TRANSPARENCY INTERNATIONAL
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RECOVER THE FORGOTTEN

A CONTEMPORARY STUDY OF THE DISCOURSE ON RECOVERING LOSSES OF CORRUPTION VICTIMS IN INDONESIA AND ITS REFORM OPPORTUNITIES

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Transparency International Indonesia (TI-Indonesia) is one of the *chapters* of Transparency International, a global network of anti-corruption NGOs that promotes transparency and accountability to state institutions, political parties, businesses, and civil society. Together with more than 100 other chapters, TI-Indonesia strives to build a world that is clean from the practices and impacts of corruption around the world.

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1. INTRODUCTION

The legal framework and anti-corruption policy in Indonesia has been built on the assumption that the state is the only legitimate victim of corruption. This paradigm is firmly embedded in various regulations, ranging from Law No. 31 of 1999 concerning the Eradication of Corruption Crimes, Law No. 19 of 2019 concerning the Corruption Eradication Commission, to the Criminal Procedure Code (KUHAP), which explicitly requires state losses as the main element in proving cases.

This condition has created "structural blindness", where corruption is treated as a crime against the state alone, when in reality the biggest victims are its citizens. In a number of cases such as corruption of social assistance funds, failed infrastructure projects, or inadequate procurement of health services, people suffer concrete losses that have an impact on the right to life, health, education, and employment. However, the legal system does not allow them to appear as legal subjects, let alone demand compensation or reparations.

This legal vacuum began to receive public attention when in 2021, a group of residents affected by COVID-19 social assistance corruption sued the former Minister of Social Affairs, Juliari P. Batubara, at the Central Jakarta District Court. The lawsuit represents those who did not receive their rights to social assistance during the pandemic emergency due to corrupt practices. Although the lawsuit was ultimately rejected by the court for administrative reasons (related to the defendant's domicile), the move became an important milestone in the history of citizens' resistance to corruption.(Tempo, 2021)

Long before, similar steps had also been taken. The community through LBH Jakarta and the National Legal Reform Consortium (KRHN) became the first party in Indonesia to sue corruptors civilly in the case of Akil Mochtar, former Chief Justice of the Constitutional Court, based on Article 98 of the Criminal Code. The legal team at that time filed a lawsuit for compensation of Rp 768 million, a fine of Rp 50 million per month for the Constitutional Court, as well as a lifetime obligation of prevention and apology. However, the Central Jakarta District Court rejected the merger of the civil lawsuit because a criminal verdict had already been issued, so it was considered irrelevant to be merged.

However, until now, victims of corruption in Indonesia do not have legal standing as aggrieved parties, nor are they even considered to have the right to be heard in court. In this context, law enforcement agencies such as the Corruption Eradication Commission (KPK) and the Prosecutor's Office also only act to recover state losses, not to ensure the recovery of affected citizens. The confiscated assets were also returned to the state treasury, not directed to the affected public sector. (Meliala, 2021)

On the other hand, the development of international law shows the opposite direction. The UN Convention on Anti-Corruption (UNCAC) in Articles 34 and 35 recognize the right of victims of corruption to compensation and is also reflected in two UN Human Rights Council resolutions in 2021 (UNODC, 2003)[1]. A number of countries have also begun to

[1] Resolution adopted by the Human Rights Council No. A/HRC/RES/46/11 dated 26 March 2021 on the negative impact of non-return of funds derived from criminal acts (funds of illegal origin) to the country of origin on the fulfillment of human rights, as well as the importance of enhancing international cooperation; and Resolution A/HRC/RES/47/7 dated July 26, 2021 concerning the negative impact of corruption on the fulfillment of human rights.

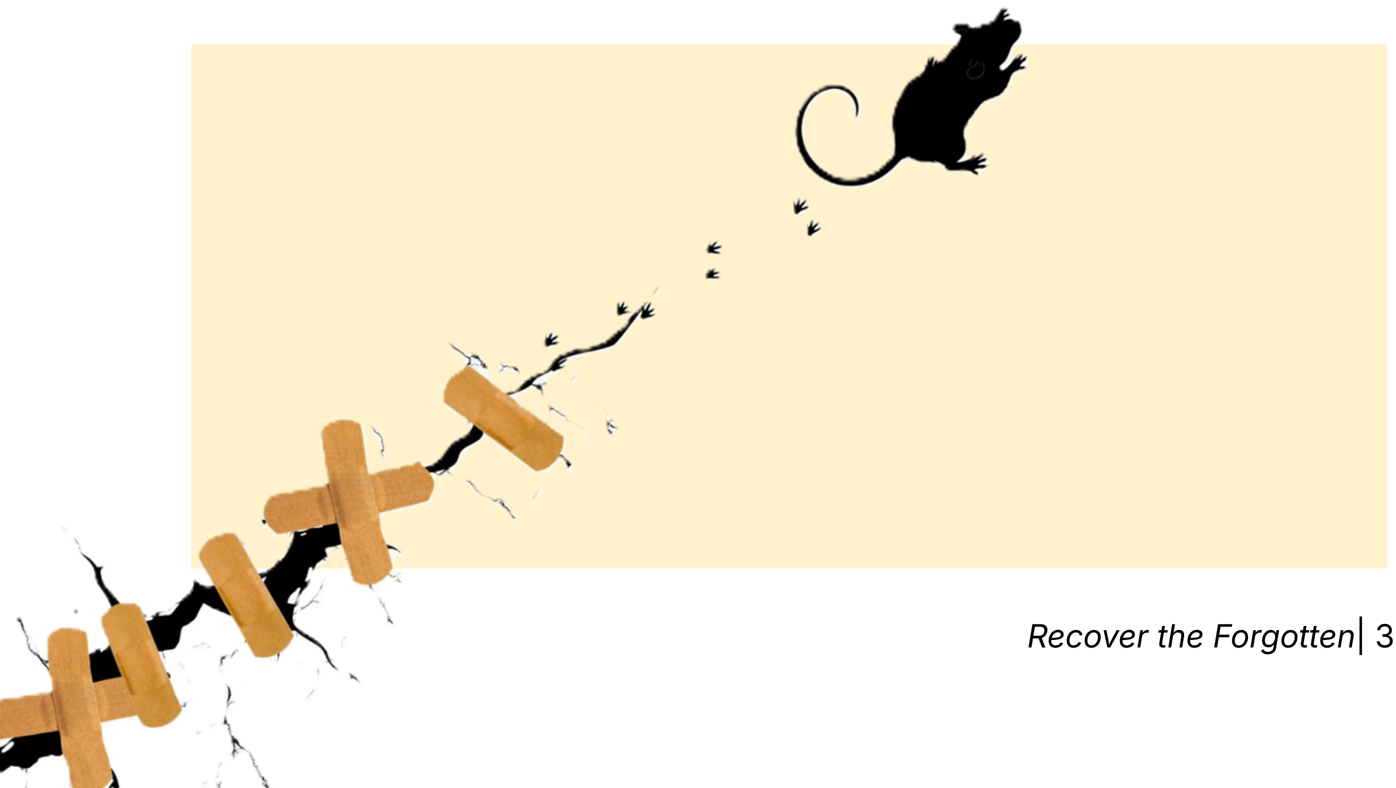
open up space for civil society or victims' organizations to file lawsuits or participate in judicial proceedings.

In France and Switzerland, courts have recognized civil society organizations as representatives of collective victims in cross-border corruption cases. In Mexico and Peru, anti-corruption NGOs are given legal standing to act on behalf of the public interest in criminal proceedings for corruption. Meanwhile, in Nigeria and Haiti, reparations have been provided to the government or communities as the parties directly affected in cases involving *Foreign Corrupt Practices Act* (FCPA). Similarly, in Italy, although the law considers corruption to be a crime against the public, the discourse on citizens' rights in the framework of anti-corruption is gaining strength, as awareness of the social impact of corruption increases. (Transparency International, 2020)

Therefore, when viewed from the aspects of legislation, institutions, and policy instruments, recognition of victims of corruption in Indonesia is still very minimal, even though it has also ratified the *United Nations Convention against Corruption* (UNCAC) through Law No. 7 of 2006. The Witness and Victim Protection Law that is currently in force has not reached corruption cases. The *class action* mechanism or *actio popularis* has not been used in real terms to deal with collective losses due to corruption. As a result, citizens not only lose access to public services, but also lose the right to be heard and restored.

