JURNAL HUKUM Khaira Ummah

Master of Law, UNISSULA

E-ISSN: 2988-3334
ISSN: 1907-3319
Vol 20. No. 3 September 2025

Criminal Law Policy in the Framework of Overcoming Criminal Acts of Fraud and Fraudulent Acceptance Based on Justice

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Abstract. *This study aims to determine and analyze criminal law policies in efforts to overcome the criminal acts of fraud and receiving money in the current positive law, the legal problems that occur in criminal law policies to overcome the criminal acts of fraud and receiving money in the current positive law, and analyze criminal law policies in order to overcome the criminal acts of fraud and receiving money based on justice. The normative legal approach method, analytical descriptive research specifications, the data used are secondary data, the data collection method with literature study, and the data analysis method is qualitative analysis. The theory used is the theory of Pancasila justice and progressive legal theory. Based on the results of the study, it is concluded that criminal law policies in efforts to overcome the criminal acts of fraud and receiving money in the current positive law still emphasize retaliation and the injured victims become passive so that they do not reflect justice. This is due to the existence of legal problems, namely the formulation of criminal sanctions for fraud and discussions are still thick on the values of imprisonment, victims' rights are neglected, do not differentiate between minor and serious crimes, resulting in overcrowded prisons. The criminal law policy for dealing with fraud and bribery based on justice is a restorative justice approach, namely by avoiding imprisonment and prioritizing the obligation to pay compensation to victims of criminal acts, provided there is an agreement between the victim and the perpetrator of the crime. This creates justice for both the victim and the perpetrator, where the victim receives compensation for the losses they have suffered, while the perpetrator is held accountable for their actions by providing compensation to the perpetrator of the crime.*

Keywords: *Bribery; Criminal; Justice; Law.*

1. Introduction

Indonesia is a state based on law as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.[1]Law is a collection of coercive regulations that determine the

[1]Mulyadi, "The Legal Position of Fingerprints in Revealing Criminal Acts of Murder", Ratio Legis Journal, Volume 2 No. 1, March 2023, p. 248.

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ISSN: 1907-3319
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behavior of society, made by official state bodies and containing sanctions.[2]Law also functions as a form of social control in society, to prevent behavior that deviates from the law.[3]

Law, as a social institution, was created by humans to maintain order. Legal developments also influence law enforcement in Indonesia, where law enforcement officers are guided by applicable positive law when resolving criminal cases.[4]Over time, efforts to enforce criminal law using the Criminal Code as formal law have several shortcomings, including not mentioning the objectives and guidelines for sentencing, so that the punishment imposed is interpreted according to the views of law enforcement officers and judges, each of whom has a different interpretation.[5]In the formulation of the Criminal Code, if a person's actions fulfill the elements of the formulation of a crime in the law and the perpetrator is capable of being responsible, then the perpetrator must be punished, even if there has been reconciliation or the loss is small.[6]

The crime of fraud and receiving bribes is a crime that requires attention.[7]The crime of fraud is regulated in Article 378 of the Criminal Code which states that anyone who with the intention of unlawfully benefiting himself or another person, by using a false name or false dignity, by trickery, or a series of lies, induces another person to hand over something to him, or to give a loan or write off a debt, is threatened with a maximum prison sentence of 4 years for fraud. Meanwhile, the crime of receiving money is regulated in Article 480 of the Criminal Code which states that the following are threatened with a maximum prison sentence of four years or a maximum fine of nine hundred rupiah for receiving money: (1) anyone who buys, rents, exchanges, accepts a pawn, accepts a gift, or to make a profit, sells, rents, exchanges, pawns, transports, stores or hides something, which is known or should be suspected. It must be suspected that it was obtained from the crime of receiving money. (2) anyone who makes a profit from the results of something, which he knows or should be suspected that it was obtained from a crime.

The crimes of fraud and receiving money can be interconnected, forming a series of criminal events. Fraud is the predicate crime, while receiving money is a derivative crime (a consequence of the previous crime). In this case, if the fraudulent goods are then sold or received by another person, that person may be subject to Article 480 of the Criminal Code.

