
JURIDICAL ANALYSIS OF THE APPLICATION OF RESTORATIVE JUSTICE IN CORRUPTION IN INDONESIA

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ABSTRACT

Corruption in Indonesia is still a severe problem and difficult to overcome. Therefore, an adequate alternative solution is needed in dealing with criminal corruption in Indonesia. One such alternative is the application of restorative justice. This study aims to conduct a juridical analysis of the application of restorative justice in acts of corruption in Indonesia, considering the legal principles in force in Indonesia. The research method used is the normative legal research method. The data sources used are statutory documents, documents related to restorative justice, and legal literature about criminal acts of corruption and restorative justice. The study results are that restorative justice can be a valuable approach in handling corruption cases in Indonesia, but it cannot replace criminal justice processes and criminal sanctions. The research highlights the potential of restorative justice as an alternative, but it also emphasizes the need to overcome implementation challenges and evaluate and monitor its application strictly. This can help restorative justice make a positive contribution to the fight against corruption in Indonesia. Restorative justice can be a useful alternative in handling corruption cases in Indonesia, it cannot replace the criminal justice process and the imposition of criminal sanctions. To make it effective, the challenges in its implementation need to be addressed, and there should be strict evaluation and monitoring to ensure its positive impact in the fight against corruption in Indonesia.

Keywords: corruption, juridical analysis, restorative justice.

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INTRODUCTION

Corruption in Indonesia is still a severe problem and difficult to overcome. Even though there have been efforts made by law enforcement agencies to provide criminal penalties to perpetrators of corruption, this has not been able to offer an effective solution to resolving the problem of corruption. Therefore, an adequate alternative solution is needed in dealing with criminal corruption in Indonesia. One such alternative is the application of restorative justice (Sentosa, 2022).

Restorative justice is an approach that focuses on improving the relationship between perpetrators, victims, and communities affected by criminal acts (Setyowati, 2020). Applying restorative justice in corruption crimes can be an effective alternative to resolving corruption cases in Indonesia. Restorative justice can be an alternative solution to handling corporate corruption (Suhariyanto, 2016).

Therefore, the Indonesian government has made various efforts to overcome the problem of corruption, one of which is by implementing restorative justice in handling corruption cases. The application of restorative justice in acts of corruption in Indonesia is an interesting topic to be analyzed from a juridical perspective. Restorative justice is an approach that aims to improve the relationship between victims, perpetrators, and communities affected by criminal acts (Flora, 2018).

In the context of criminal acts of corruption, restorative justice can be a better alternative than relying solely on criminal penalties.

The application of restorative justice in acts of corruption in Indonesia is still minimal (Gaol, 2022). Restorative justice can provide an alternative to handling criminal acts by involving victims, perpetrators, and the community in the settlement process (Arafat, 2017). However, restorative justice must be used carefully and pay attention to legal principles and the role of related institutions such as the police, prosecutors, and courts. In addition, support from the community and the active part of the media is needed to introduce and educate about restorative justice.

Restorative justice is an approach that places victims, perpetrators, and the community as parties involved in the process of resolving cases (Lawalata et al., 2022). However, even though restorative justice can potentially overcome corruption cases in Indonesia, its application still needs to be fully implemented properly. Therefore, it is necessary to carry out a juridical analysis of the application of restorative justice in corruption crimes in Indonesia.

Indonesian criminal law places acts of corruption as grave crimes and must be subject to strict punishment (Arifin, 2015). However, this does not mean that the restorative justice approach cannot be used in the context of criminal acts of corruption. Conversely, applying restorative justice in corruption crimes can restore public trust in law enforcement agencies and the government (Muchlis, 2016).

Although law enforcement agencies have tried to provide criminal penalties to perpetrators of corruption, this has not been fully effective in resolving corruption problems. In this context, an adequate alternative solution is needed to deal with criminal corruption in Indonesia. One of these alternatives is the application of restorative justice, which focuses on improving the relationship between perpetrators, victims, and communities affected by criminal acts. Overall, the application of restorative justice in acts of corruption in Indonesia is an interesting topic to be analyzed from a juridical perspective. Restorative justice can be an effective alternative in dealing with criminal acts of sin, but one must still pay attention to the legal principles that apply in Indonesia. By integrating restorative justice into the Indonesian criminal law system.

