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Policy Reconstruction in Combating Petty Corruption: Towards Progressive, Economic, and Utilitarian Justice

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ABSTRACT

Combating petty corruption in Indonesia raises normative and budgetary concerns when case-handling costs exceed the losses to state finances or the national economy that can be recovered. This issue must not be understood as a defence of corruption offenders, as corruption remains an extraordinary crime that harms state finances and the social and economic rights of society. The main problem lies in the absence of categorisation of losses to state finances or the national economy under positive law, which results in low-value corruption cases being processed through the formal criminal justice mechanism. This condition is related to Article 4 of Law Number 31 of 1999, which provides that restitution of state financial losses does not extinguish the offender's criminal punishment. Law Number 1 of 2023 has regulated categories of criminal fines, but it has not established a nominal classification of state losses. This constraint is further reinforced by Article 82 letter c of Law Number 20 of 2025, which excludes corruption crimes from the Restorative Justice mechanism. This study aims to evaluate the urgency of legal reform and construct the Progressive-Economic-Utilitarian Justice Model as a prescriptive recommendation for the legislature. This study employs normative legal research, drawing on conceptual, philosophical, and comparative jurisdictional approaches. The findings show that processing micro-value corruption cases through the formal criminal justice mechanism may result in cumulative losses for the state, namely losses from the criminal offence and additional costs arising from disproportionate law enforcement. As a prescriptive solution, the Progressive-Economic-Utilitarian Justice Model requires limited reform of sentencing norms, a legal basis for the limited application of Restorative Justice, and the legalisation of a maximum state-loss threshold of IDR 50 million as the law as it ought to be (ius constituendum). This mechanism must be subject to restitution of at least 200% of the losses to state finances or the national economy caused by the offence to prevent impunity. Accordingly, the Progressive-Economic-Utilitarian Justice Model is directed as a strict loss-recovery mechanism to protect state finances and the social and economic rights of society.

Keywords: *Economic Analysis of Law; Petty Corruption; Progressive Law; Restorative Justice; Utilitarianism.*

INTRODUCTION

The practice of petty corruption has become recurrent in various forms of public service at the local level. This situation cannot be regarded as an ordinary administrative matter, because corruption remains an extraordinary crime that not only harms state finances but also reduces the state's capacity to fulfil society's social and economic rights. The declining public awareness of the rejection of bribery practices, as reflected in the national anti-corruption behaviour index, indicates that petty corruption may become a systemic problem in public service if it is not properly addressed (Setiyowati et al., 2024). However, proportional case handling is not always identical to the obligation to process every case through the formal criminal justice mechanism without distinguishing the value of losses to state finances or the national economy. In the context of the public prosecution institution, monitoring of corruption enforcement trends shows an imbalance between case-handling costs and the value of recovered losses. The minimum operational cost to the state for investigating and prosecuting a corruption case at the regional level may reach IDR 145 million (Syah, 2025). This amount exceeds the value threshold for petty corruption, which can rationally be placed at a maximum loss of IDR 50 million.

The imbalance between operational costs incurred by law enforcement officers and the value of recovered state losses demonstrates a fundamental problem in an overly retributive sentencing paradigm. A retributive sentencing approach applied uniformly to all corruption cases requires law enforcement officers to process cases up to trial without an adequate normative basis for considering cost-benefit analysis. This condition creates an imbalance because offenders involved in very small-scale corruption may receive a disproportionate share of punishment, thereby imposing judicial costs exceeding the value of the losses caused (Pradiptyo, 2012). Consequently, prosecutors across regions face an increasing workload in handling corruption cases stemming from village administration. At the same time, corruption cases involving higher loss values or broader social impact also require adequate institutional capacity (Dhani & Purba, 2025).