Legally, a person can be said to be a receiver of fraudulent goods if he fulfills the elements of Article 480 of the Criminal Code. It's important to note that under Article 480 of the Criminal

[2]Ishaq, 2012, Fundamentals of Legal Science, Sinar Grafika, Jakarta, p. 3.
[3]Anton Rudiyanto, The Function of Fingerprints in Murder Crime Perpetrators (Case Study at Tegal Police), Khaira Ummah Law Journal, Volume 12 Number 4 December 2017, p. 928.
[4]Agung Jaya Kusuma, Effectiveness of the Implementation of Restitution Payment Decisions for Victims of Criminal Acts of Fraud, Khaira Ummah,Vol. 20 No. 1, March 2025, p. 125.
[5]Noveria Devy Irmawanti and Barda Nawawi Arief, The Urgency of the Goals and Guidelines for Sentencing in the Context of Reforming the Criminal Law Sentencing System, Indonesian Journal of Legal Development, Volume 3, Number 2, 2021, p.220
[6]Sri Endah Wahyuningsih, 2018, Model for Developing Criminal Law Principles in the Criminal Code Based on the Values of Belief in the One Almighty God, Fastindo, Semarang, p. 1
[7]Abdul Wahid, "Policy on Formulating Fraud Crimes in the New Criminal Code Concept to Combat Crimes in the Technology Sector," Rechtsidee, Vol. 11 No. 2, December 2023, p. 8

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Code, a person can be considered a receiver if they know or reasonably suspect that the goods are derived from a crime. This means that a person's knowledge or reasonable reasoning about the origin of the goods is key to determining guilt.[8]

In the criminal law system, both the perpetrator of fraud and the receiver of fraud can be punished. This is because the Criminal Code still adheres to a retributive approach to punishment, thereby neglecting the rights of victims. In this case, the perpetrator of the crime can be subject to criminal penalties, while the victim does not receive compensation for the losses suffered. Furthermore, it is not impossible that even after being released from punishment, the perpetrator will repeat his actions, disrupting public order and creating a sense of injustice in society.

Based on the thinking as described above, there is a need for a criminal law policy to address criminal acts of fraud and bribery based on justice, which aims to balance legal certainty, justice and legal benefits.According to Sudarto, criminal law policy (criminal politics) is a rational effort by society to combat crime. This effort is part of the public protection effort.[9] This approach does not only focus on punishment, but also on prevention, victim protection, and the restoration of social justice.

This study aims to determine andanalyzing criminal law policies in efforts to overcome criminal acts of fraud and receiving bribes in current positive law, analyzing legal problems, and analyzing criminal law policies in order to overcome criminal acts of fraud and receiving bribes based on justice.

2. Research methods

This study uses a normative juridical approach, so the data used are secondary data. The research specification is descriptive analytical, the data collection method is done through literature, and the data analysis method is qualitative analysis.

3. Results and Discussion

3.1. Criminal Law Policy in Efforts to Overcome Criminal Acts of Fraud and Fraudulent Acceptance in Current Positive Law

Fraud and receiving stolen goods are two crimes that are closely related in practice. Fraud is a crime committed by deceiving or deceiving others in order to obtain goods or benefits unlawfully (regulated in Article 378 of the Criminal Code). Meanwhile, receiving stolen goods is the act of receiving, purchasing, or concealing goods resulting from crime, including fraud (regulated in Article 480 of the Criminal Code).

The relationship between the two occurs because the proceeds of fraud are often traded or transferred to other parties who then act as receivers. The receivers, whether consciously or

[8]Murni, Application of Restorative Justice to the Settlement of Criminal Acts of Fences at the Banda Aceh District Attorney's Office, Cendekia, Volume 2 Issue 2, 2024, p. 547.
[9]Ibid., p. 2

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not, contribute to the crime by expanding the circulation of the proceeds. This demonstrates that receivers strengthen and extend the chain of crime that begins with fraud.

