Jurnal Hukum
SAMUDRA KEADILAN
Editorial Office : Jl. Prof. Syarief Thayeb, Meurandeh, Kota Langsa – Aceh
Email : samudrakeadilan.fhus@gmail.com
Website : https://ejurnalunsam.id/index.php/jhsk
P-ISSN: 2615-3416
E-ISSN: 2615-7845

THE APPLICATION OF RESTORATIVE JUSTICE IN HANDLING CORRUPTION OFFENDERS AS AN EFFORT TO RECOVER STATE LOSSES

[1]July Esther, [2] Juznizar Sinaga, [3]Jinner Sidauruk, [4]Nelly Kapitarani Panggabean

Faculty of Law, HKBP Nommensen University, Medan
Jalan Sutomo No. 4A, Medan, Indonesia
[1]julyesther@gmail.com [2]Jusnizar.sinaga@gmail.com [3]jinnersidauruk@gmail.com
[4]nellypanggabeann@gmail.com

Abstract

Research conducted by the author found that there were conflicts in law. This conflict in law occurred between Jampidsus Circular Letter Number: B1113/F/FD.1/05/2010 concerning Priorities and Achievements in Handling Corruption Crime Case under Article 4 of Law Number 31 1999 concerning the Eradication of Corruption Crimes. Related with the return of state losses in the Jampidsus Circular Letter Number: B- 1113/F/FD.1/05/2010 concerning Priorities and Achievements in Handling of Corruption Crime Cases states that if it has recover state financial losses, especially related to case Corruption crimes with relatively small losses need to be considered not to be followed up, except those which are still going on, meanwhile in Article 4 of Law Number 31 of 1999 concerning The Eradication of Corruption Crimes states that returns. State losses do not eliminate the punishment of the perpetrator. The Restorative Justice approach is if the Prosecutor's Office feel that there is a loss to the state's finances caused by the action criminal corruption and have small or no financial losses in the big fish category, the Prosecutor's Office can ask to investigate and issued a statement stating that the investigation into criminal acts of corruption This was stopped because the alleged perpetrator had returned the loss state and be proactive in the process of recovering financial losses that country. This is what is called the role of the Prosecutor's Office in implementing it restorative justice approach in resolving criminal cases corruption. The aim of this research is to analyze the implementation of implementation the principle of Restorative Justice in the context of Restitution State Financial Losses in handling criminal acts of corruption based on Jampidsus Circular Letter Number: B1113/F/FD.1/05/2010 concerning Priorities and Achievements in Handling Corruption Crime Cases.

Keywords: The required keywords are 3 words, a maximum of 5 words

Abstrak

Penelitian yang dilakukan penulis menemukan adanya konflik hukum. Benturan hukum ini terjadi antara Surat Edaran Jampidsus Nomor: B1113/F/FD.1/05/2010 tentang Prioritas dan Capaian Penanganan Perkara Tindak Pidana Korupsi berdasarkan Pasal 4 Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi. Terkait dengan pengembalian kerugian negara dalam Surat Edaran Jampidsus Nomor: B-1113/F/FD.1/05/2010 tentang Prioritas dan Capaian Dalam Penanganan Perkara Tindak Pidana Korupsi disebutkan bahwa jika telah memulihkan kerugian keuangan negara, khususnya yang berkaitan dengan kasus Tindak pidana korupsi yang kerugiannya relatif kecil perlu diperhatikan untuk tidak ditindaklanjuti, kecuali yang masih berlangsung, sedangkan dalam Pasal 4 Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi disebutkan bahwa kembali. Kerugian negara tidak menghilangkan hukuman bagi pelakunya. Pendekatan Restorative Justice adalah apabila Kejaksaan merasa adanya kerugian keuangan negara akibat tindak pidana korupsi dan mempunyai kerugian keuangan yang kecil atau tidak ada dalam kategori ikan besar, maka Kejaksaan dapat meminta penyidikan dan mengeluarkan surat pernyataan yang menyatakan bahwa penyidikan tindak pidana korupsi ini dihentikan karena terduga pelaku telah mengembalikan kerugian negara dan proaktif dalam proses pemulihan kerugian keuangan negara tersebut. Hal inilah yang disebut dengan peran Kejaksaan dalam menerapkan pendekatan restorative justice dalam penyelesaian perkara pidana korupsi. Tujuan penelitian ini adalah untuk menganalisis implementasi penerapan asas Restorative Justice dalam rangka restitusi Kerugian Keuangan Negara dalam penanganan tindak pidana korupsi berdasarkan Surat Edaran Jampidsus Nomor:. B1113/F/FD.1/05/2010 tentang Prioritas dan Capaian Penanganan Perkara Tindak Pidana Korupsi.

