



## THE RETURN OF STATE FINANCES: EFFECTIVENESS OF THE NEW PARADIGM IN ENFORCING OF LAW ON CORRUPTION CRIMES CASES

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### ABSTRACT

*The law enforcement in corruption cases in Indonesia tends to emphasize a retributive legal approach. A paradigm shift is needed in anti-corruption law enforcement, which emphasizes a restorative justice approach that focuses on the recovery of state financial assets (asset recovery). This study aims to analyze the current law enforcement against corruption crimes and analyze the need for a paradigm shift in law enforcement against corruption crimes in Indonesia with an emphasis on the urgency of returning state finances. This study used normative juridical method. The results of the study indicate that the imposition of criminal penalties for corruption crimes, which prioritize a retributive approach, is considered ineffective and far from achieving the goal of preventing perpetrators of corruption or potential perpetrators of corruption. This is one of the main reasons why corruption continues to recur and increase. Financial losses and the burden on the state will continue to increase if there is no change in the handling of corruption cases in Indonesia. Finding the effectiveness of the paradigm in anti-corruption law enforcement, the restorative justice approach is considered more appropriate in efforts to recover state financial losses, a progressive approach and oriented towards recovery rather than just punishment.*

## 1. Introduction

The Republic of Indonesia is a state of law, namely a state in which all attitudes, behavior and actions, whether carried out by the rulers or by its citizens, must be based on law.<sup>1</sup> However, in practice, many violations of the rule of law still occur in society. One example is the rampant criminal act of corruption, which remains a serious problem in Indonesia. The existence of corruption has caused enormous losses to the State, which in turn could impact

1 Yuli Partimi & Andri Winjaya Laksana., The Role of Prosecutors in Implementing Judges' Decisions on Corruption Criminal Acts (Case Study at The Ende District Prosecutor's Office), *Jurnal Hukum Khaira Ummah*, Vol.20 No.2, June 2025, page.2234-2254

the emergence of crises in various fields.<sup>2</sup> In addition to special criminal law which has characteristics in terms of material criminal law, special criminal law also has characteristics in terms of formal criminal law.<sup>3</sup>

Corruption is a unique crime that is different from ordinary crimes in several ways, including violating formal criminal law or procedural law.<sup>4</sup> Corruption has remained a persistent and deeply entrenched legal problem in Indonesia, with wide-ranging political, economic, and social implications.<sup>5</sup> The corruption crime in Indonesia can no longer be said to be an ordinary crime, but is a very extraordinary crime.<sup>6</sup> It harms state finances, undermines governance, undermines public trust in state institutions, and impedes national development. Corruption has undermined the state's goals, as stated in the fourth paragraph of the preamble to the 1945 Constitution of the Republic of Indonesia. Extraordinary enforcement and extraordinary measures are required to combat it.<sup>7</sup> Eradication efforts have long been a priority within the national legal system. Law enforcement is regulated by Law No. 31 of 1999, which was amended by Law No. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption.

Law enforcement against corruption crimes in Indonesia tends to focus on emphasizing retributive law, namely the imposition of criminal penalties as a form of retribution for crimes committed, such as prison sentences and fines.<sup>8</sup> As a result, even though corruptors have been sentenced, the return of stolen state funds remains very small compared to the amount actually embezzled. Furthermore, the state must cover costs incurred, from investigations to supporting corruption convicts in prison. To date, corruption eradication efforts appear far from successful, especially in terms of recovering state funds.<sup>9</sup> In terms of the judicialisation of politics, this phenomenon can be observed in enforcing anti-corruption laws.<sup>10</sup>

