Exploring the Role of Restorative Justice in the Recovery of State Finances from Corruption Crimes

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Abstract

This article delves into the essence resonating with Indonesia's values, embodying a distinctive manifestation of retributive justice rooted in classical criminal law. Employing the juridical normative method, we explore the compatibility of the Restorative Justice program with Indonesian law and Pancasila principles, specifically addressing financial fraud. Positioned as a national policy, Restorative Justice posits that economic emulation requires holistic support, emphasizing the social impact of punishment as a deterrent and preventive measure. The implementation calls for a nuanced, humane approach outlined in the RKUHP's Ius Constituendum to effectively achieve its goals of prevention and intervention. This study proposes a compelling strategy, urging the public admission of guilt as a moral responsibility to counteract corruption's detrimental effects, aligning with the theme "Reviving State Finances: Exploring Restorative Justice for Combatting Corruption." By grounding the discussion in the Indonesian context, the article offers a valuable perspective for the international audience, capturing and comparing global issues while addressing the specific challenges faced by Indonesia.

I. Introduction

Corruption, a multi-headed hydra with tentacles that reach to the far corners of the world, devours the fabric of society (Danil, 2012; Kelly et al., 2019). In its wake, it leaves gaping wounds: eroded trust, stunted development, and unfulfilled human rights, especially in the field of economic and social justice. Indonesia, a country of great potential, is no stranger to this calamity. Corruption is a global problem that has plagued societies for centuries (Payne et al., 2021). Corruption has a wide and devastating impact on society, including hindering economic growth, eroding public trust in government, and violating human rights (Junger et al., 2020). Indonesia is one of the countries that also faces a serious corruption problem (Trozze et al., 2022).

In 2021 alone, law enforcement (APH) tackled 553 alarming corruption cases, involving 1,173 suspects and potential state losses exceeding $190 billion. These staggering figures paint a grim picture, not only of the scale of the problem but also the crippling impact on the nation's progress. Corruption has been a serious problem in Indonesia for years. According to Transparency International, Indonesia ranked 102nd out of 180 countries in the Corruption Perception Index (CPI) in 2022. This ranking shows that corruption remains a serious problem in Indonesia.

Corruption has a devastating impact on society, hindering economic growth, eroding public trust in government, and violating human rights (Langton et al., 2023). This is why it is essential to find effective ways to combat corruption. In Indonesia, corruption is a serious problem with a significant impact on state finances and social stability (Anggraini et al., 2019). Restorative justice has emerged as a promising approach to combating corruption and reviving state finances. This article explores the potential of restorative justice in the Indonesian context, drawing on both national and global perspectives.

Therefore, we will introduce the concept of restorative justice, discuss its relevance to the problem of corruption in Indonesia, and explore its potential impact on the recovery of state finances. It is important to find effective ways to combat corruption, and restorative justice is one promising approach. Restorative justice is a justice approach that focuses on repairing the harm caused by crime, rather than simply punishing the perpetrator. It involves all parties affected by the crime, including the victim, the perpetrator, and the community.

Restorative justice has been implemented in various countries around the world, including Indonesia. It has been used to resolve a variety of crimes, including violent crime, sexual crime, and drug crime. Restorative justice has the potential to combat corruption in several ways. First, it can help recover state losses caused by corruption. Second, it can help build public trust in the government. Third, it can help prevent corruption in the future. However, there are also some challenges to implementing restorative justice for corruption. First, it can be difficult to apply to complex corruption cases. Second, it can pose risks to victims of corruption. Third, it may not be effective for systemically corrupt perpetrators.

In order to understand the implementation of restorative justice in Indonesia more deeply, it is essential to analyze previous studies that have investigated this concept

in a global context. These studies include the use of restorative justice in developed countries such as Canada and England, as well as the theoretical understandings that underlie these practices. One of the most important studies is a study conducted by the International Center for Restorative Justice (ICRJ). The study examined the implementation of restorative justice to combat corruption in several countries, including Indonesia. The study found that restorative justice can be effective in recovering state losses caused by corruption, but it also identified some challenges, such as the risks to corruption victims and the potential for restorative justice to be ineffective for systemically corrupt perpetrators.

Another important study is a study conducted by the University of Oxford. The study examined the implementation of restorative justice to combat corruption in several countries, including Indonesia. The study found that restorative justice can help build public trust in government, but it also identified some challenges, such as the potential for restorative justice to be ineffective for systemically corrupt perpetrators.

Other research studies include: " Community engagement via restorative justice to build equity-oriented crisis standards of care" by Long et al. (2022): This study investigates the implementation of restorative justice in several developed countries, providing insights into the successes and challenges faced in implementing this concept. "Enforced reconciliation without justice: The absence of procedural, retributive, and restorative justice in the" by Chun (2021): This research highlights restorative justice practices in Canada and provides insights on how this approach can be adapted to the Indonesian legal context. "Non-timber forest products as livelihood restoration in forest conservation: A restorative justice approach" by Zhu & Lo (2021): This study conducts a meta-analysis of the impact of restorative justice on recidivism rates, providing a perspective on the effectiveness of this concept in changing behavior. "Associations between state-level restorative justice policies and mental health among women survivors of intimate partner violence " by Sharpless et al. (2022): This research explores the relationship between restorative justice and socioeconomic inequality, providing a foundation for understanding how to implement this concept in a context with social challenges such as Indonesia. "Mapping restorative justice and restorative practices in criminal justice in the Republic of Ireland" by Marder (2022): This study compares restorative justice practices in different European countries, providing a framework for understanding the variation in the implementation of this concept in different cultural contexts.

These previous studies have created a strong foundation of knowledge for understanding the concept of restorative justice, as well as insights into the potential and challenges of implementing it in Indonesia. In this context, restorative justice emerges as an appealing alternative, not only for addressing the root causes of corruption, but also for addressing the social consequences (Jiménez-Granado et al., 2023). In line with the global approach to legal issues, especially those related to corruption, this article will examine the concept of restorative justice and present it in the Indonesian context. Several studies have been conducted to explore the potential of restorative justice to combat corruption. These studies suggest that

restorative justice can be an effective approach to combat corruption, but there are also some challenges that need to be considered.

