



THE RESCUE OF STATE FINANCIAL LOSSES: A NEW PARADIGM OF LAW ENFORCEMENT

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ABSTRACT

Corruption inflicts severe financial losses on the state, thereby obstructing the realization of national objectives. The contemporary criminal justice system, which remains heavily anchored in a retributive paradigm, has proven ineffective at both recovering these stolen assets and deterring future offenses. This study examines the critical need to pivot toward state loss recovery as the cornerstone of anti-corruption efforts, proposing a framework for safeguarding state finances rooted in the principles of justice. The findings reveal that the current punitive approach paradoxically drains the state budget further through costly litigation and prison overcrowding, while asset recovery from perpetrators remains disproportionately low compared to the actual damage caused. Conversely, a restorative justice framework that prioritizes financial restitution offers a more efficient and equitable alternative, mirroring successful frameworks in countries like the Netherlands that emphasize asset recovery and out-of-court settlements. Ultimately, this study introduces a novel legislative proposal: a regulatory reconstruction that permits the dismissal of prosecution or the waiving of criminal penalties for defendants who fully restore state losses, marking a decisive paradigm shift from retributive to restorative justice.

1. Introduction

Indonesia as a large country has national goals which are stated in Paragraph IV of the Preamble to the 1945 Constitution,¹ namely protecting the entire nation, advancing general welfare, improving the life of the nation, and contributing to world order based on independence, eternal peace and social justice.² This objective is implemented through the administration of the state

1 Irman Syahriar dan Jamil Bazarah., Keadilan Sosial di Dalam Negara Hukum Indonesia. *Dedikasi: Jurnal Ilmiah Sosial, Hukum, Budaya*, Vol.26 No.1, 2025, page.41-54.

2 Nasir, Melisa, et al., Kedudukan Hukum dalam Mewujudkan Keadilan dan Kesejahteraan di Indonesia. *Al-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam*, Vol.5 No.1, 2023, page. 241-254.

based on Pancasila.³ To achieve this, the state requires managed finances as a source of government funding. Therefore, state financial management must be carried out in accordance with the provisions of the 1945 Constitution so that the wheels of government can function properly and the state's goals are truly achieved in practice.⁴

Regulations regarding state financial management have been regulated through various laws and regulations.⁵ However, in practice, irregularities are still often found by certain individuals managing state finances who carry out acts of corruption, resulting in losses to state finances.⁶ This is in line with the latest report by Transparency International, which noted that Indonesia received a score of 37 out of 100 and was ranked 99th out of 180 countries, confirming that corruption in the public sector remains a serious problem that requires more effective supervision and law enforcement.⁷

Handling of criminal acts of corruption in Indonesia still relies on a retributive justice approach, namely law enforcement that emphasizes punishment as the *primum remedium*.⁸ This approach is considered ineffective in preventing and eradicating corruption, because it does not touch the root of the problem and is not always able to recover state losses.⁹ In fact, the purpose of the Corruption Eradication Law is to optimize the recovery of state losses. The failure of the retributive approach has prompted the need for restorative justice as a means of optimizing the recovery of losses to the state and reducing the costs incurred in handling corruption cases.¹⁰

Corruption is an extraordinary crime whose eradication must be carried out in an extraordinary way according to the procedure for returning and recovering State losses due to corruption.¹¹ In particular, is a crime that concerns us all because it has a broad impact on the life of the nation and state. The

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- 3 Ananda Rivaldo Pondiu Unggul, et al., Pancasila Sebagai Dasar Negara. *Jurnal Ekonomi, Sosial & Humaniora*, Vol.4 No.4, 2022, page. 25-31.
 - 4 Jawade Hafidz Arsyad dan Dian Karisma., *Sentralisasi Birokrasi Pengadaan Barang dan Jasa Pemerintah*, Jakarta: Sinar Grafika Offset, 2022, page. 28
 - 5 Nela Erdianti, dan Muhammad Rizqi Hilal Ilham Ramadhan., Analisis Pengawasan Pengelolaan Keuangan Negara Terhadap Prinsip Transparansi dan Akuntabilitas Berdasarkan Regulasi Pengelolaan Keuangan Desa. *Beleid*, Vol.1 No.1, 2023, page. 1-16.
 - 6 Vani Mardayani dan Dela Sapna Jaya., Penegakan Hukum Terhadap Perkara Tindak Pidana Korupsi Penyaluran Dana Kredit Usaha Rakyat, *Jurnal Intelek Insan Cendikia*, Vol.2 No.5, 2025, page. 7904-7915.
 - 7 Transparency International., Corruption Perceptions Index, <https://www.transparency.org/>, Accessed on 20 Juni 2025
 - 8 Andi Purnomo., Pendekatan Restorative Justice Dalam Menyelesaikan Tindak Pidana Korupsi di Indonesia Dalam Hal Pemulihan Keuangan Negara. *Justicia Sains: Jurnal Ilmu Hukum*, Vol.8 No.2, 2023, page. 531-543. DOI :
 - 9 Arsyia Yustisia Zahra, et al., Pendekatan Keadilan Restoratif Sebagai Alternatif Penyelesaian Tindak Pidana Korupsi. *Jurnal USM Law Review*, Vol.6 No.3, 2023, page. 1250-1261.
 - 10 Handrawan, etc., Rekonstruksi Restoratif Justice Dalam Pemberantasan Korupsi: Membangun Keadilan Menuju Indonesia Emas 2045. *Jurnal Hukum Ius Quia Iustum*, Vol.32 No.2, 2025, page. 475-504.
 - 11 Rahmayanti., The Restitution of State Financial Losses in Law Enforcement Against Corruption Crime, *JPH: Jurnal Pembaharuan Hukum*, Vol.10 No.2, August 2023, page.280-290

imposition of sanctions for corruption is a step taken to reduce the number of corruption cases in Indonesia. The types of criminal sanctions applied in our country are imprisonment and fines. In 2026, new legal regulations will come into effect.¹² Although the types of criminal sanctions will remain the same, namely imprisonment and fines, there will be changes to the minimum and maximum sanctions for corruption in Indonesia. However, this does not reduce the graph of corruption eradication, so a new model is needed in enforcing corruption crimes.

