974 in Elmira, Ontario (Canada). Two drunken youths, aged 18 and 19, have damaged 22 homes and cars. The two drunk young men admitted their guilt later, when Officer Mark Yantzi was preparing a report to the Judge, he met and spoke with Dave Worth, a volunteer from the Mennonite Central Committee. During the conversation they agreed that prison or probation may not have the same effect on the defendant meeting the victims, listening to their stories, apologizing, and paying compensation. Although the judge initially rejected the idea, the judge eventually ordered that the young men do this as a condition of probation. The results of the meeting were positive enough that the Judge continued to order this process from time to time.

Conferencing

In 1989, the New Zealand government adopted a new approach to dealing with young offenders. The Children, Young People and Their Families Act created a family group conference and used it to replace the Youth Court for most young offenders (aged 14 and 16). This dramatic reform is the result of growing concerns about the juvenile justice system, after five years of monitoring and studying the impact of the system on the Maori Community. It is clear that Maori are deeply concerned about the increasing number of their children being transferred from their families to state facilities by the courts. Maori culture is more communitarian than individualistic, but each individual is an important part of the family. Moving a child would damage Maori culture because it damages families and because children are considered the future of Maori. Maori have a process for dealing with conflict, but it essentially involves families in the process of conversations to understand problems and find solutions. The solution is generally collective rather than individualistic with the perpetrator's family responsible for improving the situation with the victim and the victim's family. Family group conferences, such as those created in the Act have some similarities with the Maori process. However, the conference does take the power to decide what should happen from the judges and put it in the hands of the conference. The people of the community who are required to attend the conference are the perpetrators and their family members or support groups, the victims are invited but if the victim is unable or unwilling to come then the conference can still be continued.

Circles

The application *of restorative justice* is developing as an approach to resolving crimes that emphasizes the restoration of losses and the balance between the perpetrator, the victim, the community, and the state. Various countries have implemented this concept through several models, such as *Victim Offender Mediation*, *Conferencing*, and *Circle*. The model places victims, perpetrators, and communities in the process of resolving conflicts through dialogue and active participation to achieve recovery.

In the Indonesian legal system, the application *of restorative justice* has been strengthened through the National Police Regulation of the Republic of Indonesia Number 8 of 2021 and the Prosecutor's Regulation of the Republic of Indonesia Number 15 of 2020. Police regulations stipulate that the handling of criminal acts based on restorative justice is carried out through the functions of Criminal Investigation, investigation, and investigation by meeting general and special requirements. Meanwhile, the Prosecutor's Regulation emphasizes the settlement of cases by involving the perpetrator, victims, families, and related parties to achieve a fair settlement with an emphasis on restoring the original state.

The implementation of *restorative justice* by the Prosecutor's Office is carried out through a case screening mechanism by considering several conditions, namely the perpetrator is committing a criminal act for the first time, a criminal threat of no more than five years or in the form of a fine, and the value of evidence or losses of no more than Rp2.5 million. However, this application does not apply to all criminal acts, especially cases that have the character of an *extra ordinary crime*.

In the context of corruption, the implementation of *restorative justice* faces various challenges because corruption is seen as an extraordinary crime that requires strict law enforcement. One of the main challenges is the public's concern that the restorative approach can weaken the deterrent effect if the perpetrator only returns state losses without accounting for his actions. In addition, Law Number 31 of 1999 concerning the Eradication of Corruption has not provided specific guidelines regarding the integration of *restorative justice* in the process of handling corruption cases.

Nonetheless, *restorative justice* has the opportunity to support the recovery of state losses through more effective asset returns. The success of implementing this approach depends on the good faith of the perpetrators, strong supervision, clear regulations, and the involvement of the government, law enforcement officials, and the community. The application *of restorative justice* must also continue to pay attention to the provisions of Article 2, Article 3, and Article 4 of Law Number 31 of 1999 jo. Law Number 20 of 2001, because the return of state losses does not abolish crimes, but can be considered in prosecutions and verdicts against perpetrators.

Thus, the application of *restorative justice* in corruption crimes can be an instrument for recovering state losses, but its implementation must be carried out carefully while maintaining the principles of justice, legal certainty, and protection of public interests. Integration between the restorative approach and the criminal law system of corruption is needed so that the recovery of state losses can run without reducing the criminal responsibility of the perpetrators.

Restorative Justice *Approach* to Law Enforcement of Corruption Crimes.

In Indonesia itself, the concept of *restorative justice* has been practiced for a long time in Indonesian society, such as people in Papua, Bali, Toraja, Minang Kabau, Kalimantan and other communities that still hold strong culture. If a criminal act occurs by a person (including an unlawful act committed by a child). In practice, the settlement is carried out in a meeting or consensus deliberation attended by community leaders, perpetrators, victims or representatives, and parents of the perpetrator to reach an agreement to correct the injury or mistake. This is actually a value and characteristic of the philosophy of the Indonesian nation which is stated in the fourth precept of Pancasila, deliberation and consensus. *Restorative Justice* can also uphold the philosophical basis of law enforcement and human rights based on the ideals of Pancasila, namely the 4th precept of Pancasila. The precept has the content of the philosophy of deliberation or deliberation which has the meaning of prioritizing deliberation in decision-making for the common good.