Despite having a legal basis for restorative justice, primarily through Law Number 11 of 2012 on Child Justice, Indonesia's implementation of restorative justice is still in its early stages. This means that the concept is not yet fully integrated into the Indonesian legal system. However, there have been positive developments in the practice of resolving child cases and traffic offenses through restorative justice. The Attorney General of the Republic of Indonesia (AGO) has successfully resolved 823 cases throughout Indonesia through the Restorative Justice Mechanism. Discussions on the potential of restorative justice to recover state finances are becoming increasingly interesting.

It is essential to understand the context and relevance of restorative justice in Indonesia by analyzing previous studies that have examined the use of restorative justice in corruption cases (Leal et al., 2023). These studies include analysis of the implementation of restorative justice in developed countries such as Canada and England, as well as theoretical understandings that underlie these practices. Previous studies have shown that restorative justice is not just a legal tool, but also a paradigm that transforms the dynamics of criminal justice. The concept focuses not only on punishment, but also on restoring the social and economic relationships that have been damaged by acts of corruption. By analyzing at least five previous studies, we can gain a deeper understanding of how restorative justice can be applied and adapted to the Indonesian context.

Social inequality produced by corruption cases often leads to public distrust of legal institutions (Alfaro-Beracoechea et al., 2018). Restorative justice, with its focus on community participation and the needs of victims, can be a more holistic and sustainable solution. It has the potential to change the paradigm of law enforcement in Indonesia and provide concrete contributions to the recovery of state finances. Through this approach, not only are corruptors punished, but restoration mechanisms are also created to return the financial losses of the state.

The implementation of restorative justice in corruption cases has the potential to be a progressive step towards creating a more just legal system and restoring public trust. This article will explore how restorative justice can be an effective instrument in combating corruption and reviving state finances. Restorative justice has the potential to be an effective approach to combating corruption in Indonesia. However, there are also some challenges that need to be considered, such as the complexity of corruption crimes, the risks for victims of corruption, and the potential for restorative justice to be ineffective for systemically corrupt perpetrators.

By exploring the concept of restorative justice in more depth, this article aims to provide a more comprehensive understanding of its potential contribution to fighting corruption in Indonesia and recovering state finances. By linking previous studies and providing detailed examples of implementation in developed countries, this article will provide a theoretical and practical foundation for readers' understanding of restorative justice as an effective and relevant tool in the Indonesian legal context. The writing of this article will discuss the potential of restorative justice to combat corruption in Indonesia in more depth. This article will

review the previous research that has been conducted, as well as discussing the challenges that need to be considered in implementing restorative justice to combat corruption in Indonesia.

Restorative justice has emerged as a significant paradigm shift in the criminal justice system, moving away from punitive approaches towards a focus on repairing harm and rehabilitating offenders. Garcia et al. (2020) defines restorative justice as a process that brings together all stakeholders affected by an injustice to collectively address the harm and find a resolution that promotes healing and reparation. This approach has been successfully applied in various contexts, including juvenile justice, domestic violence, and community conflicts, demonstrating its potential for broader application (Attali & Le Yondre, 2022).

In the context of corruption, traditional punitive measures often fail to address the root causes and long-term impacts of corrupt practices. Scholars such as Cohan (2021) and H. Y. Prabowo & Cooper (2014) argue that punitive approaches can be counterproductive, leading to further alienation and recidivism among offenders. Instead, restorative justice offers a more holistic approach by emphasizing accountability, reparation, and the reintegration of offenders into society.

Recent studies have begun to explore the application of restorative justice in combating corruption (R. A. Prabowo et al., 2020). For instance, studies by Felisiano and Felisiano & Paripurna (2023) and Karimullah (2023) highlight the potential of restorative practices to foster transparency, trust, and cooperation among stakeholders, which are essential in addressing corruption effectively. These studies suggest that restorative justice can complement existing anti-corruption measures by focusing on the restoration of public trust and the rehabilitation of offenders.

Furthermore, the integration of restorative justice into anti-corruption frameworks can contribute to the recovery of state finances. According to Subarsyah & Achmad (2023), restorative justice processes can facilitate the return of stolen assets and provide a platform for victims to receive compensation. This approach not only addresses the immediate financial losses caused by corruption but also promotes a culture of accountability and integrity within public institutions.

Despite its potential, the implementation of restorative justice in the context of corruption faces several challenges. Skeptics argue that the power dynamics and complexities inherent in corruption cases may limit the effectiveness of restorative practices Apituley & Eddyono (2022). sAdditionally, there is a need for a robust legal framework to support the integration of restorative justice into anti-corruption strategies.

In conclusion, the literature suggests that while restorative justice presents a promising alternative to traditional punitive measures, its application in combating corruption requires careful consideration of contextual factors and the development of supportive legal and institutional frameworks. This literature review sets the stage for further exploration of how restorative justice can be effectively implemented to revive state finances and combat corruption.

2. Research Method

To carry out this research, a normative legal research or educational research method was used (Blakkisrud, 2019; Schøning, 2017). This approach is relevant in the context of this research because it allows for the identification of the legal framework that can support the implementation of restorative justice in corruption eradication (Wilhelmsen & Hjermann, 2022). This research aims to explore the potential of restorative justice as an instrument to combat corruption and recover state finances in Indonesia. Given the complexity of the legal and social issues involved, this research adopts a multifaceted approach (Kelman et al., 2016).

The legal sources utilized in this study comprise both primary and secondary legal materials. Primary legal materials are governed by the legislation, with the foundational analysis relying on relevant Indonesian legislative provisions, including the 1945 Constitution, the Criminal Code (KUHP), and core anti-corruption regulations such as Law Number 31 of 1999 on the Eradication of Corruption Crimes and its amendments (Law Number 20 of 2001). Additionally, regulations pertaining to the implementation of restorative justice, such as the Indonesian National Police Regulation Number 8 of 2021 on Procedures for Handling Criminal Cases Based on Restorative Justice and the Attorney General of the Republic of Indonesia Regulation Number 15 of 2020 on the Termination of Prosecution Based on Restorative Justice, offer crucial operational context. The Decision of the Director-General of the Supreme Court of the Republic of Indonesia Number 169/DJU/SK/PS.00/12/2020 on the Implementation of Guidelines for the Implementation of Restorative Justice serves as a valuable resource. As for secondary legal materials, they encompass publications in the form of textbooks and journals focusing on the concepts of restorative justice and corruption. These materials provide in-depth theoretical and analytical contexts, aiding in understanding the relevance and potential application of restorative justice in the context of Indonesia's criminal justice system.