Kata kunci: Restorative Justice; Korupsi; Kerugian Negara

INTRODUCTION

Restorative justice is a new movement in victimology and criminology. It recognizes that crime causes harm to people and society and seeks to repair that harm by allowing those involved to participate in the process. Restorative Justice therefore allows victims, offenders, and affected members of society to be directly involved in resolving the consequences of crime.[1] With government and law enforcement officials serving as facilitators of a system that aims for accountability for offenders, reparations for victims, and the full participation of victims, offenders, and the community itself, victims, offenders, and impacted community members are at the center of the criminal justice process.

When restorative justice is implemented, the state won't have to pay to process and feed corrupt officials who are convicted or imprisoned. In the context of criminal prosecution, the costs of prosecuting those who commit corruption offenses that result in small or large financial losses to the state are the same; there is no difference in funding between those who commit corruption offenses that cause small or large losses. Determining the restrictions of corruption offenses, the appropriate

[1] Marwan Effendy, *Keadilan Restorative (restorative justice) Dalam Konteks Ultimum Remedium terhadap Pemberantasan Tindak Pidana Korupsi*, Pidato Pengukuhan Guru Besar Pada Universitas Sam Ratulangi Manado, Pada tanggal 4 Oktober 2012, hlm 20

loss amount to proceed to the trial stage, and the kinds of corruption offenses that may be settled through a restorative justice method are all essential based on this explanation.

This is done in order to keep the expenses of handling corruption cases from surpassing the state's losses. Based on this research, two ways to justice may be used to carry out the best law enforcement operations to address corruption charges. Retributive justice is used in situations of corruption that result in significant financial losses for the state, whereas restorative justice is used in cases of corruption that result in minor damages. The theory of state financial loss compensation is a legal theory that explains the state financial loss compensation legal system based on social justice principles. It outlines the right, obligation, and responsibility of state and legal institutions to protect people in society and give them opportunities to achieve welfare. The foundation of this theory is the fundamental idea that the state has the right to give.

Additional conditions for processing a corruption case include the occurrence of a loss to the state and the existence of an abuse of authority that may or may not directly contribute to a loss to the state. This is in line with the Anti-Corruption Act's objectives, which emphasize prosecution as a means of preventing and recouping losses of public funds. When it comes to pursuing corruption cases that cause minimal harm to the state, the restorative justice approach is financially consistent with the ideas of straightforward, expeditious, and reasonably priced justice.

This is due to the fact that restorative justice is a simpler, quicker, and less expensive method of addressing offenses than retributive justice. Additionally, the author claims that the ultimum remedium concept is consistent with the restorative justice approach to the prosecution of corruption charges involving little losses to the state. According to the legal doctrine known as "ultimum remedium," criminal law is the final resort when it comes to resolving legal issues. Criminal law is the sole option if other attempts are anticipated to produce worse than ideal outcomes.

A scenario involving specific circumstances that affect societal stability or are connected to the interests of the state and the country might be construed as being in the public interest. Therefore, in order to prevent a variety of interpretations and arbitrary use of the term, appropriate guidelines for measuring "public interest" should be provided. A precise definition, boundaries, and standards of the public interest are not given when the Public Prosecutor's Act is mentioned in the Explanatory Memorandum to Article 35(e).

According to Tony Marshall, the restorative justice method is a procedure wherein those involved in a specific offense collaborate to determine how the offense's effects might be mitigated for the benefit of future generations.[2] An effort to settle criminal cases amicably by giving the people involved more control is another definition of the restorative justice concept.[3] Law No. 31/1999 on the Elimination of the Criminal Act of Corruption states in Article 4 that the restoration of damages to the national economy or public finances does not absolve those who commit the crimes listed in Articles 2(1) and (2) of the penalties outlined in Article 3.

