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The urgency of recovering state financial losses based on Law Number 31 of 1999 amendments to Law Number 20 of 2001 concerning the eradication of corruption crimes in Indonesia

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Abstract
Purpose: This study aims to analyze the urgency of recovering state financial losses caused by corruption, as regulated in the relevant anti-corruption laws, and to explore the potential for incorporating restorative justice into the Indonesian anti-corruption legal framework.
Research methodology: The study employs a normative legal research method, using statutory and case approaches. It analyzes relevant laws, judicial decisions, and international conventions such as UNCAC, to evaluate mechanisms for recovering state losses and propose policy improvements..
Results: The study finds that the return of state financial losses does not eliminate criminal liability for corruption offenders under Indonesian law. However, such restitution may serve as a mitigating factor in sentencing. It also identifies weaknesses in the civil recovery process and emphasizes the inefficiency of current mechanisms. The research supports the inclusion of restorative justice to enhance efficiency and effectiveness in asset recovery.
Conclusions: The existing legal framework prioritizes retributive justice, which often delays the recovery of losses. A paradigm shift toward restorative justice, especially in corporate corruption cases, can support state financial recovery without necessarily eliminating criminal sanctions.
Limitations: This study focuses solely on corruption cases involving state financial losses and does not fully address systemic reform needs. The civil law procedures discussed remain constrained by conventional legal frameworks.
Contribution: This research contributes to legal scholarship by proposing a reformulation of corruption law enforcement through restorative justice principles. It informs policy makers and legal practitioners on the potential integration of non-punitive measures in corruption cases and supports the development of a comprehensive legal system for recovering state assets in line with international norms.

Keywords: *State Financial Losses, Corruption Crimes, Law Number 31 of 1999, Law Number 20 of 2001*

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1. Introduction

Based on Indonesia Corruption Watch (ICW), throughout 2022 there were 579 corruption cases with 1,396 suspects who have been determined. The number of cases and suspects has increased from the previous year, namely 8.63% for the number of cases and an increase of 19.01% for the number of suspects. The corruption cases handled by the Attorney General's Office are 404 cases. In 2022, the highest number of corruption cases occurred at the village level, namely 155 cases or equivalent to 26.77% of all cases faced throughout 2022 (Dionysopoulou, 2020).

The conventional methods that have been used have proven to be unable to solve the problem of corruption in society, so the handling must also use extraordinary methods (Arief, 2006). Given that one of the elements of Corruption in Articles 2 and 3 of Law No. 31 of 1999 jo Law No. 20 of 2001 concerning the Eradication of Corruption Crimes (Corruption Law) is the existence of an element of state financial loss, this element has the consequence that the eradication of corruption does not only aim to deter corruptors through the imposition of heavy prison sentences, but also to restore state finances due to corruption as affirmed in the general consideration and explanation of the Corruption Law (Bora, Fanggidae, & Fanggidae, 2024).

The Corruption Law regulates mechanisms or procedures that can be applied in the form of reimbursement of state financial losses through criminal channels, and reimbursement of state financial losses through civil channels. In addition to the Corruption Law, Law Number 7 of 2006 concerning the Ratification of the Anti-Corruption Convention (UNCAC) 2003 also stipulates that the return of state financial losses can be made through criminal channels (indirect recovery of state financial losses through criminal recovery) and civil channels (direct recovery of state financial losses through civil recovery) (Afnan, Wijaya, Kartono, & Wibowo, 2024). Technically, UNCAC regulates the return of state financial losses of corruption perpetrators through direct returns from the court process based on the "negotiation plea" or "plea bargaining system" and through indirect returns, namely through the confiscation process based on court decisions (Sulaiman, Fitralisma, Fata, & Nawawi, 2023).