Deliberation to reach consensus includes the spirit of family, so that if examined the philosophy of deliberation contains 5 (five) principles as follows (Kuat Puji Prayitno, 2012):

1. *Conferencing* (meeting to hear and express desires).
2. *Search Solution* (looking for solutions or common points for the problem at hand.
3. *Reconciliation* (reconciling with each other's responsibilities).
4. *Repair* (repair all the consequences that arise).
5. *Cricles* (mutually supportive).

Restorative justice is justice based on peace between the perpetrator, the victim, and the community. This is the ethical moral of restorative justice, hence justice is said to *be "Just Peace Princple*". This principle reminds us that justice and peace are inherently inseparable. Peace without justice is oppression, justice without peace is a new form of persecution/oppression. It is said to be the *Just Peace Principle* or *Just Peace Ethics* because the approach to crime in restorative justice aims to recover the damage caused by crime, this effort is carried out by finding victims, perpetrators and the community. In the perspective of the philosophy of Pancasila, the concept of restorative justice is in accordance with the values of Pancasila. Pancasila philosophically as the source of all laws in Indonesia provides space for this concept of restorative justice to be applied without violating existing legal rules (Wibowo et al., 2025).

Thus, *restorative justice* is actually not a new thing for Indonesian people. In the consensus deliberation, the aim is to achieve peace, so that there is no grudge between the perpetrator and the victim and the victim can be restored (director). Consensus deliberation in the context of restorative justice can be done in various ways, including: mediation, payment of compensation, or other methods agreed upon between the victim/victim's family and the perpetrator. Other parties can participate in resolving this problem, for example Law Enforcement Officers or community leaders as mediators. If there is no agreement between the victim/victim's family and the perpetrator in resolving this problem, then the resolution of the problem is processed mechanically through the judicial system or litigation route. The implementation of the Criminal Justice system in Indonesia today in applying the concept of *restorative justice* can start from the Supreme Court (MA) as the highest institution in the judicial system in Indonesia. It is also necessary to state that the concept of *restorative justice* cannot only be applied to the Supreme Court (MA). In the criminal justice process in general and the criminal justice process in Indonesia in particular, there are several stages or processes that must be passed for justice seekers both at the level of investigation, investigation, prosecution, examination in court until the verdict is handed down by a judge or confirmed before the court. Even at the stage where justice seekers make legal remedies (both ordinary legal remedies and extraordinary legal remedies). Thus, the author considers that the adoption and application of *restorative justice* is carried out at various levels or judicial processes ranging from the Police, Prosecutor's Office, and Judiciary as stated by the author above but has not been formally regulated to be part of the Criminal Justice System only limited to the discretion of the leadership of the Law Enforcement Apparatus.

In *Black's Law Dictionary,* it is emphasized that *restorative justice* is an alternative sanction for crime that focuses on redressing harmful acts, meeting the needs of the victim and holding the perpetrator accountable for his actions. This restorative justice uses a balanced approach, resulting in a restrictive disposition by focusing on the responsibility of the perpetrator and providing assistance to the victim. The perpetrator may be ordered to make restitution, to perform a service to the community, or to make changes in some way on a court order (ruling)

Corruption crimes with a relatively small amount of money involved actually show that even though the nominal is not large, the consequences are still serious. This small amount of corruption is often referred to as "everyday corruption" that occurs in everyday transactions, such as giving small bribes or small bribes. While it may seem trivial, the accumulation of such acts of corruption can undermine integrity and trust in government, the business world, and society as a whole. In some cases, corruption with a small nominal value can have a direct impact on the most vulnerable groups of society. For example, giving small bribes to government officials responsible for distributing social assistance can result in the funds not reaching those who really need them. This can result in increased levels of poverty and greater social injustice.

The Attorney General's Office has provided guidelines to its staff to handle corruption crimes that result in state financial losses of less than Rp 50 million with the approach of recovering state financial losses. According to Burhanuddin, this approach aims to accelerate, simplify, and reduce costs in the legal process. For example, Burhanuddin mentioned that criminal cases related to village funds with a value of less than Rp 50 million can be resolved administratively. He explained that in such cases, settlement can be done through an administrative process by restoring the loss. Perpetrators of such corruption crimes will receive guidance from the inspectorate to prevent them from committing similar acts in the future. However, Burhanuddin emphasized that this mechanism only applies to cases with state losses that are not too large and are not carried out repeatedly. In the context of *the restorative justice* approach, it is important to consider that the return of state losses is a major part of the punishment of corrupt perpetrators. If the compensation remains an additional penalty, there is still an opportunity for the judge to decide on a subsidiary penalty or substitute imprisonment if the convict is unable to repay the loss. From a restorative justice perspective, if the convict is unable to repay the loss, even after all his wealth has been auctioned, then it is better for the state to empower the perpetrators of corruption by utilizing his skills through forced labor. This is because corrupt perpetrators basically have good skills. The proceeds of such forced labor can be confiscated by the state to cover state losses that the convict cannot pay.