It is in this context that Transparency International Indonesia considers it important to reflect on the transformation of the anti-corruption paradigm in Indonesia, from a purely retributive and state-centric approach, to a more restorative and victim-centered approach. Through tracing normative gaps, institutional practices, and international experiences, this study aims to develop recommendations for legal and institutional reforms that place victims as the main subjects in efforts to eradicate corruption in Indonesia.

However, it should be emphasized that due to limited data and the lack of official documentation related to efforts to recover victims of corruption in Indonesia, the analysis in this study cannot fully describe the dynamics of policy implementation as a whole. Therefore, the findings in this study need to be seen as a starting point that needs to be complemented by more in-depth, case-based, and participatory follow-up research.



2. STRUCTURAL CHALLENGES OF RECOVERING LOSSES FOR VICTIMS OF CORRUPTION

The failure of the Covid-19 social assistance corruption lawsuit and the civil lawsuit in the previous Akil Mochtar case not only exposed structural gaps in the Indonesian legal system, but also reflected systemic failure in responding to the reality of victims. The affected communities are not legally recognized, do not have an administrative route to file claims, and are not provided with a mechanism for assistance or legal assistance.

Unlike victims of violence, terrorism, or gross human rights violations, the existence of individuals or groups of people affected by corruption is never explicitly recognized as a victim in the justice system. As a result, victims of corruption have not been included in the restitution and rehabilitation scheme in the Law on the Protection of Witnesses and Victims. The Witness and Victim Protection Agency (LPSK) also does not have an internal policy that regulates this. This situation has led to the absence of a formal avenue for citizens to demand the restoration of rights, either in the form of material compensation, psychosocial rehabilitation, or moral recognition. (Komisi Pemberantasan Korupsi, 2021)

In fact, corruption is a form of structural violence that has a wide impact on the basic rights of citizens. Access to public services, social security, economic opportunities, and political participation is often compromised due to corrupt practices. When the education budget is corrupted, the quality of schools decreases and the education gap widens. When health funds are manipulated, patients' lives are at stake. When infrastructure projects are corrupted, the rights to water, transportation, and decent work are threatened.

This problem is rooted in the unpreparedness of the Indonesian legal framework in recognizing the position of corruption victims. Law No. 31 of 1999 concerning the Eradication of Corruption only mentions "state financial losses" as the main object, without taking into account the direct losses of citizens. Even in the consideration of the law, the impact of corruption is only positioned as an obstacle to development, not as a form of violation of the basic rights of citizens.

This means that corruption is still treated narrowly as a criminal offense against state finances, which requires the existence of state financial losses as the main element in proof. Implicitly, the main focus of corruption law enforcement relies on criminalizing perpetrators and restoring state losses. This approach has not fully accommodated the principles *of victim-centered justice* as mandated by international legal instruments such as the UNCAC (Articles 32 and 35).

The legal system also still focuses on the perpetrators (*retributive justice*), not on the victim (*restorative justice*). The victim is only considered as a witness or complainant, not as a subject of justice whose rights must be restored. Indonesia Corruption Watch (ICW) noted that the average prosecution of corruption perpetrators is only about 4 years and 11 months in prison, and the sentence is even lower, which is about 3 years and 4 months. This light punishment in turn not only fails to provide a deterrent effect, but also becomes a form of secondary victimization (Indonesia Corruption Watch, 2024)*Secondary Victimization*) for the affected communities. Furthermore, the application of the principle *restorative justice* In practice, this practice is often interpreted narrowly as an excuse to relieve the perpetrator, without a real mechanism that ensures the recovery of victims' losses, so that the concept of restorative justice is reversed to become a protection for corruptors.

On the other hand, the UNCAC, which has been ratified by Indonesia since 2006, through Article 35, clearly encourages member states to provide compensation to victims of corruption. Unfortunately, this international mandate has not been internalized in national legislation, including in the latest revision of the Corruption Law which was last carried out in 2001. (Masitoh, Sukma Negara, & Hazani, 2021)

Until today, victims of corruption in Indonesia can only take the civil route provided in Article 1365 of the Civil Code concerning unlawful acts (PMH) or take a merger lawsuit based on Articles 98-101 of the Criminal Code. But the path is fraught with administrative challenges, and is hardly on the side of victims who lack the resources, legal assistance, and formal recognition of the losses they have suffered. This situation is exacerbated by the weak understanding of law enforcement officials of the concept of victim protection, so restitution is more often seen as a procedural burden than an essential part of justice. (Komisi Pemberantasan Korupsi, 2021)

Even though the victim has the right to get services, restitution, and the return of his property. If it is linked to the Covid-19 social assistance corruption case, then the request for compensation of Rp16.2 million by the victims is actually a legitimate effort to restore the right to social assistance that they never received. Of course, this amount is very small when compared to state losses of up to Rp32 billion obtained by the perpetrators from these corrupt practices. However, this lawsuit was rejected without an examination process on the substance of the loss. In fact, Article 98 of the Criminal Code clearly provides room for that, as long as the lawsuit is filed before prosecution. This means that this failure is not only a matter of legal technicality, but also a matter of the will and partiality of the judicial institution.

Gradually, the Corruption Court's decision to reject the victim's lawsuit also not only closed the legal opportunities for the 18 people, but also created a negative precedent for the wider community. This fact sends a message that justice for victims of corruption will not be found at the court's table, and that the state has not sided with those most affected by the failure of public governance.

The situation described above is a combination of a number of obstacle factors, which are identified as follows:

2.1 Paradigmatic Barriers: The State as the Single Victim

The failure of the Covid-19 social assistance corruption lawsuit and the civil lawsuit in the previous Akil Mochtar case not only exposed structural gaps in the Indonesian legal system, but also reflected systemic failure in responding to the reality of victims. The affected communities are not legally recognized, do not have an administrative route to file claims, and are not provided with a mechanism for assistance or legal assistance.

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2.1 Paradigmatic Barriers: The State as the Single Victim

Within a positive legal framework, Indonesia has not explicitly adopted an operational definition of a "victim of corruption". Law No. 31 of 1999 joins Law No. 20 of 2001 (Corruption Law) only emphasizes state losses as the central object. In fact, various international provisions such as UNCAC, A/HRC/40/34 (OHCHR, 2019), *General Comment* No. 3 (2012) of the Committee on Economic, Social and Cultural Rights, and (OHCHR, 2012)*Basic Principles on the Right to a Remedy and Reparation* (2005) emphasizes that victims of crime, including corruption, have the right to effective redress.(OHCHR, 2005)

Law No. 13 of 2006 jo. Law No. 31 of 2014 concerning the Protection of Witnesses and Victims has actually defined a victim as every person who experiences physical, psychological, and/or economic loss due to criminal acts. However, in practice, LPSK focuses more on general crimes and gross human rights violations, and has not reached victims in systemic corruption cases. This shows a weakness in mainstreaming victims' rights into national anti-corruption policies.

This weak legal precedent stems from Articles 2 and 3 of Law No. 31 of 1999 jo. Law No. 20 of 2001 concerning the Eradication of Corruption[2], which requires the existence of state financial losses as a constitutive element of corruption offenses and various Supreme Court decisions that affirm that the main object of loss is state finance. This framework makes the state the only entity that can legally act as a victim. The technical implications of this approach include the sole prosecution authority of the KPK and the Prosecutor's Office as the state's representative (Articles 30 and 39 of the Criminal Code), and the lack of open civil or criminal remedies for citizens or communities directly affected by corruption crimes.