This constraint derives from the absence of categorisation for losses to state finances or the national economy under positive law. Article 4 of Law Number 31 of 1999 cannot be interpreted as mandating imprisonment in every case. However, that provision affirms that restitution of losses to state finances or the national economy does not extinguish the criminal punishment of offenders who commit criminal offences referred to in Article 2 and Article 3. Under this construction, restitution of state losses cannot yet serve as a ground for excluding criminal liability. The possibility of recovery-based settlement is also increasingly limited because Article 82 letter c of Law Number 20 of 2025 expressly excludes corruption crimes from settlement through the Restorative Justice mechanism (Novarina, 2026). On the other hand, Article 79 Law Number 1 of 2023 recognises nominal categories of criminal fines, but it has not established a nominal classification of losses to state finances as a basis for differentiated treatment of low-value corruption. The absence of regulation on the nominal classification of losses to state finances or the national economy creates a normative problem, as positive law does not yet provide parameters for distinguishing micro-value corruption cases from high-value corruption cases.

The issue of budgetary inefficiency in the enforcement of petty corruption has been identified in recent academic scholarship. Previous research has shown an imbalance between judicial costs and recovery value, using a socio-legal approach to assess law enforcement officers' awareness of operational costs (Sandhy & Panjaitan, 2026). Although that study is important for describing the factual state of inefficiency, resolving petty corruption cannot be adequately addressed at a managerial or institutional technical level. This issue must be analysed within the doctrinal field because the constraint stems from the statutory normative structure, which has not recognised the categorisation of losses to state finances.

The need to reconstruct the norm is also driven by various weaknesses in case handling identified in recent literature. One strand of scholarship proposes non-penal settlement for corruption crimes involving losses below IDR 50 million to reduce overcapacity in correctional institutions measurably (Kurniawan, 2025). Other scholars analyse weaknesses in internal technical regulations of law enforcement institutions, which remain vulnerable to challenge if they are not aligned with positive law at the statutory level (Mauludin et al., 2024). Another study validates the imbalance of justice by showing that high judicial costs are not always proportionate to the effectiveness of recovering losses to state finances or the national economy at the end of trial proceedings (Herdiana, 2026). These previous studies indicate an important research gap. Existing scholarship has not developed a prescriptive model that integrates progressive law, economic analysis of law, and utilitarianism to formulate a design for categorising state losses and a strict pre-trial recovery mechanism.

To address this research gap, this study offers the Progressive-Economic-Utilitarian Justice Model as its novelty. This model is not intended as leniency towards corruption offenders, but as a design for loss recovery that is financially stricter, more rational in budgetary terms, and more beneficial for protecting society's social and economic rights. The progressive element of the model is directed at restructuring normative regulation that generates inefficiency. The economic element is intended to ensure that case handling considers optimising state financial recovery through restitution and additional payments. The utilitarian element assesses whether imprisonment for offenders involved in very low-value corruption produces greater social benefit than the costs borne by the state. Therefore, the Progressive-Economic-Utilitarian Justice Model is formulated as the law as it ought to be (*ius constituendum*) for the legislature. This model does not justify the use of a technical mechanism that has not been recognised under positive law.

This study has three main objectives. First, it analyses the normative weaknesses arising from the absence of categorisation of state financial losses in the regulation of corruption crimes, which creates an imbalance in case-handling budgets. Second, it evaluates the urgency of legal reform through conceptual, philosophical, and comparative jurisdictional approaches to assess the possibility of applying Restorative Justice in a limited manner at the pre-trial stage. Third, it constructs the Progressive-Economic-Utilitarian Justice Model as a prescriptive recommendation for the legislature to legalise nominal parameters of state losses and a strict loss-recovery mechanism. Theoretically, this study enriches the development of criminal law by integrating progressive legal doctrine, economic analysis of law, and utilitarianism. Practically, this study is expected to provide a scholarly argument for the legislative authority to design anti-corruption law reform that remains firm towards offenders while being more rational in protecting state finances and the social and economic rights of society.