Both articles confirm that criminal proceedings will continue even if the perpetrator of a corruption offense has compensated the state for financial losses. The issuance of the circular has been criticized by many parties because corruption cases are no longer considered exceptional crimes. It is thought that this gives the prosecutor's office the opportunity to allow corruption offenders to commit the same crimes again, particularly those who have caused the state relatively little financial harm. However, on the priorities and accomplishments in the handling of corruption cases, the Public

[2] Marwan Effendy, *Ibid.*, hlm 20.

[3] Bambang Waluyo, *Penyelesaian Perkara Pidana Penerapan Keadilam Restoratif dan Transformatif*, (Sinar Grafika 2020) hlm 89.

Prosecutor's Office issued a circular with the number B-1113/F/FD.1/05/2010. Naturally, the circular also noted that the restorative justice approach can only be applied to corruption offenses with minor state losses, among other conditions.[4]

The Deputy Attorney General for Special Crimes Circular Letter Number: B-1113/F/FD.1/05/2010 on Priorities and Achievements in the Handling of Corruption Cases takes into account a number of factors, including the disclosure of corruption cases that are big fish (large in terms of the number of offenders and/or the amount of money lost to the state) and still ongoing (corruption crimes committed continuously or repeatedly).

Between the goal of punishing the offender as a deterrent and the costs of prosecution, which are greater than the losses incurred by the state, this situation becomes counterproductive. As a result, the state does not receive the return of state funds through corruption but instead bears even greater expenses for the purpose of prosecution. The justification for not prosecuting with the goal of maintaining the benefit principle in law enforcement will be undermined if state finances also include elements of the public interest.

in order for attempts to recoup the financial damages incurred by the state as a result of corruption offenses to be utilized as a restorative justice strategy. This method, which puts the recovery of the consequences of crime first, is a recent legislative innovation in the treatment of corruption offenses. As a result, measures to restore public finances overall are part of the process of handling corruption cases, rather than only focusing on punishment.[5]

As a result, the following issue formulations will be found in this investigation:

1. Can restorative justice be used in cases involving corruption?
2. How effectively do the principles of restorative justice apply to corruption offenses in order to protect public finances, as stated in the Deputy Attorney General for Special Crimes Circular Letter Number: B-1113/F/FD.1/05/2010?

RESEARCH METHOD

Normative legal research is the kind of study that is employed and is founded on legal norms and sources. This case will be examined in light of the Deputy Attorney General for Special Crimes Circular Letter Number: B-1113/F/FD.1/05/2010 on Priorities and Achievements in the Handling of Corruption Cases, which addresses the application of the restorative justice principle in the context of compensating the state for its monetary losses in the prosecution of corruption crimes. The legal and case approaches are the research methodologies that are employed.[6]

RESULT AND DISCUSSION

Under Indonesia's criminal justice system, criminal prosecution starts with the investigation and prosecution of criminal conduct before restorative justice is used in criminal cases. Therefore, in order

[4] Ahmad Muchlis, *Penegakan Hukum Terhadap Tindak Pidana Korupsi Dengan Kerugian Negara Yang Kecil Dalam Mewujudkan Keadilan*, Jurnal Fiat Justisia, 10 (2),2017, hlm 352.
[5] Ali Habib, Penerapan Restorative Justice Dalam Perkara Tindak Pidana Korupsi Sebaga Upaya Pengembalian Kerugian Negara, Jurnal Corruptio, 1 (2), 2020, hlm 4.
[6] Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020). hlm. 33

to achieve the goals of the law—justice, legal certainty, and expediency—which still place a high priority on the concepts of straightforward, quick, and affordable justice, the investigation and detection of criminal offenses is the primary factor in determining whether or not a criminal case can proceed to the prosecution and criminal justice process.[7] Regulation No. 15 of 2020 of the Indonesian Attorney General on Termination of Prosecution Based on Restorative Justice provides an explanation of the restorative justice process. The termination of prosecution based on restorative justice in the law is carried out with the principles of justice, public interest, proportionality, punishment as a last resort, and quick, easy, and low cost. The peace process through restorative justice is found in Article 9 of the Indonesian Attorney General's Regulation No. 15 of 2020, in which the peace process is carried out voluntarily through deliberation and consensus without coercion and intimidation.