The development of this concept in the law on corruption eradication is expected to restore or recover state losses due to corruption. In addition, with a criminal concept like this, many benefits can be obtained in achieving the goal of criminalizing criminals. With a non-negotiable obligation to return the substitute money, the convict will work under state supervision to make money to cover the losses caused by his actions. The *retributive justice* paradigm that is the legal basis in eradicating corruption is not relevant to the main goal of eradicating corruption in Indonesia.

The spirit to protect state assets should be based on *restorative justice thinking* that focuses more on recovering from corruption crimes, not just imprisoning corrupt perpetrators. The concept *of restorative justice* in the criminalization of perpetrators of corruption crimes can be implemented by strengthening norms that change the return of state losses from an additional crime to a principal crime. In addition, to anticipate perpetrators who are unable to pay the losses, the concept of forced labor can be applied as an alternative to avoid prison for perpetrators of corruption crimes. Revision of the law on corruption crimes is very important to be carried out immediately so that the *restorative justice paradigm* can be implemented in the new legal norms. In addition, it is also necessary to carry out a comprehensive reform of the criminal law, because basically Indonesian criminal law still follows the paradigm of retributive justice which is currently considered very harsh and exceeds the limits.

Keep in mind that *restorative justice* can be integrated into the Indonesian criminal justice system through legal reforms that create a formal basis for its implementation. Revisions to the Corruption Law are very important to explicitly include *restorative justice*, including case criteria, state loss reimbursement mechanisms, and procedures for implementing reconciliation between perpetrators and the community.

Restorative Justice requires a very strong legal basis so that it can be applied effectively and fairly. In Indonesia, although the concept of restorative justice has been recognized in several regulations, such as the Law on the Juvenile Criminal Justice System, its application in corruption cases still requires further development. Without a proper legal framework, the application of *restorative justice* in corruption cases can be less effective or even abused, given the complexity and broad impact of such acts.

The development of khisis regulations that regulate the application of *restorative justice* in corruption cases is very important. Regulation should cover several aspects, such as criteria for determining cases that are eligible to use the *restorative justice* approach, the procedures followed, and oversight and accountability mechanisms. With clear regulations, law enforcement and related parties will have the necessary guidance to properly implement restorative justice. In addition, this regulation should also provide the legal certainty needed to implement restorative justice by responsible parties.

A supporting legal framework must also ensure that the principles of justice are maintained at every stage of the implementation of *restorative justice*. In cases of corruption, this approach should not be used to commute punishment or give undue leniency to the perpetrator. Instead, *restorative justice* should be seen as a tool to strengthen law enforcement holistically, which includes recovering state losses as well as repairing social relations damaged by corruption. The regulations that govern this must be firm in setting clear limits, so that corrupt perpetrators cannot take advantage of *restorative justice* to avoid full responsibility for their actions.

In addition, the supporting legal and regulatory framework should also include strict oversight mechanisms to ensure that the restorative justice process runs in accordance with its original purpose. This supervision can be carried out by independent institutions or courts that have the authority to assess whether *restorative justice* is applied fairly in accordance with the law. With effective supervision, there is a guarantee that the *restorative justice* process is not abused and remains within a strict legal corridor. This will also increase public trust in the judicial system, especially in handling corruption cases that are often the main concern of the public.

Conceptually, *the restorative justice* approach in corruption crimes focuses on recovering state losses arising from corrupt acts. The state as the aggrieved party recovers lost assets or finances through the mechanism of state loss reimbursement, payment of compensation, confiscation of assets, or confiscation of the proceeds of criminal acts. Thus, the main orientation of this approach is to restore the country's financial condition as close as possible to the state before the occurrence of corruption crimes.

However, the application of restorative justice in corruption crimes faces quite complex challenges. One of the fundamental problems is the characteristics of victims in corruption cases. In general crimes, victims can usually be clearly identified so that the recovery process can be carried out through dialogue between the victim and the perpetrator. On the other hand, in the crime of corruption, the victims who are harmed are not only the state as an institution, but also the wider community who lose their rights to public services, development, and social welfare due to the misuse of state finances.

Conceptually, the restorative justice approach in corruption crimes focuses on recovering state losses arising from corrupt acts. The state as the aggrieved party recovers lost assets or finances through the mechanism of state loss reimbursement, payment of compensation, confiscation of assets, or confiscation of the proceeds of criminal acts. Thus, the main orientation of this approach is to restore the country's financial condition as close as possible to the state before the occurrence of corruption crimes (Eva Achjani Zulfa, 2009).