The Journey of Criminalization of Corruption through Articles 2 and 3 of the Corruption Law

Efforts to eradicate corruption in Indonesia have actually started since the emergency period of 1957-1958. At that time, corruption began to be treated as a criminal act through the Regulation of the Military Ruler of the Army No. PRT/PM/06/1957. The formulation emphasizes "acts that are detrimental to the country's finances or economy," whether committed by individuals or officials, although it does not explicitly contain elements of "unlawful." This emergency instrument was followed by various other regulations, including PRT/PM/08/1957 which allows the state to sue corruptors civilly and PRT/PM/011/1957 which provides a basis for confiscating assets resulting from corruption. (MaPPI FHUI, 2020)

Since then, the concept of corruption has been divided into two, namely criminal corruption (with prison sanctions) and other corruption (with civil sanctions in the form of property confiscation). Then, through Law No. 24/Prp/1960 and Law No. 3/1971, the formulation of corruption crimes was further clarified. Law 3/1971 progressively expanded the definition of "civil servant", recognized that corruption could be committed by anyone who manages public funds, and introduced an element of guilt not only *dolus* (intentional), but also *culpa* (negligence).

After the reform, Law No. 31 of 1999 was born, which became a new milestone in the eradication of corruption. This is where Articles 2 and 3 come with formulas that until now have been the core of Tipikor. Article 2 emphasizes that anyone who illegally enriches themselves/others/corporations that can harm the state is corruption. Meanwhile, Article 3 focuses on the abuse of authority by public officials to benefit themselves/corporations so as to harm the state. Thus, Article 2 is designed as a general offense (*Illegal Enrichment*), while Article 3 is a delinquency of office (*Abuse of power*). However, normatively there is an irregularity: the criminal threat of Article 2 is actually heavier than Article 3, even though the abuse of office should be more serious.

[2]

In practice, law enforcement officials often misinterpret by making "state losses" as the main element, even though it is only the result of self-enrichment acts. As a result, many cases of public officials are actually charged with Article 3 to get lighter sentences. Academic critics refer to this as (Hukum Online, 2017)*Legislative Error* and causes of overlap in the application of the law.

The controversy over Articles 2 and 3 has resurfaced in the material review case at the Constitutional Court No. 142/PUU-XXII/2024. Three former corruption convicts – Syahril Japarin, Kukuh Kertasafari, and Nur Alam – pleaded that the two articles be canceled because they were considered multi-interpreted. However, civil society organizations such as ICW, PSHK, Satya Bumi, and MADANI strongly rejected the statement *Amici Curiae* (Indonesia Corruption Watch, 2025). They emphasized that the problem is not in the constitutionality of the article, but in the application by the law enforcement officers. ICW noted that from 2015–2023, at least 6,119 cases were decided using Article 2/3; If canceled, thousands of corruptors could be free and the eradication of corruption would be paralyzed. The Nur Alam case is a concrete example where the practice of bribery of illegal nickel mining permits in Kabaena which damages the environment and causes generational suffering, can only be charged with Articles 2 and 3. The Court itself has previously (Decision No. 32/PUU-XVII/2019, No. 29/PUU-XIX/2021, and No. 114/PUU-XXII/2024) has consistently rejected weakening efforts.

Consequently, communities affected by corrupt practices, whether due to the loss of public services, deterioration in the quality of infrastructure, or misuse of social budgets, do not have formal instruments to access recovery. For example, in the BOS Fund corruption case in Banyuwangi (2019), the allocation was corrupted by school officials, resulting in the procurement of non-optimal learning facilities. However, the student's parents do not have a recognized legal status. In another case, thousands of poor people who did not receive the right to access Covid-19 social assistance due to corruption (2020), did not get the right to restitution because the law only focused on the elements of state financial losses and the punishment of perpetrators. (Definitif, 2020)

In cases of corruption crimes related to the environment, for example, the Indonesian Environment Forum (WALHI) together with 17 Regional Executives throughout Indonesia and the National Executive of WALHI went to the Attorney General's Office to report 47 cases of environmental crimes spread across 17 provinces. The report covers state losses as well as alleged corrupt practices in various environmental sectors. (RRI, 2025)

On this occasion, the Regional Executive of WALHI East Nusa Tenggara (NTT) also submitted a report on six cases of environmental crimes that occurred in the NTT region, involving companies, individuals, and elements of the government. One of the reported cases is the monoculture plantation activity by PT. Muria Sumba Manis (MSM) in East Sumba. This company is suspected of operating with various violations, including corruption involving government officials. But even though the impact is large on society and the environment, there are still legal weaknesses to accommodate these demands.

The strict limitation of this "victim" status within the legal framework in Indonesia has a number of serious implications both juridically and sociologically. Juridically, because only the state (represented by an executive institution such as the Prosecutor's Office or the KPK) is recognized as having legal standing to file a lawsuit or claim damages due to corruption, the affected individuals or community groups have no legal basis to claim compensation for the losses suffered. The object of the demand is only related to losses to state treasury or assets, not to citizens or communities directly.

In the context of criminal procedural law, these individuals or community groups also become unable to have the right to be a legitimate victim, do not have the right to submit *a victim impact statement* (VIS), and cannot demand restitution or compensation directly through the criminal justice process. In fact, in various cases of corruption, actual losses are actually experienced by citizens as end users of public services. However, the absence of formal recognition of citizens' legal status as victims of corruption creates structural inequalities in access to justice.

Furthermore, sociologically, the limitation of victims on state entities alone has eroded public awareness that corruption is not a crime that targets people's daily lives. When losses due to corruption are only defined in the state's financial framework, then damage to village roads that have failed to be built, delays in the distribution of drugs at health centers, or the absence of social assistance in the midst of a pandemic are not seen as violations of people's rights, but simply "fiscal losses".

This paradigm then creates a perception gap between the real experience of citizens and the applicable legal narrative. Directly affected citizens do not see themselves as victims who have the right to demand recovery, nor does the state facilitate a participatory pathway to hear or accommodate such complaints. In the long run, this condition weakens the impetus for public participation in the anti-corruption agenda and exacerbates structural inequality between the state and citizens.

A further implication of this lasting understanding is the formation of a legal ecosystem that perpetuates impunity by negates the importance of community involvement in the corruption law enforcement process. The public is not given the space to become *a civil party* in criminal proceedings, has no incentive to document the impact of corruption, and in many cases even experiences intimidation when trying to report violations.

In fact, the participation of the community in the context of eradicating corruption cannot actually be separated from its position as a victim. As victims, the community should have full access to justice, including space to obtain compensation quickly and effectively. So far, the legal system tends to only place the public as spectators or mere witnesses, even though the impact of corruption is felt directly in the form of loss of social, economic, and public service rights. Therefore, arrangements are needed that open up space for public participation in the legal process, for example through the mechanism of lawsuit by group representatives as stipulated in PERMA 1/2002, as well as by granting the right to sue to anti-corruption civil society organizations. This mechanism can be combined with criminal cases so that the process of recovering victims' losses runs faster and is not fragmented.

The limitations in the merger of compensation lawsuits as stipulated in Article 99 of the Criminal Code also need to be corrected. Currently, compensation lawsuits are only limited to material losses that are actually incurred, even though victims of corruption also bear non-material losses, such as loss of trust, reputational damage, and long-term social costs due to declining quality of public services. For this reason, regulatory changes are needed so that the merger of lawsuits in corruption criminal cases covers a broader dimension of losses, in accordance with the principle *of restorative justice* which is oriented towards restoring victims' rights.

In line with that, the KPK's version of the Corruption Bill provides a more progressive foundation through the recognition of the public's right to sue. Article 58 emphasizes that the public has the right to file a lawsuit on behalf of a group both for personal interests and for the public interest if they suffer losses due to corruption. This lawsuit can be filed if there is a similarity in the facts, legal basis, and type of claim between the group representative and the group members. Thus, this mechanism provides greater opportunities for the wider community to seek justice without having to take complicated and expensive individual routes.