METHOD

This study employs normative or doctrinal legal research (Qamar & Rezah, 2020). The selection of this research type is based on the need to examine principles, doctrines, and positive legal norms governing the handling of corruption crimes, particularly in relation to the absence of categorisation for losses to state finances or the national economy. The main focus of this study is not to assess law enforcement officers' conduct in practice, but to evaluate normative coherence and to formulate a prescriptive model for the legislature. Factual data on case-handling costs, the anti-corruption behaviour index, and reports by independent monitoring institutions are used solely to provide supporting context and demonstrate the urgency of normative reconstruction. These data do not constitute the primary object of empirical research.

To examine the problem, this study applies three main approaches. The conceptual approach is used to develop a theoretical framework on the rationality of Restorative Justice, the recovery of state losses, and the efficiency of case handling. The philosophical approach is used to deconstruct legal formalism through three pillars of justice: progressive justice to correct overly textual norms that fail to differentiate case handling, economic justice to ensure wealth maximization, and utilitarian justice to measure the social benefits of sentencing policy choices. The comparative approach is used sparingly to examine the recovery-oriented approach to economic crime in other jurisdictions. The case approach is not used as the main approach. However, court decisions discussed in the secondary literature may be used only to a limited extent as illustrations of the tendency to apply norms textually.

Legal materials were collected through library research (Sampara & Husen, 2016). Primary legal materials include Law Number 31 of 1999, Law Number 1 of 2023, Law Number 20 of 2025, and Supreme Court Regulation Number 1 of 2020. Law Number 31 of 1999 is used to assess the position of restitution of state losses within criminal liability. Law Number 1 of 2023 is used to explain changes in the regulation of corruption crimes and the categorisation of criminal fines, not to debate the duration of imprisonment or the amount of fines as the main issue. Law Number 20 of 2025 is used to assess the limits of Restorative Justice under the latest criminal procedure law. Supreme Court Regulation Number 1 of 2020 is used as supporting legal material to rationalise the need for classification of losses to state finances, not as a basis for out-of-court settlement. Secondary legal materials are obtained from reputable journal articles and reports by independent monitoring institutions containing factual findings on case-handling costs and budgetary imbalance in law enforcement.

All legal materials are analysed using a qualitative prescriptive analysis technique (Irwansyah, 2020). The analysis examines the relationship between sentencing norms, the absence of categorisation of state losses, and the cost burden of handling petty corruption cases. The results of the analysis are then used to formulate the Progressive-Economic-Utilitarian Justice Model as a design of the law as it ought to be (*ius constituendum*). The recommendations of this study are directed to the legislature because resolving petty corruption cannot be adequately addressed through technical schemes internal to law enforcement institutions. Without reform at the statutory level, technical innovation may be challenged because positive law still excludes corruption crimes from settlement through Restorative Justice.

RESULTS AND DISCUSSION

A. Budgetary Imbalance and Normative Blindness: The Paradox of Enforcing Petty Corruption in the Jurisdiction of the Public Prosecution Service

The eradication of corruption crimes in Indonesia is shaped by a complex relationship between the need for firm law enforcement and the need to rationalise judicial costs. Firmness against corruption remains necessary because corruption is an extraordinary crime that harms state finances and the social and economic rights of society. However, such firmness does not always have to be realised through a uniform case-handling model for all cases without considering the value of losses. A normative constraint emerges because positive law has not divided losses to state finances or the national economy into categories as a basis for differentiated case handling.

Article 4 of Law Number 31 of 1999 constitutes one important basis within this constraint. This norm affirms that restitution of losses to state finances or the national economy does not extinguish the criminal punishment of offenders who commit criminal offences referred to in Article 2 and Article 3. Therefore, Article 4 cannot be read as a norm that directly mandates imprisonment in every case. However, that article does not place restitution of state losses as a ground for excluding criminal punishment. In low-value corruption cases, this construction limits the normative basis for recovery policy because criminal liability persists even when the losses have been repaid. Consequently, law enforcement officers, particularly within the Public Prosecution Service, remain obliged to process cases under criminal procedure law even when the value of the losses falls within the micro category.