The reimbursement of financial losses of the Corruption State through civil channels is contained in the provisions of Article 32 paragraph (1), Article 34, Article 38B paragraph (2) and (3) of the Corruption Law. First, the provisions of Article 32 paragraph (1) stipulate that in the event that the investigator is of the opinion that there is insufficient evidence on one or more elements of the crime of corruption when there has been a real financial loss of the state, then the investigator immediately submits the case file of the investigation results to the State Attorney (Omoniyi, 2020). The State Attorney based on the file submitted by the investigator conducts a civil lawsuit or submits it to the aggrieved agency to file a lawsuit. Second, strengthening the return of state losses is carried out by requiring the perpetrator to prove his property that has not been charged, but is also suspected of coming from a corruption crime (George, 2021). In conditions where the defendant cannot prove that the property obtained is not due to a criminal act of corruption, the judge on the basis of his authority can decide that all or part of the property is confiscated for the state (Ramdani & Prayitno, 2023). The third claim for confiscation of property as referred to in paragraph (2) is submitted by the public prosecutor when reading his claim on the main case. The filing of a civil lawsuit is considered like a very powerful weapon to directly attack the perpetrators of criminal acts in an effort to recover state financial losses, state financial losses resulting from corruption crimes, in addition to getting criminal penalties. This must be carried out if the state financial losses mentioned in the previous decision are found to have financial losses of other countries that have not been identified as the result of corruption crimes (Sanusi, 2012).

After the enactment of the Corruption Law for 17 years, many corruption perpetrators have been submitted to trial and obtained decisions from the court. Based on the Performance Report, the Supreme Court recorded the recovery of state financial losses throughout 2016 amounting to Rp.1.5 trillion, of which came from 356 corruption cases, in the form of compensation money of Rp.647,373,468,339,- (six hundred and forty-seven billion three hundred and seventy three million four hundred and sixty-eight thousand three hundred and thirty-nine rupiah) and a fine of Rp.75,956,400,000,- (seventy-five billion nine hundred and fifty-six million four hundred thousand rupiah), when compared to the financial losses suffered by the state throughout 2015 due to Corruption Crimes amounted to

Rp.31,077,000,000,000,- (thirty-one trillion seventy-seven billion rupiah), as conveyed by Indonesia Corruption Watch (ICW), then actually the deprivation of state financial losses resulting from corruption in the context of recovering state financial losses is not enough succeed (Bako, 2024).

The existing systems and mechanisms regarding the confiscation of state financial losses for criminal acts are currently not able to support efforts to enforce the law in a fair manner and improve the welfare of the people as mandated by the 1945 Constitution of the Republic of Indonesia . In addition, the reason is also the lack of adequate international cooperation, and the lack of understanding of the mechanism for the seizure of state financial losses resulting from criminal acts by law enforcement officials , as well as the length of time it takes for state financial losses resulting from criminal acts to be confiscated by the state, namely after obtaining a court decision with permanent legal force (Ishak, 2024).

2. Method

The research method used in this study is a normative legal research method. Normative law research uses case studies of normative law in the form of legal behavior products, for example reviewing draft laws. The approaches used in legal research include: (a). The statute approach; (b). Case approach; (c). Historical approach (d). Comparative approach; and (e). Conceptual approach (Marzuki, 2013). In accordance with the existing research problems, several problem approaches are used, namely the statute approach and the case approach (Gerald, Obianuju, & Chukwunonso, 2020).

3. Discussion

3.1 Provisions Regarding the Return of State Financial Losses Resulting from Corruption Crimes in Positive Law

Law enforcement through the disclosure of criminal acts, finding the perpetrators, and putting the perpetrators in prison (follow the suspect) alone is not effective in suppressing the occurrence of crimes if it is not accompanied by efforts to confiscate and seize the proceeds and instruments of criminal acts (Muhammad, 2013). This situation is increasingly finding its truth if it is linked to crimes with economic modes such as corruption. In the crime of corruption, material gains are one of the characteristics of the crime. This can be clearly seen from the formulations of articles in the Law on the Eradication of Corruption such as enriching, profiting, receiving gifts, embezzling money or securities and several other terminology that shows the characteristics of the economic mode. Therefore, law enforcement against corruption must also focus on the economic benefit side so that it can recover the losses experienced by the state due to corruption.

Efforts to confiscate and seize the proceeds and instruments of criminal acts, especially in corruption crimes, have previously been initiated in several laws and regulations. Among others, in the Central War Ruler Regulation Number: Domestic Workers. PEPERPU/013/1958 concerning the Investigation, Investigation, and Examination of Acts of Corruption and Property Ownership which stipulates that there is a power for property owners to confiscate the property of a person or a body if, after conducting a careful investigation based on certain circumstances and other evidence, a strong suspicion is obtained, that the property is included in the property that can be confiscated and confiscated.