However, before restorative justice is used as an alternative settlement of corruption, it is necessary to conduct a juridical analysis of this application in Indonesia. This is because each country has different rules and legal principles, so it is essential to carry out juridical research to ensure that the application of restorative justice in corruption does not conflict with the legal regulations in force in Indonesia. Therefore, this study aims to analyze the juridical approach to applying restorative justice in criminal acts of corruption in Indonesia, considering the legal principles that apply in Indonesia. By conducting this analysis, effective alternative solutions can be found to solve the corruption problem in Indonesia.

METHODS

The research method used is the normative legal research method. The approach used is the statutory approach and the conceptual approach. The data sources used are statutory documents, documents related to restorative justice, and legal literature about criminal acts of corruption and restorative justice. Data analysis was carried out by collecting statutory papers and literature on

applying restorative justice in corruption crimes in Indonesia. Then, the data that has been collected will be analyzed.

RESULTS AND DISCUSSION

The application of restorative justice in acts of corruption is still relatively new in Indonesia and has yet to be fully implemented properly. Restorative justice is a promising approach to dealing with crime in Indonesia because it provides a more collaborative and participatory process for all parties involved (Yunus, 2021). However, there are several challenges in the implementation of restorative justice in corruption cases, including a lack of awareness and understanding of restorative justice among law enforcement officials and the public, a lack of resources and infrastructure to support the implementation of restorative justice, and the potential for corruption to undermine the effectiveness of the process (Lestari, RA & Marthias, 2019).

Several factors have caused this, including the need for more understanding and awareness of the public and law enforcement officials regarding the concept of restorative justice and the lack of support from the government in implementing restorative justice. Highlighted the importance of community support in the application of restorative justice in dealing with criminal acts of corruption in Indonesia (Sentosa, 2022). In applying restorative justice in criminal acts of bribery, paying attention to victims' rights, including the right to receive compensation or restitution, is essential. However, in practice, there are still obstacles in implementing rebates due to the difficulty in identifying assets originating from criminal acts of corruption. So the application of restorative justice in corruption crimes in Indonesia is still not optimal and needs improvement (Simatupang, 2019). Furthermore, emphasized that restorative justice needs to be applied consistently and comprehensively in handling corruption in Indonesia (Salsabila & Wahyudi, nd). The application of restorative justice in criminal acts of corruption needs to pay attention to legal and ethical aspects (Ramadhani, V., & Yudiawan, 2017).

Furthermore concluded that the development of restorative justice criminal law could be carried out by taking into account the applicable principles of Indonesian criminal law (Kusumawardhani, R. & Wardani 2019). Restorative justice can provide an alternative to handling criminal acts by involving victims, perpetrators, and the community in the settlement process. However, developing beneficial criminal justice law requires adequate government policy, regulatory support, and readiness from the district and related institutions.

Several obstacles need to be considered in applying restorative justice in criminal acts of corruption in Indonesia. First, crime often involves enormous amounts of money and can affect many people and sectors. This makes healthy justice processes challenging to apply effectively. Second, the beneficial justice process must be carried out carefully to avoid giving the impression that the perpetrators of corruption are lightly punished. However, restorative justice can be an effective alternative to solving corruption crimes if appropriately applied. This approach can assist in improving the relationship between the perpetrator, the victim, and society. Restorative justice can also provide opportunities for perpetrators to correct their mistakes and make positive changes in their lives.

In line with research states the advantages of this approach are that it can speed up the process of resolving cases, reduce the workload of the criminal justice system, and provide

satisfaction for victims and society (Khairani, 2020). However, there are also challenges, such as the lack of awareness and understanding of restorative justice and concerns that restorative justice can provide space for corruptors to avoid the punishment they should receive.

In implementing restorative justice, it is necessary to consider that this cannot be used to avoid criminal justice processes and the imposition of criminal sanctions against perpetrators of corruption. Restorative justice also cannot be used for all criminal acts of corruption, especially in cases involving more extensive state interests or systemic corruption. Restorative justice can be an alternative to solving crime, but it must be done carefully and pay attention to juridical and moral aspects (Khairani, 2020).

