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The Future of Corruption's Handling in the Regions and The Application of Restorative Justice

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Abstract

Corruption is the biggest obstacle in implementing the development process, and until now, it has yet to be appropriately resolved although various models of retributive punishment have been applied. As a result, The losses suffered by the state continue to increase, and as a consequence, people cannot enjoy public facilities as they should. Cooperation between the Police, the Attorney General's Office, and the Ministry of Home Affairs, which forms coordination between Aparat Pengawas Intern Pemerintah (APIP) and Aparat Penegak Hukum (APH), is a way to prevent corruption at the local government level. Criminal sanctions and imprisonment are no longer the main options for the government to deal with corruption problems in the regions. This choice then raises the pros and cons of the people who so far only recognize the existence of retributive justice as a form of criminal sanction. This study was made using the theory of consequentialism from Jeremy Bentham, and the Restorative Justice Theory put forward by John Braithwaite to provide an overview of the solutions used by APIP in preventing corruption in the regions. The doctrinal research method with a statutory approach will show the impact of the application of restorative justice on corruption practices in the regions. From this study, it can be seen that the restorative justice used by APIP can minimize losses suffered by the state and, at the same time, provide a deterrent effect for perpetrators of corruption.

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A. Introduction

Corruption as a violation of law is not an easy thing to overcome. This phenomenon has hit almost all parts of the world and Indonesia is no exception. The offense of corruption in the Criminal Code is a crime related to the position of the perpetrator[1]. As stated in the third part of Law Number 1 of 2003 concerning the Criminal Code, which explicitly discusses criminal acts of corruption, it is stated that corruption is unlawful. This action is committed to enriching oneself, other people, or corporations, abusing authority, opportunity, or means inherent because of his position and causing losses to the country's finances or economy. Based on these criminal acts, the offender can be punished with a minimum sentence of 2 years and a maximum of 20 years or life imprisonment. In addition, a fine can also be imposed.

As a democratic country that grants autonomy to each region so that they can adjust the rhythm of development to the characteristics of their respective regions, Indonesia faces problems of corruption that attack not only central government bodies but also regional government bodies. Various regulations have been alternated to become the government's weapon in dealing with corruptors. However, these efforts have yet to show effectiveness in preventing corruption and minimizing losses experienced by the state. The Central Statistics Agency (BPS) recorded at least 364 cases of corruption recorded in each working area of the Republic of Indonesia regional police in 2021. Southeast Sulawesi, West Kalimantan, Bengkulu, Aceh, Riau, East Kalimantan, South Sulawesi, Central Java, and Papua have been the regions with the most reported acts of corruption. As shown in Figure 1, more than half of the corruption in Indonesia occurs in the ten provinces. Of course, this condition then needs the government's attention to make the right formula to prevent corruption in Indonesia.

From Figure 1, the workload of the KPK as a commission formed to tackle corruption in Indonesia since 2002 based on the mandate of Law Number 31 of 1999 in conjunction with Law Number 30 of 2002 seems endless.

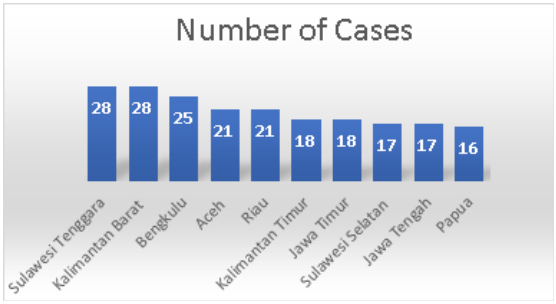

Figure 1. 10 regions with the highest amount of corruption 2021[2]

It is evident from the statistical data above after nearly ten years since the establishment of the KPK, corruption in Indonesia still needs to be adequately resolved.[3] Nevertheless, the KPK is not the only organization with authority to eradicate corruption. Apart from the KPK, the police and the Attorney General's Office is part of the Law Enforcement Service (APH), which has the authority to deal with specific crimes such as corruption. In this case, the KPK is an institution that is seen as having more credibility and public trust in handling corruption cases when compared to the police.

