

Restorative Justice and Anti-Corruption Law: Toward a Progressive Penal Policy in Indonesia

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Abstract

The eradication of corruption in Indonesia, as regulated by Law Number 31 of 1999 on the Eradication of Corruption Crimes, remains predominantly oriented toward retributive sanctions. In contrast, the new Indonesian Criminal Code (KUHP) introduces a progressive and participatory penal policy paradigm by incorporating Restorative Justice (RJ) to restore victims' losses and strengthen social balance. This divergence in orientation creates potential ambiguity in law enforcement, particularly regarding the scope and criteria for applying RJ to corruption, which has long been categorized as a crime against the public interest. Previous studies have mainly concentrated on the effectiveness of punitive sanctions, leaving limited scholarly attention to the normative dimensions of RJ's integration into anti-corruption law and its compatibility with international regimes such as the United Nations Convention against Corruption (UNCAC), asset recovery mechanisms, civil recovery, non-conviction-based confiscation, and deferred prosecution agreements. This study aims to fill that gap by offering a normative framework harmonizing restorative justice principles with anti-corruption enforcement. Employing normative juridical research with a statute approach and a conceptual approach, this paper highlights the potential of RJ to complement punitive measures, enhance asset recovery, and align national law with global standards. This research contributes to proposing a more coherent and integrated anti-corruption penal policy that balances deterrence with restorative outcomes. In doing so, it enriches the academic discourse on Indonesia's criminal law reform. It provides a conceptual foundation for policymakers to design a corruption eradication regime that is consistent, effective, and internationally compatible.

Keywords: Corruption Crime; Punishment; Restorative justice; Anti-Corruption Law; New Criminal Code.



Introduction

Corruption remains a major global challenge, affecting almost every country and sector. Transparency International's 2023 Corruption Perceptions Index (CPI) indicates that global anti-corruption efforts have stagnated, with more than two-thirds of countries scoring below the global average of 43 out of 100.¹ Although significant measures have been taken to combat corruption in Indonesia, structural and cultural barriers pose serious obstacles. Against this backdrop, the restorative justice (RJ) approach has emerged as a promising alternative. RJ emphasizes repairing the harm caused by criminal acts through dialogue and reconciliation between offenders, victims, and the community. Research has demonstrated that RJ can reduce recidivism rates and help restore damaged social relationships.² Nevertheless, its application to corruption cases, especially those involving corporations, remains contentious. Several studies highlight RJ's potential to resolve corruption cases more effectively and humanely.³

The theory of restorative justice is grounded in the notion that justice is not solely about punishment but also about healing and reconciliation. Over time, the theory has evolved from focusing primarily on the offender to adopting a more inclusive framework involving victims and the community in the justice process.⁴ In the context of corruption, RJ offers a fresh perspective that prioritizes social responsibility and restoring integrity rather than mere retribution. However, implementing RJ to address corruption in Indonesia faces several challenges. One of the key issues is the inconsistency between RJ principles and the prevailing legal framework, such as the Criminal Code (KUHP) and the Corruption Eradication Act (UU Tipikor). Moreover, cultural

¹ Transparency International, "Corruption Perceptions Index 2024," Transparency International, 2025, <https://www.transparency.org/en/cpi/2024>.

² Muhamad Naufal Hibatullah, Elis Rusmiati, and Agus Takariawan, "Akibat Hukum Penerapan Restorative Justice oleh Kejaksaan Pada Perkara Tindak Pidana Penyalahgunaan Narkotika," *Yurispruden: Jurnal Fakultas Hukum Universitas Islam Malang* 7, no. 1 (January 19, 2024): 131–50, <https://doi.org/10.33474/yur.v7i1.20965>.