Therefore, a paradigm shift in corruption enforcement is needed, emphasizing

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- 2 Atty Novyanty., Conceptual Ideal Supervision of the Corruption Eradication Commission in Eradicating Corruption Crimes. *Yuridika*, Vol.37 No.2, 2022, page.383-98.
  - 3 Abidin, R. M. Z., Ratio Legis Investigation by the Prosecutor: A Review of Distribution of Power in Investigation of Corruption Crime, *Media Iuris*, Vol.7 No.1, 2024, page. 169–190.
  - 4 Reza Prasetya Handono & Gunarto., Implications of the Effectiveness of Legal Efforts for Asset Recovery in Corruption Criminal Cases with State Financial Losses, *Jurnal Hukum Khaira Ummah*, Vol.20 No.2, June 2025, page. 1402-1426
  - 5 Diah Septi Haryani & Mulyadi., Judicial Reasoning in Appellate Sentencing for Major Corruption Cases, *JDH: Jurnal Daulat Hukum*, Vol.8 No.4, December 2025, page.624-633
  - 6 Yoga Ristamana, Umar Ma'ruf, R. Sugiharto., The Forfeiture of the Convict's Assets Obtained from the Corruption Crime, *LDJ: Law Development Journal*, Vol.4 Issue.2, June 2022
  - 7 Lilik Mulyadi., *Pembalikan Beban Pembuktian Tindak Pidana Korupsi, Cetakan II*, Bandung: Alumni, 2013, page. 8.
  - 8 Mohammad Nasr Khater., *Criminalization of Forgery of Electronic Payment Cards in Jordanian Legislation*, *Pakistan Journal of Criminology*, 2024;
  - 9 Jihan Kharisma et al., Reformasi Pemidanaan bagi Pelaku Tindak Pidana Korupsi dalam Perspektif Absolute Theory di Indonesia, *Jurnal Ilmiah Wahana Pendidikan*, Vol.9 No.18, 2023, page.750-758
  - 10 Rusdiana, E., Zaman, N., Darnela, L., & Hasanah, U., Preventing the Politicisation of Corruption Crime Law Enforcement Based on Local Wisdom, *Legality: Jurnal Ilmiah Hukum*, Vol.1 No.33, 2025, page. 110–131

restorative law for the recovery of state financial assets. This is relevant to the content of one of the main pillars of corruption eradication according to the United Nations Convention Against Corruption (UNCAC), which emphasizes the importance of returning state assets. Indonesia has ratified it through Law No. 7 of 2006 concerning the Ratification of the UNCAC.<sup>11</sup> Therefore, Indonesia has a moral and legal obligation to align its legal system with the principles stipulated therein.

Rosita's previous research indicated that the dynamics of asset recovery resulting from corruption are considered quite difficult. Recovering state financial losses due to corruption often fails to yield satisfactory results due to numerous obstacles in resolving cases. Sometimes, certain factors prevent law enforcement from pursuing criminal prosecution, even though there has been a clear state financial loss. Asset recovery efforts are slowly shifting from penal to non-penal mechanisms. This is due to the growing awareness that conventional law enforcement for corruption is no longer able to address state financial losses. After all, assets linked to corruption are vital to the life of the nation and state. Therefore, asset recovery must be a priority in corruption law enforcement.<sup>12</sup> Further research conducted by Refi Meidiantama states that the Indonesian government must immediately enact an asset forfeiture law as mandated by the 2003 United Nations Convention Against Corruption to avoid further state losses and as a solution to ensure assets obtained from corruption can be returned to the state.<sup>13</sup> Hasanul Mulkan's research states that The current policy of recovering assets of perpetrators of corruption in an effort to recover state financial losses cannot be implemented optimally, because it must be recognized that current national law still has many weaknesses that create difficulties for law enforcers in recovering assets of perpetrators of corruption, especially in terms of confiscating the assets of the perpetrators of corruption, so that the return on state financial losses resulting from corruption is currently not optimal.<sup>14</sup>

According to Romli, other research indicates that corruption in Indonesia has reached a systemic and organized stage, making it insufficient to address it with conventional criminal law approaches. Extraordinary strategies are needed, including institutional strengthening and community participation. The overly repressive law enforcement paradigm is considered to have failed to recover state losses and has no financial deterrent effect. Instead, greater emphasis should be placed on restitution and asset recovery by encouraging all elements of the nation to shift the focus of corruption law enforcement from a solely repressive approach to an integrative one, namely punishing perpetrators,

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11 Lana Al Khalaileh et al., *The Impact of Globalization on "International Trade Contracts in Developing Countries"*, *Relações Internacionais no Mundo Atual*, Article 2024;

12 Rosita Miladmahesi., *Dinamika Baru Dalam Pemulihan Aset Akibat Korupsi di Indonesia*, *Journal of Judicial Review*, Vol.22 No.1, 2020, page. 14