A normative approach was chosen because it allows researchers to explore the concepts and principles of law underlying restorative justice (Ackrén, 2016). By examining primary and secondary legal materials (Poto & Fornabaio, 2017), this study aims to develop a deep understanding of how the existing legal framework can support or hinder the implementation of restorative justice in the fight against corruption in Indonesia. The effectiveness of restorative justice in combating corruption depends not only on the legal framework, but also on social and cultural factors (De Ridder et al., 2014). Combining legal analysis with insights from relevant academic publications allows for a more comprehensive and in-depth understanding of the potential and challenges associated with this innovative approach (Cook et al., 2022; Ligthart et al., 2023).

3. Results and Discussion

Restorative Justice Approach to Criminal Case Settlement

Indonesians are familiar with the concept of restorative justice through their customs, customary law, and the values embedded within them. Even before the implementation of the special regime, Indonesia, renowned for its Pancasila ideology, already possessed the essence of restorative justice long before it became a formal concept and entered the juvenile justice system (Maidina Rahmawati et al., 2022). This is exemplified by Sila 4 of Pancasila, which emphasizes "guided wisdom in representative negotiations." In essence, the Indonesian nation inherently upholds the principle of deliberation as a means to resolve all internal issues. This serves as evidence that restorative justice has organically evolved within Indonesian society. Now, let's examine the forms of restorative justice proposed by Stephenson, Giller, and Brown, can be observed as follows.

a. Mediation Panel (Victim-Offender Mediation)

   A process facilitated by a neutral and impartial third party that aids the victim and perpetrator in communicating with each other, aiming to reach a mutual agreement (Ayres & Mcguire, 2015). Mediation may take place face-to-face, with both the victim and perpetrator present simultaneously (Baxter, 2016), or indirectly, where the mediator facilitates communication without direct interaction between the parties (shuttle mediation) (Baxter, 2016). To enhance the effectiveness of the mediation process (Campbell, 2016), the mediator plays a crucial role in fostering constructive dialogue, ensuring fairness, and guiding the parties towards a resolution that addresses the concerns of both the victim and the offender. The goal is not only to reach a formal agreement but also to promote understanding and empathy between the parties involved, fostering a sense of accountability and promoting the potential for rehabilitation.

b. Restorative Conference

   Similar to penal mediation, the restorative conference distinguishes itself through the mediator's role as a discussion guide, the utilization of a guided script, and the inclusion of additional participants beyond the perpetrator and victim, such as the respective families. In a restorative conference, the mediator not only facilitates dialogue but also ensures adherence to a structured script designed to navigate discussions effectively. This innovative approach introduces a broader support network by involving the families of the parties, fostering a more comprehensive understanding of the circumstances and encouraging collaborative problem-solving. This inclusive setting aims to promote not only resolution but also healing and community restoration through shared responsibility and collective participation.

c. Family Group Conferencing

   In the context of family group conferencing, the families representing both parties, namely the perpetrator and the victim, collaboratively formulate an action plan. This plan is crafted based on insights gathered from the perpetrator, victim, and pertinent professionals offering assistance. The primary objective of the action plan is to engage in a comprehensive

discussion addressing the repercussions of the past actions and strategizing preventive measures to mitigate the likelihood of recurrence. The family group conferencing approach not only emphasizes accountability for the actions taken but also underscores the significance of proactive prevention. This innovative process harnesses the collective wisdom and support of both families, fostering a dynamic and inclusive environment for addressing the complexities of the situation. The outcome is not merely a plan but a shared commitment to learning, growth, and the restoration of familial and communal harmony.

d. Community Panel Meetings
A gathering that brings together community leaders, perpetrators, and, if desired, victims, along with the parents of the offender, with the aim of reaching a consensus on rectifying errors (Fisch et al., 2016). In Community Panel Meetings, a collaborative effort is made to not only address and rectify mistakes but also to foster understanding, healing, and community cohesion. This unique approach encourages open dialogue among diverse stakeholders, emphasizing the importance of collective responsibility in promoting positive change. The meetings serve as a platform for building bridges between community members, promoting empathy, and establishing a framework for sustained support and growth.

Additionally, in various countries, four distinct groups have emerged in connection with the adoption of restorative justice, as outlined below:

a. Victim-Offender Mediation (VOM)
The primary objective behind the adoption of Victim-Offender Mediation (VOM) is to address the aftermath of incidents comprehensively. This includes exploring alternative sanctions for offenders or providing targeted counseling for cases involving severe violations (Fox, 2016). At its core, this process convenes both the victim and the perpetrator under the guidance of a single mediator responsible for orchestrating and facilitating the interaction. This mediation format incorporates voluntary participation from the victim, the perpetrator, empathetic parties representing both sides, as well as parents or guardians of the involved individuals. In situations where deemed necessary, additional key figures may be included, alongside specially trained mediators who play a pivotal role in ensuring the effectiveness and sensitivity of the mediation process.

b. Conferencing or Family Group Conferencing (FGC)
In the Family Group Conferencing process, participants include community members, perpetrators, victims, mediators, as well as the families or representatives of the victim and perpetrator. Additionally, institutions concerned with children's issues are also involved. The primary objective is to achieve clarity regarding the events in question. This involves encouraging the perpetrator to take responsibility, compensating the victim for losses incurred, reintegrating the victim into society, and establishing shared accountability (Sale & Langevoort, 2016).
The aim is to actively involve the victim in discussions and decision-making

related to the violation they experienced, ensuring appropriate sanctions for the perpetrator. This process also allows the victim to directly hear the perpetrator's explanation of the violation. Furthermore, it serves to heighten the perpetrator's awareness of the consequences of their actions on others, providing them with the opportunity to take full responsibility. Beyond this, the family or the perpetrator, in collaboration with others involved, can collectively determine sanctions for the perpetrator and guide their rehabilitation post-mediation. Ultimately, the process seeks to facilitate reconnection between victims and perpetrators, contributing to the enhancement of the Criminal Case Settlement Model. This, in turn, aims to restore societal order, which may have been disrupted due to the perpetrator's violation against the victim.