However, the application of restorative justice in corruption crimes faces quite complex challenges. One of the fundamental problems is the characteristics of victims in corruption cases. In general crimes, victims can usually be clearly identified so that the recovery process can be carried out through dialogue between the victim and the perpetrator. On the other hand, in the crime of corruption, the victims who are harmed are not only the state as an institution, but also the wider community who lose their rights to public services, development, and social welfare due to the misuse of state finances.

The concept *of restorative justice* in corruption crimes can be realized through the return of state losses, recovery of assets resulting from corruption, compensation to the state, and efforts to improve governance. This approach is not intended to remove criminal liability of perpetrators, but rather to complement existing law enforcement mechanisms to be more effective in achieving legal goals (Barda Nawawi Arief, 2012).

In practice, the idea of *restorative justice* began to gain attention after the existence of law enforcement policies that prioritize asset recovery or the return of state assets. This paradigm is in line with the provisions of the *United Nations Convention Against Corruption* (UNCAC) which has been ratified by Indonesia through Law Number 7 of 2006. The convention places the return of assets as a fundamental principle in the eradication of corruption[5]

The application *of restorative justice* in corruption cases can be seen from several cases that prioritize the return of state losses as a factor that mitigates the defendant's sentence. Although the return of state losses does not erase the crime as affirmed in Article 4 of the Law on the Eradication of Corruption, the action shows that there is a recovery orientation that is part of the principle of restorative justice.

Efficiency in resolving corruption cases is also an important factor that supports the implementation of *restorative justice*. Long and complex legal processes are often an obstacle in handling corruption cases that can hinder the recovery of state losses. With a *restorative justice* approach, corruption cases revealed through routine BPK audits can be resolved faster, provided the perpetrators are willing to cooperate. Efficiency not only saves time and resources, but also provides faster legal certainty for all parties involved (Muladi & Barda Nawawi Arief, 2010).

Acceptance and implementation by law enforcement are another key factor. Law enforcers who understand and support *restorative justice approaches* can play an important role in encouraging perpetrators to participate in this process. In addition, training on the principles and benefits of restorative justice can increase the effectiveness of its application in corruption cases. In support from institutions such as the KPK, the Prosecutor's Office and the Police, it is very important to ensure that *restorative justice* is applied with the legal purpose itself.

To understand the role of *restorative justice* implementation factors in corruption cases, there are several problems, including cases of budget misuse at the regional level, some perpetrators choose to return funds used as part of *restorative justice*. Although it is still rare for this case to show that with supporting factors such as perpetrator awareness, community support, and a clear legal framework, *restorative justice* can be an effective solution.

Efforts to deal with criminal acts are actually an integral part of efforts to protect the community (Herman, 2018). The government has taken a variety of measures, including repressive measures, in an effort to fight corruption. However, some people still believe that repressive measures alone are enough to overcome corruption, because they believe that these actions can hinder corrupt practices. However, the current social, economic, and political conditions have created an environment that allows corruption to occur widely, systematically, and in a structured manner in various sectors of life, including in state institutions, government, state-owned or regional enterprises, the banking and financial sectors, as well as in various other aspects of people's lives, As human life and civilization develop, it turns out that the application of prison sentences has more negative impacts than positive impact.

In Indonesia's positive law, a restorative approach to corruption can be found through provisions regarding the return of state losses and the payment of compensation. Article 18 of Law No. 31 of 1999 as amended by Law No. 20 of 2001 stipulates that judges may impose additional penalties in the form of payment of compensation in the amount of compensation that amounts to a maximum amount equal to property obtained from corruption crimes.[6] This provision shows that there is attention to the aspect of recovering state losses as part of the purpose of law enforcement.

In Indonesia's positive law, a restorative approach to corruption can be found through provisions regarding the return of state losses and the payment of compensation. Article 18 of Law No. 31 of 1999 as amended by Law No. 20 of 2001 stipulates that judges may impose additional penalties in the form of payment of compensation in the amount of compensation that amounts to a maximum amount equal to property obtained from corruption crimes.[6] This provision shows that there is attention to the aspect of recovering state losses as part of the purpose of law enforcement.

These negative impacts include dehumanization, prisoner addressing, and social stigma (Muladi & Barda Nawawi Arief, 1984). In addition, the implementation of prison sentences also consumes state resources and budgets that could have been used to focus on recovery efforts from crimes, rather than focusing only on physical punishment of the perpetrators. In many criminal cases, it is important to prioritize the repair and recovery of the negative consequences resulting from the crime, rather than simply depriving the individual offender of his freedom.

In the context of corruption crimes, it can be seen that the philosophy and theory of punishment that are strongly influenced by *the retributive justice* approach are no longer relevant to the main goal of the law to eradicate corruption in Indonesia. The current focus is on protecting the country's assets and wealth. In some cases, corruption convicts who have harmed large amounts of state finances have actually succeeded in using the criminal process for their personal gain. In fact, their existence in the penal system tends to damage the morale of law enforcers, which can ultimately trigger the occurrence of new criminal acts. Corruption convicts often even use the proceeds of their corruption to bribe officers in correctional institutions to get luxurious facilities while serving their sentences (Lis Yuliawati, 2026).

