

Reconstruction of The Restitution Concept In Handling Corruption Cases

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Abstract

This research focuses on the reconstruction of the concept of restitution in handling corruption cases. restitution sanction is one of the sanctions that only exists in corruption crimes. this sanction has special characteristics in accordance with the spirit of eradicating corruption crimes, namely restoring state losses. the issues raised in this research are about the portrait of the construction of additional criminal sanctions for restitution payments in the Anti- Corruption law and the analysis of the reformulation of criminal sanctions for restitution payments in the Anti-Corruption law as criminal law reform. this research uses the normative legal research method of jurisprudence, with a qualitative approach to concepts, statutes and doctrines. The conclusion of the research is that the imposition of restitution payments in the eradication of corruption as stipulated in Article 18 of the Law on the Eradication of Corruption is a means that can be applied to realize recovery efforts or recovery of state finances caused by criminal acts of corruption, The payment of restitution is imposed on the perpetrator of the crime of corruption in the amount of property obtained from the crime of corruption and the amount of property that has been transferred by the perpetrator to another party where the other party is not prosecuted and does not commit an illegal act of criminal law must still be sanctioned by restitution and the sanctioning of the perpetrator of the crime of corruption must use the classification of the perpetrator in the category of the position being held. In addition, the indictment against the crime of corruption must be accompanied by the formulation of a request for restitution sanctions against the perpetrators of corruption.

I. Introduction

One of the causes of non-optimal development programs is due to the existence of corrupt practices carried out alone by unscrupulous state officials or carried out jointly with elements from the private sector involved in the development process. Empirically, from a sociological perspective, the problem of corruption has long colored various aspects of people's lives in various countries in the world, mainly experienced by developing countries including Indonesia. For decades corruption has been a national problem that is very difficult to overcome. There is even a cynical comment in a foreign journal that reviews the condition of corruption in Indonesia by saying that "corruption is a way of life in Indonesia" which means that corruption has become the outlook and way of life of the Indonesian people (Hamid, 1999). Muhammad Hatta, one of the proclaimers of Indonesian independence, said that corruption tends to be cultured, or has become part of the culture of the Indonesian people. What Bung Hatta feared in the late 60s has now become a fact that is very difficult to refute. The scale of corruption that has occurred has become increasingly "pervasive". Corruption in Indonesia has not only been cultured but also institutionalized. This deviant behavior has undergone an institutionalization process, so that almost no state institution is sterile from this deviant behavior (Danil, 2012). Furthermore, it was also emphasized by Etty Indriati who stated that almost all sectors of government institutions from the central to the regional level are involved in corruption as well as executive, legislative and judicial officials, so it is true that corruption has been cultured in Indonesia (Indriati, 2014).

Muhamad Yusuf, Chairman of the Financial Transaction Reports and Analysis Center (PPATK), stated that corruption in Indonesia has reached its nadir. Corruption in this country is so severe, rooted and even cultured. Corrupt practices occur in almost every level of society and bureaucracy, both legislative, executive and judicial and have also spread to the business world. Like a disease, corruption is a chronic disease, making it very difficult to treat (Yusuf, 2013). Evidence that corruption in Indonesia is massive and widespread can be seen from KPK data, which has carried out many law enforcement actions against perpetrators of corruption since the institution was formed until now as shown in the following table:

Table 1
Corruption Handling by KPK in 2004 - 2015

Enforcement	200	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	Total
Investigation	23	29	36	70	70	67	54	78	77	81	80	87	752
Investigation	2	19	27	24	47	37	40	39	48	70	56	57	468

Prosecution	2	17	23	19	35	32	32	40	36	41	50	62	389
Inkracht	0	5	17	23	23	39	34	34	28	40	40	37	320
Execution	0	4	13	23	24	37	36	34	32	44	48	38	333

Source: Secondary legal materials, processed by the author

The data in the table above shows an increase in the number of corruption cases handled by the Corruption Eradication Commission at the investigation and investigation stages, as well as the number of cases submitted to the Court by the Public Prosecutor and cases that have been decided by judges and have permanent legal force (*inkracht van gewijsde*) so that they can be executed by the Prosecutor. Another interesting development is the number of state officials involved in criminal acts processed by the Corruption Eradication Commission as shown in the following table:

Table 2

Corruption Perpetrators by Position in 2004-2015

Position	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	Total
Member of DPR	0	0	0	2	7	8	27	5	16	8	4	1	78
Head of Institution /	0	1	1	0	1	1	2	0	1	4	9	2	22
Ambassador	0	0	0	2	1	0	1	0	0	0	0	0	4
Commissioner	0	3	2	1	1	0	0	0	0	0	0	0	7
Governor	1	0	2	0	2	2	1	0	0	2	2	1	13
Mayor/Regent	0	0	3	7	5	5	4	4	4	3	12	0	45
Echelon I/II/III	2	9	15	10	22	14	12	15	8	7	2	1	117
Judge	0	0	0	0	0	0	1	2	2	3	2	0	10
Private	1	4	5	3	12	11	8	10	16	24	15	0	109
More	0	6	1	2	4	4	9	3	3	8	8	0	48
Total	4	23	29	27	55	45	65	39	50	59	54	5	453

Source: Secondary legal materials, processed by researchers

The investigation and prosecution of corruption in Indonesia is the competence of three law enforcement agencies, namely the National Police, the Attorney General's Office and the KPK. Among these three institutions, the KPK is known as a super body institution because it has enormous authority, namely the authority to conduct investigations, investigations and the authority to prosecute. KPK also has the authority to coordinate and supervise corruption cases handled by POLRI and the Attorney General's Office, as well as to take measures to prevent corruption and to monitor the administration of state government.

Normatively, efforts to overcome the problem of corruption through legislative policies and criminal law enforcement have long been carried out, but it turns out that corruption still exists, grows and develops in line with the development of society so that

it is increasingly difficult to eradicate. The regulation of the crime of corruption in the legislation has started since the enactment of the Criminal Code, although it does not explicitly use the terminology of corruption in the formulation of criminal acts as regulated in Article 209, Article 210, Article 418, Article 419 and Article 420 of the Criminal Code, but actually contains the essence of the crime of corruption.

Tumpak Hatorangan Panggabean, stated that state losses due to corruption from 2005 to 2009 reached Rp 689.19 billion. The figure came from various goods and services procurement projects with a value of around Rp1.9 trillion. The state losses mostly occurred due to the direct appointment process in goods and services procurement projects. "This type of state loss reached Rp 647 billion or 94 percent of the total state loss, while the remaining state loss was caused by the practice of price inflation, which amounted to Rp 41.3 billion or six percent of the total state loss," he said. BPKP reported that the results of investigative audits during 2008-2010 that have been reported reached 478 cases.

From these cases, the amount of state / regional losses is estimated at Rp. 939.04 billion and US\$11.66 million, while according to the Attorney General of the Republic of Indonesia, Basrif Arief from 2004 to 2012 or within a period of 9 years, the losses of the Republic of Indonesia due to corruption reached Rp. 39.3 trillion. Meanwhile, the KPK reported that state losses due to corruption from 2004-2011 reached Rp 39.3 trillion.

Noting the data presentation above, it turns out that state losses due to corruption are very large, while saving state money through the judicial process through the courts shows low / small results. This condition certainly cannot be allowed to continue but must be solved by renewal efforts as well as the formation of new legislation and regulations in order to overcome these conditions, including efforts to reconstruct the provisions of criminal sanctions in the law on corruption because they are no longer adequate and responsive to restore state losses due to the occurrence of corruption crimes with new modes.

According to Saldi Isra, the punishment for corruptors should be aggravated as well as

impoverished by confiscating all assets and all benefits from the proceeds of corruption so that the punishment will have a deterrent effect. To provide a deterrent effect, according to Indonesia Corruption Watch deputy coordinator Emerson Yuntho, the punishment for corruptors should be made cumulative so that the maximum punishment is imposed. However, this can be done if the government and the House of Representatives revise the Law on the Eradication of Corruption, especially in the length of punishment. Related to the issue of punishment, Trimedya Panjaitan argues that there needs to be a classification of corruption case verdicts so as to better accommodate the public's sense of justice. Variables such as state officials or law enforcers as well as the value of state losses in a certain amount need to be considered in sentencing. For example, if the perpetrator is a law enforcer, the sentence can be more severe, or for example, state losses of more than Rp 10 billion can be sentenced to more than 10 years. Judges' verdicts in corruption cases are very varied and there are still many discriminatory verdicts, especially regarding additional punishment for restitution and substitute imprisonment, which do not meet the expectations and sense of justice of the community.