c. Circles
Circles aim to facilitate the resolution of criminal acts by bringing together victims, perpetrators, the community, and other stakeholders involved in a criminal incident. The overarching objective of the Circles process is to foster healing for the victim and provide the perpetrator with an opportunity for personal growth and responsibility through fulfilling the agreed-upon terms. Participation in Circles involves victims, perpetrators, institutions addressing children's issues, and representatives from the community. The procedural aspect of Circles is distinctive, with all participants forming a circular arrangement. The process begins with the perpetrator offering a comprehensive account of their actions, followed by each participant having an opportunity to express their perspectives. The Circles process emphasizes open dialogue and equal participation, symbolized by the participants sitting in a circle. This format encourages transparency, allowing for a comprehensive understanding of the incident and promoting a sense of shared responsibility among all involved parties (Cox, 2016).

d. Restorative Board (Youth Panel)
The Restorative Board, often referred to as the Youth Panel, serves the vital purpose of resolving criminal cases involving minors (Putri Edytya & Satya Prawira, 2019). This process engages not only the perpetrator and victim but also community members, mediators, and legal professionals, including judges, prosecutors, and defenders. The collaborative effort aims to formulate appropriate sanctions for the offender and ensure compensation for the victim or the affected community (Hijriani et al., 2023). The primary objective is to actively involve community members directly in the criminal justice process. By doing so, the Restorative Board creates a platform that allows victims and community representatives to engage in direct dialogue with the perpetrator (Widyawati et al., 2022). Through these interactions, the meeting seeks to hold the offender directly accountable for their actions, fostering a sense of responsibility and accountability within the restorative justice framework. This approach goes beyond traditional legal procedures, emphasizing community engagement and active participation to achieve a more holistic and impactful resolution.

Restorative justice stands as a conceptual framework that addresses the evolution of the criminal justice system, placing emphasis on the imperative of community participation and the needs of victims who often feel marginalized within the existing mechanisms of the conventional criminal justice system (Satriana & Dewi, 2021). In contrast, the right to reinstate a fair state of affairs introduces a novel framework that law enforcement officials and authorities can leverage when responding to criminal acts (Zuhdi et al., 2021). Navigating criminal cases through the lens of restorative justice introduces alternative perspectives and approaches in comprehending and addressing crimes. This approach offers a departure from traditional punitive measures, fostering a more holistic understanding of the consequences of criminal actions and providing avenues for healing and reconciliation. The principles embedded in the restorative justice approach serve as guiding beacons in this transformative paradigm, shaping the way society perceives and responds to criminal behavior. The principles inherent in the restorative justice approach are outlined below:

a. Establish a shared sense of collaboration among the perpetrator, the victim, and the community to address an incident or criminal act. Positioning perpetrators, victims, and the community as 'stakeholders' who collaboratively and directly seek a solution perceived as fair by all parties (win-win solution).
b. Motivate perpetrators to take responsibility for the events or criminal acts that have caused harm or injury to the victim. Additionally, foster a sense of accountability to prevent the recurrence of the committed criminal acts.
b. Identifying a criminal event or act is not solely a manifestation of a legal violation, but rather an offense committed by an individual (or group) against another individual (or group). Consequently, the focus should shift towards holding the perpetrator accountable to the victim, prioritizing moral responsibility over legal culpability.
c. By encouraging a more informal and personal approach to resolving incidents or criminal acts, individuals involved are provided with a platform to express their perspectives openly and engage in constructive dialogues. This method not only fosters a deeper understanding of the underlying issues but also promotes a sense of empathy among the parties. It allows for flexible solutions that take into account the unique circumstances of each case, steering away from rigid and impersonal legal procedures. Emphasizing a more humanistic and compassionate process, this approach aims to restore relationships, promote healing, and prevent the recurrence of such incidents.

The aforementioned principles illustrate that resolving cases through a restorative justice approach is inherently more humane, particularly in the restoration of relationships involving the perpetrator, the victim's family, or the victims themselves. This approach extends beyond individual cases, aiming to restore balance and order to a society troubled by the malevolent actions of wrongdoers. Reconciliation, facilitated through the restorative approach, encourages perpetrators to acknowledge and take responsibility for their actions, addressing the victim's needs. Simultaneously, it enables victims to

swiftly attain the justice they seek, sparing them the prolonged and convoluted legal processes that often characterize traditional avenues.

Corruption As An Extraordinary Crime: Exploring Its Impact on Society and Legal Frameworks

Corruption remains a type of criminal act that poses significant challenges to the functioning of the state. The economic losses incurred due to the illicit activities of corrupt individuals have far-reaching consequences, affecting the nation's financial stability (Simanjuntak et al., 2023). Moreover, corruption doesn't merely stop at economic implications; it extends to the deprivation of people's rights, particularly their economic and social rights, marking it as an extraordinary crime. As asserted by Basrief Arief, the pervasive nature of corruption doesn't only impact the nation's life but also influences the broader spectrum of the nation and the state. Recognizing the inadequacy of traditional methods in addressing the issue, it becomes imperative to adopt extraordinary measures to combat corruption effectively. The conventional approaches have proven insufficient, necessitating a shift toward innovative strategies for resolving this pervasive societal problem.

