

## Restorative Justice-Based Law Enforcement of Corruption by Village Officials: A State Loss Returns Perspective

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Article	Abstract
<p><b>How to cite:</b> I Made Bagus, et al., <b>'Restorative Justice-Based Law Enforcement of Corruption by Village Officials: A State Loss Returns Perspective'</b> (2025) Vol. 6 No. 3 Rechtenstudent Journal Sharia Faculty of KH Achmad Siddiq Jember State Islamic University.</p> <p><b>DOI:</b> 10.35719/rch.v6i3.394</p> <p><b>Article History:</b> Submitted: 19/11/2025 Reviewed: 29/11/2025 Revised: 05/12/2025 Accepted: 18/12/2025</p> <p><b>ISSN:</b> 2723-0406 (printed) <b>E-ISSN:</b> 2775-5304 (online)</p>	<p>The increase in Village Fund allocation since 2015 aims to accelerate development and empower rural communities. However, this has also triggered rampant corruption by village officials, which has had a serious impact on state financial losses and hampered development. To date, the law enforcement approach used has been retributive, focusing on criminalizing perpetrators without providing optimal solutions for recovering state losses. This study aims to examine the relevance of implementing restorative justice as an alternative law enforcement approach to corruption by village officials, with a focus on actually recovering state losses. The research method used is normative juridical with a statutory and conceptual approach, and examines the principles of restorative justice and the theory of economic analysis of law. The results of the discussion indicate that the implementation of restorative justice can be a more responsive legal strategy to the need for recovery of state losses, as long as it is carried out within the corridors of positive law, transparency, and community participation.</p> <p><b>Keywords:</b> Restorative Justice, Village Corruption, Law Enforcement.</p> <p><b>Abstrak</b> Peningkatan alokasi Dana Desa sejak tahun 2015 bertujuan untuk mempercepat pembangunan dan pemberdayaan masyarakat desa. Namun, hal ini juga memicu maraknya praktik korupsi oleh aparat desa, yang berdampak serius terhadap kerugian keuangan negara dan terhambatnya pembangunan. Selama ini, pendekatan penegakan hukum yang digunakan masih bersifat retributif, berfokus pada pemidanaan pelaku tanpa memberikan solusi optimal bagi pemulihan kerugian negara. Penelitian ini bertujuan untuk mengkaji relevansi penerapan keadilan restoratif sebagai alternatif penegakan hukum terhadap tindak pidana korupsi oleh aparat desa, dengan fokus pada pengembalian kerugian negara secara nyata. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan dan pendekatan konseptual, serta menelaah prinsip-prinsip keadilan restoratif dan teori analisis ekonomi dalam hukum (Economic Analysis of Law). Hasil pembahasan menunjukkan bahwa penerapan keadilan restoratif dapat menjadi strategi hukum yang lebih responsif terhadap kebutuhan pemulihan kerugian negara, sepanjang dilakukan dalam koridor hukum positif, transparansi, serta partisipasi masyarakat.</p> <p><b>Kata Kunci:</b> Keadilan Restoratif, Korupsi Desa, Penegakan Hukum.</p>

## Introduction

Corruption by village officials is a growing phenomenon, with the increasing allocation of village funds for development and community empowerment. Unfortunately, this budget increase is not always accompanied by accountable and transparent governance, creating the potential for abuse of authority and misappropriation of state funds at the village level. According to data from Indonesia Corruption Watch (ICW), an independent organization focused on monitoring and eradicating corruption, the village sector was the area with the highest number of corruption cases throughout 2022. During that year, 155 corruption cases involving village governments occurred, resulting in state losses of over Rp381 billion. Furthermore, bribery and extortion practices in villages during the same year were estimated at Rp2.7 billion, making this sector more vulnerable than other sectors such as education, public utilities, general government, and natural resources.<sup>1</sup>

ICW also noted that since the government began distributing village funds in 2015, the number of corruption cases at the village level has continued to increase. For example, in 2016, there were 17 corruption cases recorded in villages with 22 suspects. However, six years later, this number had jumped significantly to 155 cases with a total of 252 suspects.<sup>2</sup> This means that village funds, which should be used to support development and community welfare, are often misused by certain village officials. The vulnerable points that village officials often exploit to embezzle funds include five main stages: (1) the village program planning process, which tends to be closed and non-participatory; (2) the preparation of implementation plans that are rife with nepotism; (3) the procurement of goods and services, which is often carried out fictitiously or marked up; (4) falsified financial reporting and accountability; and (5) the monitoring and evaluation process, which is purely administrative in nature, often merely a formality, and slow to detect corrupt practices.<sup>3</sup> Meanwhile, according to the Minister of Villages, Development of Disadvantaged Regions, and Transmigration (Mendes PDTT), there are four levels or forms of corruption that occur in villages. First, corruption rooted in regional government policies that then perpetuate down to the village level. Second, corrupt practices carried out by village heads collectively with other village officials, including involving their family members. Third, extortion (pungli) imposed illegally on village residents. Fourth, corruption arising from negligence or errors in administrative processes that result in budget misappropriation.<sup>4</sup>