Imprisonment and fines are common forms of sanctions given to corruptors. As well as understood by the general public, a person who violates applicable laws must receive appropriate sanctions. It is just that; a growing trend in society is the understanding of retributive legal sanctions. This sanction is a classic punishment initiated by Makies van Beccaria in 1764[4]. Immanuel Kant also explained the primary purpose of enforcing classical criminal law as a form of consequence or an integral part of the crimes he had committed[5]. It is not surprising then that society

1 Syaputra, "Implikasi Perumusan Delik Korupsi Dalam Kebijakan Pembaharuan Kitab Undang-Undang Hukum Pidana," *Fiat Justisia Jurnal Ilmu Hukum* 9, no. 3 (September 2015): 353–64.

2 Cindy Mutia Annur.

3 Jefirstson Richset Riwukore et al., "Strategi Pencegahan Dan Pemberantasan Korupsi Di Pemerintah Kota Kupang, Provinsi Nusa Tenggara Timur," *Aspirasi: Jurnal Masalah-Masalah Sosial* 11, no. 2 (Desember 2020).

4 Robin West, "Classical Criminology," in *The Wiley-Blackwell Encyclopedia of Social Theory*, ed. Bryan S Turner (Oxford, UK: John Wiley & Sons, Ltd, 2017), 1–4, https://doi.org/10.1002/9781118430873.est0591.

5 B.Sharon Byrd, *Kant and Law*, First edition

will assume that the longer a prison sentence is imposed on someone, the more serious the government will be to deal with this crime.

What is interesting then is the central government's decision through Article 58 paragraph (1) of Law Number 1 of 2004 concerning the State Treasury, which emphasizes the establishment of an internal control system as an effort to improve performance, transparency, and accountability in state financial management. From the mandate of the Law, a Government Internal Control System was formed, which was run by the Government's Internal Supervisory Apparatus (APIP)[6]. In this case, APIP has a special duty to carry out audits, reviews, evaluations, monitoring, and other supervision related to the overall administration of government organizations. In short, APIP also has the authority to investigate allegations of corruption within the government

The main difference between the authority possessed by APIP and APH, and the KPK in prosecuting state losses caused by corruption lies in the type of corruption [7]. APH and KPK have the authority to conduct legal proceedings against criminal acts of corruption. Meanwhile, APIP has the authority to deal with the corruption resulting from administrative violations. Thus, the approach used by APIP in overcoming this problem is also different from other forms of retributive punishment in general. With the main objective of preventing corruption and minimizing state losses, the perpetrators are required to make administrative improvements and return state financial losses if proven guilty.

Reflecting on the public's general understanding of the process of sentencing and sanctions for violating the law, APIP's authority can be seen as softening the government's treatment of corruptors. In this case, there needs to be an understanding given to the public regarding the modern sentencing concept approach so that trust issues do not arise from the community to the government, especially APIP, which is the implementor of the policy. Seeing the urgency of APIP's role in preventing corruption, this study was carried out using the theory of consequentialism put forward by Jeremy Bentham concerning regulatory choices taken by the government to minimize state losses due to corruption in the regions.

In-depth, this study will also look at APIP's authority in taking action against administrative corruption violations using the theory of restorative justice put forward by John Braithwaite. This theory will provide legal arguments about modern punishment models that focus on protecting the interests of the general public by giving officials who commit violations the opportunity to correct their mistakes and return to what they should. Studies on the restorative justice approach in dealing with crime as a modern punishment have yet to develop much in Indonesia, so this study is critical[8]. For this reason, this study was carried out using a doctrinal research method and a statutory approach to explore the role of APIP, which uses a restorative justice approach in preventing corruption.

B. Methods

This legal research was conducted using the doctrinal legal research method. The approach used in this study is a statutory approach and a conceptual approach. The abstract process in this study is carried out by examining the theory of consequentialism from Jeremy Bentham and the Theory of Restorative Justice put forward by John Braithwaite. While in the statutory approach, several legal regulations used as the basis for the study include: (a) Law Number 31 of 1999 in conjunction with Law Number 30 of 2002 concerning the commission for the Eradication of corruption; Law Number 1 of 2003 concerning the Criminal Code; Law Number 1 of 2004 concerning the State Treasury; Law 30 of 2014 concerning Government

(Routledge, 2017).

6 Bakri, Abdul Mahsyar, and Ihyani Malik, "Kapabilitas Aparat Pengawas Intern Pemerintah Di Inspektorat Daerah Kabupaten Talakar," *JPPM: Journal of Public Policy and Management* 1, no. 2 (November 2019).