The prosecutor serves as a mediator during the peace process; as such, the prosecutor is not allowed to have any professional or personal stake in the case, the victim, or the defendant. The prosecutor's office is where the peace process is carried out, unless security, health, or geographic circumstances make it impossible. In that case, the head of the district prosecutor's office may order it to be held at another prearranged location. In this instance, the peace process and the fulfillment of duties are completed no later than 14 days after the suspect's responsibility and supporting documentation are turned in.

The source of the attorney general's power to create policy rules must be understood in order to determine their existence. Policy rules may be seen as having no foundation for accountability if the source of power for their creation cannot be adequately explained. The policy rule in question is a circular letter that was issued by the attorney general. Since the operational expenses involved in treating corruption cases with minor value are so high, it is considered ineffective to handle corruption charges with a modest loss value.[8] Corruption is widespread and systemic in Indonesian society. In addition to violating the community's social and economic rights, widespread and institutionalized corruption can have a catastrophic impact on people's lives.[9]

The process described in the circular does not allow for the prosecution of instances involving modest losses incurred by the state as long as the offenders of corruption charges have willingly made good the losses. The Attorney General has the responsibility and power to issue this circular, which formed the foundation for this decision, according to Article 35(a) of the Law on the Public Prosecutor's Office.

The creation and management of judicial and law enforcement policies within the parameters of the public prosecutor's office's responsibilities and authority. Based on these clauses, it can be claimed that the Prosecutor General's circular has legal effect as the Prosecutor General Act grants the prosecutor general the authority to establish policy. According to Jellinek, who was cited by Abdul Hamid S. Attamimi, governmental power materially consists of two connected elements: the element of organization and the element of command. Formally, this comprises the authority to decide and control.[10]

---

[7] Nafisa Putri Hananti, et., al., *Analisis Efektivitas Penegakan Hukum terhadap Korupsi di Indonesia*, Indigenous Knowledge, 2(5), 2015, hlm. 360

[8] Andi Rachmad, Zaki Ulya, Yusi Amdani, *Urgency of Extradition Agreements in Eradicating Corruption Crime in Indonesia*, Jurnal Ius : Kajian Hukum dan Keadilan, 10 (3), 2022, hlm. 489

[9] July Esther, *Rekonstruksi Sistem Pemidanaan Tindakpidana Korupsi Dan Pencucian Uang Dalam pendanaan Pemilihan Umum*, Jurnal hukum, 15(1), 2020

[10] Hotma P. Sibuea, *Asas Negara Hukum, Peraturan kebijakan, Asas-asas Umum Pemerintahan yang Baik*,(Jakarta : Erlangga), hlm. 117

Arin Karniasari argued that: The prosecution of criminal cases is governed by two principles: the principle of legality and the principle of opacity. On the one hand, the principle of legality requires the Prosecution of all cases, without exception. On the other hand, the principle of opacity gives the prosecutor the possibility not to prosecute criminal cases in court.[11]

Since only the Prosecutor's Office has the authority to decide whether or not a case can be brought before the court on the basis of reliable evidence, the office serves as both a filter and a controller of cases (*dominus litis*) in relation to the criminal justice system. Consequently, the prosecutor's office is a crucial component of Indonesia's legal system. The sole organization with the power to carry out criminal court rulings, or the executive ambenaar, is the Prosecutor's Office, which has the title of *dominus litis* (procureur die de prcesvoering vaststelt).

1. Forms of Restorative Justice in Corruption Offences

One strategy that aims to settle crimes amicably is restorative justice. In hindsight, the reimbursement of state losses runs counter to Article 4 of Law No. 31 of 1999 on corruption offenses, which essentially says that the sentence is still in effect even if public losses are reimbursed. It is true that the public prosecutor's office's circular has drawn a lot of criticism, and it is frequently believed that by releasing corruptors, the office appears to downplay the crime of corruption. The Attorney General's Office, one of the law enforcement organizations with the authority to address corruption crimes, does not, however, base its decisions about the Circular Letter on current events or specific requirements, such as the fact that the restorative justice approach can only be used for corruption crimes that result in minor losses to the state.