³ Nicholas Dungey, "Foucault, Disciplinary Power and the Phenomenology of Victimization and Restorative Justice," *Revista Internacional De Vitimologia E Justiça Restaurativa* 2, no. 1 (March 1, 2024), <https://doi.org/10.58725/rivjr.v2i1.60>; Nadea Lathifah Nugraheni et al., "Legal Analysis of the Implementation of Restorative Justice System in Troso Village," *Scholars International Journal of Law, Crime and Justice* 7, no. 02 (February 14, 2024): 56–60, <https://doi.org/10.36348/sijlcrj.2024.v07i02.001>.

⁴ Rena Yulia et al., "Diversion as a Form of Restorative Justice for Child Offenders in Indonesia: A Study on the Implementation of Social Research Recommendations," *Journal of Law and Sustainable Development* 12, no. 1 (January 19, 2024): e2456, <https://doi.org/10.55908/sdgs.v12i1.2456>; Tahura Malagano and Andrew R.J. Dainty, "Analysis of Implementation of Diversion And Restorative Justice As A Form of Protection of Children's Rights In Conflict With The Law," *Equalegum International Law Journal*, January 29, 2024, 15–22, <https://doi.org/10.61543/equ.v2i1.60>.

and structural factors further impede its practical application.⁵

This study examines the absence of restorative justice in the Corruption Crimes Law (Tipikor) and its presence in the new Criminal Code (KUHP). Furthermore, this study will analyze how these differing approaches create the need for synchronization to improve the effectiveness of corruption case handling. While many previous studies have focused on applying restorative justice in general criminal cases, corruption requires a more specific and contextual approach.⁶ This study is therefore highly urgent given the persistently high levels of corruption in Indonesia and the pressing need for a more humane and effective justice system. This research seeks to identify a fairer and more sustainable model for addressing corruption cases by exploring the synchronization between RJ and current regulations. Its primary objective is to analyze and synthesize the RJ approach in handling corruption offenses and identify the challenges and opportunities for its implementation within the Indonesian legal context. The findings are expected to contribute theoretically to the development of restorative justice scholarship and provide practical guidance for policymakers and legal practitioners in formulating more effective and equitable policies. In doing so, this study seeks to answer the central question: how can synchronizing the restorative justice approach with existing regulations enhance the effectiveness of corruption handling in Indonesia?

The type of research used in this study is normative legal research. This research examines and studies law as norms, rules, legal principles, doctrines, theories, and other literature to address the issues being studied. Another name for normative legal research is doctrinal legal research, also referred to as library research or document study. The methods employed in each analysis utilize several approaches, namely the statute and conceptual approaches. The statute approach examines all laws and regulations related to the legal issue being addressed. This statutory approach will allow the author to examine the consequences and compatibility between one law and another to obtain appropriate arguments. Meanwhile, the conceptual approach is an approach that starts from the views and doctrines developed in legal science, thus discovering ideas that give rise to legal definitions, concepts, and principles relevant to the legal issue at hand. Legal materials are obtained through library

⁵ Tonny Rompis, "Kajian Sosiologi Hukum Tentang Menurunnya Kepercayaan Masyarakat Terhadap Hukum Dan Aparat Penegak Hukum Di Sulawesi Utara," *Lex Crimen* 4, no. 8 (2015), <https://ejournal.unsrat.ac.id/index.php/lexcrimen/article/view/10302>; Jennifer Gee and Melissa Ryan, "Restorative Justice and Classroom Management in Elementary General Music Classrooms," *Update: Applications of Research in Music Education* 42, no. 2 (February 6, 2024): 31–41, <https://doi.org/10.1177/87551233231155126>.