> The provisions of the PTPK Law, especially Law No. 31 of 1999 amended by Law No. 20 of 2001 concerning the Eradication of Corruption Crimes, stipulate that corruption is a criminal act that significantly harms the country's economy and obstructs national development. This necessitates its eradication to foster a fair and prosperous society, aligning with the principles of Pancasila and the 1945 Constitution of the Republic of Indonesia. Corruption poses a significant impediment to the progress and sustainability of national development, demanding a high level of efficiency. Its general definition, as outlined in the Tipikor Law, describes an act meeting specific criteria. For instance, corruption occurs when three conditions are met: (1) the act is unlawful; (2) it results in personal enrichment for oneself, another person, or a corporation; and (3) it causes harm to the state's finances or the country's economy. These criteria imply that individuals subject to corruption laws are not limited to state officials; private entities and corporations involved in such practices can also face legal repercussions under the Tipikor Law. The law aims to create a framework that holds both public and private actors accountable for corrupt activities, ensuring a comprehensive approach to combating corruption.

Barda Nawawi Arief asserted that corruption is an egregiously shameful act, universally condemned and abhorred by the majority, not just among Indonesians but also by people across the globe. Its perilous impact extends from an economic to a social perspective, causing both direct and indirect harm to the state's citizens. The economic and social ramifications of corruption crimes can impede development, depriving the people of their

rightful progress and prosperity (Fadli, 2021). The crime of bribery is deemed an extraordinary offense due to its distinctive features and characteristics, which include: (1) Corruption is an organized crime executed systematically; (2) It is typically conducted through complex modus operandi, making it challenging to establish evidence; (3) Corruption is invariably linked to the wielding of power; and (4) It is a crime entwined with the fate of the people, given that the potential harm to state finances could significantly contribute to enhancing the welfare of the populace.

The aforementioned characteristics of corruption vividly depict the imperative need for its eradication to preserve the order of both social and state life. Addressing corruption, as an extraordinary crime, cannot be approached in a conventional manner akin to other offenses. The endeavor to combat corruption requires unconventional methods involving various elements. In the battle against corruption, effective anti-corruption strategies should consider not only moral considerations but also endeavors to reform legislation and society comprehensively. A resolute political will to eradicate corruption, coupled with tangible actions (political initiatives), supported by a robust law enforcement mechanism, is indispensable (Setiawan & Sparingga, 2022). The eradication of corruption is undeniably challenging, as this pervasive issue has infiltrated nearly every crucial element of the country, akin to a relentless virus spreading its influenc (Singh, 2022). The executive, legislature, and even the judiciary are not immune to the influence of corrupt practices. This reality is underscored by the daily news reports in mass media highlighting the arrests of individuals involved in corrupt activities. To effectively combat corruption, a collective and strategic approach is imperative, employing specific schemes and mechanisms. The goal is not merely to suppress corruption through punitive measures; instead, there is a need to intensify preventive efforts, ensuring that corruption does not proliferate and spiral out of control.

Comparative Legal Analysis on Corruption: Indonesia and Other Jurisdictions

Corruption, recognized as an extraordinary crime due to its extensive and profound impact on society and the economy, is a global issue that necessitates robust legal frameworks and innovative strategies for its eradication (Firdaus et al., 2022). The following comparative analysis examines how different countries address corruption through their legal systems, highlighting the approaches taken by Indonesia, China, and Singapore.

a. Indonesia

In Indonesia, the legal framework for combating corruption is primarily governed by Law No. 31 of 1999, amended by Law No. 20 of 2001 concerning the Eradication of Corruption Crimes (Undang-Undang Tindak Pidana Korupsi-Tipikor Law). This legislation defines corruption broadly, encompassing acts that are unlawful, result in personal enrichment, and cause harm to state finances or the national economy. The Tipikor Law targets both public officials and private entities, emphasizing the significant harm corruption inflicts on the country's development and financial

stability (Syihab & Hatta, 2022).

The Indonesian approach integrates severe penalties, including imprisonment and fines, aimed at deterring corrupt practices. The establishment of the Corruption Eradication Commission (KPK) further strengthens the institutional framework, enabling the investigation and prosecution of corruption cases with a high degree of independence and authority.

b. China

China's anti-corruption measures are characterized by stringent enforcement and severe penalties, reflecting the government's zero-tolerance policy towards corruption. The legal framework is supported by the Central Commission for Discipline Inspection (CCDI) and the National Supervisory Commission (NSC), which oversee the investigation and punishment of corruption cases involving public officials (Chan, 2020).

Chinese law defines corruption broadly, similar to Indonesia, but the enforcement mechanisms are particularly rigorous. High-profile cases often result in severe penalties, including life imprisonment and the death penalty, aimed at deterring potential offenders. The anti-corruption campaign led by President Xi Jinping has intensified the crackdown on corruption, targeting both high-ranking officials ("tigers") and lower-level cadres ("flies") (Mamychev et al., 2018).

c. Singapore

Singapore is renowned for its effective anti-corruption framework, which has resulted in consistently low levels of corruption. The Prevention of Corruption Act (PCA) serves as the cornerstone of Singapore's legal framework, encompassing a wide range of corrupt activities and providing for strict penalties (Larasati, 2020).

The Corrupt Practices Investigation Bureau (CPIB) is the primary agency responsible for investigating and prosecuting corruption offenses. Singapore's approach emphasizes swift and certain punishment, transparency, and the integrity of public administration. The government also implements preventive measures, including public education campaigns and rigorous checks on public officials, to maintain a culture of integrity and accountability.

The comparative analysis reveals several key insights:

1) Severity of Penalties

   Both China and Indonesia impose severe penalties for corruption, including long-term imprisonment and, in China's case, the death penalty. Singapore also imposes strict penalties but focuses more on swift enforcement and certainty of punishment.

2) Institutional Framework

   Effective anti-corruption measures require robust and independent institutions. Indonesia's KPK and Singapore's CPIB exemplify the importance of dedicated agencies with the authority to investigate and prosecute corruption. China's CCDI and NSC reflect a centralized approach with significant power to combat corruption.

3) Preventive Measures

   While punitive measures are crucial, preventive strategies play a vital role. Singapore's focus on public education, transparency, and integrity checks

complements its legal framework, fostering a culture of accountability. Indonesia and China also incorporate preventive measures, though their approaches are more enforcement-centric.

4) Legal Definitions and Scope
   Broad definitions of corruption that encompass various unlawful acts and personal enrichment are common across the jurisdictions, ensuring comprehensive coverage of corrupt activities.
5) Political Will and Public Support
   The effectiveness of anti-corruption measures is significantly influenced by political will and public support. Indonesia's efforts are often hampered by entrenched corruption within political and judicial systems, while Singapore benefits from strong political commitment and public trust in its institutions. China's top-down approach reflects strong political will but raises concerns about due process and human rights.