7 Nova Indra Pratama, "Mekanisme Koordinasi Dalam Penanganan Tindak Pidana Korupsi (Studi Di Kepolisian Resort Kota Besar Medan)," *Airlangga Development Journal* 5, no. 2 (December 9, 2021): 80, https://doi.org/10.20473/adj.v5i2.31901.

8 Muhamad Ali Zaidan, "Sociological Approach to Eradication Corruption In Indonesia (Alternative to Imprisonment)," *Pandecta* 12, no. 1 (June 2017).

Administration; Regulation of the Minister of Administrative Reform Number 5 of 2008 concerning Audit Standards for Government Internal Supervisory Apparatuses; PP Number 12 of 2017 concerning the Development and Supervision of the Implementation of Regional Government.

C. Result and Discussion

Restorative Justice as a Policy Choice Based on Consequentalism

Harmonization of the social behavior of a pluralistic society is an integral part of the function of the law in force. Nevertheless, this goal is not a manageable condition to realize[9]. A community consisting of a group of individuals indeed contains various personal interests, which can then affect society's general interests. Thus, legal certainty, benefits, and justice to achieve orderly living together under the principle of equality before the law is an ideal condition that can only be achieved if the government can formulate the rules in the law correctly[10]. Policy choices made by the government will influence the role of law in development, which is used to maintain order and bring society into a condition of social change[11].

In order to achieve the goal of establishing the rule of law, it is not uncommon for sanctions to be imposed on people who consciously violate these rules. As part of a social contract, each individual has surrendered his freedom or independence at a certain level to the state. In this case, the state has the right to *puniendi* or what is known as the right to punish[12]. This principle gives the state the right to issue punishment threats, gives the right for prosecutors to prosecute someone for a crime and gives the right for judges to decide cases.

In its development, the concept of punishment has two streams, namely classical and modern [13]. The classic view is identical to the model of retributive justice. This view emerged in the 18th century in France as a form of exploiting legal certainty guided by equality before the law and justice. Initially, the purpose of this crime was to protect against the authorities' power. Every criminal law that is enforced must be systematized in the statutory system with a firm formulation of articles (*lex scripta & lex certa*)[14].

Some figures who developed thoughts about this classic penal school were Markies van Beccaria, Immanuel Kant, and Nigel Walker. They are of the view that a criminal sentence imposed on a criminal must contain retaliation for what they have done[15]. As revealed by Kant in his book entitled The Metaphysic of Morals, criminal punishment is not given for the good of the perpetrator and society[16]. The punishment received by a person is an integral part of the crime he has committed. This concept often gets a bad stigma because it is seen as inhumane[17]. For this reason, the views on retributive sentencing also developed and considered several more humane sentencing objectives.

9 Lita Tyesta Addy Listya Wardhani, Muhammad Dzikirullah H Noho, and Aga Natalis, "The Adoption of Various Legal Systems in Indonesia: An Effort to Initiate The Prismatic Mixed Legal Systems," *Cogent Social Sciences* 8, no. 1 (December 31, 2022): 2104710, https://doi.org/10.1080/23311886.2022.2104710.

10 Francis D. Boateng, "Perceived Police Fairness: Exploring the Determinants of Citizens' Perceptions of Procedural Fairness in Ghana," *Policing and Society* 30, no. 9 (October 20, 2020): 985–97, https://doi.org/10.1080/10439463.2019.1632311.

11 M. Zulfa Aulia, "Hukum Pembangunan Dari Mochtar Kusuma-Atmadja: Mengarahkan Pembangunan Atau Mengabdi Pada Pembangunan?," *Undang: Jurnal Hukum* 1, no. 2 (March 11, 2019): 363–92, https://doi.org/10.22437/ujh.1.2.363-392.

12 Kai Ambos, "Ius Puniendi and Constitution: A Comparative (Canadian-German) Perspective," *Vienna Journal on International Constitutional Law* 14 (2021): 253–87.

13 Christian B. N. Gade, "Is Restorative Justice Punishment?," *Conflict Resolution Quarterly* 38, no. 3 (March 2021): 127–55, https://doi.org/10.1002/crq.21293.

14 Jessica Lynn Corsi, "An Argument for Strict Legality in International Criminal Law," *Georgetown Journal of International Law* 49 (2018): 1322.