In order to overcome the criminal acts of fraud and bribery, it is necessary to balance it with the improvement and development of the criminal justice system as a whole. The policy to overcome this crime can be implemented through criminal policy, which can be done in two ways: first, using penal efforts (penal policy) or criminal law efforts or criminal law policies; and second, non-penal efforts (non-penal policy) or policy efforts outside of criminal law. Basically, penal policy emphasizes repressive measures (eradication) after a crime has occurred, while non-penal policy emphasizes preventive measures (prevention) before a crime occurs.[10]

Criminal law policy is a subset of criminal policy that uses criminal law as a tool or means to prevent and address crime (criminal acts), whether through the creation of criminal regulations, enforcement of criminal law, or the implementation of criminal sanctions. Criminal law policy encompasses three important stages: formulation, application, and execution.[11]

The current criminal law policy regarding the crimes of fraud and receiving money is based on the Criminal Code, which is described as follows:

1) Formulation stage

The crime of fraud is generally regulated in Article 378 of the Criminal Code, namely "Anyone who with the intention of unlawfully benefiting himself or another person, by using a false name or false condition, or by trickery, or a series of lies, induces another person to hand over something, or gives a debt, which can result in loss, is threatened with a maximum imprisonment of four years." This formulation is the basic form, and there is fraud in the narrow sense in a special form that is mitigating. Because there are special elements that are mitigating so that it is threatened with a criminal penalty as light fraud. While fraud in the narrow sense does not exist in an aggravated form.[12]

The formulation of fraud consists of objective elements which include the action (moving), the act being moved (person), the action directed at another person (handing over objects, giving debts, and writing off receivables), and the method of carrying out the act of moving by using a false name, using deception, using false dignity, and using a series of lies. Next are the subjective elements which include the intention to benefit oneself or others and the intention to violate the law.[13]

The crime of receiving stolen goods is regulated in Article 480 of the Criminal Code, namely: Threatened with a maximum prison sentence of 4 years or a maximum fine of IDR 900

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[10]Sugeng Tiyarto, 2006, Criminal Law Enforcement Policy in the Context of Combating Gambling, Thesis, Diponegoro University, Semarang, p. 86
[11]Hukumonline Team, Scope of Criminal Law Politics,https://www.hukumonline.com, accessed May 29, 2025.
[12]PAF. Lamintang and C. Djisman Samosir, 2010, Special Crimes Against Property Rights and Other Rights Arising from Property Rights, CV. Nuansa Aulia, Bandung, p. 168.
[13]Ibid., p. 169

thousand: 1st. whoever buys, rents, exchanges, accepts a pawn, accepts a gift, or to gain profit, sell, rent, exchange, pawn, transport, store or hide an object, which is known or should be suspected to have been obtained from the crime of receiving goods; 2nd anyone who gains profit from the results of an object, which he knows or should be suspected to have been obtained from a crime.

One of the elements of receiving goods that is often proven by the Public Prosecutor in daily trial practice is the element of culpa, which means that the person receiving the goods can be considered to have been able to suspect the origin of the goods from a crime and it is rarely possible to prove that the person receiving the goods knew exactly that (the origin of the goods). In this case, "intent to gain profit" is an element of all receiving goods.[14]

2) Application stage (implementation)

The implementation stage is the enforcement stage of the formulation of articles on fraud and bribery as regulated in the Criminal Code, thus the implementation stage is the process of law enforcement. This is in line with the definition of law enforcement put forward by Soerjono Soekanto, that law enforcement lies in the activity of harmonizing the relationship of values outlined in relevant rules and re-embodiing noble attitudes and actions to create, maintain and defend peace in social life.[15]

Law enforcement of fraud and bribery crimes involves all legal entities in every legal relationship. Law enforcement is the primary function of the criminal justice system. The law enforcement agencies involved in the criminal justice system include the police, prosecutors, courts, and correctional institutions (Lapas).