13 Refi Meidiantama, Cholfia Aldamia., *Pengembalian Aset Pelaku Tindak Pidana Korupsi Dalam Hukum Internasional Dan Implementasinya Pada Hukum Nasional Indonesia*, *Muhammadiyah Law Review*, Vol.6 No.1, January 2022, page.54-68

14 Hasanul Mulkan, and Serlika Aprita., *Asset Recovery Dalam Tindak Pidana Korupsi Sebagai Upaya Pengembalian Kerugian Keuangan Negara*. *The Juris*, Vol.7 No.1, 2023, page.174-80.

recovering state losses, and building a culture of integrity.<sup>15</sup>

Based on current facts and previous research, this research aims to analyze the current law enforcement of corruption crimes and analyze the need for a paradigm shift in law enforcement of corruption crimes in Indonesia with an emphasis on the urgency of returning state finances.

## **2. Research Methods**

This research uses a normative juridical method, namely the legal approach and the conceptual approach,<sup>16</sup> an analysis of applicable positive legal norms relevant to the topic under discussion, particularly in the context of law enforcement against corruption and efforts to recover state funds. This approach is used to examine various legal provisions governing corruption, criminal penalties for perpetrators, and mechanisms for the recovery of state assets, both from national and international laws. The data used in this study is secondary data, obtained through literature review and collecting materials and data as well as applicable regulations and legislation which are then analyzed using logical legal thinking.<sup>17</sup> These secondary data sources include laws and regulations such as Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, and international provisions of the United Nations Convention Against Corruption. Furthermore, this study also utilizes previous research, scientific journals, books, and the opinions of criminal law experts.

## **3. Result And Discussion**

### **3.1 The Law Enforcement of Corruption Crimes**

The crime of corruption is also a violation of social rights and the economic rights of the community,<sup>18</sup> corruption law in Indonesia still emphasizes a retributive approach that emphasizes formal justice. Punishments are imposed commensurate with the level of culpability of the perpetrator. Rather than providing a deterrent effect to corruptors through imprisonment and fines, this approach fails to address the state's substantial need to recoup losses resulting from corruption. According to Romli, the deterrent effect for corruptors is not the length of the prison sentence, but rather the extent to which the perpetrator loses the proceeds of their crime by confiscating all assets and property from the corruption.

For example, in the mega corruption case of the e-KTP project, which allegedly occurred from 2014 to 2018, involving the former Speaker of the Indonesian

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15 Romli Atmasasmita., *Sekitar Masalah Korupsi: Aspek Nasional dan Aspek Internasional*, Bandung: Refika Aditama, 2004, page. 7

16 Muhammad Ridwan Lubis., Panca Sarjana Putra, Yasmirah Mandasari Saragih, Corporate Criminal Liability for Criminal Acts of Corruption, *JPH: Jurnal Pembaharuan Hukum*, Vol.8 No.1, April 2021, page. 48-59

17 Indra Iskandar & Hamdan Azhar Siregar., The Prosecutor's Authority to Conduct Investigations into Corruption Crimes Causing State Financial Losses (Case Study in PT. Timah Tbk), *LDJ: Law Development Journal*, Vol.7 No.3, September 2025, page.392-402

18 Lusita Sulastri., The Legal Protection on Reporters for Corruption Crime, *JDH: Jurnal Daulat Hukum*, Vol.5 Issue.2, June 2022, page.115-127

House of Representatives, Setya Novanto, he was sentenced to 15 years in prison and fined Rp 500 million. This is despite the alleged state losses reaching over Rp 2.3 trillion. This demonstrates that punishment for perpetrators is not always commensurate with the success in recovering state losses.

