

Reformulation of the Return of State Losses as the Basis for Terminating Investigations into Corruption Crimes

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Abstract

This article discuss issue law about urgency of reform of Article 4 of the Law Eradication Action Criminal Corruption in relation with recovery loss state finances and effectiveness enforcement law. Focus study directed at the problems implementation Article 4 which in practice does not provide incentives for perpetrators to recover state financial losses, because even though the losses have been recovered, the legal process continues without any different consequences. The research method used is a normative juridical approach by examining relevant laws and regulations, court decisions, and law enforcement practices. The results of the analysis indicate that the criminal system that emphasizes the retributive aspect is not fully in line with the objectives of national law, namely realizing the benefits and recovery of state finances. As a solution, this study proposes a reformulation of Article 4 by setting a limit of the value of losses below IDR 1 billion, the investigation of which can be stopped if the perpetrator has returned the entire principal loss along with interest and consequences. This approach aims to streamline law enforcement, encourage perpetrators' awareness in recovering state losses, and emphasize the orientation of criminal law on corruption towards restorative fiscal justice. Thus, this reformulation is expected to be able to balance legal certainty, benefits, and justice in efforts to eradicate criminal acts of corruption in Indonesia paragraph.

INTRODUCTION

As a nation governed by the rule of law, Indonesia naturally has systems and regulations established to meet the needs of society. The goal is to maintain social order so that individuals do not violate each other's rights.¹ Which mean that in In this context, the law serves not only to impose sanctions on violators, but also as a means to prevent deviations and

¹Adinda Shafiyah and Elisatris Gultom, "Law as a Regulator and Protector of the Social Life of Individuals and Society", *Gudang Jurnal Multidisciplinary Ilmu* 1, no. 10 (2024): 466, <https://doi.org/10.59435/gjmi.v2i11.484>

uphold moral values and justice in national and state life. Furthermore, the law also functions as a tool to limit power, preventing arbitrary actions by the government or holders of important authority within the state.² Therefore, the principle that the government is under the law emerged.³ This principle affirms that no one is above the law, neither the people nor state officials.

Laws are established to define what citizens are obligated to do, permitted to do, and prohibited to do. One form of violation regulated by law is corruption. Corruption is considered reprehensible by society, so efforts to eradicate it are not new in Indonesia. Although various sanctions and eradication measures have been taken, the results have not shown significant improvement; in fact, corruption is becoming more widespread, especially in the public sector.⁴ This situation indicates that law enforcement against corruption still faces various obstacles, both structural, cultural, and instrumental.

The lengthy and complex journey of eradicating corruption demonstrates that its handling requires seriousness and extraordinary efforts. Corruption not only harms state finances and the national economy, but also violates the social and economic rights of the people, hindering the growth and continuity of national development, which aims to create a just and prosperous society. Therefore, corruption can no longer be classified as an ordinary crime, but has become an extraordinary crime. Therefore⁵, eradicating corruption requires a strong legal basis, a consistent enforcement system, and a shared commitment from all elements of the nation to address this extraordinary crime sustainably.

As a manifestation of the state's seriousness in addressing this extraordinary crime, the government then established various regulations, one of which was the regulation regarding criminal acts of corruption in Indonesia, first regulated in Law Number 3 of 1971 concerning the Eradication of Criminal Acts of Corruption. This provision was then revised through Law Number 31 of 1999, which was then amended again with the enactment of Law Number 20 of

²Aisyah Sofni and Napisah, "Limitations on Government Power in State Administrative Law: Perspectives of General Law and Islamic Law", *Journal of Law and Legal System* 1, no.1, (2025): 2, file:///C:/Users/WIN%2010/Downloads/1+Artikel+Aisyah+Sofni+1-7.pdf,

³Zul Firman et al., "Public Policy: Viewing Legal Products of the Corruption Eradication Law and Its Implementation in Law Enforcement Practices in Indonesia", *Jurnal Panah Keadilan* 2, no. 2, (2023): 51, <https://doi.org/10.57094/jpk.v2i2.1005>.