The absence of a classification of state losses is inconsistent with the demand for rationality in a modern sentencing system. Economic justice requires judicial action to be assessed based on its ability to achieve aggregate wealth maximization (Posner, 1980). Ideal law enforcement does not disregard the use of public resources merely to fulfil textual compliance with legal norms. A criminal justice system that imposes imprisonment without conducting a cost-benefit analysis may become irrational if the costs of handling exceed the value of the losses to be recovered (Posner, 2007).

This budgetary imbalance is evident in the handling of corruption cases at the prosecution level. Based on empirical findings, the minimum operational cost incurred by the state to process one corruption case at a district public prosecution office reaches IDR 145 million (Syah, 2025). This amount is derived from the corruption enforcement budget allocated to investigation and prosecution. In the lowest category, a district public prosecution office has an allocation of IDR 290 million for a target of two cases, whereas a branch district public prosecution office may have a minimum allocation of IDR 168.8 million for one case. If petty corruption is measured by a maximum loss of IDR 50 million, the state bears cumulative losses. First, the state incurs losses due to the corruption offence. Second, the state bears an additional burden arising from case-handling costs that exceed the value of losses to be recovered.

This imbalance becomes clearer when trial proceedings are required for cases involving very small values. Even when the offender returns all state losses, the state still bears investigation and prosecution costs that exceed the initial losses. Accordingly, the objective of restoring state finances has not been fully achieved. Law enforcement instead creates an additional burden on the state budget. This issue does not mean that offenders should be released from criminal liability. Rather, it demonstrates the need for a recovery mechanism that is more financially stringent and institutionally efficient.

The imbalance between law enforcement costs and recovery value is also aggravated by disparities in sentencing. Historical analysis of hundreds of court decisions shows that offenders involved in very small-scale corruption may receive a more severe proportion of punishment than middle- and upper-class corruption offenders (Pradiptyo, 2012). The judicial system may then direct substantial resources to punish low-value corruption offenders, while the recovery of losses to state finances or the national economy remains disproportionate to the costs of case handling. This condition affirms that sentencing orientation needs to be reconstructed so that it does not function merely as a mechanism for imposing imprisonment, but also as an instrument for recovering state assets.

A further consequence is the imbalance in the quality of justice. High judicial costs are not always proportionate to the effectiveness of recovering losses to state finances or the national economy at the end of trial proceedings (Herdiana, 2026). Law enforcement officers use time, labour, and budget to fulfil formal procedural requirements, but this does not necessarily yield asset recovery proportionate to state finances. Corruption crimes differ from conventional interpersonal crimes because the object harmed is the capacity of state finances to fund public services and public interests. Therefore, the recovery of state losses must be included in the protection of society's social and economic rights.

Law enforcement inefficiency is also related to sociological challenges relevant to criminal policy analysis. The national anti-corruption behaviour index shows that small-scale bribery and abuse of authority in public services tend to receive social tolerance from some citizens (Setiyowati et al., 2024). If every small case must be processed through trial, the judicial system may face a heavy case-handling burden. The main issue does not lie only in the number of cases, but also in the imbalance between the amount of public resources used and the recovery value produced.

This situation is relevant in the context of the public prosecution institution. Prosecutors across regions are reportedly experiencing an increasing workload in handling petty corruption cases, particularly those involving the misuse of funds at the village administration level (Dhani & Purba, 2025). The obligation to resolve all cases formally not only burdens the case-handling budget but also reduces officers' capacity to focus on corruption cases involving higher loss amounts or broader social impact (Habibullah et al., 2024). From the perspective of criminal policy, this situation indicates that the absence of categorisation of state losses has resulted in a less proportionate allocation of law enforcement resources.

Rigid legal formalism can be seen in the tendency for decisions to continue imposing imprisonment on offenders involved in very small state losses, driven by attachment to statutory norms (Pradiptyo, 2012; Arsyad et al., 2026). This illustration is not intended to make the case approach the main method. It is used to show that statutory provisions that do not provide a basis for differentiation may encourage case handling that insufficiently considers the value of losses. Under such circumstances, compliance with legal norms risks diminishing the value of economic justice, which should form part of the law's purpose.