In order to realize judges' decisions in corruption cases that meet the public's sense of justice and provide a deterrent effect and can restore state financial losses, according to the author, it is necessary to revise the types of criminal sanctions (*strafsoort*) and the length of the criminal period (*strafmaat*) in the current PTPK Law as well as regulate guidelines for judges in imposing imprisonment, fines and additional penalties for payment of restitution and the need to harmonize laws and regulations with international legal instruments such as UNCAC 2003 and UNCATOC which have been ratified by the government. This is in line with the current trend in the eradication of corruption, which is not only to criminalize the perpetrators but also to recover state financial losses.

Related to the problem of recovering state financial losses due to corruption is still an obstacle in the law enforcement process, because prosecutors as prosecutors and judges as those who have the authority to impose decisions on corruptors are more oriented towards imprisonment and fines. Only a few judges also impose additional punishment in the form of restitution payments as stipulated in Article 18 paragraph (1) letter b of the PTPK Law against perpetrators of corruption. With regard to the facts as described above, the author is of the opinion that a comprehensive study must be carried out on various legislations and regulations relating to policies and strategies for the prevention and eradication of corruption, through an integrative approach in a synergistic manner to realize an Indonesia free from corruption.

2. Research Method

The research method is normative juridical or library research (Arif, 2012), which is a type of research that relies on secondary data sources as the main reference data consisting of primary legal materials, secondary legal materials and tertiary legal materials. The materials are arranged systematically, studied, then a conclusion is

drawn in relation to the problem under study. The analysis is more aimed at the formulation policy/formulation of "criminal provisions." In line with Soerjono Soekanto that legal research conducted by examining library materials or secondary data alone can be called normative legal research, or library legal research. Normative legal research or literature includes:

- a) Research on legal principles
- b) Legal research on legal systematics
- c) Comparative law
- d) Legal history (Soekanto and Sri, 1990).

Source of Legal Material

Data sources are where the data of a study can be obtained and will be used in normative research, namely secondary data sources which include library materials in the form of documents, books, reports, archives and literature related to the problem under study. Secondary data sources used in this study include:

- a) Primary Legal Materials, which are binding materials.
- b) Secondary Legal Materials, which provide an explanation of primary legal materials such as:
 - (1) The results of scientific works of scholars who are relevant / related to this research
 - (2) The results of research related to this research.
- c) Tertiary or supporting legal materials, namely materials that provide guidance and explanation of primary legal materials and secondary legal materials, including (Soekanto, 2010).
 - (1) Materials from the Internet media relevant to this research
 - (2) Legal Dictionary (Black's Law Dictionary)

Data Analysis Technique

Legal materials obtained in literature study research, laws and regulations, especially the Corruption Eradication Law and other supporting legal materials, the author describes and connects in such a way that it is presented in a more systematic writing to answer the problems that have been formulated. The processing of legal materials is carried out deductively, namely drawing conclusions from a general problem to the concrete problems at hand, especially those related to the issue of Reconstruction of Additional Penalty for Money in Lieu in a Philosophical Level to find the essence of

Money in Lieu.

3. Results and Discussion

There are several decisions of the District Court Class IA / PHI /Tipikor Palu which are used as the object of study of this research as follows:

Decision No. 1/Pid.Sus-TPK/2021/PN Pal, stating that the defendant, Br. MUHAMMAD AMIN SH alias AMIN was proven legally and convincingly guilty of committing the crime of corruption as in the Primair Indictment; Sentencing the Defendant therefore to imprisonment for 6 (six) years, and to pay a fine of Rp. 200,000,000.00 (two hundred million rupiah) provided that if the fine is not paid, it will be replaced by imprisonment for 6 (six) months; Sentencing the Defendant to pay restitution in the amount of Rp. 717,373,800 (seven hundred seventeen million three hundred seventy-three thousand eight hundred rupiah) within one month after this decision becomes final, if not paid, his property will be confiscated and auctioned off..373,800 (seven hundred seventeen million three hundred seventy three thousand eight hundred rupiah) at the latest within one month after this decision is legally binding, if not paid then his property will be confiscated and auctioned by the Prosecutor to cover the restitution provided that if the Convict does not have sufficient property then he will be sentenced to imprisonment for 1 (one) year.