Corruption at the village level, particularly related to the misuse of village funds, is a crucial issue that deserves serious attention. This corrupt practice not only results in state financial losses but also directly harms village communities, who should be the primary beneficiaries of these funds. When village funds are misappropriated by irresponsible officials, development and community empowerment programs are hampered, public facilities are neglected, and the welfare of villagers is compromised. In other words, corruption of village

<sup>1</sup> Pusat Edukasi Anti Korupsi, *Kenali Berbagai Modus Korupsi di Sektor Desa*, accessed from: <https://aclk.kpk.go.id/aksi-informasi/Eksplorasi/20230821-kenali-berbagai-modus-korupsi-di-sektor-desa>, access date 19 July 2025.

<sup>2</sup> M. Aviv Adhitya Putra Pertama, et.al “Strengthening Village Anti-Corruption Governance: Strategies, Challenges, and Policy Implementation in Swastika Buana Village, Indonesia” *Gloden Ratio*, 5(3), 2025. <https://doi.org/10.52970/grdis.v5i3.1549>.

<sup>3</sup> Syahranuddin, et.al, “Implementation of Village Fund Policy and Anti-Corruption Challenges in Pasar Raw Village Gebang District” *The 3 rd International Seminar and Conference on Islamic Studies*, 2024, DOI: <http://dx.doi.org/10.47006/iscis.v0i3.23805>.

<sup>4</sup> Agung Iswanto, *Korupsi Desa dan Strategi Pencegahannya (Sebagai Antisipasi Terhadap Kenaikan Jumlah Dana Desa)*, Palangka Raya High Court article, accessed from: <https://www.pt-palangkaraya.go.id/berita/artikel/773-korupsi-desa-dan-strategi-pencegahannya>, access date 19 July 2025.

funds has dual consequences: eroding public trust in village government while also slowing socio-economic progress at the grassroots level. Therefore, addressing it requires a legal approach that is not only repressive but also solution-oriented, oriented toward recovering losses and improving the village governance system. In this context, current law enforcement is still dominated by a retributive approach<sup>5</sup> which emphasizes the imposition of criminal penalties, such as imprisonment, without regard for restitution for the state's financial losses. This means that imprisonment has become the most common form of punishment applied in the criminal justice system. Its primary function is as a primary instrument in responding to serious violations of the law, reflecting the state's determination to uphold justice and maintain social order by restricting the individual freedoms of perpetrators. However, the effectiveness of this prison sentence is often questioned, particularly due to its complex and widespread impacts.<sup>6</sup>

Retributive justice, the dominant approach in many legal systems, is often criticized for failing to deeply address the root causes of crime or comprehensively address the needs of victims. This approach tends to focus on punishing the perpetrator, without adequate attention to the process of recovery, rehabilitation, or rebuilding relationships damaged by the crime.<sup>7</sup> In the context of corruption, this approach does not fully address the need for comprehensive justice, as it does not guarantee the return of state assets and does not allow for recovery that addresses the root causes of social and economic problems in villages. This raises issues not only in terms of justice but also in the effectiveness of state financial recovery.

In this context, it is relevant to consider the application of a restorative justice approach as an alternative. Restorative justice approach<sup>8</sup> focuses on restitution, social restoration, and active participation between the perpetrator, the victim (state/society), and the community. In the case of village officials, perpetrators often have close social ties with residents, so a restorative approach can open up space for dialogue and more constructive resolutions, while still maintaining accountability and the public interest. However, the application of restorative justice to corruption crimes remains a normative debate, particularly concerning the principles of legal certainty and equality before the law. Therefore, a normative study is needed to examine

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<sup>5</sup> Retributive justice is an approach to criminal law that emphasizes the imposition of punishment commensurate with the severity of the offense or crime committed. This approach assumes that the perpetrator should receive a just reward as a form of retribution for the violation of the law. The primary focus of this concept is on the moral aspect of retribution, rather than on the broader social impact or public benefits that might result from the punishment. In other words, retributive justice emphasizes the principle of "making amends" rather than rehabilitation or preventing future crimes. See Ghina Nabila, dkk, *Konsep Retributive Justice Dalam Perspektif Jeremy Bentham Relevansinya Terkait Pemenuhan Hak Bagi Korban Kekerasan Seksual*, Das Sollen: Jurnal Kajian Kontemporer Hukum dan Masyarakat, 2(1), 2023: 1-25.