The costs of handling corruption cases in various law enforcement agencies are extremely high. The cost of handling a single corruption case in a law enforcement agency, such as the Prosecutor's Office, can reach IDR 200,000,000, covering the stages of investigation, prosecution, and execution. This amount does not include the cost of legal services, for which the government only allocates IDR 5,000,000 for defendants who cannot afford it. Inequality arises when minor corruption cases with a value of less than IDR 50,000,000 are still handled at costs far greater than the losses incurred, raising questions about the efficiency and proportionality of law enforcement.¹³ Total loss of state finances with the total saved as the data above, of course there has been an imbalance in the process of handling corruption.¹⁴

The state's financial burden also increases during the sentencing phase in correctional institutions. As of 2024, Indonesian prisons are still facing overcrowding of over 100%.¹⁵ Prison overcrowding has a serious impact on supervision and security; increases the risk of conflict between inmates; and worsens the psychological burden on both inmates and correctional officers. The overcrowding of inmates in prisons also causes waste of state funds, especially for the fulfillment of basic rights such as food and clothing.¹⁶

The situation above illustrates an injustice in handling corruption crimes. A criminal justice system focused on retributive justice not only fails to optimally recover state losses but also imposes high operational costs on law enforcement officials and correctional institutions, which are even facing

12 Christopher Elia Julio & Abdul Kholiq., Juridical Analysis Changes Number Minimum and Maximum Sanctions Corruption Against Justice and Legal Certainty, *Law Development Journal*, Vol.7 No.3, September 2025. page.503-518

13 Iriyanto Tiranda, etc., The Ideal Concept of Handling Cases of Corruption In Illegal Levies Based on Judicial Principles, *JALREV: Jambura Law Review*, Vol.1 Issue.02, 2019, page.120-143

14 Bambang Tri Bawono., The Strategy for Handling Corruption's Criminal Action Relationship to Saving of State Financial Losses, *JPH: Jurnal Pembaharuan Hukum*, Vol.7 No.3, December 2020, page.222-231

15 Satria Nenda Eka Saputra dan Muridah Isnawati., Overcrowding Lembaga Pemasyarakatan (Lapas) Dalam System Pemidanaan Di Indonesia. *Pagaruyuang Law Journal*, Vol.6 No.1, 2022, page. 52-70.

16 Gicella Sonbay, et. al., Kebijakan Hukum Pidana Dalam Mengatasi Kelebihan Kapasitas Lembaga Pemasyarakatan Guna Mendukung Proses Pembinaan Narapidana, *Artemis Law Journal*, Vol.1 No.2, 2024, page. 565-579

overcrowding.¹⁷ This situation further highlights the imbalance, as state finances are being drained to finance lengthy and expensive legal proceedings, while the recovery of corrupt assets is not commensurate with the costs incurred, creating a double burden on the state.

Based on previous research by Imaduddin, existing regulations are still unable to effectively accommodate the implementation of restorative justice. Therefore, improvements or the creation of regulations that can make restorative justice efforts the primary option in resolving corruption crimes are needed.¹⁸ Another study by Hestaria states that the concept of restorative justice in corruption crimes places more emphasis on repairing the losses caused. The concept of restorative justice in the punishment of perpetrators of corruption crimes can be implemented by strengthening the rules for the restitution of state losses from additional penalties to principal penalties. Through this concept, there is a change from follow the suspect to follow the money and follow the assets, which will indirectly impoverish perpetrators of corruption crimes and the state will benefit.¹⁹

The research gap that emerged from the two previous studies lies in the lack of a comprehensive formulation linking restorative justice with state budget efficiency and corruption criminal justice system reform. This study presents a new perspective, emphasizing that state financial recovery must be a top priority, not just imprisonment.

The purpose of this study is to analyze the urgency of recovering state losses as the primary focus of corruption handling and to analyze the recovery of state financial losses in handling corruption cases in Indonesia based on the values of justice.

2. Research Methods

The research method used in this study is doctrinal legal research that focuses on the analysis of norms, principles, and concepts of positive law related to the punishment of corruptors and the mechanism for recovering state losses. This approach aims to describe, explain, interpret, and comment on the law. Furthermore, this method is used to highlight inconsistencies between various legal rules or norms or to illustrate the relationships between rules, principles, concepts, and norms.²⁰ Data collection techniques were carried out through library research by exploring relevant literature, regulations, decisions, and

17 Alfemba Ramadhan dan Hudi Yusuf., Keadilan yang Memulihkan: Restorative Justice sebagai Alternatif Penegakan Hukum Pidana yang Humanis dan Efisien. *Jurnal Intelek Dan Cendekiawan Nusantara*, Vol.2 No.5, 2025, page. 9161-9179.

18 Ikhlusal Amal Imaduddin dan Ali Muhammad., Upaya Restorative Justice dalam Penanganan Kasus Tindak Pidana Korupsi, *Jurnal Sains Student Research*, Vol.1 No.1, 2023, page. 339-446

19 Helena Hestaria, Made Sugi Hartono, dan Muhamad Jodi Setianto., Tinjauan Yuridis Penerapan Prinsip Restorative Justice Terhadap Tindak Pidana Korupsi Dalam Rangka Penyelamatan Keuangan Negara, *Journal Komunikasi Yustisia*, Vol.5 No.3, 2022, page. 112-122

20 Nasir Majeed etc., Doctrinal Research in Law: Meaning, Scope and Methodology, *Bulletin of Business and Economics*, Vol.12 No.4, 2023, 559-563

official documents. Furthermore, data analysis techniques use qualitative analysis by interpreting legal norms, comparing the practices of punishment and recovery of state losses in corruption cases, and drawing legal arguments to formulate a restorative justice-based corruption handling model oriented towards saving state finances.