15 Mfonobong David Udoudom et al., "Kantian and Utilitarian Ethics on Capital Punishment," *Budapest International Research and Critics Institute (BIRCI-Journal) : Humanities and Social Sciences* 2, no. 2 (May 10, 2019): 28–35, https://doi.org/10.33258/birci.v2i2.234.

16 Immanuel Kant, Mary J. Gregor, and Jens Timmermann, *Groundwork of the Metaphysics of Morals*, Revised edition, Cambridge Texts in the History of Philosophy (Cambridge: Cambridge University Press, 2012).

17 Arthur Shuster, "Kant on the Role of the Retributive Outlook in Moral and Political Life," *The Review of Politics* 73, no. 3 (2011): 425–48, https://doi.org/10.1017/S0034670511003433.

As revealed by Nigel Walker[18], purely retributive is a form of punishment that is commensurate with the mistakes he has made. Meanwhile, the impure retributive has imposed restrictions on appropriate limits or is concerned with the uncomfortable state of the offender as a form of criminal sanction. The purpose of this punishment is to: (1) provide just revenge for the victim's family, the victim, and the environment; (2) upholding justice by giving a warning to the public that the benefits obtained through unfair actions will be rewarded; (3) the gravity of the offense with the sentence imposed based on proportionality.

Implicitly, the purpose of the punishment still contains the benefits obtained even though the grand theory of retributive punishment does not recognize the existence of a benefit factor that is considered.[19]. The primary considerations of the concept of retributive punishment are: (1) the loss or impact caused; (2) the degree of fault and accountability that must be given; (3) the motive behind the Action; (4) Social, economic condition and age of the perpetrator. It was this idea of retributive punishment that later spread throughout the world. Society generally only understands the sentencing process as a form of punishment for criminals. The bigger the crime committed, the bigger the punishment he gets. Only by applying proportional criminal sanctions is the government seen to be able to uphold the value of justice in society.

The aim of retributive justice punishment, which only considers the benefits of sanctions as a bonus, begins to revive a more impact-oriented view of the punishments.[20]. This view of modern punishment is incarnated in the concept of restorative justice, as put forward by John Braithwaite[21]. In the 19th century, this view began to be widely studied as part of the study of the discipline of criminology. The main objective of this concept is to continue to protect the interests of society. For adherents of this school, an empirical approach that is carried out by approaching the perpetrator and finding out what later becomes the reason behind the action is necessary. This concept is a form of development from the customs that lived in Ancient Arabia, Greece, and Rome. These countries have implemented a restorative justice system even to handle murder cases.

Not much different from this view, in German and Indian Hindu teachings, there is also a saying that says, 'Who atones is forgiven'. These adherents of restorative justice think restoration to its original condition is more critical after a crime has been committed. It was further explained that even though a violation has occurred, it does not mean that this condition will justify our actions which then injure the person[22]. Society needs to take moral lessons from every incident, participate in creating a better life and encourage social awareness. Every problem that arises in society must be resolved without losing respect between one person and another.

Harmony in society will be more easily established because there is a feeling that justice has been upheld by returning social support. Prioritizing dialogue, responsibility, apologies, and compensation is the way to achieve ideal societal conditions. This flow certainly brings changes to the criminal justice system. For Braithwaite, there are weaknesses in the life system in prison which have a more detrimental impact on human life. This restorative justice system will offer an alternative to solving problems out of court by prioritizing the prevention of possible criminal acts. Braithwaite uses this logic to answer the philosophical question about the existence of punishment. In formulating a punish-

18 Rob Canton and Nicola Padfield, "Why Punish?," *The Howard Journal of Crime and Justice* 58, no. 4 (December 2019): 535–53, https://doi.org/10.1111/hojo.12342.

19 Noveria Devy Irmawanti and Barda Nawawi Arief, "Urgensi Tujuan Dan Pedoman Pemidanaan Dalam Rangka Pembaharuan Sistem Pemidanaan Hukum Pidana," *Jurnal Pembangunan Hukum Indonesia* 3, no. 2 (2021): 217–27.

20 Puteri Hikmawati, "Pidana Pengawasan Sebagai Pengganti Pidana Bersyarat Menuju Keadilan Restoratif," *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan* 7, no. 1 (June 2016).