<sup>6</sup> Irawan, D., dkk, *Tinjauan Hukum Atas Keadilan Restoratif Sebagai Perlindungan Hukum Bagi Korban Tindak Pidana di Indonesia*, Lex Administratum, 10(5), 2022.

<sup>7</sup> Imelda Christie Manurung, *Perbandingan Sistem Pemidanaan Restoratif Dan Retributif Dalam Menangani Tindak Pidana Di Indonesia*, Jurnal Ilmu Hukum, Humaniora dan Politik, 5(5), 2025, hlm. 3975-3982, DOI: <https://doi.org/10.38035/jihhp.v5i5>.

<sup>8</sup> Restorative justice is an alternative approach to resolving criminal cases that offers a new model for the justice system. This approach has been implemented in several countries and focuses on the active involvement of perpetrators, victims, and the community in the case resolution process. The goal is not simply to impose punishment, but to restore social relationships and address the impact of the crime comprehensively for all parties involved. See Henny Saida Flora, *Keadilan Restoratif Sebagai Alternatif Dalam Penyelesaian Tindak Pidana dan Pengaruhnya dalam Sistem Peradilan Pidana di Indonesia*, UBELAJ, 3(2), 2018: 142-158, <https://doi.org/10.33369/ubelaj.3.2.142-158>.

the extent to which a restorative approach can be accommodated within the national legal framework for law enforcement against village officials, particularly from the perspective of recovering state financial losses.

Based on the background described above, this research focuses on two main issues: how do national legal regulations regulate the possibility of implementing restorative justice in law enforcement against corruption crimes by village officials? And how can the application of restorative justice provide a solution for recovering state financial losses in corruption crimes committed by village officials according to applicable legal principles?.

## Research Method

The approach used is normative legal research, which is conducted by examining primary and secondary legal materials to understand the principles, norms, and regulations related to law enforcement against corruption by village officials. The approaches used in this research include the Statutory Approach and the Conceptual Approach.

Using these approaches, this study aims to provide a comprehensive analysis of the potential application of restorative justice within Indonesia's positive legal framework to support the restitution of state financial losses due to corruption in villages.

## Result and Discussion

### Restorative Justice in Enforcing Corruption Crimes by Village Officials in the Future of National Legal Regulation

Village Funds are a key instrument in Indonesia's decentralization policy, aimed at accelerating development in rural areas and improving the welfare of rural communities. As stipulated in the Village Law, Village Funds are sourced from the State Budget (APBN) and allocated to villages through the Regional Budget (APBD) at the district or city level. These funds are intended to support various village programs, including governance, infrastructure development, social development, and community empowerment.

Based on Government Regulation Number 60 of 2014 concerning Village Funds, fund allocation is determined by considering two main aspects: an equitable basic allocation and a formula-based allocation that includes population size, poverty rate, area size, and geographic difficulty. Funds are disbursed in two stages: from the State General Treasury Account (RKUN) to the Regional General Treasury Account (RKUD), and then to each village's treasury account. However, the implementation of Village Funds has not been free from various problems, particularly irregularities and corruption<sup>9</sup> carried out by some village officials.

<sup>9</sup>Corruption is classified as a white-collar crime, characterized by a constantly evolving and complex modus operandi across various aspects. Due to its inherently hidden nature, corruption is often referred to as an invisible crime. Therefore, addressing this crime requires an appropriate and adaptive criminal law approach and policies. See Nandha Risky Putra, *Korupsi di Indonesia: Tantangan Perubahan Sosial*, Integritas: Jurnal Antikorupsi. Vol 8, No. 1, (2022), hlm. 13-24, <https://jurnal.kpk.go.id/index.php/integritas>. Corruption is an act that reflects rottenness, evil, and destructiveness. Based on this reality, corruption encompasses various immoral aspects, such as deviant acts that occur within government offices or state apparatus. Corruption often involves the abuse of power for certain gifts or rewards, and is closely related to economic and political interests. Furthermore, corruption is also evident in the practice of nepotism, namely the placement of family members or certain groups into bureaucratic structures under the control of official power. See Mudemar A. Rasyidi, *Korupsi Adalah Suatu Perbuatan Tindak Pidana yang Merugikan Negara dan Rakyat Serta Melanggar Ajaran Agama*, Jurnal Mitra Manajemen, Vol. 6, No. 2, (2014), 37-51, DOI: <https://doi.org/10.35968/jmm.v6i2.552>.