⁶ Suartini Suartini, Maslihati Nur Hidayati, and Anna Maryam, "Pendekatan Restorative Justice Dalam Penyelesaian Sengketa Pertanahan Di Indonesia," *Binamulia Hukum* 12, no. 2 (January 4, 2024): 429–41, <https://doi.org/10.37893/jbh.v12i2.621>.

research. This includes primary legal materials, whose content is binding because they are issued by the government, such as various laws and regulations, court decisions, and treaties. Secondary sources are materials that discuss the material of primary legal materials, such as books and articles.⁷

Discussion

Restorative Justice Approach Regulation in the Corruption Criminal Penalty System

Restorative justice, first introduced by Albert Eglash in 1977, is a framework of criminal justice that emphasizes the rehabilitation of offenders through reconciliation with victims and restoring social harmony. Eglash's model contrasts with retributive justice, which focuses on punishing offenders, and distributive justice, which seeks offender rehabilitation. Restorative justice, however, is grounded in restitution, where offenders and victims come together to repair the harm caused by the crime. The primary goal is to restore relationships and facilitate reconciliation between the affected parties.⁸

In Indonesia, restorative justice has become a significant approach within the criminal law system, offering an alternative to traditional punitive measures. This approach emphasizes healing and restitution rather than punishment, prioritizing the restoration of losses suffered by victims. It is considered humanistic because it treats both offenders and victims as individuals who deserve dialogue and conflict resolution opportunities. The approach is also participatory, involving the community in the resolution process, as crimes affect the direct parties and society at large.

Restorative justice is often considered an Alternative Dispute Resolution (ADR) mechanism. Although Indonesian law generally prohibits resolving criminal cases outside the formal court system, exceptions exist. In restorative justice, crime is understood as a violation of individuals, rather than the state, and the resolution occurs outside the traditional legal system.⁹ This marks a shift from purely punitive measures, aiming for reparation and rehabilitation. The key objectives of restorative justice, as defined in several legal

⁷ Orin Gusta Andini, Nilasari Nilasari, and Andreas Avelino Eurian, "Restorative Justice in Indonesia Corruption Crime: A Utopia," *Legality : Jurnal Ilmiah Hukum* 31, no. 1 (April 13, 2023): 72–90, <https://doi.org/10.22219/ljih.v31i1.24247>.

⁸ Gwynn Alexander et al., "Institutional Transformation to Nurture Restorative Justice Practitioners: A Cross-Sector Exploration of a Regional Community Practice in Southern California," *Journal of Community Practice* 32, no. 1 (January 2, 2024): 127–47, <https://doi.org/10.1080/10705422.2024.2311251>.

⁹ Siobhan Butler, Giuseppe Maglione, and Jamie Buchan, "Institutionalising Restorative Justice for Adults in Scotland: An Empirical Study of Criminal Justice Practitioners' Perspectives," *Criminology & Criminal Justice* 24, no. 1 (February 20, 2024): 269–90, <https://doi.org/10.1177/17488958221104229>.

perspectives, include: (a) empowering victims and other directly affected parties to participate in decision-making; (b) ensuring justice is not solely retributive but also restorative, with an emphasis on healing and rehabilitation; and (c) preventing the recurrence of offenses through a sustainable deterrent effect.¹⁰

The introduction of Law No. 1 of 2023 on the Criminal Code, which incorporates restorative justice, reflects optimism for reform in Indonesia's criminal law. This law aligns with Pancasila values, emphasizing social justice, deliberation, and respect for human rights. The law's provisions reflect restorative justice principles that foster peace, tolerance, inclusivity, and responsible community practices.¹¹ Restorative justice can be found in several articles of the new Criminal Code, such as Article 51, which highlights the purpose of punishment as restoring balance and resolving conflicts arising from criminal acts, and Articles 53 and 54, which require judges to consider victim forgiveness when sentencing. Other provisions, like Articles 70 and 71, minimize imprisonment, especially for offenders with no prior convictions or minor crimes.¹²

Before enacting the new Criminal Code, the law did not explicitly include restorative justice. It was practiced through supplementary mechanisms outside the formal justice system, provided they did not conflict with existing legal provisions. In contrast, the new Criminal Code explicitly embeds restorative justice, offering a framework for its application in criminal law.¹³

The criminal justice system in Indonesia, which serves as the mechanism for combating crime, aims to prevent victimization, ensure that offenders face appropriate punishment, and prevent reoffending. However, in the case of corruption, restorative justice must be applied with caution. Corruption is considered an extraordinary crime due to its complexity and the significant harm it causes to state finances and the national economy. Corruption undermines development and hampers the efficiency necessary for sustainable

¹⁰ Sarah Balser et al., "Restorative Justice in Cases of Intimate Partner Violence in the United States: A Metasynthesis," *Families in Society: The Journal of Contemporary Social Services* 105, no. 3 (September 3, 2024): 384–401, <https://doi.org/10.1177/10443894231212546>.