In addition, the underlying regulation is also contained in Government Regulation in Lieu of Law Number 24 of 1960 concerning the Investigation, Prosecution and Examination of Corruption Crimes. The Perppu stipulates that all property obtained from corruption is confiscated, and the defendant may also be required to pay compensation in the same amount as property obtained from corruption. Law Number 3 of 1971 concerning the Eradication of Corruption Crimes is also one of the bases for confiscating state financial losses on a person who has died, before there is an irreversible verdict on the case that has committed a crime of corruption, then the judge on the Public Prosecutor's request decides the confiscation of the goods that have been confiscated through a court decision.

The enactment of Law Number 31 of 1999 as amended by Law Number 20 of 2001 is a positive law as a basis for efforts to eradicate corruption in Indonesia. This law has also included provisions related to efforts to recover state financial losses for state losses due to corruption crimes. Among the efforts

contained in the regulation, in addition to confiscation and confiscation, there is also a provision for reversing the burden of proof on the assets of perpetrators suspected of committing corruption crimes.

The return of state financial losses resulting from corruption crimes in positive law is a law enforcement system carried out by the state as a victim of corruption crimes to revok, deprive, eliminate the right to state financial losses resulting from corruption crimes through a series of processes and mechanisms, both criminally and civilly, state financial losses resulting from corruption crimes, both at home and abroad are tracked, frozen, confiscated, confiscated, handed over and returned to the state as victims of corruption crimes, so as to be able to return state financial losses resulting from corruption crimes, and to prevent corruption perpetrators from using state financial losses resulting from corruption crimes as a tool or means to commit other criminal acts and provide a deterrent effect for perpetrators and/or potential perpetrators of corruption crimes (Oktaviani, 2014).

Article 4 of Law Number 31 of 1999, it is explained that the return of state or state economic losses will not abolish the criminal offenders as referred to in Articles 2 and 3. Even so, in the Explanation of Article 4, it is stated that the financial return or the state economy is one of the factors that mitigate the crime that can be imposed on the perpetrators of corruption crimes. However, the question that arises is how to implement or enforce the law on asset recovery. There are several forms of criminal law enforcement measures that can be directed for the purpose and in order to recover state financial losses or wealth derived from corruption crimes. Among these steps are through expropriation, reverse proof, civil lawsuits, and the criminal application of payment of replacement money..

3.2 The Urgency of Returning State Financial Losses Resulting from Corruption Crimes in Ius Constituendum

The existence of corruption crimes causes losses to the financial sector/state wealth which has implications for government programs to improve the welfare of the people to be hampered. The enforcement of corruption that is now implemented by law enforcement in Indonesia only emphasizes putting the perpetrators in prison, not on the return of state financial losses resulting from corruption crimes. The absence of rules regarding the impoverishment of corruptors causes a slow return of state financial losses and their derivatives that have been controlled by the perpetrators of corruption crimes. Seeing the impact of the greedy behavior of the perpetrators of corruption crimes, the main focus of the existence of corruption eradication law enforcement should be the return of state financial losses resulting from corruption and also its derivatives because many perpetrators of corruption crimes even though they have languished, but the business derived from the proceeds of corruption crimes is growing as if there is no deterrent effect.

The growing understanding that preventing the perpetrators of corruption crimes can change the proceeds of criminal acts from haram to halal and confiscate the proceeds of corruption crimes, is an effective way to combat the crime of corruption itself juxtaposed with money laundering.99 If law enforcement against corruptors is also charged with money laundering and law enforcement is professional and integrity is maintained, then the opportunity for the loss of replacement money is very Even the perpetrators will get a much heavier penalty and all parties who receive or enjoy the results of corruption are also entangled in the law as perpetrators of passive money laundering.