A report from Indonesia Corruption Watch (ICW) shows that since the launch of the Village Fund program in 2015, the number of corruption cases involving village officials has increased significantly. Between 2015 and 2023, Indonesia Corruption Watch (ICW) recorded a sharp increase in the number of corruption cases involving village governments in Indonesia. In 2016, only 17 cases with 22 suspects were recorded, but that number increased drastically in 2022 to 155 cases with 252 suspects. This increase indicates fundamental problems in the management of Village Funds that have not been systematically resolved. This condition is feared to negatively impact the quality of village development and efforts to improve the welfare of local communities, as funds that should be used for the public interest are instead misused by certain village officials.<sup>10</sup> This poses a serious challenge to efforts to achieve clean and accountable village governance.

Several important factors reinforce the fact that village fund corruption is a serious problem that requires special attention. First, the increased allocation of village funds from the central government, intended to accelerate development at the village level, has the potential for misuse if not accompanied by a strict monitoring system and transparent management. Second, weak transparency and accountability in village budget management are key contributing factors. Village communities generally do not receive adequate information regarding the use of funds, thus hindering their social control function. Third, oversight by the Village Consultative Body (BPD) and the community remains very limited due to a lack of capacity and technical knowledge to effectively monitor village financial management. Furthermore, additional factors such as low public awareness of their rights and the unpreparedness of village officials to manage large funds professionally also exacerbate the situation, making villages vulnerable to corruption

In a number of village fund corruption cases, the misappropriation is not always motivated by malicious intent or deliberate misconduct. Often, these violations are also triggered by a lack of knowledge among village officials regarding regulatory financial management mechanisms, weak internal and external oversight systems, and low human resource capacity at the village level, particularly in administration, accountability, and financial reporting. Many village officials lack adequate training, leaving them vulnerable to procedural errors that can lead to criminal acts.

On the other hand, Indonesia's law enforcement system still tends to prioritize a retributive approach, focusing on imposing criminal sanctions as a form of retribution for violations of the law. While this approach theoretically provides a deterrent effect, it is not necessarily able to effectively recover the state's financial losses. A retributive law enforcement approach with its primary focus on criminal penalties not only requires high costs in the judicial process, but also often fails to directly address the root causes of the problems faced by rural communities. Communities who become victims of misappropriation of village funds, for example, do not immediately receive the restoration of their rights or the benefits they deserve from village development. Infrastructure projects are delayed, empowerment programs are neglected, and public trust in village governments declines drastically.

In this situation, simply punishing the perpetrators without efforts to recover state financial losses and social recovery is an unbalanced solution. Therefore, the need to reconstruct

<sup>10</sup> Achmad Room Fitrianto, *Menjauhkan Praktek Korupsi di Desa: Tantangan dan Solusi Antisipatif*, <https://uinsa.ac.id/blog/menjauhkan-praktek-korupsi-di-desa-tantangan-dan-solusi-antisipatif#:~:text=Korupsi%20Dana%20Desa%20tidak%20terjadi,akuntabilitas%20dalam%20pengelolaan%20Dana%20Desa>, accessed by 19 Juli 2025.

the law enforcement approach for village officials involved in corruption is crucial and urgent. Alternative approaches such as restorative justice should be considered because they are more in line with the social and cultural characteristics of village communities, which value deliberation, the restoration of social relations, and resolution based on local wisdom. Furthermore, this approach allows the state to focus more on directly recovering state assets and losses, without neglecting the legal responsibility of the perpetrators. Thus, law enforcement becomes not only a tool of punishment, but also a means to restore social, economic, and moral balance within village communities.<sup>11</sup>

In the context of village fund corruption, where state losses and social impacts are felt most acutely at the local level, a more comprehensive and recovery-oriented legal approach is needed. Therefore, national legal reform (*ius constitutendum*) is needed to address this need through an adaptive legal framework that supports substantive justice. The principle of restorative justice can be an alternative legal approach that emphasizes not only punishing perpetrators but also fostering dialogue, accountability, and more constructive restitution. Therefore, based on the author's analysis, there are several important reasons for village officials to use a restorative justice approach to handle corruption crimes in order to recover state financial losses:

- a. The limited effectiveness of the retributive approach;

The retributive approach has tended to focus solely on punishment, without guaranteeing the actual restitution of state financial losses. Many village corruption cases end in prison sentences, but the embezzled state funds are not fully recovered. This demonstrates that criminal sanctions do not always fully address the needs of the state and society.

- b. The focus of restorative justice on restitution;

The restorative justice approach focuses on restoring social relationships and the losses caused by the crime, including financial losses. In the context of village official corruption, this approach provides space for efforts to recoup embezzled funds through an agreement or deliberation process between the perpetrator, the victim (state/community), and other relevant parties.

- c. Social and cultural characteristics of village communities;

Villages have strong social values based on deliberation, kinship, and local wisdom. A restorative approach aligns with the legal culture of village communities, which tends to favor resolution through dialogue and consensus, rather than solely through litigation. This facilitates community involvement in the legal process and enhances a sense of substantive justice.