¹¹ Ana M. Nascimento, Joana Andrade, and Andreia de Castro Rodrigues, "The Psychological Impact of Restorative Justice Practices on Victims of Crimes—a Systematic Review," *Trauma, Violence, & Abuse* 24, no. 3 (July 23, 2023): 1929–47, <https://doi.org/10.1177/15248380221082085>.

¹² Kimberly Zayhowski et al., "Inconvenient Sampling: Community-engaged and Restorative Justice Approaches to Genetic Counseling Student Research," *Journal of Genetic Counseling* 34, no. 1 (February 13, 2025), <https://doi.org/10.1002/jgc4.1869>.

¹³ Henny Saida Flora, "Restorative Justice In The Resolution Of Sexual Crimes In Medan City," *Journal of Law and Sustainable Development* 12, no. 3 (March 14, 2024): e2459, <https://doi.org/10.55908/sdgs.v12i3.2459>.

national growth.¹⁴

Article 2 of the Corruption Law outlines severe penalties for corruption, including life imprisonment or terms ranging from four to twenty years, along with substantial fines. Given the detrimental effects of corruption, the law requires that offenders face criminal penalties, regardless of whether state financial losses are recovered. This strict legal framework ensures that those guilty of corruption are held accountable for their actions, even if restitution is made.¹⁵

Corruption cases in Indonesia are handled through investigation, prosecution, and court examination. Investigations aim to identify criminal activity, while prosecutions involve transferring cases to courts for judgment. The prosecution stage can incorporate restorative justice, especially when state financial losses are recovered through negotiated settlements. Prosecutor's Regulation No. 15 of 2020 applies restorative justice to minor corruption cases, as long as the offender acknowledges wrongdoing and compensates the victim. This regulation encourages law enforcement officers to prioritize educational and persuasive measures, which avoids criminalizing individuals without sufficient evidence.¹⁶

The regulation defines restorative justice as a process where offenders, victims, and their families work together to restore the original state and resolve conflicts fairly, rather than through retribution. This process can occur when the offender admits guilt and agrees to compensate the victim for material and immaterial losses. Restorative justice emphasizes fairness, equality, and impartiality, and must adhere to applicable laws and regulations.¹⁷

Restorative justice can be applied to corruption cases involving state losses under IDR 50 million (approximately USD 3,200), according to a circular issued by the Deputy Attorney General for Special Crimes in 2010. This policy allows for resolving minor corruption cases through restitution without resorting to formal court proceedings. The Attorney General's office has issued guidelines for applying restorative justice in cases with minor losses. However, the application is only permitted if the corruption is not a repeat

¹⁴ Jo Lauren Weaver and Jacqueline M. Swank, "A Case Study of the Implementation of Restorative Justice in a Middle School," *RMLE Online* 43, no. 4 (April 20, 2020): 1–9, <https://doi.org/10.1080/19404476.2020.1733912>.

¹⁵ Giuseppe Maglione, "Restorative Justice, Crime Victims and Penal Welfarism. Mapping and Contextualising Restorative Justice Policy in Scotland," *Social & Legal Studies* 30, no. 5 (October 11, 2021): 745–67, <https://doi.org/10.1177/0964663920965669>.

¹⁶ Cameron W. Rasmussen, "The Politics of Accountability: Violence, Mass Punishment and Restorative Justice," *Contemporary Justice Review* 26, no. 4 (October 2, 2023): 357–75, <https://doi.org/10.1080/10282580.2024.2315019>.