Based on criminological analysis, from the perspective of a potential offender, they will calculate the benefits they will receive and compare them with the costs they will incur when committing a crime.<sup>19</sup> If a potential offender perceives that the benefits they will receive from corruption outweigh the potential punishment they will face, this will be a major factor in their decision to commit corruption.<sup>20</sup>

Corruption is an adverse social phenomenon that erodes the foundations of governance and becomes a significant barrier to effective governance and development.<sup>21</sup> According to data from the Indonesian Corruption Watch from 2021 to 2023, the number of corruption cases and the number of suspects consistently increased each year. In 2021, 533 corruption cases were identified, with 1,173 suspects. In 2022, 579 cases were identified, with 1,396 suspects. In 2023, 791 cases were identified, with 1,695 suspects. The data above demonstrates that repressive efforts against corruption have been effectively implemented. However, the increasing number of cases each year indicates that current law enforcement efforts have not been able to eradicate the culture of corruption in Indonesia.<sup>22</sup>

Data on state losses due to corruption in 2021 reached Rp 62.9 trillion, of which Rp 1.4 trillion was recovered. In 2022, losses reached Rp 48.7 trillion, of which Rp 3.8 trillion was recovered. In 2023, the figure reached Rp 56 trillion, but only Rp 7.3 trillion was recovered.<sup>23</sup> It's ironic that despite the arrest of numerous corruption perpetrators, only about 1% of the state's losses have been recovered.<sup>24</sup>

Not to mention the costs incurred by the state for corruption inmates. According to data as of June 2025, the number of corruption inmates reached 5,124.<sup>25</sup> To meet daily food needs, the state spends approximately Rp 102.5 million, assuming an average daily food cost of Rp 20,000, or approximately Rp 3.1 billion per month just for food for corruption inmates.

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19 Mohammad Nasr Khater, et al., *The Crime of Goods Fraud in the Jordanian Penal Code*, Multidisciplinary Reviews, 2024;

20 John Roman dan Graham Farrell., Cost and Benefit Analysis for Crime Prevention: Opportunity Cost, Routine Saving, and Crime Externalities, *Crime Prevention Studies Journal*, Vol.14, page.63-64.

21 Yusuf, M., Aswanto, A., Sumardi, J., Maskun, M., & Ab Rahman, N. H, Illicit Enrichment in Corruption Eradication in Indonesia: A Future Strategy. *Jurnal Media Hukum*, Vol.31 No.2, 2024, page. 224–243.

22 Divisi Hukum dan Monitoring Peradilan., *Laporan Hasil Pemantauan Tren Korupsi Tahun 2023*, Indonesia Corruption Watch, 2024, page.10.

23 *Ibid*, page. 12

24 Vitorio Mantalaen., Negara Rugi Rp 62,9 Triliun karena Korupsi pada 2021, yang Kembali Hanya Rp 1,4 Triliun, diakses dari: <https://nasional.kompas.com/>

25 Direktorat Jenderal Pemasyarakatan., Tindak Pidana Khusus, <https://sdppublik.ditjenpas.go.id/> diakses tanggal 10 Juni 2025.

Based on the cases and data above, the author believes that the current retributive approach to criminalizing corruption is considered ineffective and far from achieving a deterrent effect on corruptors and potential corruptors. This is why corruption will continue to recur and increase. State losses and financial burdens will continue to increase if there are no changes in the handling of corruption cases in Indonesia. Regarding the application of the Corruption Crime Law as a criminal law instrument for the return of state financial losses through the judiciary, the criminal law instrument functions as a premium remedium, thus the return in question is not a sanction/punishment, but is an obligation that must be carried out so that state finances remain in a normal condition.<sup>26</sup>

### **3.2 The Need for a Paradigm Change in Law Enforcement of Corruption Crimes with the Urgency of Returning State Finances**

The corruption crimes are included in special crimes because they are sourced from laws and regulations outside the Criminal Code.<sup>27</sup> corruption has been recognized as an extraordinary crime that is very detrimental to the country's economy, and threatens the welfare of many people.<sup>28</sup> The return of state financial losses must be carried out, and in handling cases of corruption cases with the return of state financial losses, a statement of state losses from the Supreme Audit Agency is required, and there must also be a clear and accurate report so that it can be fulfilled that the state has suffered losses as a result of corruption cases.<sup>29</sup>

Corruption eradication in Indonesia has relied heavily on a repressive criminal law approach.<sup>30</sup> Restitution of state funds lost due to corruption must be a primary aspect of the foundation for eradicating corruption. Punishing perpetrators of corruption is not the sole goal of corruption eradication; restitution must be commensurate with the value of the losses incurred as a result of the corruption.<sup>31</sup> The Indonesian criminal justice system has for too long been trapped in a retributive paradigm, or punishment, that emphasizes