Law enforcement practices that rely on formal legal certainty and move away from substantive justice may create an imbalance between legal certainty and legal utility for national development (Pawe et al., 2025). Socio-legal scholarship has identified this inefficiency through analysis of judicial cost burdens and law enforcement officers' awareness of operational costs (Sandhy & Panjaitan, 2026). This study extends those findings by placing the issue within the doctrinal field. The root problem lies not only in officers' managerial awareness, but also in the normative structure that does not yet provide categorisation of losses to state finances. Therefore, reconstruction of the constraint imposed by legal formalism must be carried out through philosophical analysis and comparative policy, so that the recovery of state losses can be placed more rationally within the national statutory system.

B. Deconstructing Legal Formalism: The Urgency of Restorative Justice in Philosophical and Global Comparative Perspectives

The transition towards a new national criminal law codification should provide momentum for developing a more proportionate sentencing policy. Law Number 1 of 2023 introduces significant changes to the regulation of corruption crimes. Article 622 section (1) letter l revokes certain provisions in the Law on the Eradication of Corruption Crimes, including Article 2 section (1) and Article 3. Furthermore, Article 622 section (4) provides that references to Article 2 section (1) are replaced by Article 603, while references to Article 3 are replaced by Article 604. Accordingly, this reform concerns not only technical changes to statutory references but also shows that the corruption regime remains an important part of the national criminal law system.

At the same time, Article 79 of Law Number 1 of 2023 has regulated nominal categories of criminal fines. However, Article 603 and Article 604 of Law Number 1 of 2023 have not established a nominal classification of losses to state finances or the national economy as a basis for differentiated case-handling policy. This situation provides a basis for normative criticism because positive law has recognised the categorisation of fines but has not provided parameters for state losses that can distinguish micro-value corruption cases from high-value corruption cases. Consequently, the legislature has not provided an adequate basis for different recovery mechanisms for petty corruption.

The absence of such parameters shows the need for a shift in the sentencing paradigm. A criminal approach that rests solely on retributive punishment must be replaced by a paradigm of state asset protection and public utility (Irmawanti & Arief, 2021). Sentencing corruption offenders should not be measured solely by the severity of the sentence, but also by the legal system's ability to recover state financial resources lost to corruption. This shift does not weaken the extraordinary character of corruption crimes. On the contrary, it affirms that corruption crimes must be handled with extraordinary measures through instruments that truly protect state finances and society.

However, this asset recovery orientation remains constrained by the latest criminal procedure law. Law Number 20 of 2025 has introduced an out-of-court settlement mechanism, but Article 82 letter c expressly excludes corruption crimes from the Restorative Justice mechanism. This exclusion limits the possibility of restorative settlement for corruption cases, including cases involving very small losses. Under existing positive law, this means that law enforcement officers have no legal basis to settle corruption cases solely through restitution. Therefore, the idea of Restorative Justice in this study must be positioned as an agenda of the law as it ought to be (*ius constituendum*), not as an action that can be implemented directly without statutory reform.

The tension between demands for efficiency and regulatory rigidity is also evident in the government's position, which continues to reject out-of-court settlements for petty corruption because there is no statutory basis (Novarina, 2026). This position is understandable from the standpoint of legal certainty. However, from the standpoint of criminal policy, this situation shows that, as long as the exclusion clause in criminal procedure law remains unamended, law enforcement officers lack adequate legal legitimacy to design settlements that are more efficient and recovery-oriented. Therefore, the required reform is not an internal technical policy, but normative reconstruction at the statutory level.

Compliance with legal norms that cause economic losses to the state must be evaluated using Radbruch's Formula. Positive law may lose its orientation towards justice when its application contradicts social utility and substantive justice (Radbruch, 2006). The obligation to bring very low-value corruption cases to formal trial with multiplied operational costs may create economic injustice if the outcome does not restore state finances proportionately. Under such circumstances, legal certainty remains important. However, legal certainty must be directed towards protecting the public interest and must not allow the continued waste of the state budget to go unchecked.