¹⁷ Nur Rochaeli et al., "A Restorative Justice System in Indonesia: A Close View from the Indigenous Peoples' Practices," *Srinjaya Law Review*, January 27, 2023, 87–104, <https://doi.org/10.28946/slrev.Vol7.Iss1.1919.pp87-104>.

offense, does not involve critical sectors, and if the total state loss does not exceed IDR 50 million.¹⁸

Practical considerations, such as state budget constraints, limit this approach. The cost of prosecuting corruption cases is significant, with estimates ranging from IDR 25 million for the investigation stage to IDR 100 million for prosecution. In cases where the state loss is slight, restorative justice can be applied to avoid the cost of formal prosecution, as long as the total loss does not exceed IDR 50 million.¹⁹

Despite the existence of this policy, there are contradictions within the legal framework. For example, applying restorative justice to corruption cases with losses above IDR 50 million conflicts with the Attorney General's Regulation No. 15 of 2020, which allows restorative justice only for cases involving losses of less than IDR 2.5 million. Further complications arise when considering the application of restorative justice in cases involving multiple perpetrators. If the total state loss exceeds IDR 50 million, the restorative justice approach cannot be applied, even if each loss is below that threshold.²⁰

Moreover, the Deputy Attorney General for Special Crimes has emphasized that restorative justice can only be applied to corruption cases that meet specific conditions: the crime must not be a repeat offense, it must not involve critical public sectors, and the loss must be under IDR 50 million. These guidelines ensure that restorative justice is not misused for severe corruption cases and that the public interest is protected.²¹

In conclusion, restorative justice offers a promising alternative to traditional punitive measures, emphasizing rehabilitation and restitution. In Indonesia, implementing restorative justice within the criminal law system reflects a shift towards humanistic and participatory approaches to conflict resolution. While the concept holds potential for corruption cases, it must be applied cautiously. Restorative justice is best suited for minor corruption cases involving limited state losses, while major corruption offenses should continue to be prosecuted with full criminal penalties. Legal reforms and careful application are needed to ensure that restorative justice serves as a complement to, not a substitute for, effective anti-corruption enforcement. Legal clarity is

¹⁸ Sukardi Sukardi and Hadi Rahmat Purnama, "Restorative Justice Principles in Law Enforcement and Democracy in Indonesia," *Journal of Indonesian Legal Studies* 7, no. 1 (June 1, 2022): 155–90, <https://doi.org/10.15294/jils.v7i1.53057>.

¹⁹ Nugraheni et al., "Legal Analysis of the Implementation of Restorative Justice System in Troso Village."

²⁰ Dungey, "Foucault, Disciplinary Power and the Phenomenology of Victimization and Restorative Justice."

²¹ Archana Vashishth, Sakshi Dudeja, and Teena, "System of Restorative Justice and Juvenile Justice in India: A Brief Comparative Study with Latin American System," *Mexican Law Review*, February 7, 2024, 131–43, <https://doi.org/10.22201/ij.24485306e.2024.2.18895>.

essential to avoid contradictions and ensure that restorative justice is applied fairly and transparently in corruption cases.

Synchronization of the Restorative Justice Approach in Corruption Cases

The concept of restorative justice in Indonesia's criminal law system is gaining prominence with the introduction of Law No. 1 of 2023 on the Criminal Code. This law explicitly incorporates the principles of restoration and reconciliation into the law enforcement process. However, challenges arise when applying restorative justice to corruption cases, particularly in reconciling the provisions of the new Criminal Code with Law No. 31 of 1999 and Law No. 20 of 2001 concerning the Eradication of Corruption. A notable issue lies in the overlap between Article 132 of the Criminal Code and Article 4 of the Corruption Law, where the former allows for prosecution to lapse if the case is settled outside the judicial process. At the same time, the latter states that returning state financial losses does not absolve the criminal penalty for the perpetrator.²²