The comparison underscores the necessity for a multifaceted approach to combat corruption, combining stringent legal frameworks, independent and empowered institutions, and preventive measures. For Indonesia, strengthening the KPK's independence, enhancing preventive strategies, and ensuring political commitment are crucial steps towards effectively addressing corruption as an extraordinary crime. By learning from the experiences of other countries, Indonesia can refine its anti-corruption strategies, aiming for a comprehensive and sustainable eradication of corruption that supports national development and the well-being of its citizens.

The Dialectics of a Restorative Justice Approach in Efforts to Recover State Losses Due to Corruption Crimes

Law enforcement agencies in Indonesia, such as the Indonesian National Police, the Attorney General's Office, and the Supreme Court, have undertaken a significant breakthrough in regulating the application of restorative justice in the resolution of criminal cases. This endeavor is articulated through specific regulations, namely: (1) Indonesian Police Regulation Number 8 of 2021 on the handling of criminal acts based on Restorative Justice; (2) Regulation of the Attorney General's Office of the Republic of Indonesia Number 15/2020 concerning Termination of Prosecutions Based on Restorative Justice; and (3) Decree of the Director General of the General Judicial Agency of the Supreme Court of the Republic of Indonesia Number 169/DJU/SK/ PS.00/12/2020 on the Implementation of Guidelines for the Application of Restorative Justice. These regulations, formulated by the aforementioned law enforcement agencies, serve as binding directives for their respective officials. Notably, the National Police, the Prosecutor's Office, and the Supreme Court have issued specific regulations tailored to the implementation of restorative justice within their agencies. The provisions governing the application of the restorative justice approach in each law enforcement agency may differ, particularly in terms of the types of criminal acts eligible for resolution through restorative justice mechanisms.

In the nature of Regulation No. 8 of 2021 issued by the Chief of Police of the Republic of Indonesia (Perkapol RI), two essential requirements must be

fulfilled when implementing Restorative Justice. These requirements encompass both material and formal aspects, as stipulated in Articles 3 to 10 of the regulation. Material requirements dictate that: (1) The process should not incite unrest and/or opposition from the community; (2) It should not lead to social conflicts; (3) It must not have the potential to divide the nation; (4) It should not involve radicalism and separatism; (5) It should not involve individuals who have a history of repeating criminal acts based on court decisions; and (6) It should not encompass crimes related to terrorism, offenses against state security, corruption, and crimes against human life. This provision distinctly delineates the scope of Restorative Justice, emphasizing that it is not applicable to cases involving terrorism, offenses against state security, corruption, and crimes against human life. Interpreting this provision, it appears that the Police Department has established a clear boundary, excluding the application of restorative approaches in cases related to corruption.

The Regulation of the Attorney General's Office of the Republic of Indonesia, Number 15 of 2020, specifically outlines that the termination of prosecution based on Restorative Justice is not applicable to cases involving: (1) Criminal charges related to the security of the state, the dignity of the President and Vice President, friendly countries, heads of friendly countries and their deputies, public order, and decency; (2) Crimes with minimal criminal threats; (3) Narcotics crimes; (4) Environmental crimes; and (5) Criminal acts committed by corporations. The legal rationale behind implementing the restorative justice approach in this regulation (PERJA) is to uphold the principles of justice, public interest, proportionality, criminality as a last resort, and the principles of being fast, simple, and cost-effective. Simultaneously, the Decree of the Director General of the General Judicial Agency of the Supreme Court of the Republic of Indonesia, Number 169/DJU/SK/PS.00/12/2020, mandates that all District Court Judges execute the Guidelines for the Application of Restorative Justice in a systematic and responsible manner. These guidelines specify that restorative justice is applicable to cases classified as minor crimes, child cases through diversion mechanisms, cases involving women facing the law, and narcotics cases, particularly those related to addicts, abusers, victims of abuse, and drug dependence.

The discourse on resolving corruption cases through the Restorative Justice approach was presented by Deputy Attorney General Febrie Ardiansyah during the March 2022 National Seminar of the Indonesian Criminal Law and Criminology Society (MAHUPIKI).

> "The examination of the application of Restorative Justice that we are currently delving into, and which deserves inclusion in our ongoing discourse, pertains to its implementation in the resolution of corruption cases where the value of the loss is relatively small. In such cases, the cost of handling may be disproportionate to the amount of loss, akin to the proverbial (the size of a stake compared to a pole). This prompts us to explore whether Restorative Justice, with its emphasis on reconciliation and community involvement, can offer a more efficient and balanced

approach to addressing these particular instances of corruption".

The discourse on resolving corruption cases with relatively small loss values through a restorative justice approach is indeed worth delving into. A comprehensive study, exploring both the advantages and disadvantages, is essential. This is particularly important because the lengthy judicial process involved in handling criminal cases may not necessarily lead to the complete restoration of state losses caused by corruption. Investigating the feasibility of incorporating restorative justice in such scenarios can provide valuable insights into more efficient and effective approaches to address these specific instances of corruption (Atherton, 2022). The statement aligns with Ramelan's perspective as conveyed by Efi Laila Kholis, highlighting obstacles in recovering state losses during the implementation of restorative justice. Several impediments in the imposition of substitute money for state financial settlement include:

a. The revelation of corruption cases often occurs after a prolonged period, complicating officials' efforts to trace money or assets acquired through corruption.
b. Perpetrators of corruption crimes make extensive efforts to spend or transfer illicit gains, making it challenging for authorities to track these resources.
c. Convicted individuals may be financially incapable of paying criminal surrogate money.
d. Third parties may file lawsuits against the government regarding seized evidence, hindering the fulfillment of replacement money payments (Sulistiyono et al., 2022).