- d. The purpose of criminal law: not merely to punish, but to restore;

One of the goals of criminal law is the restoration of conditions disrupted by criminal acts. Therefore, law enforcement in village corruption cases must be directed towards recovering state losses, improving village governance, and restoring public trust.

- e. Efficiency and effectiveness of law enforcement;

Conventional handling of corruption cases through criminal channels requires a lengthy process, is expensive, and does not necessarily produce optimal results. A restorative approach offers a more efficient and productive resolution mechanism, emphasizing direct resolution of the impact of state losses.

- f. Supporting village development goals;

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<sup>11</sup> Thomas Seku Marah, "The Enforcement of Anti Corruption Laws in Indonesia and Sierra Leone: A Socio-Legal Perspective" *Rechtenstudent Journal*, 5(2), 2024, DOI: <https://doi.org/10.35719/rch.v5i3.369>.

Corruption in villages has a direct impact on development stagnation. By using a restorative approach, village officials who engage in corruption can be encouraged to take active responsibility for returning funds, so that delayed development can be resumed promptly for the welfare of the community.

Taking these points into consideration, the restorative justice approach becomes important and relevant in the context of handling corruption by village officials especially as a strategy to ensure that state financial losses can be concretely recovered and that the legal process provides real benefits to the community.

### **The Concept and Direction of Restorative Justice**

Restorative justice is an approach to resolving criminal cases that prioritizes the restoration of harm and reconciliation between the perpetrator, victim, and community. This approach has been adopted in several Indonesian legal contexts, such as the juvenile justice system and the resolution of certain minor cases through Police Regulation No. 8 of 2021. However, to date, there are no regulations that specifically and systematically accommodate the application of restorative justice to corruption, especially those committed by village officials.

The concept of *ius constituendum*<sup>12</sup> This describes laws currently being drafted or expected to be enacted in the future as an update to the current legal system. In the context of handling corruption by village officials, the ideal *ius constituendum* should allow for the selective application of a restorative justice approach. This is important because not all corruption cases have the same impact on state finances or the public interest.

The application of restorative justice in corruption cases needs to be regulated for cases that meet certain criteria, such as cases with relatively small state losses, perpetrators who are cooperative during the legal process, and the perpetrator's willingness and ability to fully reimburse the state for all losses. Furthermore, this approach becomes relevant when conventional criminal penalties actually have greater negative impacts, such as the disruption of public services or village development due to vacancies.

To be implemented effectively and in accordance with the principles of justice and accountability, legal regulations based on the *ius constituendum* must include a structured and clear resolution mechanism. This includes guidelines for minimal involvement of victims, the community, and relevant institutions in the case resolution process; guarantees of legal certainty to avoid uncertainty in practice; and regulations that ensure that perpetrators remain legally and morally responsible for their actions. Therefore, the restorative justice approach within the *ius constituendum* framework not only offers an alternative to criminal punishment but also addresses the need for restitution of state losses and more comprehensive justice.

The development of regulatory direction for the application of restorative justice in corruption cases, particularly by village officials, must be based on a strong philosophical foundation, namely the noble values of Pancasila. Values such as social justice, humanity, and

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<sup>12</sup> In the legal discipline, there are two types of approaches to legal norms, namely *ius constitutum* and *ius constituendum*. *Ius constitutum* is a collection of legal rules that are actually in effect or are currently being implemented. In contrast, *ius constituendum* refers to legal norms that are still ideal or aspirational, namely laws that are expected to be implemented in the future but have not yet been officially regulated in legislation. See Okta Saputra, Reformulasi Term of Office of Village Heads: *Ius Constitutum and Ius Constituendum*, Van Java Law Journal, Vol. 1, No. 3, (2024), pp. 166-177. Ernawati and Sohib explain that the main difference between the two lies in the time aspect of their application, namely *ius constitutum* is contemporary (present), while *ius constituendum* is futuristic (future). See Ernawati, & M Shohib, *Pengantar Hukum Indonesia*, (Bandung: Damera Press, 2024).

deliberation for consensus are fundamental principles underlying the need for a more humane, proportional, and contextual legal approach. In addition, the spirit of legal reform in Indonesia demands an update to the law enforcement system, which has so far focused too much on punishment (punitive) without touching the root of the problem, such as weak governance, low legal understanding, and limited capacity of village officials.

Within the framework of *ius constituendum*, the implementation of restorative justice for corruption at the village level must be designed in such a way as to prevent a justice vacuum or even open up space for impunity. This means that while perpetrators are given the opportunity to correct their mistakes through restitution of state losses and reconciliation with the community, strict supervision and control by law enforcement officials, oversight bodies, and community participation are still required. The goal is to prevent this approach from being misused as a loophole to avoid substantial legal responsibility.