The philosophical foundation for correcting overly textual application of norms is found in progressive law. Law is created to serve the welfare of human beings, the state, and society, so legal norms should not be applied merely textually when their application harms the social purpose of law (Rahardjo, 2005). Law must be interpreted contextually to achieve substantive justice when its formal application worsens the state's operational burden (Rahardjo, 2007). Progressive law in this context does not mean granting leniency to corruption offenders. It encourages the legislature to design norms that are more effective in recovering state losses.

The reduction of formalism must also be built on strict economic rationality. The imposition of sanctions must consider cost-benefit analyses to ensure the criminal system reduces crime without imposing excessive burdens on the public (Polinsky & Shavell, 2000). Processing offenders involved in very low-value corruption through expensive formal judicial infrastructure may constitute punishment that does not produce social benefit (*unprofitable punishment*)

(Bentham, 2007). Therefore, a recovery alternative that deprives offenders of economic benefits while returning the value of losses to the state may be more consistent with the objectives of modern sentencing.

The rationality of financial recovery is supported by comparison with other jurisdictions. England, for example, demonstrates an orientation toward handling economic crimes that provides broad scope for criminal fines, recovery, and payments to restore the prior condition in a more pragmatic manner (Lasmadi & Sukma, 2025). A jurisdictional comparison also shows a shift in economic crime law enforcement strategies from imprisonment to rapid, measurable asset recovery (Mardin et al., 2025). This comparative lesson cannot be adopted directly into the Indonesian legal system. However, it may be used as a comparative consideration that handling economic crimes does not always require imprisonment when asset recovery can be designed to produce greater utility.

The adoption of loss-recovery instruments for petty corruption must still be controlled to prevent impunity (Ardiansyah & Rustam, 2025). Therefore, the Restorative Justice proposed in this study is not a permissive mechanism for offenders merely because the value of losses is small. This model instead requires financially heavier restitution so that offenders do not obtain economic benefit from the criminal offence. Through this mechanism, the state can recover its losses while avoiding wasteful law enforcement costs that have generated an imbalance between legal certainty and legal utility (Pawe et al., 2025). Based on this philosophical and comparative foundation, it is necessary to formulate a model that translates the idea of recovery into a prescriptive design for statutory reform.

C. Formulation of the Progressive-Economic-Utilitarian Justice Model: The Urgency of Reconstructing Law Number 31 of 1999

The reconstruction of policy for handling petty corruption cannot be placed in internal technical instruments of law enforcement institutions. The main problem lies at the statutory level because positive law does not make restitution a ground for excluding criminal punishment and still excludes corruption from Restorative Justice. Applying a new settlement mechanism without statutory reform risks creating dualism in criminal procedure law and procedural uncertainty. A similar analogy appears in academic warnings concerning asset forfeiture, which state that enacting a new instrument without amending the principal procedural law may disrupt the national criminal justice system (Suhartono & Panjaitan, 2025). Therefore, the direction of reconstruction must be addressed to the legislature.

Although discretion through internal institutional regulations may provide benefits in certain cases, its juridical foundation remains limited if it may not align with higher positive law (Mauludin et al., 2024). In the context of corruption crimes, this risk is higher because corruption is expressly excluded from Restorative Justice under the latest criminal procedure law. Therefore, settlement of petty corruption through a pre-trial recovery mechanism must first obtain legitimacy at the statutory level. This study does not promote a technical mechanism without normative legitimacy at the statutory level. It proposes a design for normative reform that provides law enforcement officers with a valid juridical basis.