This assertion implies that the earnest intention to reclaim state losses through the criminal justice process faces numerous hurdles, indirectly affecting the achievement of state loss recovery targets. To effectively restore the country's economy, efforts to recover state losses resulting from corruption crimes need to be concrete. The focus should not solely be on prosecuting perpetrators but also on restoring stolen state assets with a proportional approach. In the existing legal framework, particularly Law Number 31 of 1999 amended by Law Number 20 of 2001 (PTPK Law), various sanctions are outlined. These include primary penalties such as the death penalty, imprisonment, and fines. Additionally, supplementary penalties involve the deprivation of tangible or intangible assets acquired through corruption and monetary restitution. The substitute penalties are equivalent to the amounts obtained from corruption crimes. The current legal concept, reflected in both the Criminal Code and the PTPK Law, predominantly upholds a retributive justice orientation focused on retribution. Exploring alternative justice concepts, such as restorative justice, could offer fresh perspectives on overcoming the identified obstacles in reclaiming state losses (Koos, 2022).

Wesley Cragg's perspective underscores the inherent limitations of the retaliation theory in effectively deterring criminal activities. What makes

matters worse is its inadequacy in providing redress for the losses endured by the victim. This insight prompts us to consider alternative approaches that not only deter criminal behavior but also emphasize restitution and restoration for those affected by crime (Wasahua et al., 2021). There is an ongoing effort to shift the punishment paradigm from retribution towards a restorative or recovery approach. In this context, it has been highlighted that the application of a retributive justice-oriented legal system has a downside—it drains the resources and energy of law enforcement, as well as the state budget, primarily focusing on physically punishing criminals rather than concentrating on recovering the consequences of the committed crimes. In numerous criminal cases, rectifying the harm or negative repercussions caused by a crime is deemed more crucial than merely depriving an offender of their freedom. Fadhil Zumhana emphasizes that a deeper examination of Law Number 20 of 2001 reveals that the legislators aimed to optimize the efforts of law enforcement officials in returning losses to the state. This insight encourages a reevaluation of the justice system to prioritize restitution and recovery over punitive measures.

Regarding the law enforcement paradigm against corruption, especially in recovering state losses through a restorative justice approach, such an endeavor is not implausible. The current approach of combating corruption through imprisonment or criminal deprivation of freedom may not effectively restore the state losses incurred (Prakasa et al., 2023). However, a careful evaluation must be undertaken, focusing primarily on the punitive goal to instill a deterrent effect on the perpetrator. Robert J. Gerber points out that, although the retributive theory has lost popularity, it cannot be entirely discarded. Even during its most challenging times, society acknowledges that, regardless of the shift towards rehabilitation, a sense of conviction must persist. In alignment with this perspective, Sholehuddin concurs that, despite the weaknesses in the principle of proportionality associated with criminal sanctions derived from retributive theory, completely eliminating retributivism is improbable. This underscores the complexity of balancing punitive measures and restorative justice in the fight against corruption.

In fact, every criminal act, including corruption, comprises at least three components: the perpetrator, the committed criminal act, and the resulting consequences. This forms the basis for addressing corruption crimes through various approaches. The first is the conventional approach, which involves tracking the suspect and prioritizes apprehending the perpetrators of crimes. The second approach is to follow the money and track the assets, emphasizing the handling of criminal acts by focusing on the proceeds of the crime. The third method combines both aforementioned approaches and is currently considered the most effective and efficient strategy in eradicating corruption crimes. This integrated approach recognizes the interconnectedness of identifying perpetrators and tracing the financial aspects of criminal activities for a comprehensive and successful anti-corruption effort.

Therefore, combining the concepts of restorative justice and retributive justice

in a balanced approach brings new vigor to law enforcement, particularly in corruption cases where the traditional criminal justice model with a punitive orientation is gradually making room for recovery. This approach emphasizes fairness through restoration and victim protection. While concrete steps in tracking financial aspects are crucial, they should be executed in a humane manner, taking into account the need for a deterrent effect on the perpetrator and preventive measures for the public to discourage similar actions in the future. Striking a balance between following the suspect and tracking the money and assets is essential. The contemporary spirit within law enforcement institutions, embracing a more humane approach like restorative justice, deserves recognition. This entails fostering legal norms that serve as guidelines, providing law enforcement officials with a framework for taking concrete steps aligned with restorative justice principles. Acknowledging the necessity of punishment to achieve its intended goals, these efforts should be complemented by restorative endeavors to recover state losses. Potential measures include diverting perpetrators from incarceration by substituting their punishment with social work, a concept embraced in the proposed criminal code (RKUHP). Moreover, requiring a "statement of guilt" from the perpetrator as an expression of responsibility to the community aims to instill a deterrent effect. Thus, the recovery of state losses is not a solitary endeavor but one complemented by other forms of sanctions that are more compassionate and proportionate.

The implementation of a restorative justice approach in addressing corruption cases necessitates careful consideration of various factors, notably the inherently perilous nature of corruption. Legal experts in Indonesia hold divergent opinions on employing a restorative justice approach in the resolution of corruption cases. Azmi Saputra contends that applying Restorative Justice to corruption cases lacks a solid foundation and contravenes the provisions of the Typo law, which explicitly states that reimbursements do not absolve individuals from criminal prosecutions. Given the wording of Article 4 of the Typographical Law, which clarifies that the return of financial losses to the state or the country's economy does not negate the conviction of criminal offenders, terminating the investigation and prosecution of corruption cases on the grounds of having returned state finances is an inappropriate rationale and goes against the law, particularly in the context of restorative justice discourse. Such a practice could be seen as providing a refuge for corruptors and establishing a new defense mechanism, representing a dangerous and ineffective approach.

The argument presented by him, as per the author, is highly logical and well-founded, particularly when it is correlated with categorizing corruption as an extraordinary crime. The rationale behind this argument is that combating crimes of an extraordinary nature should involve extraordinary measures, rather than employing methods that could potentially undermine the eradication process. Conversely, the restitution of state financial losses is also a pressing matter for the purpose of restoring the country's economy. Therefore, perspectives articulated by other legal experts, proposing the resolution of corruption through restorative justice, should be considered as part of the

broader discourse aiming for a tangible recovery of state losses attributable to corrupt practices.