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26 Kristiawanto., The Refund of State Financial Losses Due to Criminal Acts of Corruption Through Audit Agency Audit Investigation, *JPH: Jurnal Pembaharuan Hukum*, Vol.11 No.3 October 2024, page. 441-460

27 Erni Dwita Silambi, Mulyadi Alrianto Tajuddin, Rudini Hasyim Rado, Nurul Widhanita Y. Badilla., The Legality Questioning of the Investigation Termination Through The Investigation Warrant On Corruption Crime, *IJLR: International Journal of Law Reconstruction*, Vol.8 No.1, April 2024, page. 111-128

28 Yasmirah Mandasari Saragih, Tengku Riza Zarzani., The Law Enforcement of Corruption Crimes in Terms of Authority Abuse, *IJLR: International Journal of Law Reconstruction*, Vol.7 No.1, April 2023, p 54-62, DOI: <http://dx.doi.org/10.26532/ijlr.v7i1.30563>

29 Rahmayanti, The Restitution of State Financial Losses in Law Enforcement Against Corruption Crime, *JPH: Jurnal Pembaharuan Hukum*, Volume 10, Number 2, August 2023; 280-290 doi [10.26532/jph.v10i2.32753](https://doi.org/10.26532/jph.v10i2.32753)

30 Saraya Nurhadi, S., Winjaya Laksana, A., Lailiyah, K., & Handayani, Y., Synergy of Administrative Law and Criminal Law in Combating Corruption in Indonesia: Sinergi Hukum Administrasi dan Hukum Pidana Dalam Penanggulangan Korupsi di Indonesia. *Mendapo: Journal of Administrative Law*, Vol.6 No.2, 2025, page.106–120.

31 Refki Saputra, Tantangan Penerapan Perampasan Aset Tanpa Tuntutan Pidana (Nonconviction Based Asset Forfeiture) Dalam Ruu Perampasan Aset Di Indonesia, *Integritas*, Vol.3 No.1, 2017, page. 115-130

revenge against perpetrators. This is considered inadequate to address modern crimes such as corruption, which are more complex, systemic, and cause significant state losses. A restorative approach is needed, namely a model of punishment that aims not only to punish the perpetrator but also to restore the losses and repair social relations disrupted by the crime.<sup>32</sup> In the context of corruption, this means the primary focus is not solely on punishing the perpetrator through imprisonment, but also on ensuring that state losses due to corruption are maximally recovered.<sup>33</sup> Relevant legal theories in the restitution of state finances include the Retributive Theory. Although the corruptor is convicted, restitution indicates remorse and restitution, which can mitigate the sentence, as a form of restorative justice within the retributive sphere. Restorative Theory, the primary focus is on recovering state losses and restoring the country's economic condition to its original state, rather than simply punishing the perpetrator. Utilitarianism Theory, Prioritizes the greatest benefit to society. Returning state losses is more beneficial than allowing the state to continue to suffer losses, even though the perpetrator is still punished, Theory of the Function of Punishment, Corruption crimes have a main function other than imprisonment, namely returning state losses, making it part of the purpose of punishment itself.

Application of the restorative justice paradigm in resolving certain corruption cases. Restorative justice is basically a trial with an emphasis on repairing losses caused or related to criminal acts by involving all parties. However, based on the theory using an economic approach to human behavior to commit crimes or criminal offenses, the restorative justice paradigm cannot be applied to corruption cases because if the paradigm is applied, corruption cases will increase because perpetrators will rationally commit corruption because the probability of witnesses being convicted is low<sup>34</sup> and even if the perpetrator's actions are successfully discovered by law enforcement officers, the sanctions are low, namely sufficient to recover the state financial losses caused. Regarding the recovery of state financial losses, the settlement depends on the perpetrator's ability to pay compensation in order to recover the state losses and other factors such as the availability of evidence showing the existence of the perpetrator's assets and the absence of objections from third parties to the assets owned by the perpetrator.<sup>35</sup>

In current practice, too much energy is spent on lengthy legal processes that culminate in prison sentences, yet the state still fails to recover the stolen funds. Therefore, the Indonesian criminal justice system needs to undergo a

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32 Hamzeh Abu Issa & Mekhled Ibrahim Al Zobi, *Internet Protocol Spoofing Crime in Jordanian Law*, Advances in Science, Technology and Innovation, Conference Paper (2025)

33 Aryatama Hibrawan., Implementation of Restorative Justice by Judges Through The Imposing Of Conditional Criminal Decisions, *Southeast Asian Journal of Victimology*, Vol.1 No.2, 2023, page. 152-167.