21 John Braithwaite, *Restorative Justice & Responsive Regulation* (New York: Oxford University Press, 2002).

22 John Braithwaite, "Principles of Restorative Justice," ed. A. von Hirsch et al., *Hart Publishing* 1 (2003): 1–20.

ment, the regulator must consider when the punishment should be given and the correct punishment category.[23]

An approach guided by the benefits of criminal sanctions has been able to provide a deterrent effect that minimizes losses and reduces repeated violations. This approach certainly provides a new perspective for imposing sanctions on corruption administration violations. However, corruption has led to the loss of the state as well as reduced aspects of the benefits that the community should receive. For this reason, this approach can then be a way to focus on efforts that can be made to minimize state losses while at the same time providing opportunities for perpetrators to correct their mistakes.

Once again, it can be emphasized that although this approach is not as frightening as the practice of retributive justice, it is not a form of defending policymakers against perpetrators of crime. This condition can be explained through the logical theory of consequentialism put forward by Jeremy Bentham. The theory of consequentialism is guided by how to make regulations that can guide people to take actions that can make the world better or at least not too bad. Kindness, in this case, is undoubtedly interpreted as a form of the general good. Bentham has set limits on what consequences we consider excellent and desirable so that an action is justified when it has a goal that maximizes the utility of society at large.

Utilitarian consequentialism, put forward by Bentham, mediates from egoistic consequentialism, which only emphasizes personal interests, and altruistic consequentialism, which leaves personal interests for the common good.[24]. In the form of utilitarian consequentialism, Bentham emphasizes the importance of the legislature's ability to make policies carefully. For this reason, Bentham then made at least seven dimensions of the felicific calculus, which can be used to determine policies to be made. The seven characteristics include[25]: (1) the intensity of pleasure or pain; (2) duration; (3) certainty or uncertainty; (4) proximity or remoteness; (5) fecundity; (6) purity; (7) target range. Based on these characteristics, it is hoped that policymakers will be able to measure the pleasure and pain obtained quantitatively.

Calculations using felicific calculus are expected to be able to provide an overview of the consequences of the policies chosen by the government. As adherents of consequentialism, the government, which is faced with alternative policies, will choose policies that have a more positive impact on society[26]. Although these criteria do not provide direction on what must be done, assigned, or contained in the law as a solution to achieve the best consequences, Bentham's criteria can provide an overview of the characteristics of the right action. From these correct actions, then the goals aspired to by policymakers will undoubtedly be realized. In this case, of course, the regulator will make policies aimed at the welfare of the general public.

The binary form of the consequentialism theory put forward by Bentham invites us to consider the importance of making rules that maximize happiness [27]. By not providing an explicit formula that must be contained in the Law, this theory assumes that any government policy that aims to benefit the broader community is a better policy when compared to the omission of the policy. The outcome of this policy then has a close relationship with the moral values it carries[28].

Bentham's logical thinking with the theory of consequential utilitarianism can then be used to see the government choosing to make policies in the realm of resto-

23 John Braithwaite, "Restorative Justice," in *Handbook of Crime and Punishment*, ed. Michael H Tonry (USA: Oxford University Press, 2015).

24 Jeremy Bentham, *The Principles of Morals and Legislation*, Great Books in Philosophy Series (Buffalo, N.Y: Prometheus Books, 1988).

25 Rose Martin et al., "Moral Decision Making: From Bentham to Veil of Ignorance via Perspective Taking Accessibility," *Behavioral Sciences* 11, no. 5 (May 1, 2021): 66, https://doi.org/10.3390/bs11050066.

26 Nikhil Venkatesh, "Is Act-Consequentialism Self-Effacing?," *Analysis* 81, no. 4 (February 10, 2022): 718–26, https://doi.org/10.1093/analys/anab042.

27 Johan E. Gustafsson, "Bentham's Binary Form of Maximizing Utilitarianism," *British Journal for the History of Philosophy* 26, no. 1 (January 2, 2018): 87–109, https://doi.org/10.1080/09608788.2017.1347558.

28 Brian McElwee, "The Ambitions of Consequentialism," *Journal of Ethics and Social Philosophy* 17, no. 2 (December 13, 2019), https://doi.org/10.26556/jesp.v17i2.528.

rative justice. In this case, the government is more concerned with compensation and accountability from the perpetrators of crimes, which can then minimize losses caused by violations that have occurred. The beneficial aspects of the restorative justice model can provide guarantees for fulfilling the rights of the general public as they should, rather than only focusing on giving pain to the perpetrators of crimes. For this reason, then the government does not have to take steps to formulate a law that contains severe sanctions; the government can start making regulations to prevent violations by ensuring that there is accountability and compensation from the perpetrators of these crimes.