Regarding the passive perpetrators themselves in Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, it has been regulated in Article 5 Paragraph (1) which formulates: Every person who receives or controls the placement, transfer, payment, grant, donation, custody, exchange, or use of Wealth that he knows or should suspect is the result of a criminal act as intended in Article 2 paragraph (1) shall be sentenced to imprisonment for a maximum of 5 (five) years and a maximum fine of Rp.1,000,000,000.00 (one billion rupiah). The criminalization process of passive money laundering is the initiation of the President as the head of government against the background that there are still too many interpretations of the formulation of criminal acts in the old law and the expansion of the authorities to report. This is reinforced by the basis namely;

1. The act of passive money laundering is a crime that can interfere with the achievement of national goals, especially in the economic or financial sector, this is related to the disruption of the state's

goals, namely protecting the entire Indonesian nation and all Indonesian bloodshed, promoting public welfare and participating in implementing world order.
2. The crime of passive money laundering is not wanted by the community and causes losses that can bring victims, even though in this case the victim is not directly aware that part of the victim of the crime of passive money laundering (it seems to be a victimless crime).
3. With the transmission of passive money laundering crimes, the state gets many benefits compared to costs, as the paradigm change in law enforcement for money laundering crimes is follow the money, so that the state through its law enforcement officials can track and take action against the perpetrators of money laundering crimes through the flow of money.
4. Criminalization of passive money laundering will not cause overlasting law enforcement officials, in this case law enforcement officials are assisted by the financial intelligence unit (FIU), namely PPATK (Sujiwo, 2015).

It is also very important that there is an effort to improve the mechanism for the return of state financial losses through civil lawsuits. In reality, the difficulty faced is that the application of the civil procedure law used is fully subject to ordinary civil procedure law that adheres to the principle of formal proof. The burden of proof lies with the party who postulates (the state attorney must prove) the equality of the parties, the obligation of the judge to reconcile the parties, and so on. Meanwhile, the State Attorney (JPN) as the plaintiff must prove clearly that there has been a state loss. Namely, state financial losses due to or related to the actions of the suspect, defendant, or convict, the existence of property belonging to the suspect, defendant, or convict that can be used for the return of state financial losses, In addition, like the general handling of civil cases, it takes a very long time until there is a legal decision with permanent legal force. These obstacles must be overcome immediately to optimize the return of state losses through the creation of a special civil procedure law for corruption cases, which comes out of conventional procedural law frameworks.

According to UNCAC, the return of state financial losses due to corruption itself is divided into four stages, namely the stage of tracking state financial losses, the stage of preventive measures to stop the transfer of state financial losses through freezing and confiscation mechanisms, the confiscation stage, and the stage of handing over state financial losses from the recipient country to the victim country where the state financial losses were obtained illegally. In a series of returns of state financial losses due to corruption, several stages can be taken, namely:
1. The stage of tracking the country's financial losses. This stage is the stage where information about the state's financial losses that are corrupted and evidence is collected. To keep the scope and direction of the investigation in focus, according to John Conyngham, the authorities that conduct investigations or track the country's financial losses partner with law firms and accounting firms. For the purpose of the investigation, a presumption was formulated that the perpetrator of the crime would use the illegally obtained funds for his personal and family interests.
2. The stage of freezing or depriving the state of financial losses. The success of the investigation in tracking the illegally obtained state financial losses allows the implementation of the next stage of the return of state financial losses, namely the freezing or seizure of state financial losses. According to UNCAC 2003, freezing or forfeiture means a temporary prohibition on transferring, converting, disposing or transferring wealth or temporarily deemed to be placed under trust or under supervision by order of a court or other authority. Considering that corruption is one of the transnational crimes or it is not uncommon to involve or between other countries because state financial losses resulting from corruption are stored in other countries, cooperation between countries in the process of expropriation of state financial losses needs to be considered. If the financial losses of the corrupt state are outside the jurisdiction of the victim State, then the execution of the freezing and forfeiture order can only be carried out through the competent authority of the receiving country.
3. The stage of confiscation of state financial losses. Confiscation is an order of a court or authorized body to revoke the rights of corruption perpetrators for state financial losses resulting from corruption crimes. Usually, a confiscation order is issued by a court or authorized body from the receiving country after there is a court decision that imposes a criminal sentence on the perpetrator of the crime. Confiscation can be carried out without a court decision in the event that the perpetrator

of the crime has died or disappeared or there is no possibility for the prosecutor as the public prosecutor to prosecute.

4. 4The stage of handing over state financial losses resulting from corruption crimes to victims or victim countries. In order to be able to refund the country's financial losses, both the recipient country and the victim country need to take legislative actions and other actions according to the principles of national law of each country so that the authorized body can refund the country's financial losses. Most countries do not specifically regulate the provisions for the sharing of state financial losses that are frozen and confiscated, so in general, the issue of the sharing of state financial losses is regulated in the mutual legal aid agreement between the victim country and the recipient country.