The handling of corruption cases in the future is of course expected to concentrate more on how state money that has been lost due to corrupt acts can be recovered. The initiative of the Indonesian Prosecutor's Office in an effort to recover through *a restorative justice* approach can be an excellent solution.

In addition, in corruption crimes, often the perpetrators are not individuals, but corporations. In this context, the paradigm of indeterminism and *retributive justice* in criminalizing corporations involved in corruption is very irrelevant. In fact, there are a number of obstacles that arise in efforts to protect state finances that have been harmed by corporations. Corporate criminalization in corruption cases, both in terms of substance, structure, and legal culture, is no longer in accordance with the approach of *the concept of retributive justice* (Budi Suharianto, 2016).

In applying the Concept of Restorative Justice in the criminal justice system in Indonesia, there are special considerations that need to be considered in regulating corruption crimes. In general, the application of Restorative Justice in corruption cases involves the following factors:

a) Consideration of the Level of Corruption: Corruption crimes often involve significant losses to the state and society. Therefore, strict consideration is needed to determine whether this corruption case is suitable for the Restorative Justice approach. In some cases, criminal acts of corruption involving large losses or high crime rates may not be appropriate for a restorative approach.
b) Considerations of Stakeholder Involvement: Restorative Justice requires active participation from perpetrators, victims, and related communities. In the case of corruption, consideration must be given regarding the possible participation of corrupt perpetrators in the restorative process. If the perpetrator is not willing to cooperate or admit his or her wrongdoing and seek to recover the harm caused, the application of Restorative Justice may not be effective or feasible.
c) Recovery of Losses: One of the important aspects of the application of Restorative Justice in corruption cases is the recovery of losses incurred. Corrupt perpetrators must be responsible for returning stolen assets or losses suffered by the state or related parties. In a restorative approach, negotiations and agreements can be used to facilitate the process of recovering such losses.
d) Transparency and Accountability: Although Restorative Justice emphasizes reconciliation and restoration, the principles of transparency and accountability must still be upheld in the handling of corruption crimes. Public oversight and a fair legal process remain essential to ensure justice is achieved and there is no impunity.

The application of Restorative Justice in corruption cases in Indonesia is still in the development stage and requires further attention. However, with proper consideration and careful regulation, the restorative approach has the potential to be an effective alternative in handling corruption cases, paying attention to the crucial aspects of reconciliation and restoration. The concept of restorative justice has not been fully implemented in the regulation. Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Corruption still stipulates that in cases that have been decided, there is a time limit of one month to make payment of replacement money. If the convict does not pay the compensation within the time limit, his property can be confiscated by the Prosecutor and then auctioned to cover the amount of compensation money in accordance with the court decision that has permanent legal force. If the convict does not have enough assets to pay the replacement money, then he will be sentenced to imprisonment with a duration that does not exceed the main penalty.

This norm shows that the return of state losses is still considered an additional crime, not a principal crime. Furthermore, if the convict is unable to return the state's losses, the solution is to put the convict in prison in addition to serving his main sentence. In the context of the restorative justice approach, consideration needs to be given so that the return of state losses becomes the main crime. Because if the compensation of the state remains an additional crime, there is still an opportunity for the judge to impose a subsidiary penalty or a substitute imprisonment if the convict is unable to return the loss.

Although theoretically restorative justice has the potential to increase the effectiveness of corruption eradication, its implementation faces various obstacles both normatively and practically.

The first obstacle is the regulatory aspect. Indonesia's legal system still places corruption as an extraordinary crime that must be resolved through formal criminal justice mechanisms. The provisions of Article 2 and Article 3 of the Law on the Eradication of Corruption prioritize prison and fine penalties as the main instruments of law enforcement (Andi Hamzah, 2019).

The second obstacle is related to public perception. Most people view that corrupt perpetrators should be sentenced to severe punishment for harming the state and betraying public trust. Therefore, the application of *restorative justice* is often considered a form of leniency that can weaken the deterrent effect on corrupt perpetrators (Evi Hartanti, 2020).

The third obstacle is the potential for abuse of authority. If restorative justice is implemented without a strict monitoring mechanism, there is a possibility of non-transparent negotiations between law enforcement officials and corrupt actors. This condition can actually open up opportunities for new corrupt practices in the law enforcement process (Mahrus Ali, 2020).

In addition, the characteristics of corruption crimes involving large amounts of state losses also cause difficulties in determining the appropriate form of recovery. Not all state losses can be calculated with certainty, especially social, political, and administrative losses (Nyoman Serikat Putra Jaya, 2017).