3) Execution stage

The execution phase is the concrete implementation of criminal law by law enforcement officials. This phase can be called the executive or administrative policy phase. At this stage, the judge's decision is concretely implemented. In the cases of fraud and bribery, the verdict imposed by the judge, based on Articles 378 and 480 of the Criminal Code, is a maximum prison sentence of four years.

In practice in criminal justice, for crimes of fraud and bribery, most still use retributive punishment, which is retaliatory in nature and still prioritizes the principle of inflicting suffering as a mandatory requirement in providing accountability to the perpetrator.

At the execution stage of criminal law policy regarding fraud and bribery, the public prosecutor implements the judge's decision in the form of a prison sentence as stipulated in the verdict, which is guided by the Criminal Code, namely a maximum prison sentence of four

[14]Yusriana and Deliani, Efforts to Combat the Crime of Receiving Motor Vehicles from the Proceeds of Theft in the Medan Police's Jurisdiction, Journal of the Ganesha Medan Polytechnic Institution, Juripol, Volume 6 Number 1, February 2023, p. 36
[15]Soerjono Soekanto, 2002, Factors Influencing Law Enforcement, Raja Grafindo Persadara, Jakarta, p. 3

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years. The public prosecutor will then transport the convict to a correctional institution (Lapas) to serve their sentence in accordance with the verdict.

Current criminal law policies for combating fraud and bribery emphasize retaliation, leaving the injured victim passive. In this position, the victim remains the injured party because the perpetrator does not receive compensation for the losses they have suffered.

Current criminal law policies aimed at combating fraud and bribery still criminalize those involved in bribery. This criminal law policy fails to provide justice, particularly for victims. This contradicts the Pancasila theory of justice, which contradicts the second principle of Pancasila, namely just and civilized humanity.

Just and civilized humanity is the basis for protecting human rights, namely treating humans in a civilized manner without reducing their rights in the slightest.[16]In criminal law policies aimed at combating fraud and bribery, victims are passive. They are not involved in the judicial process except as witnesses. They also receive no compensation for the losses they experience due to the crime. Victims receive only the satisfaction of being punished, but they still suffer the loss of their property without compensation.

3.2. Legal Problems That Occur in Criminal Law Policies to Address Criminal Acts of Fraud and Embezzlement in Current Positive Law

The current policy for combating criminal acts in the context of combating criminal acts of fraud and bribery still gives rise to several legal problems, namely:

1) The formulation of criminal sanctions is only imprisonment

The criminal policy for fraud and bribery is closely related to the criminal policy outlined in the articles of the Criminal Code. The substance of these criminal provisions seems to be a tool to enforce that every lawbreaker be placed in a state detention center (Rutan) or correctional facility (Lapas).[17]

Imprisonment for fraud and bribery is actually less beneficial for the victim, as it only provides satisfaction from the punishment received by the perpetrator and seeks revenge. This occurs, for example, when the defendant is sentenced to prison, the victim will not receive compensation from the perpetrator and will still bear the cost of the property losses resulting from the fraud.

2) Victims' rights are neglected

Criminalization, which results in the perpetrator being imprisoned, provides no protection and no reparation for the victim. Thus, the victim's rights are disregarded.Imprisonment prioritizes the perpetrator's interests over the victim's. In cases of fraud and bribery, victims

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[16]Ramadhan, Muhammad and Dwi Oktafia A., "The Purpose of Criminalization in Policies on Indonesian Criminal Law Reform," Jurnal Rechten: Penelitian Hukum dan Hak Asasi Manusia, Vol. 5, No. 1 (2023) p. 4

[17]Rully Novian, et al., Strategy for Handling Overcrowding in Indonesia: Causes, Impacts and Solutions, Institute for Criminal Justice Reform (ICJR), Jakarta, p. 45

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receive no restitution for the physical, psychological, or material losses they suffer. This situation has consequences for victims, including feeling neglected by the legal system and a lack of restorative justice, an approach that repairs the victim's losses, brings the parties involved together, and creates a humane resolution.