⁴Tri Wahyu Widiastuti, "Corruption and Efforts to Eradicate It", *Legal Discourse* 8, (2009): 108, <https://media.neliti.com/media/publications/23536-ID-korupsi-dan-upaya-pemberantasannya.pdf>

⁵Mohammad Al Faridzi, Gunawan Nachrawi, "Qualification of Extraordinary Crimes Against Corruption Crimes (Supreme Court Decision Number 301 K/Pid.Sus/2021)", *Citizenship Journal* 6, no. 2, (2022): 3014, <https://doi.org/10.31316/jk.v6i2.3244>

2001. Nevertheless, law enforcement against criminal acts of corruption still faces various obstacles, one of which is the difference in interpretation regarding the return of state financial losses. ⁶This reflects that regulatory changes have not been fully followed by consistent law enforcement, so that the effectiveness of corruption eradication is still not optimal.

Article 4 of the Corruption Eradication Law explicitly states that restitution of state financial or economic losses does not eliminate criminal penalties for perpetrators of corruption. This means that even if a suspect has repaid the state losses resulting from their actions, the legal process must still be carried out properly. However, in practice, investigators often stop investigations (issue SP3) on the grounds of insufficient evidence because the state losses have been repaid, thus presuming that there are no longer any materially proven losses.

This situation is reinforced by the shift in the character of corruption from a formal offense to a material offense, one that emphasizes the consequences of an act. This view is also supported by Constitutional Court Decision No. 25/PUU-XIV/2016, which replaced Constitutional Court Decision No. 003/PUU-IV/2006. Therefore, when assessing corruption, careful consideration must be given to the actual impact on state finances.

One real example of the practice of stopping the investigation of a corruption crime because the losses have been returned State finances occurred in a case at the Riau Province Education Office which named two suspects involved in an alleged corruption case involving the procurement of learning media in the form of information technology and multimedia-based hardware . in 2018.⁷ The two individuals named as suspects are HT, the Commitment Making Officer (PPK), and RD. The High Prosecutor's Office also detained the suspects at the Sialang Bungkok Detention Center for 20 days. From the information gathered, it is suspected that there was collusion in the purchase of computers. or laptops through an e-catalog. The electronic goods were used to prepare for the National Computer-Based Exam (UNBK) at the Riau Education Office. Activities that should have been conducted independently by the Riau Education Office were allegedly controlled by a single company, overseeing everything from

⁶Rahmat Tul Qodri, et al., "Legal Inconsistency in Regulating the Return of Corruption Proceeds from the Perspective of Legal Certainty", *Collegium Studiosum Journal* 8, no . 1, (2025): 67 , <https://doi.org/10.56301/csj.v8i1.1674> .

⁷Ck2, " Kajati SP3 Corruption of High School Learning Media at the Riau Education Office " , *Riau: Cakaplah* , July 13 , 2021.

planning to implementation. After completing the examination, the prosecutor held a case title. sensitive allegedly Embezzled Rp 2,343,848,140 in state funds. The funds, sourced from the Riau Provincial Regional Budget, were allegedly used for personal gain. The suspect's modus operandi was fictitious business trips. The suspect used the money for personal expenses. However, after the two suspects returned all state financial losses and the procured goods were declared to still be usable by the Riau Provincial Government, the Riau High Prosecutor's Office issued a Letter of Determination to Terminate Investigations (SP3).⁸

Then another case in 2011, the Bantul Regency government disbursed and grant of Rp. 13,575,000,000.00 (thirteen billion five hundred seventy-five million rupiah) to KONI Bantul, the majority of which, namely Rp. 12,500,000,000 (twelve billion five hundred million rupiah) was distributed to Persib Bantul through the Regent of Bantul who is also the chairman of KONI, the Chairman of PSSI Bantul, and the Manager of Persiba, then allegedly abused authority in the use of the funds. On March 6, 2014, the perpetrator returned Rp. 11,689,669,550 (eleven billion six hundred eighty-nine million six hundred sixty-nine thousand five hundred and fifty rupiah) to the regional treasury. After going through the investigation process, the Bantul District Attorney's Office issued a Letter of Order to Terminate Investigation (SP3) on August 4, 2015 because no elements of state losses were found and there was insufficient evidence of a criminal act, because the plaintiff returned the grant funds of his own accord after being named a suspect by the Yogyakarta Special Region High Prosecutor's Office.⁹