The first step in this reconstruction is a limited revision of the construction of Article 4 of Law Number 31 of 1999. This revision is not intended to abolish criminal liability for corruption offenders in general. It is intended to provide a highly limited normative basis so that restitution of state losses in petty corruption cases can be considered a ground for pre-trial settlement under strict financial conditions. The second step is to review Article 82 letter c of Law Number 20 of 2025 so that the exclusion of corruption crimes from Restorative Justice does not apply without differentiation based on the value of losses and the character of the act. These two steps must be carried out simultaneously so that reforms in substantive criminal law and criminal procedure law remain coherent.

This reform has a limited historical reference within the corruption eradication regime. Article 12A of Law Number 20 of 2001 shows that the legislature once recognised differentiated criminal treatment based on a relatively small nominal value in corruption crimes. Although that provision cannot serve as a direct basis for categorising losses to state finances under Article 2 and Article 3, its existence shows that differentiation based on nominal value is not foreign to the legal policy of anti-corruption law. This historical rationality may be developed more systematically through statutory categorisation of losses to state finances or the national economy (Sutopo & Panjaitan, 2025).

The need for categorisation is also rationalised by Supreme Court Regulation Number 1 of 2020. Article 6 section (2) of that regulation divides losses to state finances or the national economy in cases under Article 3 into five categories, ranging from the most severe category to the least severe category. Article 16 gives judges authority not to impose a criminal fine if the losses to state finances or the national economy are below IDR 50 million. This regulation is not used as a basis for excluding imprisonment or for out-of-court settlement. Its position in this study is as legal material showing that the idea of classifying the value of losses is already recognised in sentencing guidelines. Therefore, the IDR 50 million figure may be used as an initial rationalisation parameter for the design of *ius constituendum*, provided that its establishment is legalised through statutory reform (Adhim et al., 2025; Pudjoharsoyo, 2026).

The maximum loss threshold of IDR 50 million serves as a conservative limit for defining petty corruption. This threshold is stricter than the least severe category under Supreme Court Regulation Number 1 of 2020, which is set at IDR 200 million. By selecting IDR 50 million, the model does not expand the exception beyond the established normative limit, but only provides a limited basis for cases whose loss value is disproportionate to the cost of trial proceedings. Academic discourse on non-penal settlement for corruption involving losses below IDR 50 million also supports the need for this parameter as a strategy to reduce the burden on the correctional and law enforcement systems (Kurniawan, 2025). Within this framework, IDR 50 million is not intended to weaken corruption enforcement, but rather a conservative limit to prevent greater waste of the state budget.

Once the nominal threshold and the basis for pre-trial settlement have been legalised, the concrete mechanism that can be designed is a strict settlement fine (*schikking*). This mechanism must not be understood as a permissive mechanism for offenders. Conversely, settlement may be granted only if the offender returns all state losses and pays an additional amount of at least 200% of the value of losses to state finances or the national economy. Under this model, the settlement mechanism eliminates the economic benefit the offender derives from the criminal offence, as the amount to be paid exceeds the benefit obtained. The idea of a settlement fine may be seen as a more efficient mechanism for recovering losses to state finances or the national economy (Marlina et al., 2025). The obligation of double restitution serves as a normative limit to ensure that settlements do not result in impunity (Ardiansyah & Rustam, 2025).

The Progressive-Economic-Utilitarian Justice Model is built on three interrelated elements. First, the progressive element requires the legislature to restructure normative regulation that creates waste and no longer effectively protects the public interest (Rahardjo, 2007). Second, the economic element places recovery of state losses and wealth maximization as important measures in designing criminal policy (Posner, 2007). Third, the utilitarian element assesses whether sentencing choices produce greater social benefit than the burden borne by the state and society (Bentham, 2007). These three elements are not applied separately, but within a single analytical framework that treats loss recovery, law enforcement efficiency, and the protection of society's social and economic rights as common objectives.