APIP and Its Role in Handling Public Complaints

The corruption eradication in Indonesia has existed since the formation of the State Apparatus Retooling Committee (PARAN) in 1962. Initially, the committee chaired by Jend. A. H. Nasution's duty was to maintain officials' transparency by collecting data on their wealth. The failure of PARAN to carry out its duties is the impact of the rejection by officials who take refuge behind the President's power. The commitment to maintain the credibility of public officials so as not to cause state losses continues to be carried out by replacing the agency responsible for conducting audits and investigations of officials with indications of corruption. Nevertheless, until the formation of the KPK after Indonesia's reform, state losses due to corruption continued to occur.

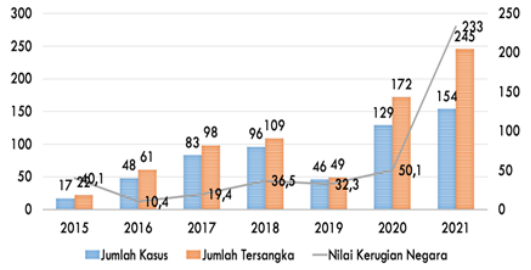

Figure 2. Corruption cases between 2017-2021[29]

29 Divisi Hukum dan Monitoring Peradilan ICW, "Hasil Pemantauan Tren Penindakan Kasus Korupsi Tahun 2021" (Jakarta: ICW, April 2022), https://antikorupsi.org/sites/default/files/dokumen/Tren%20Penindakan%202021.pdf.

From the data presented in Figure 2, it is apparent how corruption in Indonesia causes the state to experience high losses. Meanwhile, from Figure 3, it can be seen that the corruption case has spread to the village government. The two Figures show data on corruption crimes that APH has handled. Meanwhile, in the context of this study, the government does not only deploy APHs to handle corruption cases. In order to minimize state losses resulting from corruption, the government also forms an institution whose job is to carry out internal controls.

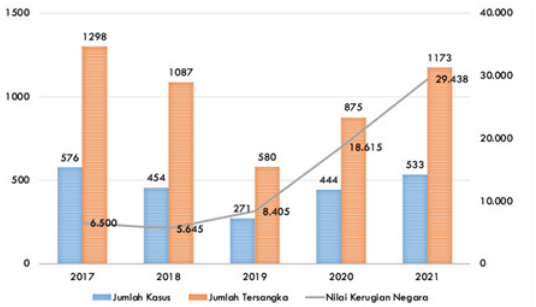

Figure 3. Dana Desa's Corruption 2015-2021

Based on the mandate of Article 58 paragraph (1) of Law Number 1 of 2004 concerning the State Treasury, the President must regulate the implementation of an internal control system (SPI) for the government environment in order to improve performance, transparency, and accountability in managing state finances.

In connection with establishing the internal control system, Government Regulation Number 60 of 2008 was later formed. This regulation emphasizes that SPI is carried out in its entirety, both within the central government and regional governments. Internal control activities are carried out by conducting audits, reviews, evaluations, monitoring, and other supervision carried out on procedures for carrying out organizational duties and functions so that they can run according to predetermined benchmarks and prevent deviations that have the potential to lead to state losses and acts of corruption. For this reason, the Regulation of the Minister of Administrative Reform Number 5 of 2008 concerning Audit Standards for Government In-

ternal Supervisory Apparatuses was formed. The criteria contained in the regulation then become the SOP for the Government's Internal Supervisory Apparatus (APIP) to conduct audits.

APIP works under the auspices of the Ministry of Home Affairs. The agencies included in APIP include (1) Development and Finance Supervisory Agency; (2) Inspectorate General, central inspectorate, inspectorate which is under and responsible to the Minister or heads of non-departmental government agencies; (3) provincial government inspectorate; (4) district/city inspectorate. While the role of APIP in Article 20 of Law 30 of 2014 concerning Government Administration at least includes: (1) supervision of the prohibition of abuse of authority; (2) following up on findings in the form of whether or not administrative errors have occurred and whether or not there have been stating losses. As a follow-up to these findings, APIP must monitor findings of administrative violations for immediate administrative improvements following applicable procedures. Suppose there is a state loss arising based on the administrative error. In that case, the perpetrator must return the state financial loss in a maximum of 10 working days after the decision was made and the supervision results were published. The audit process conducted by APIP does not apply to officials caught in the Hand-Catching Operation.