Decision No. 8/Pid.Sus-TPK/2021/PN Pal Stating that the Defendant, Br. RAJAB T. SAIMU mentioned above was not proven legally and convincingly guilty of committing the crime of Corruption in the Primair Indictment; Acquitting the Defendant therefore from the Primair Indictment; Stating that the Defendant, Br. RAJAB T. SAIMU mentioned above is legally and convincingly proven guilty of committing the crime of Corruption as charged in the Subsidiary Indictment; Sentencing the Defendant, Br. RAJAB T. SAIMU to 1 (one) year and 1 (one) month imprisonment and a fine in the amount of Rp. 50,000.000 (fifty million rupiah),

provided that if the fine is not paid, it shall be substituted with confinement for 1 (one) month; To impose additional punishment against the Defendant in the form of paying restitution amounting to Rp 48, 310. 294 (forty-eight three hundred ten thousand two hundred ninety-four rupiah), provided that if the convicted person does not pay the restitution within 1 (one) month after the decision obtains permanent legal force, then his/her property can be confiscated by the prosecutor and auctioned to cover the restitution, and in the event that the convicted person does not have sufficient property to pay the restitution, then it must be replaced with imprisonment for 1 (one) month.

Decision No. 9/Pid.Sus-TPK/2021/PN Pal, Stating that the Defendant, Br. HAIRUDIN alias RUDIN mentioned above was legally and convincingly proven guilty of committing the crime of Corruption as in the Subsidiary Indictment; Sentencing the

Defendant, Br. HAIRUDIN alias RUDIN by imprisonment for 1 (one) year and 1 (one) month and fine in the amount of Rp. 50,000,000 (fifty million rupiah) provided that if the fine is not paid, it shall be substituted with confinement for 1 (one) month; impose additional punishment against the Defendant in the form of paying restitution in the amount of Rp47.147,169, (forty seven million one hundred forty seven thousand one hundred sixty nine rupiah), provided that if the convicted person does not pay the restitution within 1 (one) month after the decision obtains permanent legal force, then his property can be confiscated by the prosecutor and auctioned to cover the restitution, and in the event that the convicted person does not have sufficient property to pay the restitution, then it must be replaced with imprisonment for 1 (one) month.

The criminal payment of restitution is a consequence of the consequences of corruption crimes that can harm state finances or the state economy, so that to restore these losses, juridical means are needed, namely in the form of restitution payments. Restitution is a form of additional punishment in corruption cases (Prasetyo, 2024). In essence, both

by law and doctrine, judges are not required to always impose additional punishment. However, specifically for corruption cases, this needs to be considered. This is because corruption is an act contrary to the law that harms or can harm state finances. In this case, the state losses must be recovered. One of the ways that can be used to recover the state's losses is by requiring defendants who are proven and convincing to have committed the crime of corruption to return to the state the proceeds of their corruption in the form of restitution.

The purpose of restitution is to punish corruptors as severely as possible so that they are deterred, as well as in order to restore state finances lost due to an act of corruption, where this effort provides results in the form of income to the state treasury from the payment of restitution. The return of state losses from corruption through restitution is one of the important efforts in eradicating corruption.

The determination of state losses and unlawful acts committed by the defendant must be supported by evidence, including expert testimony (Article 184). To determine the amount of state losses that can determine and prove the actual amount of property obtained by the convict from the corruption crime he committed. This needs to be done because the determination of additional punishment in the form of payment of restitution is only limited to the maximum amount equal to the assets obtained by the convicted person from the proceeds of corruption.

Gaps in the Implementation of the Payment of Restitution Process in Corruption Crime at the District Court Class IA Palu / Corruption Court / PI Central Sulawesi

The confiscation of the convicted person's property is property belonging to the convicted person that is not the proceeds of corruption and/or property belonging

to the convicted person that is not used to commit corruption, because if it is proven in court that the property belonging to the convicted person is the proceeds of corruption and/or used to commit corruption, then the court will certainly impose additional punishment in the form of confiscation of goods as referred to in Article 39 paragraph (1) of the Criminal Procedure Code in conjunction with Article 18 paragraph (1) letter b, so that the prosecutor does not need to confiscate the goods in question and auction them off to cover the state losses.