It can be observed that a number of problems arise from various corruption cases, particularly regarding the restitution of state financial losses by suspects during the investigation stage. In several cases, after the suspects have repaid the state losses, investigators then issue a Letter of Order to Terminate Investigation (SP3) for various reasons. As a result, the investigation process is stopped even though the corruption has been clearly proven . In this case: This depicted existence inequality between *das sein* and *das sollen*, which are Article 4 of the Law Eradication Action Criminal Corruption confirm that return loss state finances do not delete criminal law and Article 109 paragraph (2) states that "In the event that the investigator stops the investigation because there is insufficient evidence

⁸Raharjo Budi Kisnanto , <http://youtu.be/HurAo4RbKq0?si=eZ2YwHJzmzoPGI88>

⁹The Republic of Indonesia Audit Board, "Idham, Suspect in Persiba Grant Corruption Case", *BPK RI*. February 10, 2014, p. 1.

or the incident turns out not to be a criminal act or the investigation is stopped by law" which in matter This means that return loss state finances do not can become base termination investigation .

This problem cannot be separated from the substance of the regulations in the Corruption Eradication Law itself, especially regarding the element of state financial loss which is an important part in proving criminal acts of corruption. Existence state financial losses in crime This corruption is one of the elements contained in Article 2, Article 3 and Article 4 of Law Number 31 of 1999 which has been amended to Law Number 20 of 2001 on the Eradication of Crime Criminal Corruption. Articles This become Chapter ultimate For Can ensnare perpetrator corruption For can accountable his actions. However, Article 4 of the Eradication Law T act Criminal Corruption often gives rise to multiple interpretations, especially in relation to the consequences of returning state losses.

This is increasingly complex considering that the character of corruption has changed from a formal offense to a material offense, as emphasized in Constitutional Court Decision Number 25/PUU-XIV/2016, which replaced Constitutional Court Decision Number 003/PUU-IV/2006. This shift has resulted in the assessment of corruption focusing more on the consequences, including actual state losses.

This change in character certainly has implications for the need to adjust the laws and regulations governing the eradication of criminal acts of corruption. The purpose of this law is to optimize government efforts to address corruption. However, the facts cannot be denied, necessitating reformulation or revision of the anti-corruption law to ensure it becomes an adequate, comprehensive, and perfect anti-corruption regulation that can maximize the handling of criminal acts of corruption. For this reason, collective awareness is needed from all elements of the nation so that efforts to eradicate corruption can be carried out consistently, comprehensively, and free from political interests.

Several studies have attempted to address this issue. In the development of research on the recovery of state losses in corruption, a number of previous studies have shown that Indonesian law enforcement still prioritizes criminalization, while recovery of state losses has not yet become a normative priority. from research those who proposed reformulation to direction recovery state losses with give limitation related losses experienced country as base can stopped investigation action criminal corruption. As form that should in the future the country will be more prioritize to recovery loss state finances.

Research previously show existence difference fundamental in corner view and breadth contribution. Ask Yesta Tumbel et al (2024) only focus on aspects efficiency handling matters, especially when mark greater state losses small than cost investigation and prosecution, so that return state losses are assessed more profitable in a way economy. However study the No give design change normative at the level regulation legislation.¹⁰ Likewise, research Aulia et al (2025) highlighted internal policies of the Prosecutor's Office that encourage settlement case worth small through return state losses based on approach restorative, but orientation the discussion be in the realm policy administrative, not on reconstruction norm Article 4 of the Corruption Eradication Law as base formal legal termination investigation. Meanwhile that, other research that examines obstacle implementation recovery greater state losses Lots take pictures aspect technical, such as coordination between institution, burden administrative, and disparities implementation in various area, so that Not yet up to the proposal change systemic to structure rule applicable law .¹¹

Different with study said, the article This not only evaluate practice recovery state losses from aspect efficiency and policy technical, but precisely offer reformulation normative to Article 4 of the Law Eradication action criminal corruption in order to have certainty law as runway termination investigation. Research This propose limit clear arrangements, namely that action criminal corruption with state losses under IDR 1 billion can stopped the investigation throughout all over losses, interest and other impacts have been restored in a way filled with thus, the article This give contribution new that is not only add provision technical, but push change structural in system law criminal Indonesian corruption to be in line with principle justice fiscal, principles benefits and objectives main eradication corruption , namely recovery optimal state finances.