3. Results and Discussion

3.1 The Urgency of Recovering State Losses as the Main Focus of Handling Corruption Crimes

Law aims to achieve a peaceful and just social order. Public order becomes legal order because it embodies the law of justice, and is therefore supported by society as a legal subject.²¹ The quality of law is determined by its ability to serve human welfare.²² If public order must be a legal order, then public order must be a state of order that is just. justice is the substance of legal order which is a public order, so it is not an exaggeration to emphasize that the main function of law is ultimately to realize justice.²³

In general, the concept of justice adopted in the criminal justice system is categorized into two categories: retributive justice and restorative justice. There are several differences between these two concepts of justice when considering the basic principles of criminal law, both formal and material, including the administration of criminal justice, particularly the position of crime victims. The difference lies in the perspective of retributive justice, where crime is a violation of public order.²⁴ Therefore, the administration of justice emphasizes exclusive accountability by the state. Meanwhile, from a restorative justice perspective, crime is not only viewed as a violation of criminal law, but also as a conflict between individuals that causes harm to the victim, society, and the perpetrator.

The current retributive paradigm of criminal law on corruption can be considered a failure. This is evidenced by the fact that corruptors do not fear imprisonment (corporal punishment),²⁵ Because the criminal sanctions (imprisonment, fines, compensation) are considered light compared to the money obtained from corruption. When corruptors are found guilty by court decisions, seeing the phenomenon of many corruption cases in Indonesia, these

21 Aliza Qory Imeltha., Peranan Hukum Negara dalam Menjaga Keadilan dan Ketertiban Masyarakat. *Jurnal Ilmiah Ekonomi Dan Manajemen*, Vol.2 No.7, 2024, page. 239-251

22 Yenny Aman Serah, etc., Contextualization of Progressive Law in Designing Hybrid Legal counseling methods as an effort to build public legal awareness, *IJLR: International Journal of Law Reconstruction*, Vol.8 No.2, September 2024, page.270-283

23 Mersy Junedy Mandala, Aksi Sinurat, dan Orpa Ganefo Manuain., Implementasi Prinsip Keadilan Restoratif Pada Perkara Tindak Pidana Korupsi, *Jurnal Cahaya Mandalika*, Vol.3 No.2, 2023, page. 851-863

24 Ronny Nicolas Sidabutar., Penyelesaian Perkara Narkotika Bagi Penyalahguna Sebagai Korban Dengan Pendekatan Keadilan Restoratif Dalam Kajian Norma Keadilan Berdasarkan Pancasila. *Jurnal Hukum Kaidah: Media Komunikasi Dan Informasi Hukum Dan Masyarakat*, Vol.23 No.1, 2023, page. 10-25.

25 Pardomuan Gultom., Analisis Sosiologi Hukum Terhadap Kemungkinan Dapat Diterapkannya Restorative Justice Dalam Perkara Tindak Pidana Korupsi Di Indonesia. *Jurnal Hukum dan Kemasyarakatan Al-Hikmah*, Vol.3 No.1, 2022. page. 154-178

convicts do not feel deterred by the punishment they receive. With the money from corruption, corruptors can bribe officials at correctional institutions to provide luxurious facilities for them in prison. Furthermore, these corruptors can still enjoy large sums of money after they complete their sentences in correctional institutions.²⁶

While corruption is a crime, it's undeniable that it drains the state budget significantly. The budget for handling corruption cases is approximately IDR 200 million per case. If IDR 100 million is embezzled, the state will suffer losses. The fact that the judicial process for corruption requires a higher budget requires alternative policies for effectiveness and budget savings. In this case, the state is obliged to consider the necessary solutions to problems that tend to harm state finances.²⁷ In this regard, it is crucial to recover state funds so that the losses caused by corruption do not add to the suffering of the state and the people, especially in terms of the amount of state funds lost or disbursed to handle corruption cases, which often result in significant losses.

The parameter of success used by law enforcement in eradicating corruption remains corporal punishment (imprisonment).²⁸ Even if there are corruption cases that can be reimbursed for state financial losses, not all corruption cases in Indonesia can fully recover the full state losses incurred. For example, consider the case of the 4G BAKTI BTS project involving the Ministry of Communication and Information Technology (Kominfo) and the corruption case of former Minister of Social Affairs Juliari P. Batubara.

In the corruption case involving the 4G BAKTI BTS project, former Minister of Communication and Information Technology Johnny G. Plate was found guilty of enriching himself and others, resulting in state losses of IDR 8.032 trillion. Based on the Jakarta Corruption Court's 2023 verdict, he was sentenced to 15 years in prison, fined IDR 1 billion, and ordered to pay IDR 15.9 billion in restitution.²⁹ In addition, in the bribery corruption case involving the procurement of COVID-19 social assistance, former Social Affairs Minister Juliari P. Batubara was found guilty of accepting fees from social assistance providers, resulting in a state financial loss of IDR 32.482 billion. In the final and binding verdict, Juliari was sentenced to 12 years in prison, fined IDR 500 million, and

26 Rika Nurhayati., Perlakuan Istimewa Bagi Narapidana Koruptor Pada Lembaga Pemasyarakatan Sukamiskin Dihubungkan Dengan Undang-Undang No 12 Tahun 1995 Juncto Peraturan Pemerintah No 32 Tahun 1999 Tentang Syarat-Syarat Dan Tata Cara Pelaksanaan Hak Warga Binaan Pemasyarakatan. *Innovative: Journal Of Social Science Research*, Vol.4 No.3, 2024, page. 3338-3348.