Furthermore, this regulatory direction must also be open to international practices that have proven successful in addressing white-collar crime<sup>13</sup> through a restorative justice model. Countries such as Canada, New Zealand, and South Africa are examples of where restorative justice is applied to balance the interests of the state, victims, perpetrators, and the wider community. By adopting these principles selectively and contextually, Indonesia can build a legal system that is more responsive to the need for substantive justice and tangible state financial recovery, particularly in rural areas that remain vulnerable to abuse.

### **The Relevance of the Theory of Economic Analysis of Law**

The Economic Analysis of Law (EAL) approach is rooted in the theory of utilitarianism pioneered by Jeremy Bentham, where the main principle is that the law must produce the greatest benefit for as many people as possible (the greatest happiness of the greatest number).<sup>14</sup> In this view, a legal rule is considered valid if it provides broad benefits to society. EAL itself is an approach that examines law from an economic perspective. This approach began to develop around 1949, starting with antitrust research conducted at the University of Chicago in a project called the Antitrust Project. Subsequently, a significant development occurred in 1960 when the Journal of Law and Economics published a landmark article by Ronald Coase, entitled "The Problem of Social Cost." This article discussed the impact of legal regulations on economic dynamics.<sup>15</sup>

The concept of EAL was further developed by Richard Posner in his landmark work, *Economic Analysis of Law*. Posner argued that economics as a science is based on the assumption that individuals are rational agents with self-interest and live in a world with limited resources. Therefore, in a legal context, the economic approach assumes that individuals will act to maximize their wealth or utility based on the available resources efficiently.<sup>16</sup> In other

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<sup>13</sup> Adinda Kartika Sari dan Nabilah Ritonga, *Ekesistensi White Collar Crime di Indonesia: Kajian Konsep dan Kasus*, Jurnal Riset, Pendidikan dan Ilmu Sosial, Vol. 1, No. 2, (2023), 93-103. <http://jurnaltarbiyah.uinsu.ac.id/index.php/tips>

<sup>14</sup> Yuli Indrawati, *Aktualisasi Hukum Keuangan Publik*, (Bandung: Mujahid Pres, 2014), hlm. 256.

<sup>15</sup> Ed. Alain Marciano, *Law and Economics: A Reader*, (London and New York: Routledge, 2009), hlm 3-4. Maria Soetopo Conboy, dan Indriyanto Seno Adji, *Economic Analysis of Law Krisis Keuangan dan Kebijakan Pemerintah*, (Jakarta: Diadit Media, 2015), 134-135.

<sup>16</sup> Irma Reisalinda Ayuningsih, *Mengenal Economic Analysis of Law*, <https://www.djkn.kemenkeu.go.id/artikel/baca/16122/Mengenal-Economic-Analysis-of-Law.html>, Accessed by 19 Juli 2025.

words, EAL views legal rules as being evaluated based on their efficiency in resource allocation and optimal social benefit.

From the explanation above, the Economic Analysis of Law theory seeks to explain and evaluate legal systems based on the principle of economic efficiency. This theory views law as a means to achieve social efficiency, namely, a condition in which resources are allocated in such a way that the net social benefit is maximized. In the context of handling corruption by village officials, this approach is highly relevant when linked to the application of restorative justice as an alternative or complement to the conventional (retributive) criminal law system, particularly in the context of recovering state financial losses.

First, a retributive approach that relies on imprisonment is not always cost-effective and results-efficient. The lengthy law enforcement process, court costs, and inmate maintenance burden the state, while the embezzled funds are not always recovered. Economic analysis of law assesses that this system is economically suboptimal because it fails to address the root of the problem state losses and does not provide concrete returns for affected communities. This is where restorative justice becomes an economically valuable alternative, as it encourages perpetrators to directly reimburse losses and even opens up space for mediation with victims and the community.

Second, from an efficiency perspective, restorative justice allows the state to achieve rapid and effective restitution of losses, without having to go through complicated legal procedures. For example, if village officials who commit corruption are willing to return funds and fulfill their social responsibilities to the community, state financial losses can be immediately recovered without the time and expense of court proceedings. This aligns with the cost-benefit analysis principle in economic law, which emphasizes taking legal action that provides the greatest benefit at the lowest cost.

Third, restorative justice also has economic preventive value. By providing opportunities for perpetrators to take social and financial responsibility, the public can see a negative incentive (disincentive) for corrupt acts, but also an opportunity for perpetrators to improve. This can create a more proportional deterrent effect and be oriented towards recovery, rather than solely legal retaliation. This principle aligns with the primary goal of economic analysis of law: preventing socially inefficient behavior.

Fourth, in the village context, where legal capacity, administrative knowledge, and transparency are often weak, economic analysis of law encourages local-based legal solutions, social efficiency, and the economic sustainability of village communities. Restorative justice provides a space for dialogue, education, and recovery that is relevant to the social conditions of the village community, rather than imprisonment, which can actually sever the perpetrator's social and economic ties with their community.