Assets that are subject to return by the state are any assets obtained, either directly or indirectly from criminal acts, both before and after the enactment of the law. Assets that can be confiscated are adjusted to the type of criminal offense related to the assets to be confiscated, which includes (Haswandi, 2017):

Any property resulting from a criminal offense or obtained from the proceeds of a criminal offense;

Assets used as tools, means, or infrastructure to commit criminal acts that support the organization of crime.

Any property associated with a criminal offense or criminal organization;

Assets used to finance criminal acts or criminal organizations;

Anything that belongs to the perpetrator of a crime or criminal organization.

Confiscation of property owned by convicts who do not pay restitution does not require prior authorization from the head of the local District Court. However, after conducting the confiscation, the executor immediately reports to the chairman of the local District Court for approval, because this confiscation is carried out not in the context of an investigation but in the context of implementing a court decision (Supreme Court, 1998).

Prosecutors in confiscating the confiscated property must be able to provide the original price of the confiscated goods, which if auctioned can cover the amount of state losses as stated in the court decision. It is hoped that there will not be several confiscations of the convicted person's property due to incorrectly estimating the price of the confiscated property, which after being auctioned turns out to be unable to cover the amount of compensation paid. The confiscation of the proceeds of corruption is highly dependent on the ability of the Public Prosecutor to prove the defendant's guilt in front of the trial as well as to prove that there are proceeds from the crime charged, this concept is called asset forfeiture based on the defendant's guilt (Gunarto, 2019).

Construction of additional criminal sanctions for payment of restitution in the Anti-Corruption Law article 18 paragraph (1) of Law No. 31 Year 1999 as amended by Law No. 20 Year 2001 on the Eradication of Corruption regulates additional punishment, namely:

Forfeiture of tangible or intangible movable property or immovable property used

for or obtained as a result of corruption offenses, including companies owned by the convicted person where corruption offenses were committed, as well as of property that replaces such property;

Payment of restitution in an amount equal to the property obtained from the criminal act of corruption;

Closure of all or part of the company for a maximum period of 1 (one) year;

Deprivation of all or part of certain rights or deprivation of all or part of certain benefits, which have been or may be granted by the government to the convicted person.

A verdict handed down by a judge if he is of the opinion that the act charged to the defendant is proven so that a decision of punishment is imposed. In essence, a punishment verdict is a judge's decision containing an order for the defendant to serve a sentence for his actions in accordance with the ruling. If the judge imposes a judgment of conviction, the judge is convinced based on valid evidence and the facts of the trial that the defendant committed the act as stated in the indictment (Mulyadi, 1996).

If the court is of the opinion and judgment that the defendant has been proven guilty of committing the act charged against him, the court imposes a criminal sentence on the defendant. Or with another explanation, if in the opinion and judgment of the court the defendant has been proven legally and convincingly guilty of the crime charged to him in accordance with the evidentiary system and the principle of the minimum limit of proof specified in Article 183 of the Criminal Procedure Code, the guilt of the defendant has been sufficiently proven by at least two valid evidences that give confidence to the judge, the defendant is the perpetrator of the criminal offense.

Reformulation of criminal sanctions for payment of restitution in the Anti-Corruption Law as a reform of criminal law to ensure the implementation of legal application of the Law on the Eradication of Corruption and the Criminal Procedure Code, all law enforcement officers must pay close attention to and carry out their actions, especially all Prosecutors' Offices in Central Sulawesi and the District Court Clas IA / PHI / Tipikor Palu relating to the recovery of state losses, through indictments, prosecution, court decisions and execution. This is carried out so that law enforcement can run effectively and successfully. The prosecutor's office, in this case within the scope of the existing Prosecutor's Office in Central Sulawesi (State Attorney's Office and High Prosecutor's Office), is making every effort to make sure that assets or everything related to corruption crimes in accordance with the verdict of the Palu District Court Class IA / PHI/Tipikor can be returned to the state.