27 Christennia Kantale, et. al., Tinjauan Yuridis Terhadap Pengawasan Pemerintah Dalam Tindak Pidana Korupsi Yang Dilakukan Oleh Kepala Desa. *Lex Privatum*, Vol.15 No.5, 2025. page. 1-9

28 Arfiani, Syofirman Syofyan, dan Sucy Delyarahmi., Problematika Penegakan Hukum Delik Obstruction of Justice Dalam Undang-Undang Pemberantasan Tindak Pidana Korupsi. *Unes Journal of Swara Justisia*, Vol.6 No.4, 2023, page. 516-540.

29 BBC News Indonesia., Johnny G Plate divonis 15 tahun penjara dalam kasus korupsi menara BTS 4G Kominfo, <https://www.bbc.com/>, Diakses pada 10 Agustus 2025

ordered to pay restitution of IDR 14,597,450,000.³⁰

To effectively eradicate corruption and recover state losses, an anti-corruption strategy is needed that can increase transparency, accountability, and ultimately, public trust,³¹ including Article 4 and Article 18 Paragraph (1) Letter b of Law No. 20 of 2001, as well as Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020. The addition of clauses that emphasize the obligation to recover state losses and clarify the procedures for their implementation, as well as the implementation of restorative justice with stricter requirements, can have a positive impact on accelerating the recovery of state assets. Furthermore, stricter supervision from related institutions such as the Attorney General's Office and the Corruption Eradication Commission will ensure that recovery is carried out in a transparent and accountable manner. These changes are expected to create a legal system that is fairer, more effective, and oriented towards national economic recovery, as well as providing a greater deterrent effect on perpetrators of corruption.³² Legal reform is needed through the enactment of the Asset Confiscation Law, which offers substantive solutions by introducing the concept of asset confiscation without conviction, special courts, and a measurable counter-evidence mechanism. Through this approach, the state can not only recover losses from corruption and anti-corruption efforts, but also provide a deterrent effect on perpetrators and other parties and strengthen the integrity of the national legal system.³³

Imprisonment should not be considered the most effective method for achieving the goal of punishing corruptors. The wasteful costs of prisons and the availability of various alternative punishments need to be seriously considered.

3.2 The law enforcement paradigm for recovering state financial losses

According to Law No. 31 of 1999, corruption is a type of crime that is very detrimental to state finances or the national economy and hinders national development, as well as hindering the growth and sustainability of national development, which demands high efficiency. Even in the consideration section of Law No. 20 of 2001, the crime of corruption is stated as a violation of the social and economic rights of society at large, so that the crime of corruption is classified as a crime whose eradication must be carried out in an extraordinary

30 BBC News Indonesia., Juliari Batubara Divonis 12 Tahun Penjara, Korban Masak Bantuan tak layak-'Terpaksa kami olah, karena itu yang kami dapatkan', <https://www.bbc.com/>, Diakses pada 10 Agustus 2025

31 Rajab H, etc., Ethical Governance in Public Service: A Comparative Study of Hadaya al-'Ummalin Islamic Law and Gratification in Indonesian Law, *International Journal of Law and Society (IJLS)*, Vol.3 No.3, 2024, page.206-216

32 Azis Budianto, etc., Pengembalian Kerugian Keuangan Negara Sebagai Strategi Pemberantasan Tindak Pidana Korupsi, *Jurnal Retentum*, Vol.07 No.01, 2025, page. 562-571

33 Bambang Soesatyo., The Urgency of Asset Confiscation Results of Corruption and Criminal Acts Money Laundering: Solutions to Eradicate Corruption and Reform of National Laws, *Jurnal Greenation Sosial dan Politik*, Vol.3 No.4, November 2025-Januari 2026, page.069-1079

manner. Therefore, its handling must also use extraordinary methods, not the same as other crimes.³⁴

State finances that should be used and benefit the interests of the wider people, due to criminal acts of corruption, these funds do not reach the hands of the people.³⁵ Therefore, all elements of society and law enforcement officials are needed to recover state losses. The various laws and regulations enacted are all part of an effort to save the state's finances and economy from corruption. Therefore, if we look at the existing anti-corruption laws in Indonesia, the jihad to fight corruption is far more than sufficient. Law No. 31 of 1999 was established with the aim of saving state finances and realizing a just and prosperous society. The government feels that the actions of perpetrators of corruption have hampered national development, hindering growth and the continuity of national development, which demands the most efficient state spending possible. Meanwhile, Law No. 20 of 2001 views corruption as a violation of the socio-economic rights of society at large, thus categorizing it as an extraordinary crime.³⁶

No matter how many regulations have been created to eradicate corruption, they will be ineffective if the approach is limited to prosecution or imprisonment. This is because criminal law in Indonesia prioritizes prosecution over prevention. Preventive measures are controls aimed at preventing the possibility of violations or acts of corruption, or are efforts taken before a violation occurs.³⁷

A preventive approach tends to direct, persuade, or remind individuals not to commit corruption, for example through socialization, formal and informal education, mentoring, and guidance, which are essentially preventative measures. Repressive measures, on the other hand, are those undertaken after a violation has occurred. Repressive control aims to restore harmony disrupted by a violation by imposing sanctions commensurate with the violation or by imposing punishment as a consequence of the act.