The Criminal Code is a transitional piece of legislation that links the old and new legal systems, allowing both laws to function together. However, the conflicting paradigms between these two laws have sparked debates about the effectiveness of criminal penalties, the principle of accountability, and the potential misuse of restorative justice. In corruption cases, restorative justice could act as a "shield" for perpetrators, enabling them to avoid criminal liability and undermining the deterrent effect that criminal punishment aims to achieve. This contrasts with the Corruption Law, which explicitly stipulates that restitution of state financial losses does not eliminate the obligation to prosecute and punish perpetrators.²³

Article 132 of the new Criminal Code outlines circumstances under which the prosecution authority can lapse, including the possibility of termination through amicable settlement or restorative justice. This provision could conflict with the Corruption Law, which mandates that the return of state financial losses does not eliminate criminal penalties. Corruption crimes, particularly those involving influential individuals, should not be subject to restorative justice mechanisms. These crimes require stricter criminal sanctions, and allowing restorative justice could undermine the fight against

²² Lydia Dalhuisen et al., "Victim Involvement in Forensic Psychiatric Treatment: Opportunities and Challenges from a Restorative Justice Perspective," *International Review of Psychiatry* 36, no. 7 (October 2, 2024): 676–84, <https://doi.org/10.1080/09540261.2024.2303056>.

²³ Nascimento, Andrade, and de Castro Rodrigues, "The Psychological Impact of Restorative Justice Practices on Victims of Crimes—a Systematic Review."

corruption and erode public trust in the legal system.²⁴

Restorative justice, as outlined in the Corruption Eradication Law, raises a conflict between legal certainty and substantive justice. The Corruption Law focuses on criminal punishment and legal certainty, demanding prosecution for all acts of corruption. On the other hand, restorative justice emphasizes the recovery of state losses and efficient law enforcement. This conflict highlights the need for legal reform to integrate restorative justice principles, especially for corruption cases involving minor losses.²⁵

Internationally, thirty-three UN member states have ratified the United Nations Convention Against Corruption (UNCAC), which promotes asset recovery as a key component of anti-corruption efforts. UNCAC has shifted the focus from solely punishing offenders to recovering the funds lost to corruption. Countries like Switzerland, Hong Kong, the UK, Canada, and France have implemented innovative policies that align with UNCAC's goals. Switzerland, for instance, allows for non-conviction-based asset forfeiture, enabling authorities to seize assets derived from corruption without awaiting a conviction. Hong Kong's Independent Commission Against Corruption (ICAC) combines prevention with asset recovery, allowing for civil recovery of corrupt assets and criminal prosecution. The UK has introduced Unexplained Wealth Orders (UWOs), which enable the seizure of assets when individuals cannot explain the origins of their wealth. Canada and France have adopted Deferred Prosecution Agreements (DPAs) and similar mechanisms to encourage corporations involved in corruption to pay restitution without facing criminal prosecution.²⁶

These international practices provide valuable lessons for Indonesia. The UNCAC's emphasis on asset recovery suggests that Indonesia should reform its laws to facilitate restorative justice in corruption cases. For example, separating civil asset recovery mechanisms from criminal prosecution could help expedite restitution while maintaining a deterrent effect on offenders. By adopting models from countries like Canada and France, Indonesia could create a system where asset recovery and criminal punishment work in parallel, ensuring that offenders do not escape liability simply by returning stolen

²⁴ Flora, "Restorative Justice In The Resolution Of Sexual Crimes In Medan City."

²⁵ Giuseppe Maglione, Ian D. Marder, and Brunilda Pali, *Restorative Justice at a Crossroads* (London: Routledge, 2023), <https://doi.org/10.4324/9781003320647>.