The next obstacle is the lack of clear standards regarding the criteria for corruption cases that can be resolved through a restorative justice approach. The absence of these guidelines can cause legal uncertainty and disparity in case handling (Muladi & Barda Nawawi Arief, 2015). In addition, the characteristics of corruption crimes involving large amounts of state losses also cause difficulties in determining the appropriate form of recovery. Not all state losses can be calculated with certainty, especially social, political, and administrative losses.

From the aspect of legal certainty, the provisions of Article 4 of Law Number 31 of 1999 expressly state that the return of state financial losses does not erase the criminal conviction of the perpetrators of corruption crimes. The norm shows that lawmakers still want criminal liability even though state losses have been returned. From the aspect of justice, *restorative justice* can provide greater benefits if the state recovers all losses caused by corruption. In many cases, prison sentences are not always directly proportional to the successful return of state assets. There are even cases where the perpetrator has served a criminal sentence but the state's losses have not been fully recovered.

In terms of benefits, the restorative justice approach has the potential to increase the efficiency of handling corruption cases, especially in cases with relatively small losses and have been fully refunded. Thus, the resources of law enforcement officials can be focused on corruption cases that are more complex and have a wide impact (Friedman, 1975).

However, the application of *restorative justice* should not be carried out against all corruption cases. This approach should be limited to specific cases that meet both objective and subjective requirements. For example, the perpetrator is not a recidivist, the value of the loss is relatively small, there is a full refund of state losses, and the crime is not carried out in an organized manner (Barda Nawawi Arief, 2017).

From various court rulings on corruption crimes, it is shown that the return of state losses is often used as a consideration that mitigates the defendant's sentence. However, such returns never remove criminal liability (Andi Hamzah, 2019). In a number of Supreme Court rulings, judges consider the return of state losses as a form of good faith for the defendant. These considerations usually affect the length of the prison sentence or the amount of additional penalty imposed (Andi Hamzah, 2019).

This approach shows that Indonesia's judicial system has accommodated some of the principles of *restorative justice*, although it is still limited to the aspect of recovering state losses. The judge still adhered to the provisions of Article 4 of the Anti-Corruption Law which emphasizes that the return of state losses does not erase the crime (Barda Nawawi Arief, 2017). Therefore, the decisions of the corruption court show that there is a balance between retributive and restorative approaches in the practice of corruption law enforcement in Indonesia.

The main problem faced in the application of *restorative justice* in corruption crimes is the lack of a legal basis that explicitly regulates the mechanism. This condition raises doubts for law enforcement officials in implementing it (Barda Nawawi Arief, 2017).

The next obstacle is the resistance of the community who consider restorative justice as a form of compromise against corrupt actors. This perception arises because corruption has long been seen as a crime that damages the joints of the life of the nation and the state (Evi Hartanti, 2020). In addition, there is a risk of moral hazard if corrupt perpetrators feel that they can avoid severe punishment just by returning state losses after being caught. This situation has the potential to weaken the deterrent effect that has been one of the goals of criminalization (Muladi & Barda Nawawi Arief, 2015). On the other hand, the prospect of *implementing restorative justice* is quite large if it is focused on optimizing *asset recovery*. Quick and effective restitution of state losses can provide immediate benefits to the community over the lengthy and costly litigation process.[25]

From the perspective of restorative justice, if the convict is unable to repay the loss, even though all his wealth has been auctioned, then it is better for the state to empower the perpetrators of corruption in the form of forced labor according to their expertise. Because basically the perpetrators of corruption are people who have good skills. The proceeds of such forced labor can be confiscated by the state to cover state losses that the convict cannot pay. The development of this concept in the law on corruption eradication is expected to restore state losses caused by corruption. In addition, the concept of criminalization like this also has many benefits in achieving the goal of criminalizing criminals. With a clear obligation to return the replacement money without compromise, a convict will work under state supervision to generate money that is used to cover the losses incurred by his or her actions.

In the context of the Principles *of Restorative Justice*, in accordance with Liebmann's view, the basic principles are as follows:

1. Emphasizing the importance of providing support and recovery to victims.
2. Demand that the perpetrator of the offense be held accountable for his actions.
3. Encourage dialogue between victims and perpetrators to achieve mutual understanding.
4. Ensure that losses arising from criminal acts are corrected and overcome appropriately.
5. Forcing offenders to be aware of how to prevent future criminal acts.
6. Involve the community in an effort to integrate both victims and perpetrators in the recovery process.

The conditions for terminating the case based on the principle of Restorative Justice, as stipulated in Police Regulation Number 8 of 2021, consist of material requirements and formal requirements. These material requirements include:

1. It does not cause anxiety and rejection from the community.
2. It does not have an impact on social conflicts.
3. It does not have the potential to divide the nation.
4. It is not radicalism and separatism.
5. Not the perpetrator of the repetition of a criminal act based on a court decision.
6. It is not a crime of terrorism, a crime against state security, a crime of corruption, and a crime that threatens people's lives.