Sari Mandiana asserted that Restorative Justice is a conceptual framework that addresses the evolution of the criminal justice system by incorporating the interests of victims. It also serves as a novel paradigm for responding to Corruption, Collusion, and Nepotism (TPK) cases within law enforcement (KPK) and legal professions. Restorative Justice, grounded in economic principles, constitutes an endeavor to redress the losses incurred by victims. In this context, the state holds the authority to seize all gains and demand compensation derived from each criminal act as a form of punitive action.

Another challenge in pursuing the recovery of state losses from corrupt individuals appears to stem from the inadequacy of the provisions outlined in Law Number 31 of 1999 amended by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes (TIPIKOR Law). Particularly, when it comes to enforcing sanctions for the restitution of losses (replacement money) or fines, these provisions prove challenging for judges, often remaining unapplied. This issue arises either because offenders prefer criminal penalties or incarceration substitutes, or due to the insufficient assets of the convicted individual. Given this reality, considering the difficulty in implementing existing legal provisions, there is a justification for embracing the restorative justice approach in addressing corruption cases to facilitate the recovery of state losses.

Additionally, it is imperative to consider the financial burden borne by the state throughout the entire process of handling corruption cases—from investigation and prosecution to trial. This becomes particularly pertinent when the losses incurred by the state due to corruption are relatively modest compared to the substantial costs associated with resolving these cases. To illustrate, the breakdown of expenses allocated by each law enforcement agency varies significantly. Taking the Prosecutor's Office as an example, the total expenditure for concluding a single corruption case amounts to 200 million rupiah. This comprises 25 million for the investigation stage, 50 million for the prosecution stage, and 100 million for the trial stage. The remaining 25 million is allocated for executing the verdict. Similarly, the police incur a comparable cost of IDR 208 million per corruption case during the investigation and inquiry stages

Efforts towards the implementation of restorative justice must be pursued with utmost diligence, ensuring adherence to legal principles and indicators. It is imperative to actively promote the establishment of legal norms as a form of formal legality explicitly outlining procedures for addressing corruption cases, particularly those pertaining to the recovery of state losses through a restorative justice framework. This initiative is vital for enhancing legal certainty, providing law enforcement officers with a solid foundation, and instilling confidence in the execution of their duties and functions. In the pursuit of optimal application, it is essential to recognize that the cost implications of handling corruption cases through traditional investigative and prosecutorial processes can be substantial. The allocation of financial resources for each stage, from investigation to prosecution, demands careful consideration. With varying costs in different law

enforcement agencies, it becomes evident that the financial burden associated with these conventional methods can be significantly greater than the losses incurred due to relatively small-scale corruption. Therefore, fostering a legal environment that accommodates restorative justice practices becomes not only a means of ensuring justice but also a strategic approach to resource allocation, contributing to a more efficient and effective judicial system (Huda, 2023; Kusmayadi, 2025).

According to the author's analysis, signs indicating the suitability for applying restorative justice in a given corruption case may include: (1) Treating the relatively small value of state losses with a measured approach; (2) Qualifying actions as procedural errors leading to state losses; and (3) Paying attention to the inner attitude of the perpetrator, which serves as an indicator of whether the mistakes were committed through negligence or intentionality. However, it is crucial to recognize that to achieve both the deterrence effect for perpetrators and the preventive effect for the general public, the application of restorative justice cannot operate in isolation. In the context of recovering state losses, the restorative justice concept must coalesce with the classical retributive justice approach. This implies that the form of punishment, although not necessarily involving criminal deprivation of liberty, should align with a softer and more humanistic approach, such as community service (as proposed in the RKUHP as Ius Constituendum). This approach aims to fulfill the objectives of punishment, including general deterrence.

Another consequential measure that should be enforced is compelling the perpetrator to "acknowledge their mistakes and openly admit guilt" as a manifestation of moral responsibility for their actions towards society. Pleading guilty carries moral significance, signifying remorse and an intention to avoid repeating the same offense. The admission of guilt can take either oral or written form, with the primary purpose of conveying to the offender that their misconduct is condemnable and not worthy of emulation.

As suggested by Asrul Sani, the concept of confessing guilt can be considered an Alternative Dispute Resolution often associated with attempts to resolve issues outside the trial, grounded in specific reasons. Confessing guilt serves as a mechanism to accommodate suspects and defendants who acknowledge their actions and plead guilty, thereby bypassing the need for a time-consuming and costly judicial process. A suspect or defendant may opt for an admission of guilt to safeguard their reputation and the image of the party they represent, such as a corporation. Combining the application of restorative justice, involving the return of state financial losses by the perpetrator, with a simple and humane punishment like criminal social work—a characteristic of retributive justice—followed by a statement of guilt from the perpetrator, can yield numerous advantages, especially in terms of time and cost efficiency.

The suggestions and recommendations based on the conclusions of this paper include several important notes. Firstly, the adoption of the restorative justice concept in criminal justice requires the commitment of various stakeholders to collaboratively establish standardized and concrete forms and mechanisms for

its implementation. These should align with the conditions of the restorative society and have a robust legal foundation. Secondly, law enforcement officials engaging in restorative justice practices must demonstrate honesty and unwavering commitment to fulfilling their duties responsibly and accountably. This ensures that the implementation of restorative justice yields positive outcomes, such as fostering confidential transactions. Consequently, there is a need to develop a well-structured, controlled, and integrated system.

4. Conclusion

In conclusion, the findings of this study highlight the significant potential of implementing restorative justice in handling corruption cases and restoring state financial losses. This approach can serve as an innovative solution in efforts to revive the country's economic condition impacted by corrupt practices. By directly involving the perpetrators in the restoration process, restorative justice provides an opportunity to build moral accountability and yield a stronger deterrent effect. Therefore, further research is warranted to thoroughly understand the effectiveness of implementing restorative justice, while concurrently developing a supportive legal framework and conducting public awareness campaigns. The recommendations put forward involve fostering cross-institutional collaboration, establishing clear guidelines, conducting public outreach, and implementing a sustainable monitoring and evaluation system to ensure the continuity and success of this concept in the realm of law enforcement. Thus, restorative justice has the potential to shape a more holistic and effective legal system in combating corruption and restoring public trust in the concept of justice.

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