Furthermore, Article 60 of the Corruption Bill also emphasizes that lawsuits from group representatives and lawsuits from anti-corruption organizations can be combined with criminal proceedings. This request for incorporation can only be submitted no later than before the public prosecutor files criminal charges or, in the absence of the public prosecutor, before the judge renders a verdict. The scope of damages that can be sued is also expanded, to include material and non-material losses, as well as real costs incurred. This shows an explicit recognition that the impact of corruption is not only financial, but also touches on psychological, social, and institutional aspects that must be restored.

However, it should be noted that the compensation mechanism in corruption crimes has been directed more towards the state, not the community. Article 18 paragraph (1) of Law 31/1999 concerning Corruption regulates additional penalties in the form of substitute money, namely payment by corruptors in the amount of property obtained from corruption crimes. This instrument is indeed important to recover state financial losses, but it does not necessarily recover losses borne by the community as direct or indirect victims. As a result, substantive justice for society is often neglected.

Furthermore, the provision of compensation as a criminal sanction also still faces criticism. The success of the KPK in uncovering corruption crimes, including through arrest operations, actually shows that the eradication of corruption is not optimal. The sanctions imposed on corruptors are often considered not commensurate with the losses caused, so that a discourse develops about the need to "impoverish corruptors" in order to provide a greater deterrent effect. Facts on the ground also show that many corruptors can still enjoy various facilities even though they are serving a criminal sentence.

In that context, the existence of PP 99/2012 which tightens the provision of remission and parole for corruption inmates, on the one hand, is intended to affirm that corruption is an extraordinary crime. But on the other hand, this regulation is seen as not entirely in line with the approach to inmate development. This controversy further shows the dilemma between the need to provide a deterrent and justice effect for victims, and the principles of social reintegration in the correctional system.

A number of corruption cases that have had legal force can still be used as empirical references to strengthen the idea of recognizing victims' rights, combining compensation lawsuits in criminal cases, and applying additional penalties in the form of compensation to recover losses. One of the most relevant is the COVID-19 Social Assistance corruption case with convicted Juliari P. Batubara. Decision of the Central Jakarta Corruption Court No. 29/Pid.Sus-TPK/2021/PN. JKT. PST, which has inkracht, imposed a sentence of 12 years in prison, a fine, and an additional penalty in the form of compensation of Rp14.59 billion. This Amar affirmed the enactment of Article 18 of Law 31/1999 concerning additional penalties.

However, interestingly, there were also efforts by 18 Greater Jakarta residents who filed a merging lawsuit for compensation (Articles 98–101 of the Criminal Procedure Code).

The panel of judges rejected the application on the grounds of relative competence, so the lawsuit could not be examined. This case shows a real demand from victims for direct compensation, but it also underscores the limitations of the current legal framework that tends to hinder victims' access. This situation is a strong argument for reform through the mechanism of lawsuit by group representatives or the right to sue anti-corruption organizations as proposed in the KPK version of the Corruption Bill.

The e-KTP corruption case with convicted Setya Novanto also emphasized the important role of additional crimes in the form of substitute money. In the ruling that has been inkracht, the court sentenced Novanto to pay compensation of around USD 7 million (more than Rp100 billion). Although the Supreme Court later granted the Review (PK) in 2025 which cut corporal penalties, the obligation to pay compensation remains attached and not reduced. This shows the consistency of the application of Article 18 of the Corruption Law, as well as strengthening the idea of "impoverishing corruptors" through existing legal instruments, without relying on variations in the main crime.

Furthermore, the case of forest conversion by Surya Darmadi (Duta Palma case) shows a new dimension of loss recovery. In the Central Jakarta District Court's decision No. 62/Pid.Sus-TPK/2022/PN.JKT.Pst, the court imposed an additional penalty in the form of compensation worth Rp2.238 trillion, which was then executed by the prosecutor's office. In addition, the judge also ordered the payment of state economic losses, thus expanding the meaning of losses due to corruption not only narrowly financial, but also macro losses. This case, which has been inkracht to the level of PK (rejected by the Supreme Court in 2024), shows an opportunity for the development of a more comprehensive legal construction to include non-material and socio-ecological losses as part of compensation.

Meanwhile, the Jiwasraya case is also important to note as an example of asset-based recovery. The ruling with permanent legal force on August 24, 2021 confirmed the combination of additional criminal charges in the form of compensation money and asset confiscation. Although the main focus of recovery is directed at state losses, this case shows the potential of asset forfeiture instruments in limiting the economic space of actors and returning large amounts of funds to the state treasury. However, until now, there is no mechanism that systematically distributes the proceeds of the recovery of these assets to the community as direct victims, such as affected Jiwasraya policyholders.

The four points above cumulatively show three important things. First, the community's right to sue does not yet have a strong implementation foundation, as seen in the rejection of the merger of victims' lawsuits in the Social Assistance case. Second, the application of additional penalties in lieu of money has become the main pillar of recovery, both in the cases of Juliari, Setya Novanto, Surya Darmadi, and Jiwasraya, thus supporting the discourse of "impoverishing corruptors". Third, there is still a large gap between the recovery of state losses and the recovery of community losses as victims.

This is in contrast to the approach in some other jurisdictions. In France, for example, in the case of *Ill-Acquired Property*, the court recognized the status of NGOs as representatives of the interests of the people harmed by cross-border corruption. In Spain (Transparency International, 2010), the *Popular Action* allowing civilians to become legitimate parties in the criminal process of corruption[3]. These practices show that expanding the definition of victim and citizen involvement is not only possible, but rather strengthens the legitimacy of the justice system.

One of the clear illustrations of the weak recognition of the legal status of victims' rights in the Indonesian criminal law system can be seen in the case of corruption in the construction of the MBZ Elevated Toll Road (Mohammed bin Zayed). This case involves systemic corruption in the procurement of national strategic infrastructure projects with a state loss value of more than Rp500 billion. The case, which is currently entering the trial stage, has been handled by the Attorney General's Office and dragged a number of state-owned and private sector officials. (Kompas, 2025)

However, although the state's losses in official reports are fiscally measured based on testimony in court, the losses suffered by the wider community as toll road users are never taken into account in the legal process. When a corrupted project has a direct impact on the quality of construction, comfort, and safety of road users, the community should have a legal position as the aggrieved party. The fact that these infrastructure projects end up being carried out with lower quality, potential insecurity, and still being charged to the public, is a real form of collective loss.

Thus, there is no legal or institutional mechanism that allows citizens to sue or demand recovery for the impact of these losses. There is no room for collective lawsuits, restitution applications, or compensation applications through representatives of institutions such as LPSK. This shows that corruption that has a wide impact such as social assistance or MBZ, the public as users of public services has never been formally recognized as a victim.

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[3] Spanish law adopted from Roman law the right of every citizen to file a "*popular action*" to demand recovery for the losses suffered by the state. After independence, Latin American countries also incorporated this right into their legal systems. However, as part of the consolidation of state power in the 19th century, Latin American countries later transferred the authority exclusively to public prosecutors (Ministerio Público) to file such lawsuits. *Actio popularis* is a type of lawsuit that can be filed by an ordinary citizen, not because he is personally harmed, but in order to protect the public interest or public rights that are violated. Originating in Roman law, this mechanism was revived in some continental European legal systems, particularly in Spain.

2.2 Legislative Barriers: The Gap of the UNCAC with the Domestic Framework

Article 35 of the UNCAC specifically encourages states parties to provide legal channels for victims of corruption to file compensation lawsuits against perpetrators. This provision does not explicitly require the state to pay compensation from public funds, but it does provide a normative mandate to ensure that the national legal system allows victims, both individuals and legal entities, to access fair and effective redress mechanisms.

Within the framework of the implementation of Article 35, in fact, until now only a small number of countries have adopted adequate legal instruments to enforce this mandate. One of the most concrete examples is the United States, which through *Victims and Witness Protection Act* (VWPA) and *Mandatory Victim Restitution Act*(MVRA), allows victims, including foreign governments, to receive compensation for losses arising from transnational corruption crimes. This regulation is relevant, especially in the context of violations of*Foreign Corrupt Practices Act*(FCPA)[4]. As of 2014, at least five foreign governments were recorded as having obtained restitution under the legal framework. (Komisi Pemberantasan Korupsi, 2021)

Meanwhile, the UK is developing a victim recovery framework through *The General Principles*, which refers to *Proceeds of Crime Act 2002* and *The Power of Criminal Courts (Sentencing) Act 2000*. Through this scheme, assets confiscated from corrupt perpetrators can be returned and distributed directly to victims, with mechanisms coordinated by institutions such as *Serious Fraud Office*(SFO), *Crown Prosecution Service*(CPS), and *National Crime Agency* (NCA) . This framework places victim recovery as an integral part of the criminal goal, not just an administrative consequence. This approach has created an important precedent that can be adapted by other jurisdictions, including Indonesia, which until now have not had a similar mechanism.(Komisi Pemberantasan Korupsi, 2021)

In the Indonesian context, the implementation of Article 35 of the UNCAC still faces various legislative obstacles. As a country with a legal system *Civil Law* and principles *Non-Self-Executing Treaty*, the ratification of UNCAC through Law No. 7 of 2006 has not been automatically binding without translation into national regulations. Until now, there is no legal rule in Indonesia that explicitly recognizes the right of victims of corruption to obtain restitution or compensation. In fact, normatively, guarantees regarding the principle of non-discrimination and the right of community participation in the fight for justice have been regulated in Law No. 39 of 1999 concerning Human Rights. This shows that there is a close link between corruption and human rights violations, where the victim's right to recovery should be seen as an integral part of human rights enforcement efforts. (Masitoh, Sukma Negara, & Hazani, 2021)

In addition, the direction of state policy can also be traced from the TAP MPR XI/MPR/1998 concerning Clean and Free State Administrators from KKN, which affirms corruption as a serious threat to the right of citizens to get fair public services. In this framework, Law No. 25 of 2009 concerning Public Services has actually opened up opportunities for applying for compensation in the administrative realm, although its implementation is still limited and emphasizes more on losses due to maladministration, not corruption. At this point, the role of supervisory institutions, especially the Ombudsman of the Republic of Indonesia, becomes important to encourage the rights of

[4] Until this review is completed, the FCPA mechanism is still suspended by the President Trump Administration

corruption victims to obtain wider recognition through public service mechanisms and administrative supervision.

The main regulations available, such as the Criminal Code and the Criminal Code[5], unfortunately it is also inadequate. The Criminal Code limits compensation to only the direct costs incurred by the victim (Articles 98–101), while Article 1365 of the Civil Code on unlawful acts (PMH) requires proof of a heavy element and often cannot stand without the support of a criminal verdict. In practice, this means that victims of corruption have almost no effective legal avenue to demand recovery. (Meliala, 2021)

These limitations are also inseparable from the conception of Indonesian law related to "state financial losses" regulated through Articles 2 and 3 of Law No. 31 of 1999 (jo. Law No. 20 of 2001), which requires the element of "may be detrimental to the country's finances or economy". The meaning of this element has undergone an important change after the Constitutional Court Decision No. 003/PUU-IV/2006, which states that the phrase "may be harmful" no longer has binding legal force. The implication is that corruption crimes have shifted from formal crimes to material crimes, where law enforcement is now required to prove concretely that there has been real and measurable state financial losses ((Masitoh, Sukma Negara, & Hazani, 2021)*actual loss*), based on the official audit of institutions such as BPK or public auditors.

The consequences of this change not only have an impact on the level of proof, but also on the meaning of who is harmed by the crime of corruption. In our legal system, the victim remains interpreted exclusively as the "state," with a singular focus on the state's losses. There is no legal recognition of individuals or groups of people as victims.

Another implication of this approach is that the return of assets resulting from corruption is always directed to cover the state's losses, not to recover the direct impact on citizens. This shows that the current regulations are not in line with the spirit of UNCAC which places victim recovery as part of substantive justice. The absence of provisions on restitution and compensation in the Anti-Corruption Law or the Law on the Protection of Witnesses and Victims further strengthens the gap.

In addition, one of the fundamental weaknesses in the law enforcement system against corruption in Indonesia is the narrow approach to auditing and loss assessment. Institutions such as the Audit Board (BPK) and the Directorate General of State Assets (DJKN) of the Ministry of Finance have a key role in calculating state losses, but until now, their focus has been almost entirely limited to the amount of state money lost, budget *mark-ups*, or deviations from budget planning.

This approach ignores non-monetary losses that are often much more complex and have long-term impacts, such as social damage, disruption of public services, loss of trust in the state, ecological damage, and collective trauma experienced by affected communities.

For example, in the case of corruption in the construction of failing flats or schools, the BPK audit only records the value of the project that is not completed or the state money that is not accounted for. However, it is never calculated how many families have lost decent housing, or how many hundreds of children have had to study without classrooms

[5] The latest Criminal Code has been passed in 2023 and will take effect in 2006. Meanwhile, the Criminal Code is still in the process of being discussed.

for years. In other cases, such as corrupted irrigation projects, water distribution failures led to crop failures and local food crises where these losses were never officially counted.

Furthermore, there is no social, gender, or ecological impact audit mechanism attached to the criminal law process of corruption. In fact, corrupt practices often have a double impact on women's groups, people with disabilities, indigenous peoples, or residents who depend on a healthy environment. The absence of *rights-based impact assessments* causes the law enforcement process to be technocratic and independent of the social justice dimension.

The result of this narrow approach is the lack of legal basis and technical justification for formulating comprehensive recovery measures for society. The state may succeed in imprisoning the perpetrator and recovering some of the state's money, but the social damage left behind remains unaddressed.

2.3 Normative Barrier: The Legal Standing of the Victim

One of the most fundamental obstacles in building substantive justice for victims of corruption in Indonesia is the absence of explicit recognition of who can be considered a victim in the context of corruption crimes. To date, the national legal framework has not provided a legal definition that can be used to recognize vulnerable individuals, communities, or groups directly affected by corruption as subjects of the law.

The recognition of victims of corruption as legal subjects is not just a semantic or defining issue, but concerns very basic rights, namely the right to be heard (*right to be heard*), right to redress (*right to reparation*), and the right to be involved in the process of justice (*right to participation in proceedings*). Without this recognition, victims of corruption lose their legitimate legal standing to claim compensation, voice their losses, and participate in legal and policy processes that concern their interests. (Komisi Nasional Hak Asasi Manusia, 2022)

From the beginning, the criminal justice system in Indonesia was designed with the main orientation on the punishment of criminals, not on the restoration of victims' rights. The state takes over the victim's position in the legal process, making the victim's interests highly dependent on the policies and actions of the public prosecutor. In the criminal procedure law system that tends to be *inquisitorial* in nature, such as in Indonesia, victims are generally only positioned as complainants or witnesses, not as subjects who have equal participatory rights in the trial process.

This inequality is clearly reflected in the applicable regulations. The Criminal Procedure Code contains only one article that directly mentions the rights of victims, namely Article 98, which regulates the possibility of merging a lawsuit for damages in a criminal case if explicitly requested by the victim. Without such a request, the victim must wait for a decision with permanent legal force to be able to file a lawsuit in the civil court. (Komisi Pemberantasan Korupsi, 2021)

This process is not only time-consuming but also entails a high cost and administrative burden, including when filing an application for execution. In contrast, the Criminal Code provides for the rights of suspects and defendants in detail, ranging from the right to legal aid (Articles 50–68), the right to pretrial applications (Article 77), to the right to extraordinary legal remedies and post-conviction rights such as remission and parole.

The Criminal Code also only includes one article related to victims' rights, namely Article 14c, which stipulates that perpetrators can be subject to the obligation to pay compensation, but without regulating procedures or implementation mechanisms. On the other hand, there is also a legal basis for civil lawsuits through Article 1365 of the Civil Code regarding unlawful acts, which gives victims, including victims of corruption, a basis to prosecute the perpetrators civilly. But in practice, this process is not integrated with the criminal system and requires a separate process that makes it difficult for victims.

In the midst of these limitations, the presence of Law No. 13 of 2006 concerning the Protection of Witnesses and Victims (which was updated with Law No. 31 of 2014) is the first step in expanding the rights of victims. This law includes the right to physical and psychological protection, legal assistance, access to information on the development of cases, medical and psychosocial assistance, to the right to anonymity and freedom from lawsuits for reports or testimonies. However, in judicial practice, the implementation of these rights is still weak. Judges rarely ask if the victim has received legal assistance, and in sensitive cases such as sexual violence, closed courtrooms are often a reason to prohibit counselors or legal aid workers from participating.

Another normative update emerged through Supreme Court Regulation (Perma) No. 1 of 2022 concerning Procedures for Settling Applications and Providing Restitution and Compensation to Victims of Crime. This Perma provides technical guidelines to judges to accommodate the restoration of victims' rights through restitution and compensation. However, the scope of this Perma is limited to certain types of criminal acts, such as crimes against children, gross human rights violations, terrorism, human trafficking, racial and ethnic discrimination, and other criminal acts determined by LPSK. As a result, other victims of crime, including victims of corruption, do not automatically receive protection and recovery through this mechanism.

In contrast to Indonesia, some countries have moved forward. Australia, since 1988, has implemented *Victim Impact Statement* (VIS), which allows victims or their families to directly convey the emotional, physical, and financial impact of crime. In the Netherlands, criminal procedure law reform since 1995 has allowed victims to play a more active role in the judicial process, from submitting medical evidence and expert testimony to filing for compensation independently with the help of a lawyer. There, the judge can overrule the prosecutor's objection to the victim's evidence if the victim has a strong basis and the right to participation is guaranteed by law. This shows the existence of a system (Wicaksana, 2025) *check and balance* which allows the victim not only to be heard, but also to be legally accounted for.

In addition, legally, NGOs in Indonesia do not have legal standing in criminal cases except as reporters or witnesses. Legal intervention efforts by NGOs (e.g. ICW in the case of the Jakarta Regional Budget) were rejected by the court due to the lack of *legal standing*. Therefore, changes are needed in the legal framework of criminal procedure and legal recognition of public representation by civil society organizations.

This commitment to the recognition of victims has actually been affirmed within the framework of international law, especially through the UNCAC which has been ratified by Indonesia through Law No. 7 of 2006. In Articles 32 and 35 of the UNCAC, states parties are encouraged to provide mechanisms for victims to obtain compensation; protect victims from intimidation or retaliation; and recognize the victim's participation in the criminal and civil justice process. However, until now, this commitment has not been fully reflected in Indonesia's national legal framework.

Existing laws tend to prioritize the state as the only victim, by focusing on the state's financial losses, not the losses of citizens as individuals or communities. At the same time, a number of existing laws and regulations have also actually contained provisions on victims, but the substance is not adequate to accommodate the special characteristics of victims of corruption. Some examples include:

- **Law on the Protection of Witnesses and Victims (Law No. 13/2006 jo. Law No. 31/2014):** Although it guarantees the right of victims to restitution and rehabilitation, its scope is more for victims of physical violence, gross human rights violations, and other serious crimes. There is no specific mechanism or explicit recognition of victims of corruption[6].
- **Human Rights Law (Law No. 39/1999):** This law regulates the right to basic services, health, education, and social security. But when these rights are violated due to corruption, there is no legal avenue that allows citizens to demand restoration.
- **KPK Law (Law No. 19/2019):** The KPK's mandate is very strong in terms of enforcement and recovery of state assets. However, the orientation remains solely on state finances as a loss, without including the social, economic, and psychological dimensions experienced by citizens as victims.

The consequences of the absence of a legal framework that recognizes victims of corruption are very broad, both from a legal and social perspective. The victim becomes deprived of the right to participate in legal proceedings. The affected community also cannot apply as aggrieved parties or express their views in the trial process. Even in the justice system, their voices are not recorded and do not affect the judge's judgment, which ultimately negates access to redress. In the long run, citizens have no avenue to demand restitution or compensation for their rights deprived of due to corruption, either through the courts or administrative mechanisms.

Table 2.1 The Gap between Law and Social Reality of Victims of Corruption in Indonesia

Dimension	Gaps in Applicable Law	Real Impact on Victims
Definition of Victim	The Corruption Law only recognizes the state as a victim; does not recognize affected individuals/communities	Poor families cannot claim the right to corrupted social assistance
Legal Protection for Victims	The LPSK Law does not cover victims of corruption, only for violence and gross human rights violations	Communities affected by irrigation failures or stalled projects are not compensated

[6] The revision of the Law on the Protection of Witnesses and Victims (PSK) is a normative urgency to expand the definition and mechanism of victim protection which has so far still focused on violent crimes, without taking into account the vulnerability of power relations that are typical in cases of gender-based violence and gross human rights violations. To ensure access to recovery, a Victim Assistance Fund (DBK) scheme and state compensation are needed when the perpetrator is unable to pay restitution, accompanied by a clear cross-agency coordination mechanism so that victims do not continue to experience retraumatization. In addition, the role of LPSK must be substantively strengthened as an independent institution that ensures protection from the beginning to the end of the legal process. In line with that, as emphasized by Wahyudi Djafar from ELSAM, the revision of the Prostitution Law must also clarify the legal status of victims, including victims of gross human rights violations, who until now have not been able to access reparations due to the absence of a court decision.

Measurement of Social Loss	Public audit and BPK focus on state finances, not social losses of the community	Farmers' losses due to crop failure due to irrigation project corruption are not legally calculated
Access to Legal Remedies	There is no specific class *action mechanism* for victims of corruption	Citizens cannot file a joint lawsuit for corruption, education or infrastructure
Non-Judicial and Administrative Approach	There is no sectoral policy that integrates the impact of corruption as a violation of public rights	Victims of social assistance, education, and health do not receive administrative compensation
Competence and Integrity of the Apparatus	The recruitment of civil servants and public officials has not required anti-corruption competency standards	Budget management officials are prone to corruption because there is no integrity training

These disparities also contribute to the further marginalization of human rights perspectives in the eradication of corruption. Even though corruption clearly causes the loss of access to basic services, so it is basically a form of human rights violation. However, the current legal approach has almost no room for a human rights-based litigation approach in corruption cases.

2.4 Implementation Barriers

Beyond the normative barriers inherent in national regulations, there are a number of serious challenges in the practice of restoring the rights of victims of corruption in Indonesia. These obstacles reflect the weak implementation system that has not been in favor of the victims, as well as the absence of a fair approach in recovering social losses caused by corruption crimes.

Although corruption is a criminal act that has a wide impact on people's lives, the legal and institutional framework in Indonesia still does not provide adequate recognition and protection for victims of corruption, both individually and collectively. In practice, victims remain *legally invisible* and *procedurally excluded* in the national legal system.

Here are a number of structural and normative obstacles that limit access to justice for victims of corruption:

a. The Difficulty of Identifying Corruption Victims

Identifying victims and losses of corruption is not easy. The impact of corruption is often collective, dispersed, and indirect. Corruption in social assistance, infrastructure projects, or public procurement impacts many people, but Indonesia's legal system does not yet have a mechanism to recognize them as victims legally. The absence of this classification makes the affected community lose their legal footing to demand recovery.

Actually, there is currently a discourse to measure the losses of corruption with a social cost approach (*social cost of corruption*) that is detrimental to the state. This approach is clearly seen in the case of Surya Darmadi (Central Jakarta District Court Decision No.