Currently, the relevance of the objectives of criminal punishment in Indonesia for corruptors has not yet been achieved in terms of efficiency and effectiveness of the state budget. If it is purely an administrative matter, the restitution of state financial losses should be imposed, initiated through the mechanism of the Treasury Claims and Compensation Claims Advisory Council

34 Rendy Firman, Dewi Arnita Sari, dan Nadya Faizal., Efektivitas Penerapan Undang-Undang Nomor 20 Tahun 2001 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Korupsi Dalam Pengembalian Kerugian Keuangan Negara. *Jurnal Ar-Risalah*, Vol.3 No.2, 2023, page. 1-11.

35 Listakeri S. Anugerah, et. al., Alternatif Pertanggungjawaban Pidana Terhadap Pelaku Tindak Pidana Korupsi Dengan Kerugian Keuangan Negara Berjumlah Kecil. *Sinergi: Jurnal Riset Ilmiah*, Vol.2 No.3, 2025, page. 1348-1361.

36 Dwi Atmoko dan Amalia Syauket., Penegakan hukum terhadap tindak pidana korupsi ditinjau dari perspektif dampak serta upaya pemberantasan. *Binamulia Hukum*, Vol.11 No.2, 2022, page.177-191.

37 Bambang Waluyo., *Pemberantasan Tindak Pidana Korupsi: Strategi Dan Optimalisasi*. Jakarta: Sinar Grafika, 2016, page. 43

(MPTPTGR).³⁸ (internal budget users) which can be effectively forwarded to the prosecutor's office in civil suits against the perpetrators and those involved and also in the aspect of deterrence in the substance of replacement money in the Corruption Law as a subsidiary is not effective from the aspect of deterrence, it would be better to carry out optimal and maximum confiscation of assets resulting from corruption.³⁹

The failure of the retributive theory which is oriented towards revenge and the neo-classical theory which is oriented towards the equality of criminal sanctions and action sanctions to fulfill the sense of justice in society has triggered a reaction in the form of ideas to apply restorative justice in the concept of punishment in general, especially punishment for perpetrators of corruption crimes. This thinking views the restorative justice approach, which emphasizes reparation for losses caused by or related to criminal acts, as a concept that aligns with the goal of eradicating corruption in Indonesia, as has been done in several other countries.

Several countries have adopted this approach and demonstrated positive results. The Netherlands, for example, has long prioritized more humane and rehabilitative sentencing.⁴⁰ One of its principles is that imprisonment should only be used as an *ultimum remedium*, and judges must explain their reasons for choosing imprisonment over alternative sanctions such as community service. In corruption cases, the Netherlands also applies restorative justice as an alternative resolution, resulting in the country ranking 8th out of 176 countries in the Corruption Perceptions Index (CPI) in 2016. The Dutch criminal justice system has even recognized a mechanism for resolving cases outside the courts since 1921 through a transaction institution, which is not recognized in the criminal justice systems of the Dutch East Indies or Indonesia today. All of these practices demonstrate that the restorative justice approach is more effective in reducing crime rates, including corruption, while simultaneously remediating the consequences, because the state, perpetrators, and society work together to find solutions that are oriented towards recovering losses.⁴¹

In addition, in the United States, the arrangement for the return of assets/losses due to corruption or financial crimes is regulated through criminal provisions and asset forfeiture. Asset forfeiture in the United States is regulated in 18 U.S. Code § 982-Criminal forfeiture, which states that (1) The court, in imposing sentence on a person convicted of an offense in violation of section 1956, 1957, or 1960 of this title, shall order that the person forfeit to the United States any property, real or personal, involved in such offense, or any property

38 Ichsan Ansari Ibrahim, Sri Hartati., Optimalisasi Pengelolaan Kas Daerah (Cash Management) Dalam Rangka Mendukung Penerimaan Daerah. *Jurnal Ekonomi, Pendidikan dan Perencanaan Pembangunan Daerah*, Vol.14 No.1, 2022, page. 145-151.

39 Yogi Yasa Wedha, etc., Analysis of Legal Confiscation of Corruption Assets from the Perspective of Justice and State Financial Recovery. *Litigasi*, Vol.26 No.1, 2025, page. 477-504.

40 Dijan Widjowati dan Cris Kuntadi., Pengaturan Tindak Pidana Khusus antara Indonesia dan Belanda. *Jurnal Greenation Sosial dan Politik*, Vol.3 No.2, 2025, page. 356-362.

41 Iqbal Felisiano dan Amira Paripurna., Penerapan keadilan restoratif dan celah praktik korupsi. *Integritas: Jurnal Antikorupsi*, Vol.9 No.1, 2023, page. 135-145

traceable to such property, meaning assets that are the direct proceeds of crime or that can be traced to the proceeds of crime must be seized and returned to the U.S. government. This provision applies broadly to cases of financial crimes, including misappropriation, corruption, or misuse of public funds, when filed as federal cases.⁴²

The United States does not prioritize imprisonment, recognizing that it increases operational costs and becomes a burden on the government. Therefore, their laws tend to sentence guilty individuals to fines or community service. This is solely because taxes are not used to combat corruption or finance prisoners, but rather to ensure the general welfare of society.

Of the two countries, the Dutch legal model is most relevant for application in Indonesia, as its restorative justice approach better aligns with Indonesian law, which has long recognized deliberation-based settlement mechanisms within customary law. The Netherlands not only prioritizes imprisonment as the *ultimum remedium* but also requires judges to give special consideration when choosing imprisonment over alternative sanctions. This mechanism systematically reduces prison overcrowding and reduces state budget waste—two major issues also facing Indonesia. Furthermore, the existence of the *transactie stelsel*, which resolves cases out of court through compensation or restitution, demonstrates the country's focus on ensuring that state losses are recovered. The enforcement of corruption laws in Jordan prioritizes the effectiveness of official oversight bodies, the privatization of state capacity, the weak oversight role of the Parliamentary Council, and the implementation of state policies to appoint high-ranking positions in state institutions based on the principle of loyalty before efficiency and restrictions on media freedom to expose corruption-related cases have contributed to the spread and penetration of corruption in Jordan. Law enforcement in Jordan needs to adopt strategies to address all causes of corruption and develop well-designed laws to ensure that loopholes in the implementation of punishments against corrupt perpetrators are avoided, sanctions are tightened, no one is immune from accountability, attention is paid to the fair distribution of rights and benefits among officials, the role of the judiciary is activated and its independence and impartiality are maintained.⁴³ There is a need to amend the Jordanian Penal Code to include explicit criminalization of various forms of corruption, expand the scope of criminalization in the private sector, and review the established sanctions to ensure their effectiveness and compliance with international standards.⁴⁴