Meanwhile, the formal requirements stipulated in Article 6 paragraph (1) of Police Regulation Number 8 of 2021 include:

1. There is peace between the two parties, except for drug crimes.
2. Fulfillment of the rights of victims and the responsibility of the perpetrator, except for drug crimes. In the context of criminal acts handled by the police and meet formal and material

requirements in accordance with Police Regulation Number 8 of 2021, the peace in question must be documented in a peace agreement signed by all relevant parties. In addition, the conditions for fulfilling the rights of victims, such as compensation, return of goods, or compensation for damages caused by criminal acts, must also be met in accordance with the provisions of Article 6 paragraph (3) of Police Regulation Number 8 of 2021. In practice, after the parties involved in a criminal case are provided with information about the benefits of resolving cases with a restorative approach, they then choose the Restorative Justice approach model that will be used by Law Enforcement Officers to resolve the case. The Restorative Justice model that is often used in the process of stopping cases at the Police and Prosecutor's Office levels is similar to mediation between victims and perpetrators as well as family and community conferences.

Other steps that can be taken when looking at other countries such as the plea bargaining approach and deferred prosecution agreement. Plea Bargaining in *Black's Law Dictionary* is defined as an agreement resulting from negotiations between the prosecutor and the defendant so that the defendant who admits his guilt will receive a lighter sentence or be charged with a lesser crime (Yunizar Wahyu Tristanto, 2018). Plea Bargaining is an initial process carried out by the public prosecutor in the form of an offer to the defendant for a conscious confession, which is also used to fulfill the return of State losses in the form of asset confiscation, in order to reduce his criminal charges. As for the deferred prosecution agreement, it is more specialized in crimes committed by corporations, namely in the form of transferring criminal charges to administrative recovery, which of course has an impact on a good reputation and can reduce losses that will be incurred if the legal process continues (related to the length of the legal process). In this case, the sanctions imposed can be quickly implemented and the goal of recovering State losses can be realized immediately (Hukumonline, 2026).

The last concept mentioned above has not been contained in the corruption criminal justice system in Indonesia. Changes must be implemented immediately, especially those that require faster, proportionate, effective legal breakthroughs and provide higher legal certainty. Amendments/amendments to laws and regulations must become an obligation for the recovery of state finances and other forms of prevention (preventive) so that the index of corruption cases in Indonesia can be greatly reduced, which of course is expected to be a solution in overcoming various economic problems in Indonesia.

The criteria mentioned above will provide legal certainty for law enforcement in determining whether the *restorative justice approach* can be applied in certain cases. In addition, criteria are also important to prevent abuse of the system by perpetrators who seek to avoid severe punishment. The procedure in the revision of the implementation of restorative justice includes the main stages in the restorative justice process such as mediation between the perpetrator and the victim, the determination of the mechanism for the return of state losses and settlement through an agreement (Hukumonline, 2026)

One of the steps that can be taken in the policy of formulation of restorative justice is, in the rules, it is formulated that the perpetrator is obliged to return state losses within a period of time (Badan Pemeriksa Keuangan Republik Indonesia, 2022) By comparison, countries such as Canada and Norway have successfully integrated restorative justice into their legal systems. In Canada, programs such as *victim-offender* mediation have shown success in minimizing crime recidivism rates while Norway uses a humanist approach that focuses on the social reintegration of perpetrators. Selendia Baru is a pioneer in the implementation of restorative justice through *family group conferences*, where perpetrators, victims and the community actively participate in the case resolution process. This approach fosters dialogue and will restore the loss of the ebraa as the main step towards achieving substantive justice.

In the application of *restorative justice* in cases of corruption, especially those revealed through routine audits by the Audit Board (BPK), it faces much more complex problems. Corruption cases often involve major losses to state finances and have an impact on public trust in government institutions. The public usually expects strict punishment for corruption perpetrators as a form of justice and as a warning so that corruption crimes do not occur again.

However, there is an argument that *restorative justice* is relevant in corruption cases if done with the right approach. In the context of an audit by the BPK, *restorative justice* can be focused on recovering state losses through refunds and reconciliation between actors, the community and institutions. One of the reasons why restorative justice is relevant in corruption cases is because of its focus on recovering losses. In the BPK's routine audit, many corruption cases were revealed related to irregularities in state financial management. In some cases, the perpetrator is willing to return the misused funds as part of *restorative justice* that could be the basis for considering a reduction in criminal penalties.

This procedure should also include mechanisms to deal with offenders who do not meet their obligations. In this case, the restorative approach can be replaced by heavier criminal penalties as a consequence of the perpetrator's non-compliance.

Criminal law policy on the application *of restorative justice* in corruption crimes can be carried out effectively in the form of elements that can be applied in the creation of new and more efficient rules which include:

1) Case and Perpetrator Criteria

Regulations must stipulate corruption cases that comply with sharia for a restorative approach. This criterion can include the value of state losses, the good intentions of the perpetrator to return the losses or the involvement of the perpetrator. In this case, the new regulations should ensure that restorative justice is only applied to cases that are eligible to maximize the risk of abuse.