34 Lana Al Khalaileh., *Certificate as a Means of Proof in Eliminate Admin Jordanian*, Journal of Law and Sustainable Development, Article, 2023

35 Murpraptono Adhi Sulantoro, Penerapan Prinsip Keadilan Restoratif Pada Tindak Pidana korupsi Dalam Rangka Penyelamatan Keuangan Negara, *DHARMASISYA: Jurnal Program Magister Hukum Fakultas Hukum Universitas Indonesia*, Vol.1 No.2, Juni 2021, page.915-926

paradigm shift from a retributive approach to a restorative approach. Law enforcement against corruption is not sufficient with imprisonment and fines alone; it must also be able to concretely recoup state losses. Recovering state finances is crucial, not only aiming to repair the losses incurred from corruption, but also to cover the state budget deficit in financing various aspects of state needs as stipulated in Law No. 11 of 2009 concerning Social Welfare and to increase public trust in state institutions.

Restorative law enforcement does not mean eliminating the criminal aspect of law, but rather complementing it with a focus on recovery. In this context, law enforcement's task is not only to punish<sup>36</sup> but also to ensure that assets resulting from crime are not left in the hands of perpetrators or unauthorized parties.<sup>37</sup> Article 4 of the Corruption Eradication Law explains, "Returning losses to state finances or the state economy does not eliminate the criminal penalties for perpetrators of criminal acts as referred to in Article 2 and Article 3".

The UNCAC addresses asset recovery from corruption crimes in two ways: direct property recovery and recovery through international cooperation. Meanwhile, asset confiscation from corruption crimes through prosecution is intended to return assets obtained from corruption crimes based on Law No. 20 of 2001, which has amended Law No. 31 of 1999, based on asset confiscation from corruption crimes through civil lawsuits and asset confiscation from corruption crimes that are difficult to prove through shifting the burden of proof. This study offers a comprehensive strategy that can be the basis for developing a more effective asset recovery policy in Indonesia.<sup>38</sup> By focusing punishment on asset recovery, it can prevent the recurrence of corruption.

Corruptors or potential corruptors will reconsider committing corruption because there is no profit at all. Without this paradigm shift, eradicating corruption will only be a symbolic agenda that fails to address the root of the problem, namely the loss of state funds. Addressing corruption cases to save state finances requires a different approach than the conventional patterns currently applied. A more progressive transformation is needed as a form of substantive justice for society. The retributive approach, which emphasizes punishment for perpetrators, is considered irrelevant because it fails to address the losses caused by corruption. Therefore, a paradigm shift in law enforcement for corruption is needed, where a restorative justice approach is considered more appropriate in efforts to recover state financial losses, which is progressive and oriented towards recovery, not merely punishment.<sup>39</sup>

Law enforcement against corruption in the Netherlands uses the Dutch Penal

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36 Mohammad Nasr Khater, et al., The mother killing of her newborn to avoid disgrace under Jordanian Law, *Pakistan Journal of Criminology*, 2023, page.21–27.

37 Rida Ista Sitepu dan Yusona Piadi, Implementasi Restoratif Justice Dalam Pemidanaan Pelaku Tindak Pidana Korupsi, *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia*, Vol.1 No.1, 2019, page. 67-75.

38 Dian Eka Kusuma Wardani, Mulia Anggraeni, Andi Rizal., Legal Strategies for Corruption Asset Recovery and Public Trust, *Arena Hukum*, Vol.18 No.3, 2025;

39 Jeroen Martijn Ten Voorde., The Dutch Penal Code Under Review, *Indonesia Law Review*, Vol.7 No.3, September - December 2017, page. 302.



Code/Wetboek van Strafrecht (hereinafter referred to as the DPC) as the legal basis for eradicating corruption. Since 2011, numerous new offenses have been added to the DPC, all of which constitute crimes. The elements of forty types of crimes have been amended, while the corresponding criminal penalties have been increased. These changes in formulation include corruption, fraud, cybercrime, travel fraud, and others<sup>40</sup>.