By considering the principles of efficiency, restitution, and social benefit, the theory of Economic Analysis of Law is highly relevant for strengthening the basis for implementing restorative justice in handling corruption by village officials. This approach not only aims to prosecute perpetrators, but also to actually restore state losses, improve social relations, and increase the economic value of the legal process itself.

## Restorative Justice as an Instrument for Recovering State Losses in Cases of Corruption of Village Officials According to Applicable Legal Principles

The implementation of restorative justice in the context of corruption by village officials must be based on the legal principles applicable in the national legal system. The principle of legality is a fundamental pillar of the legal system, which states that every law enforcement action must be based on legal provisions stipulated in writing in statutory regulations.<sup>17</sup> This means that no sanctions, legal actions, or other forms of case resolution may be carried out outside the applicable legal framework. In the context of implementing restorative justice as an alternative to resolving criminal cases, including corruption by village officials, this principle requires that the approach have a clear and valid legal basis. Therefore, it is crucial to examine and identify legal spaces that allow for the legitimate implementation of a restorative approach.<sup>18</sup> One key reference is Indonesian National Police Regulation (Perkap) Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. This regulation provides guidelines for law enforcement officials, particularly the police, to handle certain criminal cases through an approach that emphasizes mediation, restoring relationships between perpetrators, victims, and the community, and restitution of losses incurred as a result of the crime.

In addition to these formal provisions, the restorative approach can also be enriched by accommodating informal policies that have developed and thrived within the community, such as village deliberations or customary-based dispute resolution practices. Although not always enshrined in statutory regulations, these local policies can serve as complementary instruments reflecting the values of social and cultural justice within the village community. However, to remain in line with the principle of legality, these informal policies need to be legitimized or synergized with applicable legal regulations. Therefore, the application of restorative justice in corruption cases by village officials must combine a positive legal basis and recognition of local practices oriented toward restoration and just resolution, without neglecting the principles of accountability and legal certainty.

The principle of proportionality is a fundamental principle in criminal law that emphasizes the importance of balancing legal action (especially sanctions) with the severity of the offense, the impact of the act, and the circumstances of the perpetrator. This principle requires that punishment be neither excessive nor discriminatory, nor ignore the specific context or circumstances surrounding the crime.<sup>19</sup> Excessively harsh punishments for minor crimes can create new injustices, while excessively lenient punishments for serious crimes can undermine society's sense of justice. In the context of corruption by village officials, the principle of proportionality becomes particularly relevant, particularly when the cases are small-scale, for example, involving relatively small state losses, and the perpetrators demonstrate good faith, such as by cooperating with the legal process and willing to repay all the losses. In such situations, the application of restorative justice can be a more proportionate legal measure than conventional punishment, which emphasizes long-term imprisonment.

<sup>17</sup> Cecilia Rudolf Valentino, "Restorative Justice as an Alternative in the Indonesian Criminal Justice System" *Journal of Progressive Law and Legal Studies*, 3(2), 2025, DOI: <https://doi.org/10.59653/jplls.v3i03.1864>.

<sup>18</sup> Dheny Wahyudhi, et.al, "Resorative Justice Approach as an Alternative Criminal Case Resolution in Realizing Effective and Efficient Justice" *Jurnal Sains Sosio Humaniora*, 8(1), 2024, DOI: <http://dx.doi.org/10.22437/jssh.v8i1.30038>.

<sup>19</sup> Axl Matew Situmorang, et.al, "Implementation of the Principle of Proportionality in Criminal Sentencing in Indonesia" *Pena Justitia*, 24(1), 2025, DOI: [10.31941/pj.v24i2.6487](https://doi.org/10.31941/pj.v24i2.6487).

A restorative approach allows perpetrators to actively take responsibility for their actions through restitution of state losses and an apology to the community, while simultaneously sparing them from potentially counterproductive sanctions, such as lost productivity, family disintegration, or social burdens that are detrimental to the village itself.<sup>20</sup> On the other hand, the state still obtains financial restitution, while the community experiences real and relevant justice. Therefore, within the framework of the principle of proportionality, restorative justice does not mean granting forgiveness, but rather creating a more just, humane, and functional form of resolution, particularly for village corruption cases with certain characteristics that meet the criteria for restorative eligibility.

Furthermore, the principle of expediency in law emphasizes that the primary purpose of law is not merely to punish perpetrators of crimes, but also to create positive and beneficial outcomes for all parties involved, including victims, perpetrators, and the wider community. Law is seen as an instrument for achieving substantive justice, namely justice that is felt in reality, not merely procedural justice that is only fulfilled formally. Therefore, the application of law must be directed towards achieving social peace, restoring victims' rights, and preventing further losses. In the context of village fund corruption, the principle of expediency is crucial because the impact of this crime is not only financial, but also involves hampered development, loss of public trust in the village government, and the emergence of social injustice at the grassroots level. Therefore, restitution of state financial losses is not only a legal aspect, but also a moral and social necessity that must be prioritized.