In order to integrate efforts to eradicate corruption, a collaboration was formed between APIP and APH. In this case, the cooperation agreement was made between the Ministry of Home Affairs, POLRI, and the Attorney General's Office. Mainly to deal with cases of misappropriation of village funds, a cooperation agreement was drawn up between the Ministry of Home Affairs, POLRI, and the Ministry of Villages, Development of Disadvantaged Regions, and Transmigration. In general, the Cooperation agreement is carried out to follow up on public complaints following Article 21 and Article 22 PP Number 12 of 2017 concerning the Development and Supervision of the Implementation of Regional Government, which are submitted orally and in writing or online. The purpose of this cooperation agreement is to create an effective, efficient, and accountable climate for local government administration in realizing regional autonomy.

The scope of this collaboration includes exchanging data or information related to reports or public complaints, supporting evidence, reports handling results, data, and the complainant's identity. Acceptance of public complaint reports can be done as long as the object of the report is an active local government administrator. In this case, those included are regional heads and deputy's heads, DPRD leaders and members, ASN Pemda heads, and village officials. The entire investigation process carried out by APIP, and APH is confidential. All APIP and APH agencies will coordinate in following up on the report. If an administrative violation is found during the investigative examination, the report will be submitted to APIP for further action. However, if the results of the inspection show that there is an indication of a criminal act, then the report will then be submitted to APH.

APIP's Role Paradigm in Minimizing State Losses according to the Modern Criminal Concept

The handling of corruption cases in Indonesia, which continues to transform to create ideal conditions for implementing democratic development, is now providing new space for the entry of modern penal law. APIP, which the government formed to carry out a supervisory function in the internal environment of bureaucrats, has the authority to take action against administrative violations committed by officials. Findings from investigations that indicate administrative violations, whether causing losses to the state or not causing losses to the state, can be resolved outside the court process. This approach is certainly a new phenomenon in Indonesia's series of corruption case settlements.

As the public knows, corruption cases will be resolved through legal channels through a special corruption court. However, APIP, which was formed to resolve cases of administrative violations, has opened a new space that focuses more on preventing cor-

ruption cases. When viewed through the lens of retributive justice, this regulation provides room for freedom for corruptors. However, this is different when examined using the perspective of restorative justice theory. As stated by John Braithwaite, the restorative justice approach aims to return to its original state. The government is also trying to do this in dealing with corruption cases at the central and regional levels.

The limitations of applying the restorative justice model are seen in the separation of powers between APIP and APH. This condition can be seen as a dialectical form of law enforcement against corruption cases in Indonesia. On the one hand, the government continues to apply the classic sentencing model guided by retributive justice to deal with criminal acts of corruption handled by APH. On the other hand, the government also implements anticipatory mechanisms and limited restorative justice for acts of corruption that can be part of administrative violations. At least, the government's choice to implement restorative justice to deal with the problem of administrative violations can also be seen from the perspective of the theory of utilitarian consequentialism put forward by Bentham. In choosing alternative policies, the flow of consequentialism holds that it would be better to choose regulatory formulas that can create maximum utility for most of society.

The logic of maximizing utility for the community will be more realized when the government opens up space for accountability for compensation incurred due to administrative violations. Calculating the felicific calculus in choosing restorative policies handled by APIP as the right policy formula can fulfill these seven characteristics. First, in terms of the intensity of happiness that increases through the existence of a mechanism for resolving cases of administrative violations by APIP. From the government's point of view, this loss recovery procedure can be reallocated to meet the development targets that have been designed. Meanwhile, from the perspective of bureaucrats, this mechanism is a second chance for them to prove that this mistake occurred purely because of an administrative violation and not because they wanted to enrich themselves. This opportunity is still very much needed, especially for the village government, which now receives village fund allocations. Increasing the capacity of ASN who work as village officials so that they can manage village funds is, of course not evenly distributed and can be the cause of high corruption cases, as shown in Figure 3.