National policies in the field of deprivation of state financial losses for criminal acts must have a holistic vision based on real needs and meet international standards, both those determined by the United Nations, FATF, and other competent international agencies or organizations in the field of prevention and eradication of criminal acts. To be able to realize effective laws and regulations in the field of criminal state financial loss, political commitment, proportional laws and regulations, strong intelligence in the financial sector, financial sector supervision, law enforcement, and international cooperation are needed. Considering that the confiscation of state financial losses is an important part in the prevention and eradication of criminal acts, especially corruption crimes, and also consideration of the need for adequate legal instruments in combating corruption crimes, as well as the need for the maximum alignment of paradigms and provisions and international provisions and instruments in laws and regulations, it is necessary to draft and immediately enact the Bill on the Confiscation of State Financial Losses for Crimes.

According to Romli Atmasasmita, the need for the Draft Law on the Confiscation of State Financial Losses, based on the reality of law enforcement efforts, especially against corruption crimes, has not yielded significant results for the state treasury. In addition, Romli also stated that the current legal apparatus in Indonesia has not been able to optimally regulate and accommodate activities in the context of recovering state financial losses resulting from corruption and crimes in the financial and banking sectors in general. In line with that, Mudzakkir stated that the Draft Law on the Confiscation of State Financial Losses needs to be passed because it is strategic enough to eradicate money laundering crimes in Indonesia. In addition, the Draft Law on the Confiscation of State Financial Losses is also useful for recovering losses incurred from criminal acts committed by perpetrators. Furthermore, Mudzakkir also emphasized that the Draft Law on the Confiscation of State Financial Losses must be prepared proportionately and continue to prioritize the element of justice (Latifah, 2016).

In detail, the Bill on Expropriation of State Financial Losses regulates the confiscation of state financial losses in the event that: (a) the suspect or defendant dies, escapes, is permanently ill, or his whereabouts are unknown; or (b). The defendant was acquitted of all lawsuits. For the deprivation of state financial losses from both, it can also be done against state financial losses whose criminal cases cannot be heard or have been found guilty by a court that has obtained permanent legal force, and in the future it turns out that there are state financial losses from criminal acts that have not been declared confiscated. The confiscation of state financial losses does not apply to unnatural wealth that will be confiscated. Expropriation of state financial losses does not abolish the authority to prosecute the perpetrators of criminal acts. State financial losses that have been confiscated based on court decisions that have obtained legal force can still be used as evidence in the prosecution of criminal offenders.

3.3 Restorative Justice Returns State Financial Losses

Article 4 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes reads as follows: "The return of state financial losses or the state economy does not abolish the conviction of the perpetrators of criminal acts as referred to in Articles 2 and 3 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes." The explanation of Article 4 states that the return of state financial losses or the state economy is only one of the mitigating factors. In this context, the nature of criminal law, namely primum remedium, is embraced so that it does not allow sanctions other than criminal law to be used to replace criminal sanctions against corporations that commit corruption. This means that even though the perpetrator of the crime of corruption returns the losses that have been

caused, there are still criminal legal consequences that he must face. Articles 2 and 3 of the Law on the Eradication of Corruption regulate corruption crimes involving gratuities or bribery. Even if the perpetrator of the crime returns or replaces the value of the gratuity or bribe received, it will not eliminate their criminal liability. In this context, the return of losses made by perpetrators of corruption crimes can be seen as an effort to recover or compensate the state or the country's economy that suffered losses due to their actions. The return does not automatically exempt the perpetrator from criminal liability, because the crime of corruption is still considered a serious violation of the law.

The restorative justice approach in eradicating corruption is still controversially addressed because it is considered that restorative justice only applies to real victims (individuals) or a group of people and cannot be applied to criminal acts whose victims are the state or national development interests, so it is impossible to be mediated. According to Alkostar, from the general standard of restorative justice, it is impossible to carry out penal mediation against corruption crimes because victims of corruption crimes spread in the lives of many people whose socio-economic rights are deprived by corruptors. In contrast to Alkostar, Marwan argued that restorative justice can be used in corruption crimes, unlike restorative justice in general crimes which must involve the involvement of victims, perpetrators and the community, related to corruption issues with an emphasis on the return of state losses.