In July 2012, the Netherlands announced legislative reforms related to the eradication of corruption. These reforms included increased penalties for corruption, including fines that could reach 10% of an organization's annual turnover. In the evaluation conducted by the Council of Europe Group of States against Corruption (GRECO), Dutch efforts to ensure public trust have been praised.<sup>41</sup> Although there is no dedicated agency for the prevention and enforcement of anti-corruption policies, anti-corruption and integrity are important to the Dutch public at both the national and local levels, with a particular focus on prevention. The Office for the Promotion of Public Sector Integrity (BIOS) has the specific task of assisting public administrations in designing and enforcing anti-corruption policies. Enforcement of corruption, both domestically and internationally, is delegated to the Dutch Public Prosecution Service/Openbaar Ministerie (hereinafter referred to as PPS) under the Judiciary (Organization) Act. The PPS is responsible for investigating and prosecuting criminal offenses and enforcing fines and/or prison sentences imposed by criminal courts.<sup>42</sup>

According to Soerjono Soekanto, there are five main aspects that influence the effectiveness of law enforcement in society, namely: legal principles (substance of law), law enforcement (structure of law), facilities, and public awareness (culture of law).<sup>43</sup>

The old paradigm of law enforcement against corruption, based on the theory of legal effectiveness, can be seen as having weaknesses in substance. In an effort to eradicate criminal acts of corruption, Indonesia has established a number of legal regulations that serve as a basis for taking action against corruption.<sup>44</sup> Article 18 paragraph (1) letter b of the Corruption Eradication Law does require corruptors to pay compensation equal to the profits obtained from the crime. However, this norm is not accompanied by clear operational tools regarding how to trace, secure, and confiscate assets obtained from corruption,

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40 Tareq Al-Billeh et al., *Penal Protection for the Consumer in E-Commerce Contracts by the Provisions of Jordanian Legislation*, Pakistan Journal of Criminology, Vol.16 No.2, 2024; Hasan Awad Tarawneh & Hamzeh Abu Issa, *Character Assassination via Information Technology Media: A New Crime*, Advances in Science, Technology and Innovation, Conference Paper, 2025;

41 *Ibid.*

42 Lana Al-Khalaileh & Tareq Al-Billeh., *The Role of Administrative Courts in Reducing Environmental Pollution: Toward Achieving Environmental Justice by Confronting Environmental Encroachment*, Advances in Science, Technology and Innovation, Part F1100, 2025, page. 325–330.

43 Ainul Badri., The Effectiveness of Large-Scale Social Restrictions (PSBB) Policies in Indonesia from a Legal Perspective, *Jurnal Analisis Hukum*, Vol.2 No.1, 2021, page.1-6

44 Aryanto Nur., Kelemahan Sistem Hukum dalam Memberantas Korupsi di Indonesia, *Jurnal Ekonomika Dan Bisnis (JEBS)*, Vol.5 No.1, January - February 2025, page.325-344

both domestically and across jurisdictions. It does not regulate payment deadlines, implementation coordination, valuation standards for assets that have changed form, the treatment of assets transferred to third parties, assets placed abroad, or mechanisms that differentiate between violations by individuals and corporations. The absence of an asset tracing mechanism makes the recovery of state losses dependent on the capabilities of the authorities, rather than the strength of norms, and creates injustice because perpetrators with strong financial networks can hide assets, while perpetrators who are economically weak are forced to bear corporal punishment in lieu of compensation. This situation is inconsistent with the ideals of Pancasila justice, which emphasizes the restoration of public welfare, not merely retribution.