Second, the time limit stipulated by laws and regulations to ensure that compensation is returned to the government is a form of commitment and good faith on the perpetrator's part to account for his mistakes. This time limit also makes it easier for the government to find replacement funds that can be used again for development purposes. Third, related to certainty, it is clear that a series of laws and regulations used as a legal umbrella for APIP can provide legal certainty. For the government, certainty about the compensation return can be determined following the applicable time limit. For officials who commit violations, they get assurance that the case settlement process will not proceed to the judiciary.

Fourth, with a case settlement mechanism through a restorative justice approach model, the government can also build closeness with the community and state civil servants. The Cooperation Agreement between APIP and APH has opened space for investigations of cases originating from public complaints. In addition to increasing community participation and social awareness, this policy can also be a way to integrate the investigative process and increase cooperation between government agencies. Thus, the government can also erode each institution's sectoral ego.

Fifth, related to fecundity, with a restorative justice mechanism that the government opens through an internal control system, the happiness that the government obtains is also followed by an aspect of benefit. In addition, the collaboration between APIP and APH can also generate a sense of public trust in government officials who deal with corruption. Because this mechanism also opens up space for checks and balances between institutions. The exchange of information between APIP

and APH can undoubtedly open up space for transparency in investigating corruption cases in the regions. The mechanism of checks and balances between agencies is essential because of the confidential nature of the investigation process.

Sixth, the purity of the application of restorative justice will only be challenged by people who do not understand the existence of a modern penal system. As revealed by Bentham, this aspect of purity is closely related to the possibility of a feeling of unhappiness arising from the chosen policy. The restorative approach as a form of modern punishment does not present a disproportionate side of retaliation, as clearly seen in the retributive justice model[30]. This softer approach is often misinterpreted by society to assume that the government is partial to corruptors. For this reason, it is necessary to socialize the flow of retributive justice to the people who are more familiar with the types of retributive punishment to minimize resistance to government policies.

Finally, the separation between criminal acts of corruption and administrative violations has opened up a new scope for the target of prosecution of corruption in Indonesia. This policy can reach public officials who may still need sufficient capacity to run administration to manage state finances so that they do not necessarily fall into corruption crimes. As previously explained, the village fund management mechanism is a new phenomenon that an increase has yet to be followed in a bureaucratic capacity. In addition, the accelerated development that the government is carrying out triggers a high absorption rate of the state budget, which then allows for administrative errors in its management. These possibilities then become the new target of resolving administrative errors that have yet to be accommodated by APH.

Based on the results of this analysis, it is clear that the SPI carried out by the government through increasing the role and function of APIP has brought a new paradigm in the process of resolving corruption cases in Indonesia. The government no longer only uses the classic sentencing method used by APH. In this case, the government emphasizes the APIP function to prevent corruption and minimize state losses by using a restorative justice approach. As a stream of modern punishment, the restorative justice approach put forward by John Braithwaite is not widely known by the public. This condition can lead to misunderstandings for the public because they see the government as providing an opportunity for corruptors to escape the snares of criminal law. However, this view is refuted when looking at Bentham's explanation, which focuses on the government's logical choice when seeking maximum utility for the majority of society.

30 Dallas Card and Noah A. Smith, "On Consequentialism and Fairness," *Frontiers in Artificial Intelligence* 3 (May 8, 2020): 34, https://doi.org/10.3389/frai.2020.00034.

D. Conclusion

From the results of this presentation, law enforcement for the prosecution of corruption cases in Indonesia has reached a new chapter. The dialectics of handling corruption cases arises from the government's awareness to separate criminal acts of corruption and administrative violations. The government still uses the classic sentencing approach and the retributive justice method to handle corruption cases. On the other hand, the Internal Control System implemented by APIP has opened up space for implementing a restorative justice model. This method was chosen to maximize utility for society and minimize losses suffered by the state due to corruption cases. By focusing on returning compensation and reforming administrative aberrations, the government has provided room for officials who are indicated to be corrupt to show their good faith and take responsibility for their mistakes by returning to their original state. The restorative approach, a form of modern punishment, still needs to be widely understood by the public. The government needs to socialize more about the trend of shifting criminal sanctions to minimize societal misunderstandings. This needs to be done to reduce the emergence of a trust issue with the government, which is seen as having provided leeway for corruptors so they can escape imprisonment.

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