Therefore, this article raises the central question regarding the effectiveness of Article 4 of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption in Recovering State Financial

¹⁰Ask Yesta Tumbel , et al. " Termination Investigation Action Criminal Corruption by Prosecutors Linked With Return Loss Finance State" *Unsratm Law Journal* 23, no. 10, 2021. file:///C:/Users/WIN%2010/Downloads/Jur nal_Aski+Yesta+Tumbel_18071101651%20(15).pdf

¹¹Aulia , et al. " Termination Investigation Case Action Criminal Corruption by the Prosecutor's Office To Return Loss State Finance ", *Journal Suloh* 13, no. 1, 2025, file:///C:/Users/WIN%2010/Downloa ds/ 3.+19122-49318-1-RV-Aulia-mnur-cifebrina%20(2).pdf

Losses and how the future formulation is so that state financial losses due to criminal acts of corruption can be recovered.

And to answer this question scientifically, this research uses methodology law normative which is based on an analysis of positive legal norms, particularly Article 4 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. The research approaches used include a legislative approach, a conceptual approach, a historical approach, and a comparative approach. The legal materials used consist of primary, secondary, and tertiary legal materials which are analyzed qualitatively to assess the relevance and adequacy of the provisions of Article 4 in the context of legal developments and the need for recovery of state financial losses.

The main conclusion of this study indicates that in recent years, Indonesia has faced a significant increase in state financial losses caused by corruption. These losses are no longer limited to hundreds of millions of rupiah, but have reached trillions of rupiah. The magnitude of these losses reflects the serious impact of corruption on state finances and national development. Such substantial funds should be used to finance various strategic government programs, such as poverty alleviation, the provision of quality and affordable education services, improving public health facilities, and building public infrastructure. Thus, corruption not only causes economic losses but also hinders the realization of social welfare and the ideal of justice for all Indonesians. To support this conclusion, this paper is divided into several argumentative sections. The first section explains the effectiveness of Article 4 of the Corruption Eradication Law in recovering state financial losses and how this should be formulated going forward.

DISCUSSION

The Effectiveness of Article 4 of the Corruption Eradication Law in Recovering State Losses

Article 4 of the Law Number 31 of 1999 in conjunction with Law No. Number 20 of 2001 concerning Eradication Action Criminal Corruption mention that “return loss state finances do not delete criminal to perpetrator action criminal corruption.” Provisions This in a way normative show orientation law Indonesian criminal law that places corruption No solely as violation to state finances, but also as violation to morality public, integrity officials, and

trust public towards the country.¹² With thus, the law criminal functioning No only For restore loss state finances, but also to enforce mark justice and effects deterrent to perpetrator.

However, the implementation chapter the in practice often gives rise to legal and sociological problems. In one side, the country wants ensure that perpetrator corruption still convicted although has return state losses, as form from principle *retributive justice* and *equality before the law*. But on the other hand, an approach that is too rigid to principle This precisely cause contradiction to objective functional law criminal, namely recovery state losses and efficiency enforcement law. In various case, the perpetrator who returned all over state losses do not get benefit law whatever, so that No There is incentive for perpetrator For in a way voluntary restore state assets. In fact, in law and economics perspective, law should also work create behavior cooperative For reduce the burden on the state in enforcement law.