A restorative justice approach can be an effective means of realizing this principle of benefit. By focusing on restitution of state losses, reconciliation between perpetrators and the community, and restoration of public trust, restorative justice creates a faster, more efficient, and more effective resolution. This is far more beneficial than mere criminalization, which often does not guarantee the return of state funds and can even burden the justice system and society due to high correctional costs. Therefore, the application of the principle of benefit in handling village fund corruption emphasizes that the success of law enforcement is measured not only by the number of perpetrators convicted, but also by the extent to which losses are recovered, public trust is restored, and village government functions can resume effectively for the common good.

Protecting the rights of village communities as victims of corruption, particularly those perpetrated by village officials, is an essential aspect of law enforcement. Village communities are the ones most directly impacted by the misuse of public funds, as these funds are intended for their development, services, and empowerment. Therefore, the community has the right to transparency, namely full access to information regarding how village funds are used and how the resolution process is carried out when irregularities occur. The right to participation is also crucial, as the community needs to be involved in the oversight and recovery process, rather than simply being passive spectators. Furthermore, the community has the right to be assured that losses incurred due to corruption are fully reimbursed and utilized appropriately, in accordance with the village development plan that has been established through participatory means. This concerns substantive justice that must be felt by village residents, especially those who lose their right to access basic services and facilities due to the actions of a handful of officials.

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<sup>20</sup> Ary Octaviyanti & Oksidelfa Yanto, "Restorative Justice as an Alternative Approach in Combating Corruption Offenses" *Journal of Legal and Cultural Analytics*, 3(2), 2024. DOI : <https://doi.org/10.55927/jlca.v3i2.9148>.

With this in mind, the implementation of restorative justice in village corruption cases must remain within strict legal boundaries. This approach must not compromise the accountability of perpetrators. Instead, restorative justice must be implemented by upholding the principles of accountability, namely the full responsibility of perpetrators to reimburse state losses. Furthermore, community participation in this process must be clearly regulated so that it is not merely symbolic but provides a real opportunity for citizens to oversee the case resolution process.

Equally important, the public interest must be the primary focus. The recovery effort should not only address financial losses but also restore public trust in village government institutions. Therefore, the restorative approach implemented needs to be complemented by oversight mechanisms, transparency, and community involvement to prevent it from being misinterpreted as a form of impunity, but rather as a comprehensive means of justice oriented toward collective healing.

Thus, the application of legal principles such as legality, proportionality, expediency, and protection of victims' rights within a restorative justice approach is crucial, both as a normative and practical basis. As a normative basis, these principles provide a valid legal framework to ensure that the application of restorative justice does not violate applicable legal provisions and remains within constitutional boundaries. This is crucial to ensure that alternative approaches to resolving criminal cases, particularly corruption by village officials, do not conflict with national criminal law principles and uphold the supremacy of law.

Meanwhile, in practice, these principles serve as ethical and procedural guidelines for developing and implementing effective restorative justice mechanisms that are appropriate to real-world conditions. In cases of corruption by village officials, the application of restorative justice based on these principles can be a more humane solution and oriented toward restoration, rather than solely punishment. This approach allows for case resolution that emphasizes the swift restitution of state losses, active community participation, and the restoration of social relationships damaged by criminal acts.

Furthermore, this approach aligns with legal reforms aimed at making the law more responsive to community needs. In the village context, where social structures are more closely knit and village officials play a central role, handling corruption repressively and without considering social aspects can lead to prolonged social fragmentation. Therefore, more equitable law enforcement through a restorative approach is a strategic alternative for realizing substantive justice, repairing the damage caused, and restoring public trust in village government institutions.

## Conclusion

The implementation of restorative justice in corruption cases by village officials is a strategic step to improve the effectiveness of law enforcement at the local level. This approach focuses not only on punishment but also on recovering state losses, improving social relations, and strengthening community participation. Supported by local cultural values and efficiency analysis through Economic Analysis of Law, restorative justice offers a more humane and expeditious resolution mechanism that provides greater social benefits.

To be effective and accountable, the implementation of restorative justice must be carried out selectively while upholding the principles of legality, proportionality, benefit, and protection of the rights of victims. Through transparent deliberation, restitution, and regulatory support such as Regulation of the Chief of Police No. 8 of 2021, this approach can be a just and

pragmatic alternative. Its integration into national law will strengthen substantive justice and accelerate the restoration of public trust in the management of village funds.

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