This is where the role of the District Court Clas IA / PHI /Tipikor Palu through its decisions and the Attorney General's Office as investigators, prosecutors, or as executors of court decisions in corruption cases, struggles hard so that the funds that

have been taken by corruptors can be confiscated and even confiscated to restore the state losses caused. However, it is undeniable that in carrying out this process, various obstacles have been encountered so that the execution of state losses has been hampered or delayed.

In practice, there are several cases that have been decided but have not yet been executed in returning state losses based on the decision of the District Court Class IA / PHI/Tipikor Palu due to several obstacles, namely the Time for Execution. Although the Supreme Court issued a circular letter in 2010, then updated in 2011 which has regulated the period of completion of copies of criminal decisions within one week, in later developments, it was changed to fourteen days. In addition to changing the time limit for delivery of copies of decisions, the circular letter also regulates that the excerpts of decisions (only the verdict) can be sent immediately after the verdict is pronounced (Supreme Court 2011).

Decrease in the value of the convicted person's property confiscated by the Prosecutor's Office The property of a convicted person confiscated by the Prosecutor's Office is not immediately auctioned, namely as long as the convicted person is able to pay restitution from his corruption crime. However, if the convicted person is unable to pay the restitution while the Prosecutor has found the convicted person's property and confiscation has been carried out, then there are still negotiations or deliberations between the Prosecutor and the convicted person and still given some time to provide an opportunity for the convicted person to pay the restitution before the auction is carried out.

If the convicted person has stated that he/she is unable to pay the restitution, then the vulnerable time to provide an opportunity to the convicted person will reduce the value of the property from the estimation determined by the Prosecutor at the time of confiscation, so that it will reduce the recovery of state losses, especially for movable property.

Monitoring of convicts, a convict who was not previously detained has more freedom than a convict who was previously detained. This is because there is no restraint on convicts who were not previously detained. So that convicts can still carry out their daily activities and activities before the implementation of court decisions, so that there is an opportunity to transfer property from corruption. The prosecutor does not yet have the authority to implement the decision before receiving a copy of the decision from the District Court Class IA / PHI

/Tipikor Palu.

The convict is unable to pay the state losses as stated in the judge's decision. In certain cases in corruption crimes, it is often found that the assets to be confiscated have been exhausted or no longer exist. In cases like this, of course, the prosecutor's office cannot confiscate the assets of the perpetrators of corruption.

Convicts mostly choose imprisonment for those who are unable to pay state losses.

The weak penalties applied in the law on corruption tend to make corruption convicts tend to choose a subsidiary punishment rather than returning the assets that have been corrupted. In this case, the convict is more likely because the convict believes that the imprisonment is relatively lighter than having to return the money or property that was corrupted.

Reformulation of the restitution penalty, several considerations need to be considered, namely the classification of high profile offenders can include executive, judicial and legislative officials in state institutions, while medium profile offenders can be like echelon 2 state employees and so on, while low profile offenders such as private parties related to the corruption crime. The elaboration of the positions included in the classification can be further elaborated. Private parties related to part of the perpetrators of criminal acts of corruption together with public officials or state administrators, whether the private parties do it because of their natural will or under pressure / blackmail by state administrators will be studied in more detail and in depth systematically with evidence and other supporting considerations.

4. Conclusion

The construction of additional criminal sanctions for payment of restitution in the Anti-Corruption Law is that state financial losses in the concept of eradicating corruption are all expenditures or uses that are a burden on state finances where the expenditure or use of state money is based on unlawful acts, including reduced income or income to state finances based on unlawful acts, unlawful acts that result in state financial losses must be caused by acts that contain the nature of criminal law (*wederrechtelijk*). The imposition of restitution payments in the eradication of corruption as stipulated in Article 18 of the Law on the Eradication of Corruption is a means that can be applied to realize recovery efforts or recovery of state finances caused by corruption, The payment of restitution is imposed on the perpetrator of the crime of corruption in the amount of property obtained from the crime of corruption and the amount of property that has been transferred by the perpetrator to another party where the other party is not prosecuted and does not commit an act against criminal law (*wederrechtelijk*), either by participating or assisting in the act and specifically regarding the imposition of restitution sanctions must be carried out in proportion to the acquisition of property from the crime of corruption or the amount of restitution imposed.