3) Criminalization does not differentiate between minor and serious crimes

The current Criminal Code (KUHP)'s formulation of fraud articles and criminal penalties for fraud (Article 378) and receiving money (Article 480) does not differentiate between minor and serious crimes. The prison sentence provisions for fraud (Article 378) and receiving money (Article 480) are disproportionate, and the judicial system lacks a flexible mechanism to distinguish whether the perpetrator is a first-time offender or a repeat offender, whether the loss is substantial or minor, and whether the intent was genuine or impulsive. The formulation of articles that do not differentiate between the severity of the crime committed reflects an injustice in the formulation of criminal sanctions in the articles for fraud and receiving money.

4) The number of prisoners exceeds the prison capacity (overcrowded)

At the execution stage in the criminal law policy against the crimes of fraud and receiving money, the prosecutor carries out the criminal decision which has permanent legal force by sentencing the convict to imprisonment and sending the convict to the prison for rehabilitation.

Public or community perception holds the view that sentencing criminals to criminals is done to improve the perpetrators and protect the interests of society, but in reality, the sentencing determined by judges to criminals is done solely because of legal orders.[18]

Placing prisoners in detention centers and correctional institutions that are already overcrowded results in a lack of focus on the handling, guidance, and supervision of convicts. Sentencing that results in imprisonment also has the potential to overcrowd prisons due to overcrowding. This impacts high levels of violence and conflict within prisons, the failure of rehabilitation and social reintegration of prisoners, an increased risk of recidivism (repetition of criminal offenses) because former prisoners do not receive adequate guidance, and an increased burden on the state for prison maintenance, all with low effectiveness.[19]

The problem lies in the substance of the law; criminal justice often criminalizes individuals. Law enforcement officials and the public are still stuck in Hammurabi's criminal code as a means of revenge. The problem of overcrowdingPrisons cannot be handled by building new prisons.[20]

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[18]Ibid., p. 37
[19]Ibid., p. 47
[20]Prison Overcrowding Requires Changes to the Penal System,https://www.hukumonline.com, accessed May 29, 2025.

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3.3. Criminal Law Policy in the Framework of Combating Criminal Acts of Fraud and Embezzlement Based on Justice

Current criminal law policies addressing fraud and bribery primarily emphasize a retributive approach, specifically imprisonment. To realize a truly just legal system in accordance with Pancasila values, a paradigm shift toward a more humane, inclusive, and recovery-oriented restorative justice approach is necessary. Therefore, comprehensive legal reform is needed, including changes, particularly to the Criminal Code, that take a more restorative justice approach into account.

Criminal law policies aimed at combating fraud and bribery based on justice aim not only to punish perpetrators but also to restore victims' well-being, prevent recurrence of crimes, and maintain social harmony. A justice-based approach combines legal certainty, expediency, and substantive justice. To this end, the government has enacted Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code), which will take effect in January 2026.

The formulation of the criminal acts of fraud and receiving bribes in the New Criminal Code is regulated in the following articles:

a. Criminal act of fraud

The crime of fraud is regulated in Article 492 of the New Criminal Code, the description of fraud is as follows: "Any person who with the intention of unlawfully benefiting himself or another person by using a false name or false position, using trickery or a series of lies, inducing someone to hand over an item, giving a loan, making a debt acknowledgment, or writing off a receivable, shall be punished for fraud, with a maximum prison sentence of 4 years or a maximum fine of category V."

From the formulation above, it can be seen that the crime of fraud in Article 378 of the old Criminal Code and Article 492 of the new Criminal Code have almost the same elements, namely using a false name or false dignity, trickery, and inducing others to hand over goods or provide debt. The goal is to benefit oneself or others, but in an unlawful context. The threat given to the perpetrator is to give a maximum prison sentence of 4 years or a category V fine. Meanwhile, the main difference is that in the New Criminal Code, the goods do not have to be handed over directly, the place of the crime is when the perpetrator commits fraud, and there are limitations on the efforts made by the perpetrator such as abuse of religion and trickery. The New Criminal Code provides a more specific explanation of the crime of fraud and increases legal certainty.[21]