Opinions that disagree with the restorative justice approach in corruption crimes can be justified if restorative justice is interpreted as restorative justice (Hamzah, 1991). which is oriented towards a form of settlement with the involvement of victims, perpetrators and the community. However, if referring to another meaning, the restorative justice approach is intended as a criminal concept that is not limited to the provisions of criminal law or at least does not fully follow the criminal justice process, then the restorative justice approach is not a problem to be used as a solution to optimize the return of state losses through corporate criminalization.

The application of restorative justice needs to be accommodated to evaluate the weaknesses of the retributive justice approach as it has existed and applied. Article 4 of Law No. 31 of 1999 Jo. Law No. 20 of 2001 concerning the Eradication of Corruption Crimes is implicitly evaluated because considering that the approach used is retributive justice which incidentally does not require settlement other than the use of alternative criminal law sanctions. Especially considering the perspective of ius constituendum which is actually in line and in line with the restorative justice approach in corporate criminal liability in the Criminal Code Bill (RUU KUHP). Article 52 of the Criminal Code Bill (2013 Draft) states that:

1. in considering whether other sections of the law have provided more useful protection than imposing a criminal sentence on a corporation.
2. These considerations must be stated in the judge's legal considerations.

The application of retributive justice and the nature of the use of criminal law that is primum remedium are not appropriate to be used in dealing with corporate crimes. It is appropriate for the Government of Indonesia to begin a special evaluation of Article 4 of Law Number 31 of 1999 Jo. Law Number 20 of 2001 concerning the Eradication of Corruption by harmonizing it with the principles in the UNCAC which has been ratified by Law Number 7 of 2006 so that restorative justice can be applied. Based on one of the main goals of eradicating corruption is the return of state financial losses and saving state financial losses. State financial losses - the country's financial losses can then be used as capital by the Government to increase national development. The development carried out by the Government, especially in the labor-intensive sector, will create jobs for the community. This can also be indirectly said that the rescue of state financial losses also contributes to improving people's welfare. In addition, it also aims to realize economic stability and anticipate crises in various fields due to the settlement of corporate crimes, which incidentally are not proportional to the risks to the stability of the country's economy and the livelihoods of workers and the social lives of people who depend on the corporation.

For Indonesia, the restorative justice approach in criminal cases has been accommodated (in terms of the juvenile criminal justice system) but for corruption cases, the restorative justice approach cannot be used because the victims are massive (the people) and are in the form of state interests. In addition,

Article 4 of the Corruption Eradication Law also does not allow restorative justice because the return of losses due to criminal acts is emphasized that it cannot remove the conviction of the perpetrator (adhering to retributive justice). If referring to article 26 of the 2003 UNCAC which has been ratified by Law Number 7 of 2006 and Article 52 of the Criminal Code Bill (2013 concept) which strictly regulates the choice of using criminal or non-criminal sanctions proportionately against corporations of corrupt actors for the sake of effectiveness and efficiency and encourages law enforcement and judges to carry out settlement efforts not limited to criminalization, then the application of restorative justice is very relevant to be applied in Indonesia. Criminal law policy through this restorative justice approach will avoid the impact of greater losses and eliminate the effects of crises that can arise due to corporate criminalization and can be an effective and efficient means of optimizing the return of state financial losses.

4. Conclusion

Article 4 of Law Number 31 of 1999, it is explained that the return of state or state economic losses will not abolish the criminal offenders as referred to in Articles 2 and 3. Even so, in the Explanation of Article 4, it is stated that the financial return or the state economy is one of the factors that mitigate the crime that can be imposed on the perpetrators of corruption crimes. There are several forms of criminal law enforcement measures that can be directed for the purpose and in order to recover state financial losses or wealth derived from corruption crimes. Among these steps are through expropriation, reverse proof, civil lawsuits, and the criminal application of payment of replacement money.

The application of restorative justice needs to be accommodated to evaluate the weaknesses of the retributive justice approach as it has existed and applied. Article 4 of Law No. 31 of 1999 Jo. Law No. 20 of 2001 concerning the Eradication of Corruption Crimes is implicitly evaluated because considering that the approach used is retributive justice which incidentally does not require settlement other than the use of alternative criminal law sanctions. Especially considering the perspective of ius constituendum which is actually in line and in line with the restorative justice approach in corporate criminal liability in the Criminal Code Bill (RUU KUHP). Criminal law policy through this restorative justice approach will avoid the impact of greater losses and eliminate the effects of the crisis that can arise due to the criminalization of the perpetrators and can be an effective and efficient means of optimizing the return of state financial losses.