The author believes that a new law enforcement system is needed to address corruption, prioritizing public interest and welfare. This would minimize government operational costs for handling corruption cases and redirect them

42 Stefan D. Cassella., Recovering the proceeds of foreign crimes that are found in the United States. *NCJ Int'l L.* Vol.46, 2020, page. 535.

43 Mohammed Torki Bani Salameh., Corruption in Jordan: The Roots, Evolution, Causes, Effects, and Solution, *Jordanian Journal of Law and Political Science*, Vol.15 No.4, 2023, page.110-146 DOI:

44 Assem Aladaileh, Ahmad Kabbaha., Harmonization of Jordanian Legislation with the United Nations Convention against Corruption: The Crime of Bribery as a Model, *Jordanian Journal of Law and Political Science*, Vol.18 No.1, 2026, page.196-220 DOI:

toward public welfare. Furthermore, perpetrators would be deterred from repeating their actions, as they would be required to compensate the state for the losses they have incurred. However, current laws and regulations on corruption do not allow for the expungement of criminal records after the perpetrator has compensated the state for losses; they only permit a reduction in sentence. Therefore, a new method is needed to address corruption, which causes extraordinary economic disruption based on the principle of justice.⁴⁵

The return of state financial losses through criminal channels is often referred to as the confiscation of assets resulting from corruption.⁴⁶ Clear and binding regulations are needed, binding both the state and its citizens, including those related to handling corruption, which must guarantee justice for the people and be targeted. This will also increase the effectiveness of corruption eradication by placing greater pressure on perpetrators of corruption to reimburse state losses. This will also have a positive impact on the criminal justice system, as it will focus punishment on recovering state losses, rather than solely imposing prison sentences, which often have insufficient impact on the country's economic recovery, the prevailing penal approach is inherently limited in its efficacy, This approach is only effective in the aftermath of state losses.⁴⁷

In a state based on the rule of law, according to this theory, the law serves as the foundation of social, national, and state life, as well as government administration.⁴⁸ It is fitting that the law be held supreme, and everyone is expected to submit to and obey it without exception. All sectors of life, including the economy, finance, industry, politics, security, and public welfare, are affected. Each sector is further broken down into sub-sectors, one of which is crucial for recovering state losses caused by corruption.

The novelty of this research lies in its idea of shifting the paradigm of corruption handling in Indonesia from a retributive approach to a restorative justice-based approach integrated with a mechanism for recovering state losses. This research provides a new perspective that securing state finances should be the primary goal, rather than simply imposing criminal penalties. Therefore, regulatory reform is needed to allow for the termination of prosecution or the removal of criminal penalties for perpetrators who fully recover state losses.

45 Ulil Amri, etc., Calculating State Economic Losses Through GDP Indicators: Toward Severe Punishment Based on the Principle of Justice, *Nusantara: Journal of Law Studies*, Vol.5 No.1, 2026, page. 549-581

46 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

47 Andi Wahyu Wibisana., Legal Strategies for Preventing Corruption in The Procurement of Goods and Services at State-Owned Enterprises, *LDJ: Law Development Journal*, Vol.8 No.1, March 2026, page.96-123

48 Haryoko Bambang Widjayanto, Yoga Tri Hartanto., The Rule of Law, The Constitution, and Democracy in Indonesian State Administration Practice, *IJLCJ: International Journal of Law, Crime and Justice*, Vol.2 No.4,2025, page,54-59

4. Conclusion

The paradigm for handling corruption in Indonesia still relies on retributive justice. Imprisonment sentences for corruptors are not only disproportionate to the state losses incurred, but also increase the budget burden through the costs of the judicial process and the financing of correctional institutions, which are ultimately borne by the public through taxes. The purpose of the anti-corruption law in Indonesia is to safeguard state finances. The preventive approach, which should be at the forefront through outreach, education, coaching, and strengthening an anti-corruption culture, has not been optimally implemented, thus preventing the occurrence of corruption. Saving state finances must be the primary goal of corruption criminalization policies, requiring regulatory reconstruction that opens up space for the termination of prosecution or the elimination of criminal penalties for perpetrators who fully recover state losses.

BIBLIOGRAPHY

Journals:

- Alfemba Ramadhan dan Hudi Yusuf., Keadilan yang Memulihkan: Restorative Justice sebagai Alternatif Penegakan Hukum Pidana yang Humanis dan Efisien. *Jurnal Intelek Dan Cendekiawan Nusantara*, Vol.2 No.5, 2025;
- Aliza Qory Imeltha., Peranan Hukum Negara dalam Menjaga Keadilan dan Ketertiban Masyarakat. *Jurnal Ilmiah Ekonomi Dan Manajemen*, Vol.2 No.7, 2024;
- Ananda Rivaldo Pondiu Unggul, et al., Pancasila Sebagai Dasar Negara. *Jurnal Ekonomi, Sosial & Humaniora*, Vol.4 No.4, 2022;
- Andi Purnomo., Pendekatan Restorative Justice Dalam Menyelesaikan Tindak Pidana Korupsi di Indonesia Dalam Hal Pemulihan Keuangan Negara. *Justicia Sains: Jurnal Ilmu Hukum*, Vol.8 No.2, 2023;
- Andi Wahyu Wibisana., Legal Strategies for Preventing Corruption in The Procurement of Goods and Services at State-Owned Enterprises, *LDJ: Law Development Journal*, Vol.8 No.1, March 2026;
- Arfiani, Syofirman Syofyan, dan Sucy Delyarahmi., Problematika Penegakan Hukum Delik Obstruction of Justice Dalam Undang-Undang Pemberantasan Tindak Pidana Korupsi. *Unes Journal of Swara Justisia*, Vol.6 No.4, 2023;
- Arsya Yustisia Zahra, et al., Pendekatan Keadilan Restoratif Sebagai Alternatif Penyelesaian Tindak Pidana Korupsi. *Jurnal USM Law Review*, Vol.6 No.3, 2023;
- Assem Aladaileh, Ahmad Kabbaha., Harmonization of Jordanian Legislation with the United Nations Convention against Corruption: The Crime of Bribery as a Model, *Jordanian Journal of Law and Political Science*, Vol.18 No.1, 2026;

- Azis Budianto, etc., Pengembalian Kerugian Keuangan Negara Sebagai Strategi Pemberantasan Tindak Pidana Korupsi, *Jurnal Retentum*, Vol.07 No.01, 2025;
- Bambang Soesatyo., The Urgency of Asset Confiscation Results of Corruption and Criminal Acts Money Laundering: Solutions to Eradicate Corruption and Reform of National Laws, *Jurnal Greenation Sosial dan Politik*, Vol.3 No.4, November 2025-Januari 2026;
- Bambang Tri Bawono., The Strategy for Handling Corruption's Criminal Action Relationship to Saving of State Financial Losses, *JPH: Jurnal Pembaharuan Hukum*, Vol.7 No.3, December 2020;
- Christennia Kantale, et. al., Tinjauan Yuridis Terhadap Pengawasan Pemerintah Dalam Tindak Pidana Korupsi Yang Dilakukan Oleh Kepala Desa. *Lex Privatum*, Vol.15 No.5, 2025;;
- Christopher Elia Julio & Abdul Kholiq., Juridical Analysis Changes Number Minimum and Maximum Sanctions Corruption Against Justice and Legal Certainty, *Law Development Journal*, Vol.7 No.3, September 2025;
- Dijan Widjowati dan Cris Kuntadi., Pengaturan Tindak Pidana Khusus antara Indonesia dan Belanda. *Jurnal Greenation Sosial dan Politik*, Vol.3 No.2, 2025;
- Dwi Atmoko dan Amalia Syauket., Penegakan hukum terhadap tindak pidana korupsi ditinjau dari perspektif dampak serta upaya pemberantasan. *Binamulia Hukum*, Vol.11 No.2, 2022;
- Gicella Sonbay, et. al., Kebijakan Hukum Pidana Dalam Mengatasi Kelebihan Kapasitas Lembaga Pemasyarakatan Guna Mendukung Proses Pembinaan Narapidana, *Artemis Law Journal*, Vol.1 No.2, 2024;
- Haryoko Bambang Widjayanto, Yoga Tri Hartanto., The Rule of Law, The Constitution, and Democracy in Indonesian State Administration Practice, *IJLCJ: International Journal of Law, Crime and Justice*, Vol.2 No.4, 2025;
- Handrawan, etc., Rekonstruksi Restoratif Justice Dalam Pemberantasan Korupsi: Membangun Keadilan Menuju Indonesia Emas 2045. *Jurnal Hukum Ius Quia Iustum*, Vol.32 No.2, 2025;
- Helena Hestaria, Made Sugi Hartono, dan Muhamad Jodi Setianto., Tinjauan Yuridis Penerapan Prinsip Restorative Justice Terhadap Tindak Pidana Korupsi Dalam Rangka Penyelamatan Keuangan Negara, *Journal Komunikasi Yustisia*, Vol.5 No.3, 2022;
- Ichsan Ansari Ibrahim, Sri Hartati, Optimalisasi Pengelolaan Kas Daerah (Cash Management) Dalam Rangka Mendukung Penerimaan Daerah. *Jurnal Ekonomi, Pendidikan dan Perencanaan Pembangunan Daerah*, Vol.14 No.1, 2022;

- Ikhlasul Amal Imaduddin dan Ali Muhammad., Upaya Restorative Justice dalam Penanganan Kasus Tindak Pidana Korupsi, *Jurnal Sains Student Research*, Vol.1 No.1, 2023;
- Iqbal Felisiano dan Amira Paripurna., Penerapan keadilan restoratif dan celah praktik korupsi. *Integritas: Jurnal Antikorupsi*, Vol. 9, No. 1, 2023;
- Iriyanto Tiranda, etc., The Ideal Concept of Handling Cases of Corruption In Illegal Levies Based on Judicial Principles, *JALREV: Jambura Law Review*, Vol.1 Issue.02, 2019;
- Irman Syahriar dan Jamil Bazarah., Keadilan Sosial di Dalam Negara Hukum Indonesia. *Dedikasi: Jurnal Ilmiah Sosial, Hukum, Budaya*, Vol.26 No.1, 2025;
- Lasmin Alfies Sihombing., Restorative Justice, Kejahatan, Hukuman, dan Peradilan Pidana: Sebuah Analisis Kesejarahan, Peluang dan Tantangan. *UNES Law Review*, Vol.6 No.3, 2024;
- Listakeri S. Anugerah, et. al., Alternatif Pertanggungjawaban Pidana Terhadap Pelaku Tindak Pidana Korupsi Dengan Kerugian Keuangan Negara Berjumlah Kecil. *Sinergi: Jurnal Riset Ilmiah*, Vol.2 No.3, 2025;
- Mersy Junedy Mandala, Aksi Sinurat, dan Orpa Ganefo Manuain., Implementasi Prinsip Keadilan Restoratif Pada Perkara Tindak Pidana Korupsi, *Jurnal Cahaya Mandalika*, Vol.3 No.2, 2023;
- Mohammed Torki Bani Salameh., Corruption in Jordan: The Roots, Evolution, Causes, Effects, and Solution, *Jordanian Journal of Law and Political Science*, Vol.15 No.4, 2023;
- Nasir Majeed etc., Doctrinal Research in Law: Meaning, Scope and Methodology, *Bulletin of Business and Economics*, Vol.12 No.4, 2023;
- Nasir, Melisa, et al., Kedudukan Hukum dalam Mewujudkan Keadilan dan Kesejahteraan di Indonesia. *Al-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam*, Vol.5 No.1, 2023;
- Nela Erdianti, dan Muhammad Rizqi Hilal Ilham Ramadhan., Analisis Pengawasan Pengelolaan Keuangan Negara Terhadap Prinsip Transparansi dan Akuntabilitas Berdasarkan Regulasi Pengelolaan Keuangan Desa. *Beleid*, Vol.1 No.1, 2023;
- Pardomuan Gultom., Analisis Sosiologi Hukum Terhadap Kemungkinan Dapat Diterapkannya Restorative Justice Dalam Perkara Tindak Pidana Korupsi Di Indonesia. *Jurnal Hukum dan Kemasyarakatan Al-Hikmah*, Vol.3 No.1, 2022;
- Rahmayanti., The Restitution of State Financial Losses in Law Enforcement Against Corruption Crime, *JPH: Jurnal Pembaharuan Hukum*, Vol.10 No.2, August 2023;
- Rajab H, etc., Ethical Governance in Public Service: A Comparative Study of Hadaya al-'Ummalin Islamic Law and Gratification in Indonesian Law, *International Journal of Law and Society (IJLS)*, Vol.3 No.3, 2024;

- Rendy Firman, Dewi Arnita Sari, dan Nadya Faizal., Efektivitas Penerapan Undang-Undang Nomor 20 Tahun 2001 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Korupsi Dalam Pengembalian Kerugian Keuangan Negara. *Jurnal Ar-Risalah*, Vol.3 No.2, 2023;
- 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;
- Rika Nurhayati., Perlakuan Istimewa Bagi Narapidana Koruptor Pada Lembaga Pemasyarakatan Sukamiskin Dihubungkan Dengan Undang-Undang No 12 Tahun 1995 Juncto Peraturan Pemerintah No 32 Tahun 1999 Tentang Syarat-Syarat Dan Tata Cara Pelaksanaan Hak Warga Binaan Pemasyarakatan. *Innovative: Journal Of Social Science Research*, Vol.4 No.3, 2024;
- Ronny Nicolas Sidabutar., Penyelesaian Perkara Narkotika Bagi Penyalahguna Sebagai Korban Dengan Pendekatan Keadilan Restoratif Dalam Kajian Norma Keadilan Berdasarkan Pancasila. *Jurnal Hukum Kaidah: Media Komunikasi Dan Informasi Hukum Dan Masyarakat*, Vol.23 No.1, 2023;
- Salsabila dan Slamet Tri Wahyudi., Peran Kejaksaan Dalam Penyelesaian Perkara Tindak Pidana Korupsi Menggunakan Pendekatan Restorative Justice. *Masalah-Masalah Hukum*, Vol.51 No.1, 2022;
- Satria Nenda Eka Saputra dan Muridah Isnawati., Overcrowding Lembaga Pemasyarakatan (Lapas) Dalam System Pemidanaan Di Indonesia. *Pagaruyuang Law Journal*, Vol.6 No.1, 2022;
- Stefan D. Cassella., Recovering The Proceeds of foreign Crimes That are found in the United States. *NCJ Int'l L*. Vol.46, 2020;
- Ulil Amri, etc., Calculating State Economic Losses Through GDP Indicators: Toward Severe Punishment Based on the Principle of Justice, *Nusantara: Journal of Law Studies*, Vol.5 No.1, 2026;
- Vani Mardayani dan Dela Sapna Jaya., Penegakan Hukum Terhadap Perkara Tindak Pidana Korupsi Penyaluran Dana Kredit Usaha Rakyat, *Jurnal Intelek Insan Cendikia*, Vol.2 No.5, 2025;
- Yenny Aman Serah, etc., Contextualization of Progressive Law in Designing Hybrid Legal counseling methods as an effort to build public legal awareness, *IJLR: International Journal of Law Reconstruction*, Vol.8 No.2, September 2024;
- Yogi Yasa Wedha, etc., Analysis of Legal Confiscation of Corruption Assets from the Perspective of Justice and State Financial Recovery. *Litigasi*, Vol.26 No.1, 2025;

Books:

- Bambang Waluyo., 2016, *Pemberantasan Tindak Pidana Korupsi: Strategi Dan Optimalisasi*. Sinar Grafika, Jakarta;
- Jawade Hafidz Arsyad dan Dian Karisma., 2022, *Sentralisasi Birokrasi*

Pengadaan Barang dan Jasa Pemerintah, Sinar Grafika Offset, Jakarta;

Website:

BBC News Indonesia., Johnny G Plate divonis 15 tahun penjara dalam kasus korupsi menara BTS 4G Kominfo, <https://www.bbc.com/>;

BBC News Indonesia., Juliari Batubara divonis 12 tahun penjara, korban masak bantuan tak layak - 'Terpaksa kami olah, karena itu yang kami dapatkan', <https://www.bbc.com/>;

Transparency International., Corruption Perceptions Index, <https://www.transparency.org/>;