To prevent misuse, the application of this model must be limited by strict normative requirements. First, this model applies only to corruption cases involving losses to state finances or the national economy of not more than IDR 50 million. Second, the offender must return all losses and pay an additional amount of at least 200% of their value. Third, this mechanism does not apply to repeat offenders, cases involving violence, intimidation, organised networks, or broad social impact. Fourth, settlement must be conducted at the pre-trial stage and recorded transparently for public oversight. Fifth, every settlement must remain positioned as a legal response that eliminates the economic benefit obtained by offenders from the criminal offence, not as a removal of the reprehensible nature of corruption crimes.

Under this construction, the Progressive-Economic-Utilitarian Justice Model is not a form of leniency in criminal liability for corruption offenders. This model strengthens the state's function in protecting public finances through a mechanism that is more rational and financially stricter. Imprisonment may still be maintained for high-value corruption, repeat offenders, or cases with a broad social impact. However, for petty corruption involving losses to state finances or the national economy of not more than IDR 50 million, loss recovery with an additional payment obligation may be more effective than the formal criminal justice mechanism, which incurs costs exceeding the value of the losses. Through reconstruction at the statutory level, the state can restore criminal law to the last resort principle (*ultimum remedium*) without disregarding the principle of combating corruption as an extraordinary crime.

CONCLUSIONS AND SUGGESTIONS

The eradication of petty corruption in Indonesia faces a budgetary imbalance when the operational costs of case handling exceed the value of losses to state finances or the national economy that can be recovered. This issue cannot be used as a justification for defending corrupt offenders, because corruption remains an extraordinary crime that harms state finances and the social and economic rights of society. The main problem lies in the absence of categorisation of losses to state finances or the national economy under positive law. Article 4 of Law Number 31 of 1999 affirms that restitution of state losses does not extinguish the offender's criminal punishment, while Law Number 1 of 2023 has regulated categories of criminal fines but has not established a nominal classification of state losses. This constraint is further reinforced by Article 82 letter c of Law Number 20 of 2025, which excludes corruption crimes from the Restorative Justice mechanism.

A shift in law enforcement orientation from a retributive sentencing approach towards recovery of state assets is urgently needed in petty corruption cases. From a philosophical perspective, the obligation to process micro-value cases through the formal criminal justice mechanism may create economic injustice, as the state incurs cumulative losses. These losses include losses caused by the criminal offence and additional losses arising from law enforcement costs that are disproportionate to the value of losses recovered. Comparison with other jurisdictions shows that modern approaches to economic crime may place greater emphasis on asset recovery and criminal fines. However, this approach must still be placed on the agenda of the law as it ought to be (*ius constituendum*), because Indonesian positive law currently does not provide a basis for the restorative settlement of corruption crimes.

As a prescriptive solution, this study constructs the Progressive-Economic-Utilitarian Justice Model. This model requires limited reform of Article 4 of Law Number 31 of 1999 and a review of Article 82 letter c of Law Number 20 of 2025 so that petty corruption cases can be provided with a highly limited basis for pre-trial settlement. This reform must be accompanied by the legalisation of a maximum state-loss threshold of IDR 50 million. This figure is not a positive legal basis already applicable for out-of-court settlement, but a rationalisation parameter for *ius constituendum* supported by the classification of losses in Supreme Court Regulation Number 1 of 2020 and the authority of judges not to impose criminal fines for losses below IDR 50 million. Therefore, the idea of categorising state losses must be elevated from sentencing guidelines into statutory norms.

The policy implication of this model is the need for a loss-recovery mechanism with an additional payment obligation through a settlement fine at the pre-trial stage. This mechanism must be subject to a requirement to return at least 200% of the value of losses to state finances or the national economy caused by the offence. This requirement is necessary to eliminate the economic benefit offenders obtain from the criminal offence, prevent impunity, and ensure that the state recovers more than the initial losses. Accordingly, the Progressive-Economic-Utilitarian Justice Model does not weaken corruption eradication. It designs a legal response that is more proportionate, more efficient in the use of case-handling budgets, and more oriented towards protecting society's social and economic rights. Through measured legislative reconstruction, criminal law can be restored to the function of the last resort principle (*ultimum remedium*) without abandoning the state's firmness against corruption crimes.

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