The utilization of the prosecutor's opportunistic function is a major theme in a number of studies that address the use of restorative justice in the prosecution of minor corruption cases. The location of the research site is also explicitly referenced in a number of previous studies; thus, the study concentrates on that area and how the appropriate prosecutor's office applies restorative justice. In contrast, the author of this study focuses on examining the circular letter from the Deputy Attorney General for Special Crimes by showing how the Attorney General's Office uses a restorative justice approach in handling small-scale corruption cases and connecting it to the theory of economic analysis of law as a form of consideration.[12]

According to Didik Endro Purwoleksono, restorative justice may be applied in the following situations: 1) before the investigation; 2) during the investigation; 3) during the investigation; and 4) during the trial. This involves returning all proceeds of corruption violations.[13]

Based on the Supreme Court's 2011 national working meeting, Decision No. 1600 K/Pid/2009 on the consideration of restorative justice (henceforth referred to as the case of Decision No. 1600 of 2009) established a significant ruling that subsequently became a jurisprudence in Supreme Court decisions. The Supreme Court's jurisprudence might theoretically be viewed as the cornerstone of restorative justice, as it has said that one of the objectives of criminal law is to restore the balance that criminal behavior has disrupted.

The definition and kind of corruption outlined in Law No. 31 of 1999 and Law No. 20 of 2001 on the Eradication of Corruption (Law on the Eradication of Corruption) can be considered normative. From a legal perspective, corruption encompasses more than only actions that fit the criteria of the

[11] Karmiasari, *Perkara Korupsi di pengadilan*, (Bandung: Sinar grafika, 2018), hlm 112
[12] Budiah, *Penanganan tindak pidana korupsi*, (Bandung: Garuda sakti,2019), hlm.120
[13] Didik Endro Purwoleksono, *Op.Cit.,* hlm. 188

offense and have the potential to negatively impact the state's economy or finances. It also covers actions that have a negative impact on the general public or specific persons.

The goal of corruption offenses, whether directly or indirectly, is to reduce the likelihood of leaks and anomalies in the state's economy and finances. It is envisaged that by identifying these anomalies as soon as possible, the wheels of progress and the economy would be correctly turned, which will eventually affect further development and the well-being of society as a whole.[14]

The Attorney General's Office now has the power to prosecute, which means that it also exercises judicial power. The authority of the Public Prosecutor's Office in the performance of its duties is independent, as the Office operates without influence from anyone, and the Attorney General is directly responsible to the President.

Karmiasari said: "In the prosecution of criminal cases, there are two principles that apply, namely the principle of legality and the principle of propriety. On the one hand, the principle of legality requires the prosecution of all cases without exception. On the other hand, the principle of opacity gives the public prosecutor the opportunity not to prosecute criminal cases in court".[15]

When restorative justice is implemented, the state won't have to pay to process and feed corrupt officials who are convicted or imprisoned. Regarding criminal prosecution, there is no distinction in the financial resources required to prosecute those who commit corruption offenses that result in significant or minor losses to the state; the expenses incurred in handling corruption offenses with minor losses are equivalent to those incurred in handling corruption offenses with significant losses.

2. Implementation of the principles of Restorative Justice in Corruption Crimes in Order to Save the State's Finances, as an Implementation of the Circular of the Deputy Prosecutor General for Special Crimes No. B-1113/F/FD.1/05/2010

On May 18, 2010, the Deputy Attorney General for Special Crimes signed Circular No. B113/F/Fd.1/05/2010, which addressed the processing of corruption cases. The circular directs top prosecutors across Indonesia to give priority to corruption cases that are still pending and big fish, meaning they are significant in terms of the amount of money lost. This circular highlights that those who have committed corruption offenses with losses under Rp. 100,000,000 and have reimbursed the damages can benefit from the notion of restorative justice. Because dealing with corruption cases takes a significant amount of time, money, and effort, it is necessary to use a restorative justice technique to resolve corruption matters out of court with a loss value of Rp 100,000,000 and below.

The application of restorative justice will not place a financial burden on the state to process and care for corruption offenders who are imprisoned or convicted. In the context of criminal prosecution, there is no difference in terms of financing whether the perpetrators of corruption offenses causing large or small financial losses to the state are being prosecuted; the costs of dealing with corruption offenses causing small losses are the same as the costs of dealing with corruption offenses causing large losses.

In light of this explanation, it is vital to ascertain the types of corruption cases that are settled via the use of restorative justice as well as the boundaries of corruption cases with the proper amount

[14] Lilik Mulyadi, *Tindak Pidana Korupsi (Tinjauan Khusus Terhadap Proses Penyidikan, Penuntutan, Peradilan Serta Upaya Hukumnya Menurut Undang-undang Nomor 31 Tahun 1999*), (Bandung : PT. Citra Aditya Bakti, 2000), hlm. 2

[15] Karmiasari, *Perkara Korupsi di pengadilan ,* hlm. 112

of losses to go to the trial stage. This is to make sure that the expenses of dealing with corruption charges don't exceed the state's losses.

Based on this research, two ways to justice may be used to carry out the best prosecution efforts to address corruption charges. Retributive justice is used in situations of corruption that result in significant financial losses for the state, whereas restorative justice is used in cases of corruption that result in minor damages. In addition to these various considerations, the restorative justice approach to the prosecution of corruption offenses involving small losses to the state is consistent with the principle of simple, speedy, and low-cost justice. This is because the resolution of criminal offenses through restorative justice is a simpler, quicker, and less costly process than the retributive justice approach. Furthermore, according to the author, the restorative justice approach in the prosecution of corruption offenses with low state losses is in line with the *ultimum remidium* principle.[16]

The use of restorative justice to resolve corruption cases with minor state losses must be regulated by legislation in the context of future criminal law reform in order to maximize the restoration of public financial losses. By presenting the offender to government and law enforcement officials, restorative justice is implemented through the restitution of state financial losses, penalties, and social work. This is done in order to achieve one of the purposes of punishment, which is to have a deterrent effect on the perpetrators of criminal offenses and to streamline the implementation of the law in a quick, simple, and inexpensive manner, which in turn achieves fair prosecution, benefits, and legal certainty for the perpetrators, society, and the state.

The Circular Letter issued by the Deputy Prosecutor General for Special Crimes is a manifestation of the prosecution process carried out by the Prosecutor General's Office against corruption, which is also a type of full enforcement that requires discretion. The Attorney General's Office has a procedure for dealing with corruption offenses that consists of several stages, namely:

a. The initial inquiry Planning and preparation are the first steps in managing corruption situations, and they take the shape of an initial review. At this point, it will be evident how the investigating team would proceed with treating corruption charges.

b. Phase of investigation. This phase involves laying the groundwork for addressing corruption issues through investigative measures. Finding claims of corruption violations that have happened is a crucial first step in creating a sound basis. The primary issues of the corruption case that need to be addressed are outlined at this point.

c. The investigation stage, in the form of investigative actions, is the stage where a 'building' is constructed in the form of a complete corruption case file. The series of warrants and reports containing the actions and evidence obtained reflect the corruption offense charged against the suspect.

d. The last step of the case file created during the investigation stage is pre-prosecution and prosecution, which takes the form of giving guidelines and views on whether or not the investigation file should be sent to the court. Instead of trying to stop the investigation's findings, the goal is to make the case file that comes out of the inquiry better and more thorough so that it may be submitted to the court.

e. The trial phase, during which the prosecutor presents the court with the evidence from the case file. Since this is really the "marketing" stage, the prosecutor's ability to convince the judge to condemn the prisoner depends heavily on how well they present the facts in the courtroom.

[16] Muhaimin, "Restoratif Justice dalam Penyelesaian Tindak Pidana Ringan," Jurnal Penelitian Hukum De Jure 19, no. 2 (2019), hlm. 195

f. In the extraordinary appeal stage, the public prosecutor defends or challenges a court decision in the public interest or in the interest of the state, which has the force of res judicata. In the appeal stage, the public prosecutor takes the form of an action to defend the indictment if the court decision is not thought to be in accordance with the indictment.

g. The application of court rulings that are legally binding for all time is the execution stage. The goal of this stage is to essentially "sell" the "stakeholders" on the outcomes of the corruption cases that are being handled.

Following the publication of the Circular Letter of the Deputy Prosecutor General for Special Crimes, the Prosecutor General's Office will continue to prosecute low-value corruption cases in an effort to maintain social order and regulate the law. Furthermore, according to M. Angga Mahatama, "the Corruption Eradication Act has regulated this, so the restitution of state losses made by 48 prosecuted corruption offenders does not eliminate criminal sanctions against the perpetrators."[17]

The authority of the prosecutor as investigator applies only to certain crimes, such as corruption. Thus, in the case of corruption offenses, the authority of the prosecutor as an investigator is the same as that of the police. The authority of the police themselves as investigators is also regulated by Law of the Republic of Indonesia No. 2 of 2002 on the Indonesian National Police and Law No. 8 of 1981 on the Criminal Procedure Code; officers of the State Police of the Republic of Indonesia are to act as investigators and prosecutors in criminal cases (see Articles 4 to 6 of the Criminal Procedure Code).

The state won't have to pay to process and feed anyone convicted or imprisoned for corruption violations in the event that restorative justice is implemented. When it comes to funding criminal prosecutions, there is no difference between prosecuting those who commit corruption offenses that result in significant or minor financial losses to the state; the expenses associated with handling corruption offenses that cause minor losses are equivalent to those associated with corruption offenses that result in significant losses. Based on this explanation, it is vital to identify the types of corruption cases that are handled using a restorative justice strategy, as well as the boundaries of corruption cases with the proper value of losses to proceed to the trial stage. The goal is to keep the expenses associated with handling corruption cases from surpassing the state's losses. Based on this research, two justice techniques may be used to carry out the best prosecution efforts to address corruption charges. In addition to these various considerations, the restorative justice approach to the prosecution of corruption offenses involving small losses to the state is consistent with the principle of simple, speedy, and inexpensive justice. This is because the resolution of criminal offenses through restorative justice is a simpler, quicker, and less costly process than the retributive justice approach.

The Deputy Prosecutor General's Circular Letter for Special Crimes is an example of the prosecution procedure that the Prosecutor General's Office uses to combat corruption, which is another kind of full enforcement that calls for discretion. Since corruption is considered an unusual crime that needs special treatment, it must be regulated by specific laws and/or regulations. Law No. 20 of 2001 on the Eradication of the Crime of Corruption regulates crimes that have harmed public finances.[18]

The settlement of corporate criminal offenses, which in reality cannot be compared to the consequences of criminal sanctions with the risk of endangering the stability of the nation's economy, the livelihood of workers, and the social life of people who depend on the company, is another goal. It aims to achieve economic stability and prevent crises in various sectors.

[17]https://kejari-sragen.kejaksaan.go.id/pidana-khusus

[18] Murpraptono Adhi S., Penerapan Prinsip Keadilan Restoratif Pada Tindak Pidana Korupsi Dalam Rangka Penyelamatan Keuangan Negara, DHARMASISYA Jurnal Program Magister Hukum Fakultas Hukum Universitas Indonesia, Vol 1 (2), 2021, hlm. 915

Lastly, in order to maximize the restoration of state financial losses, legislation governing the restorative justice approach to the settlement of corruption charges with minor state losses must be implemented in the framework of future criminal law reform. This is done to accomplish one of the goals of punishment, which is to deter criminals and expedite the application of law enforcement. This is done in a way that is quick, easy, and affordable, which ultimately results in law enforcement that is equitable and offers advantages and legal certainty to the state, society, and the offenders.

CONCLUSION

Restorative justice is allowed for corruption offenses. Theoretically and legally, the concept of restorative justice in corruption crimes can be applied in Indonesian law. The application of the concept of restorative justice in corruption crimes to strengthen the goal of restitution of state losses by the perpetrators of corruption crimes can be seen in the Circular Letter of the Deputy Attorney General for Special Crimes No. B113/F/Fd.1/05/2010 and the Letter of the National Police Chief No. Pol. B/3022/XII/2009/sdeops on the concept of Alternative Dispute Resolution (ADR). Restorative justice in relation to corruption offenses focuses on repairing the harm caused. The concept of restorative justice in the punishment of corruption perpetrators can be applied in the form of strengthening the rules of restitution of state losses from additional punishment to main punishment; through this concept there is a change from following the suspect to following the money and assets, which will indirectly impoverish the perpetrators of criminal acts. According to the Circular Letter of the Deputy Attorney General for Special Crimes No.: B-1113/F/Fd.1/05/2010, the Attorney General's Office uses the restorative justice approach to settle corruption cases involving minor financial losses to the state in order to lessen the amount of money that must be lost to the state as a result of minor corruption crimes. This is because the state could have suffered a much larger loss given the amount of money lost due to minor corruption offenses and the significant expenses incurred in handling corruption cases that must be decided by the provincial capital's corruption court.

In practice, the implementation of restorative justice focuses on the agreement of the offender and the victim, as well as the good will to acknowledge and repair the losses caused by the criminal act committed. The Circular Letter issued by the Deputy Prosecutor General for Special Crimes is a manifestation of the prosecution process carried out by the Prosecutor General's Office against corruption crimes, which is also a type of full enforcement that requires discretion.

REFERENCES

Ahmad Muchlis, *Penegakan Hukum Terhadap Tindak Pidana Korupsi Dengan Kerugian Negara Yang Kecil Dalam Mewujudkan Keadilan*, Jurnal Fiat Justisia, 10 (2), 2017

Ali Habib, Penerapan Restorative Justice Dalam Perkara Tindak Pidana Korupsi Sebaga Upaya Pengembalian Kerugian Negara, Jurnal Corruptio, 1 (2), 2020

Andi Rachmad, Zaki Ulya, Yusi Amdani, *Urgency of Extradition Agreements in Eradicating Corruption Crime in Indonesia*, Jurnal Ius : Kajian Hukum dan Keadilan, 10 (3), 2022

Baik, Jakarta : Erlangga

Bambang Waluyo, *Penyelesaian Perkara Pidana Penerapan Keadilam Restoratif dan Transformatif*, Jakarta: Sinar Grafika, 2020

Budiah, *Penanganan tindak pidana korupsi*, Bandung: Garuda sakti,2019

Hotma P. Sibuea, *Asas Negara Hukum, Peraturan kebijakan, Asas-asas Umum Pemerintahan yang Baik*, Jakarta: Erlangga, 2010

https://kejari-sragen.kejaksaan.go.id/pidana-khusus

July Esther, *Rekonstruksi Sistem Pemidanaan Tindakpidana Korupsi Dan Pencucian Uang Dalam pendanaan Pemilihan Umum*, Jurnal hukum, 15(1), 2020

Karmiasari, *Perkara Korupsi di pengadilan*, Bandung: Sinar grafika, 2018

Lilik Mulyadi, *Tindak Pidana Korupsi (Tinjauan Khusus Terhadap Proses Penyidikan, Penuntutan, Peradilan Serta Upaya Hukumnya Menurut Undang-undang Nomor 31 Tahun 1999*), Bandung : PT. Citra Aditya Bakti, 2000

Marwan Effendy, *Keadilan Restorative (restorative justice) Dalam Konteks Ultimum Remedium terhadap Pemberantasan Tindak Pidana Korupsi*, Pidato Pengukuhan Guru Besar Pada Universitas Sam Ratulangi Manado, Pada tanggal 4 Oktober 2012

Muhaimin, "Restoratif Justice dalam Penyelesaian Tindak Pidana Ringan," Jurnal Penelitian Hukum De Jure 19, no. (2) 2019

Muhaimin, *Metode Penelitian Hukum*, Mataram: Mataram University Press, 2020.

Murpraptono Adhi S., Penerapan Prinsip Keadilan Restoratif Pada Tindak Pidana Korupsi Dalam Rangka Penyelamatan Keuangan Negara, DHARMASISYA Jurnal Program Magister Hukum Fakultas Hukum Universitas Indonesia, Vol 1 (2), 2021

Nafisa Putri Hananti, et., al., *Analisis Efektivitas Penegakan Hukum terhadap Korupsi di Indonesia*, Indigenous Knowledge, 2(5), 2015