Romli Atmasasmita explain the essence that system justice Indonesian criminal law must understood as something mechanism integrated criminal justice system that connects function police, prosecutors, courts and institutions correctional facilities in effort countermeasures crime.¹³ In the context of action criminal corruption, success system This No only measured from the weight the punishment imposed, but also of to what extent the goal law achieved, namely justice, certainty and expediency. If criminalization only emphasize on aspects certainty law without notice efficiency recovery state losses, then system the lost balance. In line with Muladi's opinion, the goal term long system justice criminal should not only take action, but also contribute to welfare social through resocialization and prevention This kind of approach is expected to build a¹⁴ legal system that does not simply punish perpetrators.

However, in the reality of law enforcement, this idealism often clashes with practices that demonstrate a dilemma between the application of justice and legal certainty. matter This practice enforcement law in Indonesia, often found cases where the perpetrator corruption has return all over state losses at this stage investigation, so that the enforcement process law become dilemma. In one side, in a way normative investigation can't stopped Because Article 4 confirms that return loss state finances do not delete criminal, but on the other hand, interests state law has fulfilled Because loss state finances have returned in a way full.

¹²Faridzi, *Loc.cit*, p. 3014.

¹³Achmad Budi Waskito, "Implementation System Justice Criminal in Integration Perspective" 1, no. 1, (2018): 288, <https://media.neliti.com/media/publications/324168-implementasi-sistem-peradilan-pidana-dal-a974da81.pdf>

¹⁴Ibid, p. 288

Situation this is also often become base from investigator can stop investigation due to loss state finances have restored. Of course matter This show gap between Das Sein and Das Sollen.

One of the cases that in practice deviates from the provisions of Article 4 of the Law on the Eradication of Criminal Acts of Corruption is the case at the Riau Provincial Education Office regarding the procurement of IT-based hardware and multimedia learning media in 2018. In this case, the Riau High Prosecutor's Office through the special criminal investigator prosecutor (Pidsus) named two suspects, namely Hafes Timtim and Rahmad Danil, on suspicion of corruption that caused state financial losses of Rp2,509,371,584.00. However, after the two suspects returned all state financial losses and the goods obtained from the procurement were declared still usable by the Riau Provincial Government, the Riau High Prosecutor's Office issued a Letter of Determination of Termination of Investigation (SP3).¹⁵

The Riau High Prosecutor's Office Intelligence Assistant in an official statement via the mass media said that:

“State losses reaching Rp. 2,509,371,584.00 (Two Billion Five Hundred Nine Million Three Hundred Seventy One Five Hundred Eighty Four Rupiah) have been returned to the state. In addition, goods in the procurement of IT-based hardware and multimedia learning media at the Riau Provincial Education Office in 2018 have been provided by the provider in this case PT. Air Mas Jaya Mesin until now can also be used by the Regional Government in this case Riau Province through the Education Office and today it appears that the suspect has good intentions with the return of the state financial losses, then based on these things, replacement money in the amount of Rp. 2,509,371,584.00 has been deposited into the prosecutor's account in the name of the RPL 008 Riau High Prosecutor's Office. The conclusion is that based on the principle of benefit and the principle of legal justice with the non-fulfillment of one of the elements of state financial losses in this case, with the return of state financial losses deposited to the Riau High Prosecutor's Office in the amount of Rp. 2,509,371,584.00 to the state treasury before it was transferred, then in this case the element of loss has not been fulfilled so that the investigation into this case is stopped.”¹⁶

¹⁵Raharjo Budi Kisnanto , <http://youtu.be/HurAo4RbKq0?si=eZ2YwHJzmzoPGI88>

¹⁶*Ibid*

Because the return of state financial losses does not eliminate the nature and elements against the law. It is clear as formulated in Article 4 of the Law on the Eradication of Corruption The Criminal Act of Corruption explains that the return of state financial losses does not immediately remove the criminal responsibility of the perpetrator, because the return of losses The loss of state finances is a consequence that must be borne by the perpetrator of the crime. The return of state financial losses is carried out after the deadline stipulated in Law Number 15 of 2016 concerning the Audit Board, which is intended to ensure legal certainty in the investigation process. the case still must be continued. The return of state financial losses cannot be used as a basis in do Termination of the investigation, and the investigation or criminal proceedings should continue until a court decision is reached. The perpetrator's good faith in returning the money or state losses may later serve as a reason for the judge to reduce the sentence imposed on the defendant.