62/Pid.Sus-TPK/2022/PN Jkt.Pst), the court not only affirmed the elements of state financial losses and state economic losses which reached more than Rp78 trillion, but also imposed an additional penalty in the form of an obligation to pay compensation of Rp2.238 trillion. (Komisi Pemberantasan Korupsi, 2022)

This obligation is *a joint liability* between the individual convict and the corporation he controls, thus confirming the principle that the corporation as a business entity can be held responsible for recovering losses due to corruption. This understanding is encouraged to bridge the double burden experienced by victims, namely first as a victim of the loss of proper public services, and second as a party who must pay for law enforcement costs through taxes.

The social cost of corruption not only includes the amount of money corrupted, but also all costs borne by the state and society as a result of these corrupt practices. This view includes for example *prevention costs* (such as the procurement of surveillance and audit systems), *consequential costs* (such as losses of public services and public trust), and *reaction costs* (such as legal processes from investigations to maintenance of corruption prisoners in prisons).

In the approach *Brand and Price* used by the KPK, the social costs of corruption are divided into three categories, namely (i) *Anticipation costs* which are expenditures to prevent corruption, such as the establishment of anti-corruption agencies or budget transparency; (ii) *Consequential costs* is a real or implicit loss borne by the community, such as poor infrastructure quality, or disrupted public services, and (iii) *Reaction costs* which covers the entire legal costs from the investigation stage to the verdict. (Komisi Pemberantasan Korupsi, 2022)

Global Infrastructure Anti-Corruption Centre (GIACC) added that in public infrastructure projects, corruption does not stop at the giving of bribes at the beginning of the contract. The bribe will usually be "returned" through inflated project prices, quality cuts, and delays in implementation. This results in project budget overruns of up to 10–30%, and can even be more than 50% in large cases. This bad project not only wastes funds, but also puts the lives of facility users at risk. When infrastructure such as roads, bridges, or hospitals are built improperly, corruption becomes an indirect cause of damage, accidents, and deaths. (Global Infrastructure Anti-Corruption Centre , n.d.)

The economic impact of corruption is also not small. The World Economic Forum (WEF) estimates that the value of corruption globally is equivalent to 5% of the world's GDP, or more than 5 trillion USD annually. Transparency International even said that developing countries lose 1.26 trillion USD per year due to illicit funds from the proceeds of corruption. Meanwhile, in Indonesia, KPK data shows that between 2001 and 2012 there were 1,842 corruption perpetrators with total state losses reaching Rp168 trillion (Transparency International, 2020). However, of this total, only around Rp15 trillion has been successfully returned through punishment or fines. This means that there is still a difference of Rp153 trillion that is not closed (Komisi Pemberantasan Korupsi, 2021).

This inequality shows that the punishment imposed on corruptors is often not commensurate with the impact caused. In an effort to overcome this, some parties propose that the social costs of corruption be included as part of the penalty. This step can be done through the revision of Article 2 and Article 3 of the Anti-Corruption Law, in order to allow the calculation and prosecution of social costs as a form of compensation to the state and citizens.

Another mechanism is through impoverishment of corrupt perpetrators, by confiscating all assets resulting from corruption as part of the recovery mechanism. Apart from being a form of reparative justice, this approach is also expected to have a stronger deterrent effect than just a prison sentence. Impoverishment of corruptors can be carried out by utilizing the Money Laundering Crime Law and the Asset Forfeiture Bill. Unfortunately, this framework has not been a priority at the policy level.

b. Limited Institutional Mandate

Institutions such as LPSK and Komnas HAM have not explicitly had the authority to include victims of corruption in their protection mandates. Even in practice, the funds returned from corruption are almost always directed to the state treasury, with no mechanism guaranteeing that the funds are returned to the affected sectors or communities (Masitoh, Sukma Negara, & Hazani, 2021).

Normatively, Indonesia does have Law No. 13 of 2006 concerning the Protection of Witnesses and Victims which was updated with Law No. 31 of 2014, but the scheme only applies to victims of physical violence, gross human rights violations, or crimes against humanity. Victims of corruption are not included in the scope of restitution or compensation that can be provided by LPSK.

In fact, the losses suffered by victims of corruption, whether they lose basic services, livelihoods, or a sense of social security, can be systemic and have a long-term impact. This absence of recognition creates a serious inequality between the types of victims who are accommodated and those who continue to be ignored.

c. Problematic Substitution of Monetary Crime

The implementation of the criminal penalty for money in corruption cases is also seen as problematic. It has been a long-standing problem that when courts impose a penalty of compensation on the perpetrator, often the perpetrator prefers to serve a subsidiary prison sentence rather than pay the loss. Collecting reimbursement also faces serious obstacles, especially if the perpetrator's assets have been diverted or hidden. (Indonesia Corruption Watch, 2024)

In addition, until now, Indonesia has not developed a mechanism for recovery or social reparation funds for corruption victims. In a number of countries such as Peru or Colombia, it has been established *Reparation Funds* to distribute the proceeds of the confiscation or recovery of assets to the directly affected communities. Meanwhile, in Indonesia, corruption loot funds managed by the KPK or the Prosecutor's Office are generally returned to the state treasury, with no mechanism guaranteeing that grassroots victims will benefit directly. Despite the discourse of formation (StAR, 2023)*Victim Trust Fund*, until now its implementation is still limited to victims of sexual violence and has not touched victims of corruption, whose losses are often no less serious socially and economically. (Wicaksana, 2025)

In terms of asset confiscation, Government Regulation No. 105 of 2013 concerning the Management of State Property stipulates that assets confiscated from corruption become state property and managed by the Directorate General of State Assets (DJKN). This means that until now there has been no direct allocation for social compensation. This is different from the principle of restorative justice which prioritizes the recovery of victims.

The KPK, in its 2023 Annual Report, said the total value of the loot was Rp 1.2 trillion, but not a single rupiah was used to recover the community's losses. By comparison, in Peru, the proceeds of the loot are used to finance health and education infrastructure affected by corruption. Not much different in Colombia, community reparation funds are formed from assets resulting from corruption in agrarian projects.

d. The Judicial System Is Biased to Victims

In many cases where the losses are clear and documented, the justice system is also felt to have not been on the side of the victims. The case of corruption in social assistance in Malang, East Java is a concrete example, where funds belonging to 37 Beneficiary Families (KPM) were misused by a PKH companion, with a value of Rp450 million. The mode is not to hand over the Prosperous Family Card (KKS) to the KPM. Although the perpetrators were charged with corruption articles and code of ethics violations, there is no legal mechanism that guarantees recovery for the 37 families. (Detik, 2021)

In addition, innovative efforts are still hitting procedural walls. On July 27, 2021, as many as 18 Jakarta residents filed a civil lawsuit against the defendant in the social assistance corruption case at the Central Jakarta Corruption Court. This lawsuit aims to seek compensation for the social assistance losses they experienced. However, the lawsuit was rejected on the grounds of jurisdiction, namely that the defendant's domicile is in the South Jakarta area, so the lawsuit is considered to be incompatible with a criminal case being heard in Central Jakarta. This rejection shows that formal procedural logic takes precedence over the substance of justice for the victim. (Tempo, 2021)

At the same time, until now Indonesia does not have a mechanism *Class Action* which is specifically intended for victims of corruption. The Supreme Court Regulation (Perma) No. 1 of 2002 concerning Class Representative Lawsuits does provide a legal framework, but it has not been effectively applied in the context of corruption. In addition to the fact that there is no corruption jurisprudence that has successfully used this mechanism, the requirements for representation and identification of group members are also too strict for victims of corruption who are indirectly affected. (Meliala, 2021)

A number of other countries can be a reference in opening up space for class action in corruption cases. In Brazil, *Class Action* in the case of corruption, education funds are authorized through *Public Civil Action* by teachers' organizations. While in France, Transparency International France has been recognized as the *Civil Party* in the case *Ill-Acquired Property* because it has a legal basis in its organizational goals. (StAR, 2023)

Meanwhile, in Indonesia, there are many cases of large-scale corruption such as corruption in social assistance, road construction, or subsidized fertilizer distribution that actually impact the community collectively but do not have a comprehensive recovery scheme. The absence of this representative mechanism causes the majority of victims to have no legal avenues to speak out and demand justice.

e. Disconnect with Restorative Justice

A new restorative justice approach was formally introduced in Indonesia in the context of child crimes and misdemeanors. In many countries, this approach is beginning to be applied in the context of corruption with the aim of recovering social losses, involving victims in the recovery process, and enabling perpetrators to actively correct their wrongs.