This is because restorative justice has limitations in handling corruption cases that are systemic in nature or involve the more extensive interests of the state. Topics of systemic corruption often include actors who are not only individuals but also involve certain institutions, organizations, or structures of power. Therefore, resolving systemic corruption cases requires a more comprehensive and complex approach that cannot be overcome by a restorative justice approach alone. His research suggested developing therapeutic justice theory and practice in dealing with criminal acts of corruption in Indonesia (Sardjono, 2017). In addition, the importance of establishing precise mechanisms and regulations in applying restorative justice in dealing with criminal acts of corruption in Indonesia (Hakim, 2016).

In addition, in cases involving the more extensive interests of the state, restorative justice can lead to conflict between the public interest and the interests of specific individuals or groups. Therefore, the settlement of corruption cases involving the state's interests must consider the public interest and the more extensive interests of the state.

The legal basis for applying restorative justice in acts of corruption in Indonesia can be found in several laws and regulations. Some of them are as follows:

1. Law No. 8 of 1981 concerning the Criminal Procedure Code

Article 10 paragraph (2) of Law no. 8 of 1981 states that the settlement of criminal cases can be done through mediation with the agreement of both parties. This can be used as a legal basis for the application of restorative justice in the settlement of corruption in Indonesia (Kandati, 2013).

2. Law No. 13 of 2006 concerning the Protection of Witnesses and Victims

Article 28 paragraph (1) of Law no. 13 of 2006 states that victims have the right to obtain restitution, rehabilitation, and compensation for losses from criminal acts. Restorative justice can be a form of recovery from the intended loss (Ali & Wibowo, 2018).

3. Supreme Court Regulation No. 1 of 2016 concerning Guidelines for the Implementation of Restorative Justice in the settlement of Criminal Cases

Supreme Court Regulation No. 1 of 2016 provides guidelines and mechanisms for implementing restorative justice in the settlement of criminal cases in Indonesia. This shows that there are efforts from the Supreme Court to encourage the application of restorative justice in the criminal justice system in Indonesia (Syaputra, 2021).

Even so, it should be noted that the application of restorative justice in corruption cases must still pay attention to the legal principles that apply in Indonesia, such as justice, legal certainty, and freedom of expression. In addition, using restorative justice must not be a tool to avoid giving the perpetrators of corruption the punishment they should receive. Using restorative justice in criminal

acts of corruption in Indonesia needs to refer to applicable legal principles and involve various related parties (Irham, 2021). Argues that restorative justice can strengthen the principles of justice and restore losses due to acts of corruption (Setiawan, AE, & Kristianingrum, 2020).

Furthermore, supported by research results concluded that restorative justice in corruption cases must pay attention to legal and ethical aspects and fulfil the rights of victims (Heryanto, 2019); (Wirawan, 2021). In this case, restorative justice must be supported by adequate policies and regulations and support from the community and related institutions such as the police, prosecutors, and courts. In addition, the use of restorative justice in dealing with criminal acts of corruption must also be balanced with efforts to prevent criminal acts of corruption through education and effective law enforcement. So that restorative justice can be an alternative to solving corruption crimes in Indonesia, especially for minor offences that do not involve violence.

In this case, restorative justice can still be used as a different approach to handling corruption cases. Still, it cannot replace the criminal justice process and the imposition of criminal sanctions against perpetrators of corruption. Therefore, it is necessary to strictly evaluate and monitor the application of restorative justice in cases of criminal acts of sin so that restorative justice can positively contribute to efforts to eradicate corruption in Indonesia. Restorative justice can be a more practical alternative in dealing with criminal acts of corruption in Indonesia than the current legal mechanisms (Ahzar, 2022). Restorative justice can provide a better solution in dealing with criminal acts of crime when compared to settlement mechanisms through the courts (Habib, 2020).

CONCLUSION

This research is expected to provide practical alternative solutions to dealing with corruption in Indonesia. It is also hoped that the results of this research can provide a more detailed and in-depth view of the application of restorative justice. In the context of Indonesian criminal law, the application of restorative justice in acts of corruption must still pay attention to the principles of applicable law. Criminal penalties must still be given to corruptors who are proven guilty. Still, the restorative justice process can be an effective adjunct in dealing with criminal corruption in Indonesia.

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