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References

Afnan, D., Wijaya, M., Kartono, D. T., & Wibowo, A. (2024). Sustainability strategy: Strengthening SDGs desa through CSR communication program. *Journal of Sustainable Tourism and Entrepreneurship, 5*(3), 179-190. doi:https://doi.org/10.35912/joste.v5i3.1726

Arief, B. (2006). Korupsi dan Upaya Penegakan Hukum (Kapita Selekta). *Jakarta: PT. Adika Remaja Indonesia*.

Bako, P. M. (2024). Audit committee attributes, audit quality and performance of oil and gas companies. *International Journal of Financial, Accounting, and Management, 5*(4), 525-536. doi:https://doi.org/10.35912/ijfam.v5i4.1634

Bora, Y., Fanggidae, R. E., & Fanggidae, A. H. (2024). Analysis of the role of online transportation on tourism development (A study of tourists on users of grab online transportation services in kupang city). *Review of Multidisciplinary Academic and Practice Studies, 1*(2), 243-252.

Dionysopoulou, P. (2020). Agritourism entrepreneurship in Greece: policy framework, inhibitory factors and a roadmap for further development. *Journal of Sustainable Tourism and Entrepreneurship, 2*(1), 1-13. doi:https://doi.org/10.35912/joste.v2i1.352

George, A. A. (2021). Social and cultural influences and their implications for sustainable tourism: A case study of Trinidad & Tobago's tourism and the growth of the LGBTQ traveler segment. *Journal of Sustainable Tourism and Entrepreneurship, 2*(3), 147-157. doi:https://doi.org/10.35912/joste.v2i3.554

Gerald, E., Obianuju, A., & Chukwunonso, N. (2020). Strategic agility and performance of small and medium enterprises in the phase of Covid-19 pandemic. *International Journal of Financial, Accounting, and Management, 2*(1), 41-50. doi:https://doi.org/10.35912/ijfam.v2i1.163

Hamzah, A. (1991). Korupsi di Indonesia: masalah dan pemecahannya.

Ishak, J. F. (2024). The role of earnings quality in the impact of earnings management and leverage on firm value. *International Journal of Financial, Accounting, and Management, 5*(4), 433-442. doi:https://doi.org/10.35912/ijfam.v5i4.1204

Latifah, M. (2016). Urgensi Pembentukan Undang-Undang Perampasan Aset Hasil Tindak Pidana Di Indonesia (The Urgency Of Assets Recovery Act In Indonesia). *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan, 6*(1), 17-30. doi:http://dx.doi.org/10.22212/jnh.v6i1.244

Marzuki, P. M. (2013). *Penelitian Hukum Edisi Revisi*. Jakarta: Kencana Prenada Media Group.

Omoniyi, T. O. (2020). Appraisal of harmful traditional practices in Nigeria: Magnitude, justifications and interventions. *Journal of Social, Humanity, and Education, 1*(1), 67-78. doi:https://doi.org/10.35912/jshe.v1i1.335

Ramdani, D., & Prayitno, Y. H. (2023). The leverage and company size impact on delay in the audit. *International Journal of Financial, Accounting, and Management, 5*(3), 265-279. doi:https://doi.org/10.35912/ijfam.v5i3.397

Sanusi, H. A. (2012). Mekanisme pengembalian aset hasil tindak pidana korupsi. *Majalah Keadilan*.

Sujiwo, A. B. (2015). Kebijakan Kriminalisasi Tindak Pidana Pencucian Uang Pasif Dalam Tindak Pidana Pencucian Uang. *Universitas Gadjah Mada*.

Sulaiman, E., Fitralisma, G., Fata, M. A., & Nawawi, R. (2023). Empowering local communities engagement: Rural tourism and business innovation for SDGs desa. *Journal of Sustainable Tourism and Entrepreneurship, 5*(1), 31-44. doi:https://doi.org/10.35912/joste.v5i1.1968

Undang-undang (UU) Nomor 30 Tahun 2002 tentang Komisi Pemberantasan Tindak Pidana Korupsi.

Undang-undang (UU) Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi.