LEGAL BRIEF
ISSN 2722-4643 (Online) | 1979-522X (Print)
Volume 14, No. 2, 2025, pp. 137-147
Published by: IHSA Institute (Institut Hukum Sumberdaya Alam)

Legal Analysis of the Application of Restorative Justice in Corruption Cases Based on the Circular Letter of the Deputy Attorney General for Special Crimes

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Abstract: This study discusses the application of restorative justice principles in corruption cases based on Circular Letter of the Deputy Attorney General for Special Crimes Number B-765/F/FD/04/2018. The emergence of this policy is one of the alternative efforts to resolve small-scale corruption cases more efficiently, namely through the recovery of state losses without having to go through a lengthy legal process. This study aims to analyze the extent to which the principles of restorative justice have been applied and to identify various obstacles encountered in its implementation. The method used is normative legal research with a legislative and conceptual approach. The results of the study indicate that although this approach provides opportunities for faster recovery of state losses, its implementation still faces various obstacles, such as the lack of a strong legal basis in anti-corruption laws, concerns about abuse of authority, and resistance from the public because it is perceived as reducing the deterrent effect. Therefore, regulatory updates and strict oversight are needed to ensure that this policy is implemented fairly, transparently, and maintains the integrity of corruption eradication efforts.

Keywords: *Restorative Justice, Corruption Crimes, Circular Letter, Prosecutor's Office, Recovery of State Losses.*

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Received: May 03, 2025;
Revised: May 07 2025;
Accepted: May 13, 2025;
Published: Jun 30, 2025;

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1. Introduction

Criminal law is one of the most important branches of law in national and international life because it aims to protect society from harmful behavior, punish those who commit violations, and prevent crimes from occurring in the future. Three main principles are emphasized in criminal law doctrine: legal certainty, legal utility, and legal justice (Wahyuni 2022).

Corruption is one of the main legal problems in Indonesia. Due to its widespread and destructive impact on various aspects of life, corruption is considered a form of extraordinary crime. Corruption not only causes the state to lose a lot of money, but also undermines democracy, moral principles, political structures, and public trust in the legal system. Corruption is defined as a crime committed systematically, often involving intellectual actors, and carried out by individuals or groups in positions of power. Therefore, corruption is also classified as a white-collar crime, which is a crime typically committed by intellectuals or high-ranking officials (Siregar and M.Yani 2022).

The problem of corruption in Indonesia is increasingly complex because corrupt acts are usually carried out systematically and structurally, and involve various parties, including law enforcement officials. With this phenomenon, eradicating corruption has become a significant challenge for the country. Various components, such as weak law enforcement, lack of integrity among law enforcement officials, and obstacles in the criminal justice system, often hamper efforts to eradicate corruption that have been car-

ried out so far. In addition, the paradigm of corruption eradication that prioritizes a retributive justice approach, which involves the application of punishment as a form of retribution for violations committed, is considered ineffective in deterring corruption and recovering state losses (Arif and Barda Nawawi 2021).

The retributive justice paradigm has significant weaknesses, especially when it comes to corruption cases. Often, a penal system that focuses on imprisonment cannot recover state losses caused by corruption. In addition, the value of state losses caused by corruption is often much smaller than the costs required to handle the case, especially in cases of petty corruption, which are acts of corruption committed on a small scale, often considered trivial and commonplace, but can cause systemic damage to public services and become the seeds of large-scale corruption. This situation raises questions about how well the criminal justice system handles corruption cases (Siregar and M.Yani 2022).

The Circular Letter of the Deputy Attorney General for Special Crimes Number B-765/F/FD/04/2018, issued by the Attorney General's Office of the Republic of Indonesia, is part of the implementation of the restorative justice approach in Indonesia. The objective of this policy is to handle small-scale corruption cases by emphasizing the principle of benefit, which means that the recovery of state losses must be the top priority. This method is in line with the economic approach to law, which prioritizes cost-benefit analysis in the handling of legal cases (Hiariej and Eddy O.S 2020). This method is expected to be a more effective and beneficial solution for the community by prioritizing the recovery of state losses.

However, restorative justice in corruption cases continues to be criticized. This policy is considered to weaken efforts to eradicate corruption because it is perceived as giving leniency to those who commit corruption. In addition, there are concerns that the return of state losses without criminal punishment could create the perception that corruption is a crime that can be "bought" with money. Therefore, to maintain justice and legal certainty, the implementation of this policy requires a clear legal framework and strict supervision.

Based on academic research, there is a previous study similar to this one, conducted by Khusnul Fuad with the title "The Application of Restorative Justice in Corruption Crimes in Relation to the Circular Letter of the Deputy Attorney General for Special Crimes" (Khusnul Fuad 2023). Overall, this study examines the application of restorative justice in handling corruption crimes, particularly in relation to the circular letter from the Deputy Attorney General for Special Crimes. There are differences between this study and previous research, namely the focus on evaluating the legal basis, implementation, and effectiveness of the restorative justice approach in handling corruption crimes, particularly in cases involving small state losses, as well as the theories used. The objectives of this study are to examine the extent to which the policy is able to restore state losses optimally, deter perpetrators, and uphold the principles of justice and legal certainty. Additionally, this study analyzes the policy's impact on public trust in law enforcement and offers recommendations to improve the implementation of restorative justice within the Indonesian legal system.

The application of *restorative justice* in corruption cases is not without controversy. There is a perception that this approach could weaken the deterrent effect on perpetrators, as corrupt individuals are seen as being able to "redeem" themselves simply by returning state losses without facing severe legal consequences. This raises important questions about the effectiveness of applying restorative justice principles in corruption cases in accordance with the Deputy Attorney General for Special Crimes Circular Letter Number B-765/F/FD/04/2018 and the challenges or obstacles faced in its implementation.

2. Materials and Methods

This study employs a normative legal research method, which focuses on analyzing legislation and other legal materials to understand the applicable law through a conceptual and legislative approach (Nanda Dwi and Hardi 2023). The primary focus is to analyze and evaluate the applicable legal provisions regarding the application of restorative justice in corruption cases, particularly based on the Circular Letter of the Deputy Attorney General for Special Crimes. The data used are secondary data obtained through literature review, including legislation, legal literature, and other relevant sources. This approach is taken to assess the compatibility between legal theory and its application in the context of the criminal justice system in Indonesia.

3. Results and Discussion

3.1 Application of Restorative Justice Principles in the Settlement of Corruption Cases Based on the Circular Letter of the Deputy Attorney General for Special Crimes Number B-765/F/FD/04/2018

The application of restorative justice principles in the settlement of corruption cases in Indonesia began to receive serious attention since the issuance of the Circular Letter of the Deputy Attorney General for Special Crimes (JAMPIDSUS) Number B-765/F/FD/04/2018. This circular letter provides technical guidelines for prosecutors in handling corruption cases, particularly at the investigation stage. The letter emphasizes that if the parties involved are cooperative and have returned all state financial losses, consideration may be given to not proceeding with further legal action, while still taking into account the interests of regional government stability and the smooth running of national development (Fuad, K 2023).

The application of the principle of restorative justice in handling corruption cases in Indonesia based on the Circular Letter of the Deputy Attorney General for Special Crimes Number B-765/F/FD/04/2018 cannot yet be said to be fully effective. Although this approach offers efficiency in the case resolution process and prioritizes the recovery of state losses, its effectiveness still faces various obstacles, both normative, structural, and sociological (Budiman, M. 2022).

In terms of implementation, the effectiveness of restorative justice is only evident in cases of petty corruption and low state losses. Research by Fuad (Fuad, K 2023) and Hasanah (Hasanah, N 2024) shows that in certain cases, this approach can accelerate the recovery of state losses and reduce the burden on the criminal justice system. However, without explicit regulations and strict oversight, this approach is prone to abuse.

From the public's perspective, there is still high resistance to this policy because it is considered to weaken the deterrent effect. The public views corruption as a serious crime that must be punished severely, not resolved through non-punitive approaches such as restorative justice (Purnama, H. and Rizky, D 2025). Thus, the application of restorative justice principles in corruption cases cannot yet be considered effective overall. Strengthened regulations, the establishment of oversight mechanisms, and public education are needed to enhance the legitimacy and effectiveness of this approach within Indonesia's criminal justice system.

Growing discussion about applying restorative justice principles in corruption cases indicates that this approach requires strict criteria to prevent it from becoming a loophole for impunity. One important point to consider in its implementation is the classification of cases suitable for restorative resolution. Based on Hasanah's study (Hasanah, N 2024), only cases involving state losses below a certain threshold, without repeated motives or organized networks, are suitable for consideration under the restorative justice scheme. These criteria must be clearly stipulated clearly in regulations to prevent subjective interpretation by law enforcement officials.

In addition, it is important to distinguish between the main perpetrator and accomplices or passive perpetrators. In some cases, the application of restorative justice is actually more effective if directed at passive perpetrators who act due to pressure from the system or bureaucratic structures, as explained by Sari & Handoko (2023). This means that this approach must be personalized and based on a risk assessment of the perpetrator.

Adjustments to positive law are also necessary to provide formal legitimacy for the systemic use of this principle. Proposals to revise Article 4 of the Corruption Eradication Law or add an exception clause for certain types of cases could be normative solutions. However, such changes must involve public participation to avoid suspicion that the law is being weakened.

This approach reflects a paradigm shift from retributive justice to restorative justice, which emphasizes the restoration of state losses and the repair of social relations rather than merely punishing perpetrators. In this context, restorative justice is seen as a more efficient alternative to resolving corruption cases, especially for cases with relatively small losses, often referred to as petty corruption. This is in line with the economic approach to law, which considers the costs and benefits of law enforcement.

The application of restorative justice principles in corruption cases is not without challenges and controversies. One of the main issues is the potential conflict with Article 4 of Law No. 31 of 1999 on the Eradication of Corruption, which states that the return of state financial losses by perpetrators does not eliminate the criminal punishment imposed. Thus, even if the perpetrator has returned the state's losses, the legal process must still continue. This raises questions about the legality and legitimacy of applying restorative justice in the context of Indonesian positive law (Griselda, Prija, and Ladito 2022).

Additionally, there are concerns that the restorative justice approach could be abused by corrupt perpetrators to avoid criminal punishment, especially if there are no strict oversight mechanisms in place. In some cases, perpetrators may return state losses as a strategy to avoid legal proceedings, without any genuine remorse or change in behavior. This can undermine the integrity of the judicial system and reduce the deterrent effect on other perpetrators of corruption (Paskalis and Sutrisni 2022).

Nevertheless, some studies indicate that the application of restorative justice in corruption cases can provide significant benefits, particularly in terms of case handling efficiency and recovery of state losses. According to (Fuad, K 2023) in his study, this approach can be an effective alternative solution, provided it is implemented carefully and accompanied by a clear legal framework. Similarly, (Hestaria et al. 2023) emphasize

the importance of developing specific regulations to govern the application of restorative justice in corruption cases to ensure consistency and fairness in law enforcement.

In practice, the success of applying restorative justice in corruption cases depends heavily on the commitment and integrity of law enforcement officials, as well as active participation from the community. Adequate training and socialization are needed for law enforcement officials to understand and effectively apply the principles of restorative justice. In addition, transparent monitoring and evaluation mechanisms must be developed to prevent abuse and ensure that this approach is truly used in the interests of justice and the recovery of state losses.

The application of restorative justice principles in the resolution of corruption cases based on JAMPIDSUS Circular Letter Number B-765/F/FD/04/2018 is a progressive step in the reform of the criminal justice system in Indonesia. However, to ensure its success, joint efforts are needed from all relevant parties to address existing legal and practical challenges, as well as to develop a regulatory framework that supports the fair and effective implementation of this approach.

3.2 Obstacles to the Implementation of Restorative Justice in Corruption Cases in Indonesia

The implementation of restorative justice principles in handling corruption cases in Indonesia faces various complex obstacles, both from legal, technical, and sociological aspects. From a legal perspective, one of the main obstacles is the provision in Article 4 of Law Number 31 of 1999 concerning the Eradication of Corruption, which states that the return of state financial losses by the perpetrator does not eliminate the criminal punishment imposed. This indicates that the Indonesian legal system still adheres to a retributive approach that emphasizes the punishment of perpetrators, making the application of restorative justice difficult to accommodate within the existing legal framework (Angela Maharani 2023).

From a technical perspective, the absence of specific regulations governing the application of restorative justice in corruption cases creates legal uncertainty. Although the Attorney General's Office has issued Circular Letter No. B-765/F/FD/04/2018 providing technical guidelines for handling corruption cases, this circular does not have the same legal force as a law, so its implementation remains limited and prone to different interpretations by law enforcement officials (Azmi Syahputra 2022).

Furthermore, from a sociological perspective, the application of restorative justice in corruption cases is often rejected by the public, who believe that this approach could weaken the deterrent effect on corrupt actors. The public tends to demand strict punishment for corrupt actors as a form of justice and an effective effort to eradicate corruption. Therefore, the application of restorative justice in corruption cases needs to be properly socialized to the public so that it can be accepted and understood as an alternative to resolving cases that also prioritizes the recovery of state losses (Helena, Made, and Muhamad Jodi 2023).

In practice, the success of restorative justice in corruption cases depends heavily on the commitment and integrity of law enforcement officials, as well as active community participation. Adequate training and socialization are needed for law enforcement offi-

cials to understand and effectively apply the principles of restorative justice. Additionally, transparent oversight and evaluation mechanisms must be developed to prevent abuse and ensure that this approach is genuinely used for the sake of justice and the recovery of state losses (Maman Budiman 2022).

The application of restorative justice principles in corruption cases in Indonesia has become a subject of intense debate, given the complexity of the issues involved in such crimes and the challenges in establishing a fair and transparent judicial system. Restorative justice, which aims to restore the losses caused by criminal acts and repair the relationship between the perpetrator, the victim, and the community, is considered an alternative to the retributive justice system, which emphasizes imprisonment as a form of punishment for criminal acts. However, the application of this principle in corruption cases in Indonesia faces significant obstacles, both from a normative, structural, and cultural perspective.

a. Normative and Legal Challenges

From a normative perspective, Indonesia has an adequate legal basis to support the application of restorative justice principles in various criminal offenses, including corruption. However, its application in corruption cases often conflicts with long-established principles of criminal law, such as the principle of legality, the principle of equality before the law, and criminal provisions that impose severe penalties on perpetrators of corruption. According to Santosa (2025), the conflict between restorative justice policies and existing criminal law principles creates confusion in law enforcement, particularly regarding strict criminal provisions against perpetrators of corruption.

For example, although the Attorney General's Circular provides room for the application of restorative justice in certain criminal offenses, it does not have the same legal force as a law. This creates legal uncertainty, where this policy can be interpreted freely by law enforcement officials, depending on the policies of each agency. According to Ramadhan (2025), the application of restorative justice principles in corruption cases has the potential to create legal loopholes that can be exploited by interested parties, given the high value of state losses caused by these crimes.

b. Structural Challenges and Supervisory Institutions

From a structural perspective, one of the biggest challenges in implementing restorative justice in Indonesia is the lack of independent institutions to oversee this process, especially in cases of corruption involving public interests. The existence of independent and transparent supervisory institutions is crucial to ensure that the implementation of restorative justice is not used to reduce the punishment of perpetrators or to cover up larger acts of corruption.

Hasanah (2024) emphasizes that without strict oversight, restorative justice has the potential to be abused by perpetrators and law enforcement officials to avoid harsher penalties, such as imprisonment or fines that should be imposed on corrupt perpetrators. Therefore, an open and accountable audit system is essential to ensure that restorative justice mechanisms operate in accordance with the principles of true justice. Without clear

mechanisms to monitor its implementation, restorative justice in corruption cases will only become a formality that fails to provide maximum deterrence.

In Indonesia's law enforcement system, the issue of law enforcement integrity remains a major concern. For example, the Attorney General's Office and the police often face conflicts of interest or inconsistencies between existing legal policies and the actions taken in practice. This creates doubts as to whether the application of restorative justice can truly provide justice for the victims, namely the state and society, or whether it only benefits the perpetrators and those involved in corrupt practices.

c. Cultural and Social Challenges

Cultural aspects are also a major obstacle to the implementation of restorative justice, especially in corruption cases. In Indonesia, the public tends to have a very harsh view of corruption. Corruption is considered a serious crime that harms the state and the people, so the punishment imposed on perpetrators is often seen as a fitting response to the crime committed. According to Purnama & Rizky (2025), the restorative justice approach, which emphasizes the restoration of state losses and the rehabilitation of corrupt perpetrators, is often seen as too lenient and even undermining the deterrent effect on society.

Most Indonesians, including law enforcement officials, still strongly believe that long prison sentences or high fines are the best way to combat corruption. Therefore, when restorative justice is considered as a solution, many argue that it will create the impression of weakness in law enforcement against perpetrators of corruption. As highlighted by Sari & Handoko (2023), resistance to this approach is very high, as the public fears that it will weaken the spirit of corruption eradication in Indonesia.

More in-depth public education on the concept of restorative justice and its benefits is needed to change the public's mindset towards this judicial system. In many cases, the public does not understand that restorative justice does not mean eliminating punishment for perpetrators of corruption, but rather repairing the harm caused by the crime and restoring the relationships damaged by the crime.

d. Reforms and Solutions for the Implementation of Restorative Justice in Corruption Cases

The implementation of restorative justice principles in corruption cases requires reforms that not only include legal regulatory updates, but also changes in legal culture, strengthening of law enforcement agencies, and increased public participation. Without systematic and planned measures, the implementation of restorative justice risks failure and may even undermine the social justice objectives it seeks to achieve.

3.3 Legal and Regulatory Reforms Supporting Restorative Justice

Legal reform is the first crucial step in supporting the implementation of restorative justice principles in corruption cases. Currently, the application of these principles in Indonesia is limited to internal policies of the Attorney General's Office and is not regulated in detail in higher legislation such as the law on corruption or criminal procedure law. Therefore, clear legal reforms are needed to regulate restorative justice, incorporating the

basic principles of state loss recovery and rehabilitation of corruptors as an alternative to punishment.

As proposed by Kurniawan (2025), to achieve this, the Law No. 31 of 1999 on the Eradication of Corruption must be revised to include clearer provisions on the application of restorative justice. This could include dispute resolution through mediation between perpetrators and victims, restitution of state losses through non-criminal mechanisms, and monitoring and evaluation involving the community in the process.

Additionally, stricter regulations on the procedures and criteria for applying restorative justice in corruption cases are also needed. This will provide clear boundaries on the types of corruption offenses that can be resolved through a restorative justice approach and ensure that this approach is not abused by parties with vested interests.

3.4 Strengthening Oversight and Transparency Institutions

Independent oversight institutions play an important role in ensuring that the implementation of restorative justice is truly in accordance with the principles of justice and is not exploited for personal or group interests. As stated by Ramadhan (2025), to minimize the potential for misuse of restorative justice, it is necessary to establish an oversight institution with the authority to monitor every step in the process of resolving corruption cases using this approach.

This institution, which could consist of academics, non-governmental organizations, and representatives of civil society, must be given access to audit the ongoing restorative justice processes. With a strong oversight system, the public will be able to better trust that the process of recovering state losses through restorative justice not only benefits the perpetrators but also ensures that the public interest remains a priority.

In addition, transparency in every stage of the process must be guaranteed. The mediation process, negotiations on the recovery of state losses, and the decisions taken must be published and accessible to the public. This will help reduce the potential for collusion and foster public trust in the existing legal system.

3.5 Legal Culture Change and Broader Socialization

The change in the legal culture in Indonesian society, which has so far placed more importance on retributive aspects or punishment of perpetrators of corruption, is no less of a challenge. As stated by Purnama & Rizky (2025), the restorative justice approach is often seen as a form of leniency towards perpetrators who should be severely punished. Therefore, to encourage wider implementation, comprehensive socialization and education about this concept are needed.

Public education on the benefits of restorative justice must begin at the basic level and continue to the advanced level, involving various parties, including the media, educational institutions, and relevant government agencies. The public needs to be given a better understanding that restorative justice is not merely a form of reduced punishment, but a mechanism that offers solutions for the restoration of losses caused by acts of corruption. This restoration includes not only economic restoration, but also the restoration of relationships between perpetrators, victims, and the community. Sari & Handoko

(2023) emphasize the importance of the media's role in educating the public about the sustainability of the application of restorative justice in corruption cases.

The media must be able to explain that the main objective of restorative justice is to create comprehensive justice that benefits all parties, including the community that is the victim of corruption. Misunderstanding this concept will hinder its implementation and ultimately worsen the public's perception of justice.

3.6 Increased Community Involvement and the Role of Civil Society

Restorative justice in corruption cases will be more effective if it involves the active participation of the community and civil society organizations in every stage of the process. The success of restorative justice depends heavily on the extent to which the community can be involved in monitoring and decision-making. The community needs to be given space to provide input and participate in the mediation process so that the decisions made reflect the common interest and do not only benefit one party.

In this case, civil society organizations with a track record in human rights monitoring and corruption eradication can act as partners in ensuring that every stage of the restorative justice process is carried out correctly. Community participation is also important in ensuring that this process is not carried out behind closed doors, but is open and accountable to the public.

3.7 Implementation of a Holistic and Integrated System

Reform for the application of restorative justice in corruption cases requires a more integrated system, involving various aspects such as law enforcement, supervisory institutions, and an effective state asset recovery system, effective. The implementation of this system must involve all stakeholders, from the judiciary, the prosecution, the police, supervisory institutions, to the community. Each institution involved must have a clear role, and the restorative justice process must be carried out with high transparency and accountability.

In addition, there is a need for training and education for law enforcement officials on the basic principles of restorative justice and how to apply them appropriately. Without a deep understanding of these principles, law enforcement officials may fail to apply restorative justice correctly, which could lead to potential injustice and harm to the community.

The application of restorative justice principles in the settlement of corruption cases in Indonesia still faces various obstacles that need to be overcome. Comprehensive legal reforms, increased capacity of law enforcement officials, and a paradigm shift in the community's view of corruption case resolution are needed. Thus, restorative justice can become an effective alternative to resolving corruption cases that is in line with the principles of justice oriented towards restoring state losses (Faturohman, Laila and Siti Milani. 2023).

4. Conclusions

The application of restorative justice principles in corruption cases, particularly those referring to the Deputy Attorney General for Special Crimes Circular Letter Number

B-765/F/FD/04/2018, is an innovative step that offers an alternative to resolving cases by focusing on restoring state losses. This approach has the potential to expedite legal proceedings, reduce the burden on the judicial system, and provide more efficient solutions, especially for petty corruption cases. However, its implementation still faces various obstacles, ranging from conflicts with existing positive legal provisions, the absence of comprehensive regulations, to low public acceptance due to the perception that this approach weakens the deterrent effect on corruption perpetrators. Therefore, in order for the principles of restorative justice to be optimally applied in corruption cases, it is necessary to strengthen the legal basis, improve the capacity of law enforcement officials, and conduct strict supervision so that this approach is not misused and continues to uphold the values of justice, legal certainty, and integrity in the eradication of corruption in Indonesia.

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