example of a case is the alleged corruption case of Persiba Bantul grant funds amounting to Rp. 12,500,000,000.00 (twenty-two billion five hundred million rupiah). rupiah) Which involving the former Regent Bantul that is Idham Celestial. The determination of the suspect by the DIY High Prosecutor's Office is based on the results of an investigation carried out since the beginning of 2013 after a case title was carried out by the Investigation Team on Thursday, July 18 2013, where sufficient evidence was found. So that the Head of the DIY High Prosecutor's Office directly increase legal process to stage investigation Along with the naming of Idham Samawi and Edi as suspects in the alleged corruption case of Persiba Bantul grant funds. Based on the results of the case review conducted in conjunction with the Team investigator conclude There was a grant disbursement process that did not comply with regulations and the use of funds beyond their intended purpose. Based on information gathered from the Yogyakarta High Prosecutor's Office, Idham and Edi are suspected of being responsible for the alleged corruption case involving Persiba Bantul grant funds in 2011.¹⁷

At that time, Persiba received grant funds from the Regional Budget (APBD) and the Revised APBD, amounting to Rp8,000,000,000.00 (eight billion rupiah) and Rp4,500,000,000.00 (four billion five hundred rupiah), respectively. However, the grant funds that were supposed to be used for the costs of participating in the 2011-2012 PSSI main division competition were instead used outside their intended use. The Yogyakarta High

¹⁷The Republic of Indonesia Audit Board, "Idham, Suspect in Persiba Grant Corruption Case", *BPK RI*. February 10, 2014, p. 1.

Prosecutor's Office also believes that there was a violation in the case and caused state losses. Therefore, the Head of the Yogyakarta High Prosecutor's Office escalated the legal process to the investigation stage and formed a Special Criminal Investigation Team consisting of 7 people for the alleged corruption case of Persiba Bantul grant funds.¹⁸

According to the High Prosecutor's Office, violations occurred in the case that resulted in state financial losses, and based on initial evidence, the Yogyakarta High Prosecutor's Office conducted an investigation. However, during the investigation, the High Prosecutor's Office stopped the investigation. According to Azwar in a press statement, the decision to stop the investigation was due to the lack of evidence of unlawful acts committed by the suspects. This was also supported by the results of the Yogyakarta Financial and Development Supervisory Agency (BPKP) audit, which stated that there was no state financial loss in the Persiba case because the funds had been returned to the Bantul Regency Government's regional treasury.¹⁹

Regarding the alleged corruption case involving Persiba Bantul, the investigation was discontinued due to the lack of evidence of any unlawful acts committed by the suspects. This is further evidenced by the presence of a new suspect who has been found guilty and the execution of the verdict. Although the termination of the investigation into the Persiba Bantul case has resulted in the restitution of state financial losses, to ensure legal certainty, the suspects should not be exempt from criminal responsibility.²⁰

Provision in Article 4 of the Law Eradication Action Criminal Corruption that refuses deletion criminal although state losses have been returned of course intended For prevent abuse power and protection integrity law. However in reality empirical approach This precisely cause burden new for system justice criminal law enforcement law Still must continue investigation, prosecution and trial, although state losses have been covered, so that cost enforcement law become No comparable with benefits generated. In some case, cost investigation and judicial process even exceed mark state losses that have occurred returned. This is cause question Serious about effectiveness policy criminalization as stipulated in Article 4 of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption.

¹⁸*Ibid*

¹⁹*Ibid*

²⁰*Ibid*

In addition, in context political law modern crime, occurs shift paradigm from *retributive justice* going to *restorative justice*, where the law criminal not only seen as tool revenge, but also a means recovery.²¹ In the approach this, success enforcement law corruption No only measured from punishment perpetrators, but also the extent to which state losses can be restored and trust public can returned. Reformulation Article 4 with adopt principle *restorative fiscal justice* become relevant For applied. Principle This look at that if perpetrator in a way voluntary return state losses before the judicial process running, the country can give form settlement alternatives, such as termination investigation or subtraction sanctions criminal, as long as done with supervision tight and not cause impression impunity.