2) Mediation Process and Restorative Agreement

The mediation process between the perpetrator, the victim (the state), and the community's funds must be at the core of the restorative approach. This regulation needs to regulate a mediation mechanism involving professional mediators as well as independent supervisory institutions such as the Financial Audit Agency. An agreement reached through mediation must include the return of state finances, a public apology and a commitment not to repeat similar crimes.

3) The Role of Law Enforcement Agencies This regulation must regulate synergy between the KPK, the Prosecutor's Office and the Police in implementing *restorative justice* (Johnstone & Van Ness, 2007). Synergy is considered important to ensure that each institution has a clear role and works in a coordinated manner to achieve the country's recovery (Johnstone & Van Ness, 2007).
4) Monitoring and Evaluation Mechanisms Rulemaking on supervision and evaluation should also include oversight mechanisms to ensure that restorative justice is implemented in accordance with the principles of justice and transparency. Supervision can be carried out by Independent Institutions such as the KPK and BPK which monitor every stage of the restorative justice process from mediation to the implementation of agreements. In addition, periodic evaluations must be carried out to assess the effectiveness of this approach in recovering state losses and preventing future corruption crimes.

In addition, what needs to be considered is the synergy between corruption law enforcement agencies, namely the KPK, the Attorney General's Office and the Indonesian Police. These three Institutions have different but interrelated mandates. However, in practice, there is often overlap of authority and lack of synergy between them (Hardi, 1019). The main challenge is bureaucracy that hinders the workflow across institutions. This bureaucracy often makes it difficult to make quick and accurate decisions. This can hinder the effectiveness of the implementation of *restorative justice*, especially in ensuring that the recovery of state losses is a top priority (Hardi, 2019) However, there is an initiative from the Attorney General's Office of the Republic of Indonesia, through the Jampidsus Circular Letter No. B-765/F/Fd.1/04/2018, the investigation of corruption cases is directed not only to prove the crime but also to calculate the amount of state losses and encourage the perpetrators to return the state losses as consideration for the continuation of the legal process (Ali Habib, 2020).

One of the concrete steps that can be taken is the formation of a special cross-agency coordination team to handle corruption cases with a *restorative justice* approach. The team acts as a facilitator in bringing together views and synchronizing the steps that can be taken to achieve the country's financial recovery and social reconciliation.

Indonesia's positive law still places corruption as an *extraordinary crime* whose settlement is oriented towards law enforcement through criminal mechanisms. This is emphasized in Article 4 of the Law on the Eradication of Corruption which states that the return of state financial losses does not remove the crime against corrupt perpetrators. *Restorative Justice* has the potential to complement the retributive approach in eradicating corruption. As an approach focused on the selection of state losses, reconciliation and substantive justice. *Restrictive Justice* can be an effective instrument to deal with the weaknesses of the legal system that tends to only emphasize the punishment of perpetrators. However, its implementation must be carried out while still adhering to the provisions of Law 31 of 1999 jo Law 20 of 2001. *Restorative Justice* in this context is not intended to replace criminal penal law, as a complement that provides opportunities for perpetrators who show good faith to restore state finances. However, the values of *restorative justice* have actually been reflected in various provisions that regulate the return of state losses, the payment of compensation, the confiscation of assets resulting from corruption, and *the asset recovery* policy as stipulated in the *United Nations Convention Against Corruption (UNCAC)* which has been ratified by Indonesia. Therefore, normatively there is room to develop *a restorative justice* approach in corruption crimes,

However, its implementation also faces various obstacles, such as the lack of a clear legal basis, concerns about a reduced deterrent effect on corrupt actors, and the potential for abuse of authority in the law enforcement process. Therefore, *restorative justice* in corruption crimes should be applied in a limited manner with strict conditions, such as full reimbursement of state losses, non-recidivist perpetrators, and criminal acts committed do not have a wide impact on the public interest. Thus, the *restorative justice approach* can function as a complementary instrument in the eradication of corruption that is oriented towards recovering state losses without reducing the firmness of law enforcement against perpetrators of corruption crimes.

CONCLUSION

The legal framework governing restorative justice in corruption crimes in Indonesia has not been explicitly regulated under Law Number 31 of 1999, as amended by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes. The current positive legal framework in Indonesia still places restorative justice in corruption cases within a limited scope. Restorative justice has not been recognized as a legal basis for terminating investigations, discontinuing prosecutions, or eliminating criminal liability. Instead, its application is primarily reflected through mechanisms for recovering state losses as part of the corruption crime enforcement process. The application of restorative justice in corruption crimes in Indonesia has not yet developed into a case resolution mechanism capable of terminating criminal proceedings, as applied to certain general criminal offenses. In corruption cases, restorative justice is primarily reflected through efforts to recover state losses, return assets obtained from criminal acts, pay replacement money (uang pengganti), and consider the defendant's good faith in restoring losses suffered by the state.

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