The crime of fraud in the New Criminal Code Draft is specifically regulated in Article 492. This article expressly prohibits all forms of fraud committed with the aim of unlawfully benefiting oneself or others. Fraud can include the use of a false name or false position, as well as the use of trickery or a series of lies. Perpetrators of fraud in this context can be subject to a maximum prison sentence of 4 years or a fine of category V amounting to Rp 500,000,000.00

[21]Fraud Articles in the Old Criminal Code and the New Criminal Code,https://susanhimawanlaw.com, accessed May 29, 2025

(five hundred million rupiah). This article aims to provide a clear and firm legal basis for the crime of fraud, establish appropriate sanctions, and create a deterrent effect for perpetrators of this crime.[22]

b. The crime of receiving stolen goods

The crime of receiving money in Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code) is regulated in Article 591 with the following formulation: Anyone who: shall be punished for receiving money with a maximum imprisonment of 4 (four) years or a maximum fine of category V.

a. buying, offering, renting, exchanging, accepting guarantees or pledges, accepting gifts or for profit, selling, renting, exchanging, pawning, transporting, storing or hiding an object which is known or reasonably suspected to have been obtained from a criminal act; or

b. taking advantage of the proceeds of an object, which is known or reasonably suspected to have been obtained from a criminal act.

The explanation of Article 591 of the New Criminal Code states that objects in this provision are objects originating from criminal acts, for example from theft, embezzlement, or fraud. The crimes regulated in this provision are called proparte dolus proparte culpa crimes.

The crime of receiving stolen goods is also regulated in Article 592 of the New Criminal Code which states the following:

(1) Any person who makes it a habit to buy, exchange, accept guarantees or pawns, store or hide objects obtained from criminal acts, shall be punished with a maximum prison sentence of 6 (six) years or a maximum fine of category V.

(2) If the perpetrator of a crime as referred to in paragraph (1) carries out the act as a livelihood, he may be subject to additional punishment in the form of revocation of rights as referred to in Article 86 letters a, b, c and/or g.

The New Criminal Code also regulates the crime of receiving minor goods as regulated in Article 593 of the New Criminal Code, which states that if the crime as referred to in Article 591 of the New Criminal Code where the value of the goods is not more than IDR 500,000.00 (five hundred thousand rupiah), the punishment for receiving minor goods is light, with a maximum fine of category II.

Based on the formulation of the articles on the crimes of fraud and receiving money in the New Criminal Code, it can be seen that the criminal threats imposed for the crimes of fraud and receiving money are imprisonment, fines, and revocation of rights. The New Criminal Code has updated the penalties threatened to perpetrators of these crimes, one of which is the provision of compensation, which reflects restorative justice.

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[22] Henny Saida Flora,Restorative Justice in the New Criminal Code in Indonesia: A Prophetic Legal Study,*Legality*, Vol 10 No 2, December 2022, p.11

In applying criminal penalties, the New Criminal Code has regulated sentencing guidelines. In this case, the author has written sentencing guidelines related to the crimes of fraud and receiving bribes, as stipulated in Articles 51 to 55 of the New Criminal Code. The types of criminal sanctions are regulated in Article 64.Law No. 1 of 2023explains that criminal sanctions in the New Criminal Code consist of principal penalties, additional penalties, and special penalties.for certain crimes as defined in the law.The provisions regarding additional criminal penalties in the New Criminal Code refer to the provisionsArticle 66 paragraph (1) which states that one of the criminal penalties is the payment of compensation. In the explanation of Article 66 paragraph (1) letter d it is explained that compensation in this provision is the same as restitution as regulated in the laws and regulations governing the protection of witnesses and victims. Thus, in the New Criminal Code there is a legal breakthrough regarding restorative justice, namely by providing compensation to victims.

The criminal law policy for combating fraud and bribery in the New Criminal Code has regulated a restorative approach to sentencing, thus it can be said that this criminal law policy is justice-based. In this regard, the author argues that a justice-based criminal law policy for combating fraud and bribery is a restorative justice approach, namely through compensation for victims of the crime.