Romli Atmasasmita in theory the system confirm importance *balance of justice* between certainty law, utility, and justice.²² If one of them element This ignored, then system law will lost legitimacy social. Provisions Article 4 which rejects deletion criminal without consider recovery asset in a way comprehensive has show domination principle certainty excessive law, while aspect benefit and justice social Not yet accommodated with good. Therefore that, the former Constitution need formulate return norm so that it can give certainty law for enforcer law at a time give room for effectiveness recovery state losses.

Alternative Settlement Action Criminal Corruption Based Recovery State Losses Outside the Court

Development paradigm enforcement law to action criminal corruption in Indonesia is experiencing change important after Decision Court Constitution Number 25/PUU-XIV/2016. Through decision said, the element of "harmful" state finances" in Article 2 paragraph (1) and Article 3 of the Law Eradication Action Criminal Corruption confirmed as offense material, which means state losses must be truly happen and can proven in a way real moreover before. Changes This put recovery state finances as aspect the main thing that is not can separated from the enforcement process perpetrator corruption .

main purpose enforcement law corruption No stop at giving sanctions to the perpetrator, but rather ensure the country obtains return loss financial problems that arise. However, the practice full punishment approach-oriented retributive often eat source Power

²¹Indah Wahyuni, "Implementation of Restorative Justice in Handling Criminal Acts at the Investigation Level Based on Human Rights", *Legal Thesis, Postgraduate Doctoral Program in Legal Science*, Semarang: UNDARIS, 2023, published, p. 95

²²Oksidelfa Yanto, *State of Law: Certainty, Justice and Benefit of Law (In the Indonesian Criminal Justice System)* , (Bandung: Pustaka Reka Cipta, 2020) , 28 .

enforcement great law.²³ On matters with mark loss small, cost investigation , prosecution and sentencing precisely can beyond mark loss That alone. Condition This cause question effectiveness as well as benefits enforcement law towards the state as a victim.

According to data released by *Indonesia Corruption Watch* (ICW), state losses due to corruption between 2013 and 2022 reached IDR 238.14 trillion. This figure demonstrates that corrupt practices are not only recurring but also increasingly varied in scale. In 2015, state financial losses were relatively small at IDR 1.74 trillion, while in 2020 they jumped drastically to IDR 56.74 trillion and again to IDR 62.93 trillion in 2021.²⁴ These figures should remind us that these funds should be used to finance various strategic government programs, such as poverty alleviation, providing quality and affordable education services, improving public health facilities, and building public infrastructure.

In context said, developing idea For put forward *restorative fiscal justice*, namely settlement case with focus on recovery lost assets consequence action criminal. Settlement external matters court (*out of court settlement*) is one of the alternatives that can applied.²⁵ In the approach this, criminalization not removed, but focused on recovery fast and efficient state losses. Even can combined with form other sanctions such as Work social or Work force the result can confiscated for the country.

Prosecutor's Office The Republic of Indonesia has start adopt approach the through the Circular Letter of the Deputy Attorney General for Criminal Action Criminal Special Number : B-1113/F/Fd.1/05/2010. Circular Letter this is in principle give room to investigator For stop the handling process case corruption with loss small after perpetrator return all over state losses . Considerations efficiency budget become the foundation, because use cost big deal precisely can make things worse state losses if still done criminalization full.

Principle restorative justice in settlement case criminal proceedings that begin at the stage investigation is a proper process in achievement objective settlement things that are not only prioritization imprisonment and revenge revenge.²⁶ This means that restorative justice is

²³Sitti Munawwarah, et al., "Comparison of Restorative and Retributive Criminal Approaches in Resolving Crime Cases in Indonesia Legally and Socially" 5, no . 4, (2025): 326 , <https://doi.org/10.55606/khatulistiwa.v5i4.7626>

²⁴Corruption Eradication Commission, "Corruption and the State Financial Losses It Causes", Anti-Corruption Education Center, February 29, 2024, <https://aclc.kpk.go.id/aksi-informasi/Eksplorasi/20240229-korupsi-dan-kerugian-keuangan-negaryuya-yang-ditimbulkannya> , accessed on August 16, 2025.