²⁶ Malagano and Dainty, "Analysis of Implementation of Diversion And Restorative Justice As A Form of Protection of Children's Rights In Conflict With The Law"; Syariful Alam, Nu'man Aunuh, and Yaris Adhial Fajrin, "The Concept of Restorative Justice in Islamic Criminal Law: Alternative Dispute Settlement Based on Justice," *KnE Social Sciences*, January 5, 2024, <https://doi.org/10.18502/kss.v8i21.14779>.

assets.²⁷

Hong Kong's Independent Commission Against Corruption (ICAC) integrates prevention and enforcement by using civil recovery mechanisms to confiscate corrupt assets in addition to criminal prosecution, ensuring restitution and punishment go hand in hand. In the UK, Unexplained Wealth Orders (UWOs) introduced in 2017 enable courts to seize assets from individuals suspected of corruption without a criminal conviction if they fail to explain the origin of their wealth. Canada's Deferred Prosecution Agreements (DPAs) allow corporations involved in corruption to settle by paying compensation and improving systems to avoid prosecution. In contrast, France's Convention Judiciaire d'Intérêt Public (CJIP) allows corrupt companies to pay fines and return assets to discontinue criminal prosecution under judicial oversight. Singapore's civil forfeiture regime, in line with the UNCAC, enables asset confiscation without waiting for a conviction, while still prosecuting perpetrators, emphasizing asset recovery and deterrence.²⁸

The Indonesian Deputy Attorney General for Special Crimes issued a circular in 2010 addressing small-loss corruption cases, permitting resolution through restorative justice. This has led to concerns that minor corruption offenses are tolerated or legitimized. The circular prioritizes legal utility over justice and certainty, which conflicts with the goals outlined in the Corruption Law's preamble. According to the Corruption Law, the primary objectives are to guarantee legal certainty, avoid legal ambiguity, and protect society's social and economic rights. The circular's focus on utility undermines these principles by offering leniency to corruption offenders, thus weakening the legal framework for anti-corruption enforcement.²⁹

The circular's approach conflicts with Radbruch's theory of justice, which prioritizes justice, certainty, and utility. By focusing solely on utility, the

²⁷ Rika Dwi Juliani and Syofiaty Lubis, "Pengembalian Aset Hasil Korupsi Dan Penanggulangan Korupsi Melalui Penyitaan Non-Conviction Based Asset Forfeiture: Tinjauan Hukum Indonesia Dan United Nations Convention against Corruption (UNCAC) 2003," *Jurnal Educatio: Jurnal Pendidikan Indonesia* 9, no. 1 (June 23, 2023): 273, <https://doi.org/10.29210/1202322846>; Jorge Bermúdez et al., "Jornada Inaugural Primer Congreso Estudiantil De La Alianza Anticorrupción Uncac," *Revista Chilena De La Administración Del Estado*, May 3, 2023, <https://doi.org/10.57211/revista.v8i8.140>.

²⁸ Prijo Santoso and Bambang Pujiono, "The Jurisdiction of the Prosecutor's Office Is to Confiscate Assets and Eradicate the Crime of Money Laundering," *Jurnal Multidisiplin Madani* 4, no. 1 (January 29, 2024): 180–85, <https://doi.org/10.55927/mudima.v4i1.7836>; Sophie Lemaître, "Working Paper 50: Seedlings of Hope: Addressing Corruption Linked to Crimes That Impact the Environment in Line with UNCAC Resolution 8/12," *Basel Institute on Governance Working Papers*, March 7, 2024, 40, <https://doi.org/10.12685/bigwp.2023.50.40>.

²⁹ Santoso and Pujiono, "The Jurisdiction of the Prosecutor's Office Is to Confiscate Assets and Eradicate the Crime of Money Laundering"; Lemaître, "Working Paper 50: Seedlings of Hope: Addressing Corruption Linked to Crimes That Impact the Environment in Line with UNCAC Resolution 8/12."

circular sacrifices justice and legal certainty, failing to uphold the principles of fairness and protection of socio-economic rights. Consequently, corruption cases involving minor state losses are still prosecuted in court, as the circular does not adequately address the need for justice and legal certainty.