Justice-based criminal law policies for addressing fraud and bribery aim to balance legal certainty, fairness, and legal expediency. This approach focuses not only on punishment but also on prevention, victim protection, and the restoration of social justice.

This is in line with the sentencing guidelines in Article 53 paragraph (2) of the New Criminal Code, which states that if in upholding law and justice as referred to in paragraph (1) there is a conflict between legal certainty and justice, the judge is obliged to prioritize justice. Furthermore, Article 54 of the New Criminal Code also regulates the severity of the crime committed, so that the judge can take this into consideration in imposing a sentence. Sentencing in the form of an obligation to pay compensation is regulated in PArticle 66 paragraph (1) letter j of the New Criminal Code states that additional penalties consist of payment of compensation.

In cases of fraud and bribery, restorative justice is highly feasible. In this case, the perpetrator and victim reach a settlement agreement, and the perpetrator compensates the victim for the losses suffered. This creates justice for both the victim and the perpetrator, with the victim receiving compensation for the losses, while the perpetrator is held accountable for their actions by providing compensation to the perpetrator.

This is in line with the provisions of Article 70 paragraph (1) letter e of the New Criminal Code which states that while still considering the provisions as referred to in Article 51 to Article 54, imprisonment shall as far as possible not be imposed if it is found that the defendant has paid compensation to the victim. This will certainly also solve the problem of overcrowded prisons. By not imposing imprisonment for crimes of fraud and criminalization, the number of prison inmates will be reduced, which will also have an impact on optimizing the correctional system in prisons.

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At the law enforcement level, punishment has shifted from retributive to restorative, prioritizing victim recovery. This also aims to prevent prison overload.The concept of restorative justice is essentially related to the idea that resolving a criminal law problem should not rely solely on formal criminal law procedures. In this context, criminal law should facilitate specific procedures that facilitate both perpetrators and victims in resolving criminal law issues amicably.

The criminal law policy in an effort to address fraud and bribery crimes based on justice is a restorative justice approach, namely providing compensation to victims of criminal acts. This is in line with the Pancasila theory of justice, namely the second and fifth principles. The principle of just and civilized humanity, in this case, can be explained as restorative justice.Treating victims and perpetrators as whole human beings with the right to be cared for. In cases of fraud and bribery, restorative justice encourages perpetrators to apologize and compensate for losses, rather than simply punishing them. This demonstrates a civilized attitude, not simply responding to wrongdoing with punishment, but resolving conflicts humanely.

The principle of social justice for all Indonesians, in this case based on restorative justice, prioritizes equitable justice, not merely legal formality. In cases of fraud and bribery, this approach provides victims with the opportunity to receive direct compensation, and perpetrators the opportunity to correct their mistakes without having to serve a heavy prison sentence if certain conditions are met.

Restorative justice-oriented sentencing also provides justice for society because this approach restores the balance disturbed by the crime, rather than simply punishing the perpetrator. Unlike retributive justice, which emphasizes punishment, restorative justice aims to repair the victim's losses, return the perpetrator to society with responsibility, not stigma, and restore social relationships between the victim, the perpetrator, and the community.

Criminal law policies in addressing fraud and bribery crimes based on justice, using a restorative justice approach or providing compensation to victims, are also in line with progressive legal theory, where these policies place humans, human values, and substantive justice at the core of the law. Criminal law policies in addressing fraud and bribery crimes based on justice must be comprehensive, meaning they are repressive yet humane, preventive yet participatory, and prioritize victim recovery without neglecting legal certainty. With this approach, the law is not only a tool of punishment, but also a means of building a just and integrated society.

4. References

Journals:

Abdul Wahid, Kebijakan Formulasi Tindak Pidana Penipuan dalam Konsep KUHP Baru untuk Menanggulangi Kejahatan di Bidang Teknologi, Rechtsidee, Vol. 11 No. 2, December 2023.