²⁵Ibid, p. 326

²⁶Hafrida and Usman, *Restorative Justice in the criminal justice system* , (Yogyakarta: Deepublish, 2024), 92.

a relevant approach to building a legal system that is more humane, participatory, and oriented toward restoring social relations.

Approach restorative in handling corruption also has legitimacy international. The Rome Statute and the 2003 United Nations Convention Against Corruption (UNCAC) provide attention big on the interests of the victims as well as recovery lost assets consequence action criminal law. UNCAC in general firm directing member states For facilitating cooperative actors in recovery losses in order to be able to given relief or alternative handling case.²⁷ This is show that global orientation in enforcement law corruption moment This has shift from just punishment going to recovery optimal state losses.

The application of restorative justice in case corruption with mark loss small is form implementation principle beneficial justice (*utilitarian justice*). The decision to restore state losses and stop case at the stage beginning is choice rational throughout give mark greater benefits big for the country compared to continue the long and expensive legal process . With thus, justice No only understood as revenge to perpetrator, but also as effort reach condition real recovery for the country as the injured party.

With see practice laws in several countries as well provision law criminal international, can understood that settlement action criminal corruption through approach *restorative justice* get strong support, especially in frame optimization recovery state assets in general fast and effective approach This seen more beneficial for interest state finances compared solely drop criminal prison in reality use up budget and not fully impact on returns state losses.

Based on thinking mentioned, it is necessary done reformulation to provision Article 4 of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption. The current provisions This confirm that return state losses do not delete criminal, necessary developed so that give room for the perpetrator who has return main state losses and interest and losses resulting from from action criminal corruption This For released from accountability criminal. With Thus, the goal main recovery state losses can achieved without burdensome system justice criminal in a way excessive .

²⁷Eddy OS Hiariej, *United Nations Convention Against Corruption in the Indonesian Legal System*, (Yogyakarta: Gajah Mada University , 2019), 115 , <https://www.neliti.com/id/publications/475681/united-nations-convention-against-corruption-dalam-sistem-hukum-indonesia>.

In context study this, the author set nominal limits on amount state losses that can completed outside court, namely with mark loss under Rp. 1,000,000,000.00 (one billion rupiah). This limit intended For give certainty law at a time guard proportionality between cost enforcement laws and values losses incurred.

Approach This leave from consideration efficiency and utility law, where the settlement case with mark loss relatively small through mechanism restorative precisely can speed up recovery state losses without must through a long and expensive judicial process. With Thus, the mechanism termination investigation or settlement alternative for case corruption with state losses below One billion rupiah can made into option rational, as long as perpetrator return all over state losses in general voluntary Good in the form of loss principal, interest and other losses resulting from from action criminal this and not there is element abuse authority that has an impact wide to interest public. Approach This No only confirm aspect recovery the country's economy, but also reflects implementation principle benefits in enforcement law criminal.

CONCLUSION

Provision Article 4 of the Law Number 31 of 1999 in conjunction with Law No. Number 20 of 2001 concerning Eradication Action Criminal Corruption that confirms that return state losses do not delete criminal to the perpetrator, basically intended For guard integrity law, morality public, and prevent impunity in enforcement law corruption. However, in in practice, provisions the giving rise to legal and sociological problems Because Not yet give room for efficient solution when state losses have been returned completely. So Article 4 of the Law Eradication Action Criminal Corruption need reformulated so that it does not only emphasize aspect revenge, but also pay attention to principle benefits and recovery state finances. Reformulation This can done with open room settlement in a way restorative for case corruption with mark state losses under Rp. 1,000,000,000.00, as long as perpetrator has return all over loss in a way voluntary and involuntary cause impact wide to interest public . Approach This expected capable present balance between certainty law, justice, and effectiveness enforcement law corruption in Indonesia.

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