To ensure practical anti-corruption efforts, the restitution of state losses should be prioritized through additional penalties like fines, asset confiscation, and civil lawsuits. These measures can complement criminal prosecution without undermining the legal system's integrity. The Corruption Law's provisions, such as Article 18(1), allow for additional penalties, including the confiscation of assets or the payment of replacement money, which can help recover state losses. These provisions ensure that restitution remains a supplementary penalty rather than the primary form of punishment.³⁰

Restorative justice should not eliminate criminal sanctions but should focus on compensating victims and restoring the harm done by the crime. In the context of corruption, the primary concern should be the recovery of state losses, which should take precedence over the deprivation of the perpetrator's liberty. The Corruption Law already allows for compensatory punishments, including the payment of replacement money. If the perpetrator fails to make restitution, they can be imprisoned, ensuring that the law provides restitution and punishment.³¹

By making restitution the primary form of punishment, the legal system would shift toward substantive justice, prioritizing the recovery of state assets and minimizing opportunities for perpetrators to avoid criminal liability. In this approach, compensation would not be merely an additional penalty, but the central focus of the legal process. This shift would strengthen the deterrent effect of anti-corruption laws while ensuring that the legal system remains fair and just.³²

In conclusion, the restorative justice approach should complement, not replace, the strict sanctions required for corruption offenses. The Corruption Eradication Law remains the *lex specialis* in addressing corruption crimes, and restorative justice can be used for asset recovery and social reconciliation. However, restorative justice should not be used as a loophole for corrupt

³⁰ Bhilla Alifitria and Nuriyeni Kartika Bintarsari, "Pengaruh Implementasi United Nations Convention Against Corruption Terhadap Pemberantasan Korupsi Di Australia Tahun 2013-2017," *Insignia: Journal of International Relations* 6, no. 2 (November 24, 2019): 106, <https://doi.org/10.20884/1.ins.2019.6.2.1546>.

³¹ Anis Lailatul Fajriah, Ni Ketut Sari Adnyani, and Made Sugi Hartono, "Perdagangan Pengaruh (Trading In Influence) Ditinjau Dari Perspektif United Nations Convention Against Corruption (Uncac)," *Jurnal Komunitas Yustisia* 4, no. 2 (August 20, 2021): 554–63, <https://doi.org/10.23887/jatayu.v4i2.38149>.

³² Briana Barocas et al., "Restorative Justice for Domestic Violence: The Meaning of Community in Circles," *Victims & Offenders* 19, no. 6 (August 17, 2024): 984–1002, <https://doi.org/10.1080/15564886.2024.2312472>.

offenders to evade punishment. Legal reforms are necessary to harmonize the new Criminal Code with the Corruption Law, ensuring that anti-corruption efforts remain effective and that public trust in the legal system is preserved. By aligning restorative justice principles with the broader goals of the Corruption Law, Indonesia can create a more effective and just system for tackling corruption and protecting public interests.

Conclusion

Based on the research results, eradicating corruption in Indonesia is still oriented towards retributive punishment as stipulated in the Corruption Eradication Law. At the same time, the New Criminal Code opens up opportunities for progressive punishment through the principle of restorative justice (RJ). This lack of synchronization of orientation has the potential to create ambiguity, particularly in the limits and criteria for applying RJ in corruption cases. This study offers a normative framework to harmonize the two regulations by positioning RJ not as a substitute for criminal punishment, but as an instrument for recovering state assets (asset recovery) that runs parallel to the criminal path. This model emphasizes the *lex specialis* of the Corruption Eradication Law, clarifying the criteria for corruption cases that can be considered for RJ, such as small state losses, non-systemic crimes, and restitution of losses before the conference. It provides a new contribution in the form of a dual-track approach that reduces criminal sanctions with loss recovery. Thus, the corruption criminalization system in Indonesia can be fairer, more consistent, and aligned with international standards such as the UNCAC 2003.

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