E-ISSN: 2988-3334
ISSN: 1907-3319
Vol 20. No. 3 September 2025

Agung Jaya Kusuma, Effectiveness of the Implementation of Restitution Payment Decisions for Victims of Criminal Acts of Fraud, Khaira Ummah, Vol. 20 No. 1, March 2025.

Anton Rudiyanto, Fungsi Sidik Jari Pelaku Tindak Pidana Pembunuhan (Studi Kasus Di Polres Tegal), Jurnal Hukum Khaira Ummah, Volume 12 Nomor 4 Desember 2017.

Henny Saida Flora, Keadilan Restoratif pada KUHP Baru di Indonesia: Suatu Studi Hukum Profetik, Rechtsidee, Vol 10 No 2, Desember 2022.

Mulyadi, “The Legal Position of Fingerprints in Revealing Criminal Acts of Murder”, Ratio Legis Journal, Volume 2 No. 1, March 2023.

Murni, Penerapan Restorative Justice Terhadap Penyelesaian Tindak Pidana Penadahan di Kejaksaan Negeri Banda Aceh, Cendekia, Volume 2 Issue 2, 2024.

Noveria Devy Irmawanti dan Barda Nawawi Arief, Urgensi Tujuan Dan Pedoman Pemidanaan Dalam Rangka Pembaharuan Sistem Pemidanaan Hukum Pidana, Jurnal Pembangunan Hukum Indonesia, Volume 3, Nomor 2, Tahun 2021.

Ramadhan, Muhammad dan Dwi Oktafia A., “Tujuan Pemidanaan dalam Kebijakan Pada Pembaharuan Hukum Pidana Indonesia”, Jurnal Rechten: Riset Hukum dan Hak Asasi Manusia, Vol. 5, No. 1 (2023).

Soerjono Soekanto, 2002, Faktor-Faktor yang Mempengaruhi Penegakan Hukum, Raja Grafindo Persadara, Jakarta.

Sugeng Tiyarto, 2006, Kebijakan Penegakan Hukum Pidana dalam Rangka Penanggulangan Perjudian, Tesis, Universitas Diponegori, Semarang.

Yusriana dan Deliani, Upaya Penanggulangan Tindak Pidana Penadahan Kendaraan Bermotor dari Hasil Pencurian di Wilayah Hukum Polresta Medan, Jurnal Institusi Politeknik Ganesha Medan Juripol, Volume 6 Nomor 1, Februari 2023.

Books:

Ishaq, 2012, Dasar-Dasar Ilmu Hukum, Sinar Grafika, Jakarta

PAF. Lamintang dan C. Djisman Samosir, 2010, Delik-Delik Khusus Kejahatan yang Ditujukan terhadap Hak Milik dan Lain-lIn Hak yang Timbul dari Hak Milik, CV. Nuansa Aulia, Bandung.

Rully Novian, et all, Strategi Menangani Overcrowding di Indonesia: Penyebab, Dampak Dan Penyelesaiannya, Institute for Criminal Justice Reform (ICJR), Jakarta.

Sri Endah Wahyuningsih, 2018, Model Pengembangan Asas Hukum Pidana dalam KUHP Berbasis Nilai-Nilai Ketuhanan Yang Maha Esa, Fastindo, Semarang.

Regulation:

The 1945 Constitution of the Republic of Indonesia

E-ISSN: 2988-3334
ISSN: 1907-3319
Vol 20. No. 3 September 2025

Law Number 1 of 1946 concerning Criminal Law Regulations

Law Number 1 of 2023 concerning the Criminal Code

Law Number 8 of 1981 concerning the Criminal Procedure Code.

Internet:

Overcrowding Lapas Butuh Perubahan Sistem Pemidanaan, https://www.hukumonline.com, accessed on 29 May 2025.

Pasal Penipuan dalam KUHP Llama dan KUHP Baru, https://susanhimawanlaw.com, accessed on 29 May 2025.

Tim Hukumonline, Ruang Lingkup Politik Hukum Pidana, https://www.hukumonline.com, accessed on 29 May 2025.