

Restorative Justice as A New Paradigm of Criminalization in Economic Crime in Indonesia

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Abstract. Economic crimes, such as corruption, money laundering, and tax evasion, have far-reaching consequences on a nation's economic stability and public trust in the legal system. Traditional punitive approaches, primarily retributive justice, often fail to restore financial losses suffered by victims and the state, and they do not always serve as effective deterrents. This paper explores restorative justice as a new paradigm in addressing economic crimes, shifting the focus from mere punishment to accountability, victim recovery, and social restoration. Restorative justice emphasizes active engagement between perpetrators, victims, and the community to find equitable solutions, including asset recovery and financial restitution. Unlike conventional criminalization, which frequently neglects victims' needs, this approach fosters direct offender accountability, reduces recidivism, and strengthens public confidence in the justice system. By integrating mediation, compensation mechanisms, and rehabilitative programs, restorative criminalization ensures that perpetrators not only face legal consequences but also contribute to economic recovery. This study argues that the application of restorative justice in economic crime cases can enhance judicial efficiency, alleviate burdens on courts, and prevent repeat offenses. Additionally, it highlights the importance of legal reforms, institutional collaboration, and public participation in implementing a more holistic justice system. The findings suggest that adopting restorative justice can create long-term economic and social stability, making it a viable alternative to traditional punitive measures.

Keywords: Restorative Justice, Economic Crime, Criminalization, Asset Recovery, Recidivism

1 Background

Economic crime is a form of criminal act that has a significant impact on the economic stability of a country. These crimes, such as corruption, money laundering, and tax evasion, not only harm the country's finances but also affect public trust in the legal system (Sutedi, 2008). In addition, economic crimes are often complex because they involve perpetrators with extensive networks, sophisticated modus operandi, and cross-jurisdiction, making them difficult to identify and process legally. As a result, the law enforcement process against economic crimes often takes a long time and requires large resources.

One of the main challenges in the criminalization of economic crimes is the limitation of the retributive in providing justice for victims and the community. Traditional approaches that focus on punishing perpetrators are often unable to recover the economic losses suffered by victims, both individuals and states (Flora, 2018). In addition, this approach is not always effective in preventing the recurrence of similar crimes, as perpetrators are often still able to enjoy the proceeds of their crimes even after serving their sentences. This shows the need for a new, more holistic paradigm in dealing with economic crime.

Another challenge is the social impact caused by economic crimes that are often not resolved through conventional criminal mechanisms. For example, corruption that harms the state budget can lead to a decline in the quality of public services, such as education, health, and infrastructure, which ultimately worsens people's welfare. On the other hand, public dissatisfaction with the handling of economic crime cases often causes a crisis of trust in the legal system. Therefore, an approach is needed that is able to not only punish the perpetrators but also recover the victims' losses and improve the affected social conditions (Maulana & Agusta, 2021). The retributive approach in the traditional penal system tends to focus on punishing perpetrators as a form of state revenge for crimes committed (Hikmah & Armanda Agustian, 2023). This approach views punishment as an effort

to provide a deterrent effect to the perpetrators and uphold the rule of law. However, in the context of economic crime, this approach often fails to provide substantive justice for victims. This is because retribution focuses more on the imposition of criminal sanctions, such as imprisonment or fines, without ensuring that the economic losses suffered by the victim or the state can be recovered.

Another limitation of the retributive approach is the lack of attention to the wider social and economic impacts of economic crimes (Suharyanto, 2019). For example, in cases of major corruption that harm the state's finances, the punishment for the perpetrator is often not accompanied by efforts to recover assets or return funds that have been misappropriated. As a result, substantive justice for the affected communities is neglected, while the perpetrators of crimes may still enjoy the results of their crimes. This shows that the retributive approach is not entirely effective in fulfilling the main goal of penalization, which is to provide a real sense of justice to all affected parties.

In addition, the retributive approach also tends to ignore the role of the victim in the case settlement process (Ferdian, 2021). In the case of economic crimes, the victims are often large entities such as the state, corporations, or the wider community who have lost access to their rights as a result of the crime. This approach does not provide enough space for victims to engage in the settlement process, so their need for recovery is not fully met (Flora & Flora, 2023). In this context, a new paradigm that is more inclusive and restorative is needed, which not only punishes perpetrators but also recovers losses and creates long-term solutions for society.

The urgency of the new paradigm can be seen from the need to increase public trust in the legal system. Economic crimes that are not addressed with a holistic approach often cause public discontent and undermine the legitimacy of law enforcement institutions. By adopting a more inclusive paradigm, such as restorative justice, the legal system can demonstrate its commitment to providing real and sustainable justice. This approach can also be a means to create a more effective deterrent effect, because the perpetrators are not only punished but also required to be directly responsible for the losses caused (Karim, 2016). Therefore, a paradigm shift in criminalization is an urgent need to realize justice that is more substantive and oriented towards long-term solutions.

Conventional punishments that focus on punishment such as imprisonment are often considered incapable of providing adequate justice for the victim or society. This approach focuses more on punishing the perpetrator without considering the aspect of recovering losses suffered by the aggrieved party. For example, in the case of economic crimes such as corruption or money laundering, the prison sentence imposed on the perpetrator does not automatically guarantee the return of financial losses suffered by the state or society. As a result, victims continue to bear the loss, while the penal system fails to fulfil its main objective, namely substantive justice (Hamzani, 2022).

Court decisions in conventional criminal justice often do not reflect damages commensurate with the impact of the crime (Hambali, 2020). In certain cases, perpetrators who have served their sentences can still enjoy the proceeds of their crimes because there is no mechanism that effectively requires the perpetrator to recover the victim's losses. This has caused dissatisfaction among people who feel that justice has not been fully achieved. Therefore, more innovative approaches are needed, such as *Restorative Justice*, to ensure that the criminal process not only punishes the perpetrators but also recovers the losses of the victims and the community as a whole.

The phenomenon of corruption convicts who are released on parole and run for office as regional heads or legislative members again raises concerns in the community (Dzulfaroh & Firdaus, 2024). This condition shows that the criminal sanctions given to corrupt perpetrators are not effective enough to create a deterrent effect or prevent them from re-engaging in the political sphere. Legal decisions that allow parole for corruption convicts often cause polemics, because the public feels that justice has not been fully enforced. This also reflects a gap in the legal and political system that allows individuals with criminal records to return to strategic positions in government.

The return of former corruption convicts to the political arena not only lowers public trust in legal institutions, but also tarnishes the integrity of the political system in Indonesia. Their presence in the nomination process is often supported by a certain mass base, although their track record can damage the image of clean government (Auliani, 2019). More than that, it shows the need for reform in electoral regulations and sanctions for corrupt actors, including restrictions on their political rights. If not addressed immediately, this situation has the potential to worsen the culture of corruption in the government system, thereby hindering efforts to eradicate corruption as a whole.

2 Problem Formulation

1. How can the *restorative justice* approach be implemented in economic crime cases?

2. How does restorative criminalization reduce recidivism rates and maximize economic recovery?

3 Discussions

A new paradigm in criminalization is very important to answer the challenge of economic crime that is increasingly complex and has a wide impact. Economic crime often involves actors with strong networks, advanced technology, and hard-to-detect modes, making traditional approaches less effective in tackling them. A new paradigm is needed to integrate the principles of justice that not only punish the perpetrators but also pay attention to the recovery of victims. Thus, the penal system not only focuses on deterrent effects but also on efforts to improve the social and economic conditions affected by these crimes (Andriyanti, 2020).

In addition, a new paradigm is needed to bridge the gap between criminal sanctions and substantive justice that society expects. Traditional punishment-oriented approaches are often incapable of answering the needs of society, especially when it comes to recovering from large economic losses. New paradigms such as restorative justice offer solutions by putting victims at the center of attention, providing space for dialogue, mediation, and direct recovery of losses. This approach is not only relevant to provide a sense of justice but also able to reduce the burden on the criminal justice system which is often overwhelmed with handling economic crime cases.

3.1. Implement Restorative Justice in Economic Crime Cases

According to *The United Nations Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (Handbook on Restorative Justice Programmes, 2006)*, restorative justice is defined as any process that allows victims, perpetrators, and other parties affected by crime to jointly resolve the consequences of the crime, by mediating the needs of each party.

Basic Principles of Restorative Justice:

1. Restoration
The main focus is on recovering the losses suffered by the victims, both materially and emotionally. Recovery also includes reparations to communities affected by crime.
2. Responsibility of Perpetrators
The perpetrator is expected to admit his mistake, apologize, and show a commitment to repair the impact of his actions. This includes restitution of losses, rehabilitation, or other agreed actions.
3. Involvement of All Parties
The *restorative justice* process involves victims, perpetrators, and the community directly in finding the best solution. Dialogue and mediation are the main means to reach mutual agreements.
4. Prevention of Repeat Crime
This approach seeks to create conditions in which the perpetrator understands the impact of his actions, so that they do not repeat similar actions in the future.
5. Substantive Justice
Emphasizing the importance of meeting the needs of victims and creating a real sense of justice for all affected parties, not just formal punishment of perpetrators.

The conventional penal system focuses on punishing perpetrators through a retaliation-based approach (*punishment-based*). The main goal of this approach is to provide a deterrent effect by providing commensurate punishment, such as imprisonment or fines, based on the level of crime committed (Maulana & Agusta, 2021). In the context of economic crime, this paradigm is generally applied by emphasizing the aspect of criminal punishment as a means to uphold formal justice. While this principle is expected to create a sense of justice, this approach often fails to achieve substantive justice, especially for victims and affected communities.

One of the main drawbacks of this approach is its inability to provide direct redress to the victim. In the case of economic crimes, victims often do not get compensation equivalent to the losses they have suffered. Judicial processes that focus on punishing perpetrators often ignore the victim's need for compensation or restoration. As a result, victims not only suffer material losses but also lose confidence in the justice system that is supposed to protect them.

The restorative justice approach in economic crime cases requires comprehensive adjustments because these crimes often have a wide impact on society, the state, or institutions. The process of identifying victims and perpetrators is a very important first step. Victims in economic crime cases can be communities or countries, while perpetrators can include individuals or corporations that have great power in the resources of economists (Hafid et al., 2023). Therefore, this process must take into account the social and economic impacts caused.

The settlement mechanism in the restorative justice approach involves mediation or restorative dialogue between the perpetrator, the victim, and a blind third party (Suhariyanto, 2016). This process aims to understand the impact of the crime and reach an agreement on recovery measures. In addition, compensation in the form of return of losses, both in the form of confiscated assets and compensation payments, is a major part of this recovery process. Rehabilitation programs can also be implemented to ensure that perpetrators do not repeat similar crimes.

Community-based approaches have an important role in the implementation of restorative justice in economic crime cases (Afifah, 2024). Communities can be involved in the recovery process, especially if they are directly affected by the crime. Community participation can increase trust in the settlement process and strengthen a sense of shared responsibility in preventing the recurrence of similar crimes in the future.

Inter-agency collaboration is one of the key elements in the implementation of restorative justice (Sujono et al., 2024). Law enforcement officials, financial institutions, civil society organizations, and legal experts need to work together to create comprehensive solutions. With good coordination, this approach can be implemented effectively, although challenges such as case complexity and resistance to change must still be overcome.

The implementation of restorative justice can also be supported through continuous education efforts. Educating the public and businesses about the adverse impacts of economic crime and the importance of ethical business practices will help build a culture of legal compliance (Risal, 2023). This effort also includes providing training to perpetrators to be able to correct mistakes that have been made and prevent similar actions in the future.

The restorative justice approach in economic crime cases offers a variety of advantages, such as faster recovery of losses, avoidance of excessive criminalization, and cost efficiency. In addition, this approach also provides higher satisfaction to victims because of its focus on immediate recovery from the losses incurred. With the support of a clear legal framework and active participation from all stakeholders, restorative justice can become an effective new paradigm in tackling economic crime

3.2. Restorative Criminalization Reduces Recidivism Levels and Maximizes Economic Recovery

Restorative criminalization has great potential to reduce recidivism rates and maximize economic recovery through a humanist and recovery-oriented approach (Sihombing & Nuraeni, 2023). By prioritizing dialogue between perpetrators, victims, and society, this approach allows perpetrators to understand the immediate impact of their actions. This process provides room for perpetrators to correct mistakes directly, which is often not achieved through traditional criminalization.

In the context of economic recovery, restorative criminalization focuses on recovering losses caused by crimes. This process often involves direct compensation from the perpetrator to the victim, both individuals and institutions. Thus, victims can receive damages without having to go through a time-consuming and costly litigation process (Maulana & Agusta, 2021). An example of effective implementation can be seen in cases of return of assets obtained through corruption crimes, where mediation results in a faster and more efficient solution compared to the court mechanism.

Restorative criminalization also strengthens the rehabilitation of the perpetrator, which in turn reduces the likelihood of recidivism. Through programs that focus on character improvement, education, and skills training, actors can increase their capacity to contribute positively to society. This process also includes monitoring and mentoring, so that perpetrators are not only aware of their mistakes but also have the means to prevent the repetition of the crime.

In its implementation, restorative justice encourages active community participation. Communities affected by economic crime can be involved in the recovery process, both through dialogue and collaborative initiatives to prevent future crimes. This participation creates a sense of ownership over the outcome of the case settlement, which ultimately strengthens social relations between all parties involved. In addition, restorative criminalization helps reduce the burden on the criminal justice system. By reducing the number of cases that must be resolved through formal courts, judicial resources can be allocated to more complex cases. This efficiency not only saves costs but also increases public confidence in a more responsive and inclusive legal system.

The education programs integrated in this approach also have a significant impact on preventing economic crimes in the future. Educating actors and the wider community about the negative impacts of economic crime and the importance of ethics in economic activities helps create a more law-abiding culture. Thus, this approach has a long-term dimension that can strengthen social and economic stability.

Nonetheless, the success of restorative criminalization depends on the support of a strong legal framework and inter-agency collaboration. Governments, law enforcement officials, financial institutions, and civil society need to work together to ensure that this approach is applied consistently and fairly. With integrated

efforts, restorative justice can be an effective instrument in reducing recidivism and maximizing economic recovery, while supporting the development of a more inclusive and equitable society.

4 Conclusion

1. In the context of economic recovery, restorative criminalization focuses on returning losses directly to the victim, which is faster and more efficient than the traditional litigation process. By engaging the community and strengthening collaboration between institutions, this approach creates efficiencies in the legal system while building a stronger culture of compliance.
2. Restorative criminalization is able to reduce the level of recidivism by creating a restorative dialogue between perpetrators, victims, and the community. This process helps perpetrators understand the real impact of their actions, promotes social responsibility, and provides space for perpetrators to correct mistakes through rehabilitation and education

5 Suggestion

1. Establish clear and firm regulations to regulate the implementation of restorative crimes, especially in cases of economic crimes. This includes guidance for mediation, compensation, and rehabilitation.
2. Conduct periodic monitoring of the results of the implementation of restorative criminalization and evaluate its success in reducing recidivism and recovering the economy.

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