The reformulation of criminal sanctions for the payment of restitution in the Anti- Corruption Law as a criminal law reform is interpreted as the return of state funds by calculating with the time value of money approach is a form of restorative justice approach with the intention of returning / restoring all state losses in full to the initial conditions along with the loss of time / economic delay

in national development, by calculating and adding an element of interest according to the time value of money method. The weaknesses and obstacles to the application of restorative justice include the fact that rich people can pay compensation while poor people cannot. So, some considerations need to be considered, namely the classification of high profile offenders can include groups of executive, judicial and legislative officials in state institutions, while medium profile offenders can be like echelon 2 civil servants and so on, while low profile offenders such as private parties related to the criminal act of corruption. The elaboration of the positions included in the classification can be further elaborated. Private parties related to part of the perpetrators of criminal acts of corruption together with public officials or state administrators, whether the private parties do it because of their natural will or under pressure / blackmail by state administrators will be studied in more detail and in depth systematically with evidence and other supporting considerations.

References

- Arif Barda Nawani. 2012. Kebijakan Formulasi Ketentuan Pidana Dalam Peraturan Perundang-Undangan, Pustaka Magister, Semarang.
- Danil Elwi. 2012. Korupsi Konsep, Tindak Pidana dan Pemberantasannya, Edisi I, Cet. 2, Rajawali Pers, Jakarta.
- Hamid Edy Suandi dan Muhammad Sayuti (ed). 1999. Menyikapi Korupsi, Kolusi dan Nepotisme di Indonesia: Aditya Media, Yogyakarta.
- I Gede Artha, 2013. Bahan Kuliah Metodologi Penelitian Hukum, Program Doktor Ilmu Hukum, Program Pascasarjana Universitas Udayana, Denpasar.
- Indriati Eddy. 2014. Pola dan akar Korupsi, Penerbit PT Gramedia Pustaka Utama, Jakarta.
- Soekanto Soerjono dan Sri Mamudji. 1990. Penelitian Hukum Normatif Suatu Tinjauan Singkat, Rajawali Press, Jakarta.
- Soetandyo Wigjosoebroto, 2002. Hukum, Paradigma, Metode dan Dinamika Masalahnya, Elsam HuMa, Jakarta.
- The United Nations, 1996. The United Nations and Crime Prevention, New York, hlm. 31-32, sebagaimana dikutip oleh H. Elwi Danil, 2012. Korupsi Konsep, Tindak Pidana dan Pemberantasannya, PT. RajaGrafindo Persada, Jakarta.
- Wirjono Prodjodikoro, 1981. Asas Asas Hukum Pidana, Eresco, Bandung.
- Zamhri Abidin, 1986. Pengertian dan Asas Hukum Pidana Dalam Bagan dan Catatan Singkat, Ghalia Indonesia, Jakarta
- Yusuf, Muhamad. 2013. Merampas Aset Koruptor Solusi Pemberantasan Korupsi di Indonesia, Penerbit Buku Kompas, Jakarta.
- <http://www.kpk.go.id/id/berita/berita-sub/3208-pemberantasan-korupsi-membaik>, diunduh, 30 Januari 2022, Jam 10.29 Wita.
- <http://www.kpk.go.id/id/berita/berita-sub/1356-koruptor-harus-ganti-biaya-sosial-dan-ekonomi>, diunduh pada 8 februari 2022 jam. 13.56. wita.
- [jppn.com/read/2013/11/30/203446/Tangani-Kasus-Soeharto-hingga-Angelina-Sondakh- dan-dr-Ayu- diunduh pada tanggal 10 Maret 2022.](http://jppn.com/read/2013/11/30/203446/Tangani-Kasus-Soeharto-hingga-Angelina-Sondakh-dan-dr-Ayu)
- <http://www.hukumonline.com/berita/baca/lt52b26c04e2473/putusan-banding-cabut-hak->

politik-djoko-susilo, diunduh 6 Maret 2022 jam 22.31 wita.

<http://news.detik.com/berita/2842185/akil-mochtar-koruptor-kedua-yang-dikirim-ke-penjara-hingga-meninggal-dunia>, diunduh 9 Februari 2022, Jam 2.36 Wita.

<https://news.detik.com/berita/3142283/fokus-ott-kpk-belum-pikirkan-jerat-pejabat-ma-dengan-pencucian-uang>, diakses 7 Januari 2022 Jam 09.10 Wita