From a legal structure perspective, the institutional framework for the enforcement of assets obtained from corruption remains fragmented: compensation enforcement is handled by the Prosecutor's Office, while tracing the flow of funds is often handled by the Corruption Eradication Commission (KPK) and the Financial Transaction Reports and Analysis Center (PPATK). Management of confiscated assets overlaps with the Ministry of Finance, but there is no permanent coordination architecture. There is no integrated national asset database across various institutions such as PPATK, the Financial Services Authority (OJK), the National Land Agency (BPN), and the tax authorities. There is no dedicated state asset recovery agency. Consequently, the process of tracking, confiscating, auctioning, and redistributing confiscated assets is slow, bureaucratic, expensive, lacks judicial oversight after a final decision is made, is prone to internal irregularities, lacks public transparency, lacks international cooperation, and fails to utilize modern instruments such as asset confiscation without conviction. Law enforcement officials are potentially at risk of abuse of authority or arbitrary action in carrying out legal processes that violate the due process of law guaranteed by the 1945 Constitution.<sup>45</sup>

In terms of infrastructure, lack of availability of technology, forensic laboratories, detention rooms, and management systems that support efficient investigation and prosecution processes, the digitalization system has a very big influence. Meanwhile, the operational budget for asset enforcement is limited, resulting in enforcement often stopping at the administrative level without any real economic recovery, another thing that is no less important is the dissemination of news and information about anti-corruption education through social media.<sup>46</sup>

From a societal perspective, there is a moral-sociological situation in society that views corruption as less serious and lacks public participation in monitoring and reporting corruption. Implementing these recommendations is expected to

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45 Windy Pratiwi, Jessyola Olyvia, Ayu Efridadewi, Heni Widiyani., Problematika Pengaturan Hukum Tindak Pidana Korupsi: Pasal 2 dan 3 UU RI Nomor 31 Tahun 1999, *Jurnal Ilmiah Wahana Pendidikan*, Vol.10 No.13, 2024; page.776-786

46 Ina Heliany, Erwin Asmadi, Humala Sitinjak, Arief Fahmi Lubis., The Role of Corruption Education in Combating Corruption Crimes in the Future, *JPH: Jurnal Pembaharuan Hukum*, Vol.10 No.2, August 2023, page.256-270

strengthen the legal foundation and anti-corruption culture.<sup>47</sup>

From a legal culture perspective, officials and the public still tend to be formalistic and retributive. Success is considered achieved only when the perpetrator is imprisoned, not when public assets are recovered. Many law enforcers view restitution solely as an administrative matter, not as a means of restoring community rights. This legal culture emerged as a result of the transitional conditions faced by state officials, amidst the increasingly widespread consumer culture in society. The concept of cultural burden relates to the burdens that individuals must bear as a result of the demands of values emanating from society itself.<sup>48</sup>

The novelty of this study lies in the proposal of a new paradigm for law enforcement of corruption crimes in Indonesia, which places restorative justice as the primary approach, not merely an alternative, in order to save and restore state finances. This approach emphasizes that the primary goal of eradicating corruption is not merely punishing perpetrators, but rather concretely restoring state losses through asset recovery mechanisms, which have been neglected in a legal system still trapped in a retributive paradigm. By shifting the orientation from criminal revenge to restoration of losses and prevention of recurrence, this approach offers a normative and applicable breakthrough in criminal law policy that is more adaptive to the complexities of modern corruption crimes, and in line with demands for substantive justice and state fiscal sustainability

#### **4. Conclusion**

Law enforcement against corruption in Indonesia has so far been dominated by a retributive paradigm focused solely on punishment, but this has proven ineffective in providing a significant deterrent effect or optimally recovering state losses. Data shows that despite the increasing number of arrests of corruptors, state financial recovery from the losses incurred is very minimal, even reaching only a small percentage of the total losses. Therefore, a new paradigm for law enforcement against corruption in Indonesia is proposed, placing restorative justice as the primary approach, not merely an alternative, to rescue and restore state finances. Not only does a restorative approach hold perpetrators accountable, it can also strengthen institutional integrity and prevent corruption in a sustainable manner. This approach is considered more progressive and responsive to the complex and systemic challenges of modern corruption, while simultaneously supporting the goals of substantive justice and national fiscal resilience.

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47 Rahmat Aiman., Hukum dan Korupsi: Tantangan dan Solusi dalam Pemberantasan Korupsi di Indonesia, *Peradaban Journal of Law and Society*, Vol.3 Issue.1, June 2024, page.16-30

48 Dwi Atmoko & Amalia Syauket, Penegakan Hukum Terhadap Tindak Pidana Korupsi Ditinjau dari Perspektif Dampak Serta Upaya Pemberantasan, *Binamulia Hukum*, Vol.11 No.2, Desember 2022, page. 177-191

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