However, in the Indonesian legal system, there is no framework that allows perpetrators of corruption to be asked to publicly acknowledge their impact on society or return losses to victims abroad. Restorative justice has not yet become a lively approach in the context of corruption, even though it has great potential to restore public trust and repair social damage; Although still, the return of state losses should not be ignored. (Supanto & dkk, 2022)

In addition, the application of restorative justice in corruption cases must reconsider the unequal power relationship between the perpetrator and the victim, especially when the perpetrator is a public official or a large corporation that has a dominant position. Without correction to this inequality, there is a risk that the restorative process will actually protect the perpetrator and ignore the interests of the victim. In addition, the mechanism of restorative justice should also be opened throughout the judicial process, including at the post-verdict stage, so that the perpetrator still has the opportunity to substantively correct the wrong, while the victim obtains real recovery.

2.5 Institutional barriers

The recognition of the position of victims in the Indonesian criminal law system has made significant progress with the birth of Law No. 13 of 2006 concerning the Protection of Witnesses and Victims (LPSK Law), which was later updated through Law No. 31 of 2014. This regulation establishes a legal framework that affirms that victims are no longer considered passive objects in the judicial process, but rather as legal subjects who have legitimate rights and interests to be protected and fought for.

Article 7 of the LPSK Law explicitly gives the LPSK the authority to apply for recovery on behalf of the victim in the form of compensation (for gross human rights violations) and restitution (for general crimes). This mechanism is strengthened through implementing regulations such as Government Regulation No. 44 of 2008 and Government Regulation No. 7 of 2018, which regulate the procedures for providing compensation to victims.

But in practice, this recognition is still symbolic. Although LPSK legally has a representation mandate, it is not yet fully integrated in the architecture of the criminal justice system. Victims still do not have a strong formal position in the legal process. The main function of the victims is still narrowed down as witnesses, and the entire legal process is more focused on proving the criminal element against the perpetrator. The interests of the victim, especially in terms of recovery of losses, are not part of the priority of the prosecution or the judge's consideration in the verdict. (Komisi Pemberantasan Korupsi, 2021)

Furthermore, in many cases, the role of the LPSK is still limited to physical and administrative protection functions. His role as an advocate for the interests of victims in the substantive justice process is almost invisible, especially in corruption cases that are generally not recognized as criminal acts with personal victims. This creates a gap between normative mandates and institutional implementation. (Masitoh, Sukma Negara, & Hazani, 2021)

This inequality is inseparable from the structural design of Indonesia's criminal law system which is still oriented towards perpetrators and state losses. The Corruption Crimes Tribunal, for example, is institutionally designed to focus on restoring state fiscal losses, not on recovering citizens who have lost their rights or access to public services.

In this context, LPSK has never been involved in identifying victims or submitting restitution applications, because victims of corruption are not formally recognized in the applicable legal process.

Institutionally, institutions such as the KPK, LPSK, Komnas HAM, the Ombudsman, and the Corruption Court have the mandate and capacity to form a more comprehensive recovery system. However, as long as the legal system and judicial culture remain centered on the logic of punishing perpetrators and state losses, victims will continue to be marginalized from the justice process.

This situation shows that institutional barriers are not just a matter of weak capacity or lack of instruments, but systemic failure to align inter-agency mandates to mainstream victims' rights. Without institutional reforms that involve the integration of mandates, strengthening coordination between legal actors, and changing the work culture of the judiciary, Indonesia's institutional potential will remain unmobilized. Victims' rights will continue to be reduced to a fringe narrative in the legal system.

2.6 Cultural barriers

In practice, many victims are also unaware that they are directly affected by corruption. Studies by Arsil and Tim Newburn show that in white-collar crimes such as corruption, victims often fail to identify themselves as victims, or only realize it after time has passed. This is due to the nature of corruption that has a collective, indirect, and often hidden impact. Systemic impacts such as damage to public services or environmental pollution are difficult to attribute to certain criminal acts by the community. (Komisi Pemberantasan Korupsi, 2021)

At the grassroots level, victims of corruption often lack adequate information, legal capacity, or mentoring support to navigate the legal system. Complaint mechanisms such as civil lawsuits, reporting to the Ombudsman, or complaints to law enforcement officials are often technical, bureaucratic, and not victim-friendly.

In addition, the state legal aid scheme has not effectively covered victim-based corruption cases. At the same time, legal aid organizations still focus on individual cases, not collective losses. For example, villagers who see corruption in the management of village funds often do not know who to report to. Parents of students who are victims of pungli at school also face a normative response from the bureaucracy, because pungli is considered a minor administrative offense and is not part of a corruption crime that can be prosecuted. (Indonesia Judicial Research Society, 2025)

The lack of information from law enforcement officials has also worsened this condition. Many victims do not know that they have a right to restitution or compensation, let alone demand it. A concrete example can be seen in the case of bribery related to environmental permits that cause river pollution and health problems for residents, but it was not followed by a lawsuit due to ignorance of legal rights.

Illustration of the Lack of Citizen Participation in Development

The story of the seawater refining project in East Nusa Tenggara shows how corruption and mismanagement of development can present irony. In Lifuleo Village, Kupang Regency, the government has allocated a budget of Rp1.1 billion to build a seawater distillation plant, part of eight project points worth more than Rp8 billion financed through a loan from PT SMI and carried out by a contractor from Banten. Unfortunately, from the beginning, the residents were never involved, either in planning or development. As a result, the installed that was built did not function and was not in accordance with local needs. The residents of Lifuleo do not actually lack water sources, they only need money for deep drilling, which is much cheaper than the big project.

Unlike Lifuleo, Semau Island is actually experiencing an acute clean water crisis. Water can only be obtained by drilling to a depth of 75 meters, at a much higher cost than in Kupang City. The same seawater distillation program should be a vital solution for residents, but until now the distillation equipment has not produced drinking water. Just like in Lifuleo, the people in Semau have also never been invited to the planning process, and there are even residents who claim that they do not know anything about this project. In fact, if they are involved from the beginning, they can be involved voluntarily so that this program really answers the urgent need for clean water on their island.

Other challenges are low trust in legal institutions and the complexity of the process of filing a lawsuit or restitution, which is time-consuming and expensive and is a burden that is difficult for vulnerable groups to bear. In addition, there is no structural obligation for investigators or prosecutors to actively inform or involve victims in legal proceedings. The Criminal Code also limits the role of victims only as plaintiffs in the merger of civil cases, without an empowerment mechanism from the state. As a result, victims' rights to recovery are often ignored from the beginning of the judicial process.(Indonesia Criminal Justice Reform, 2025)

Thus, if examined more deeply, a number of the structural obstacles above originate from the lack of integration of the paradigm of corruption victims in development policy itself. Systemically, the anti-corruption policy framework in Indonesia has not integrated the victim recovery dimension into the national development planning architecture. Currently, social recovery from the impact of corruption is also not reflected in key planning documents such as the National Medium-Term Development Plan (RPJMN), Strategic Plans (Renstra) of Ministries/Institutions, nor in performance indicators of state asset returns.

Factually, the RPJMN as a national medium-term strategic document has not made corruption victims the subject of policy. Although the RPJMN carries the theme of strengthening bureaucratic reform, there is no policy that explicitly includes the dimension of recovery for social losses due to corruption. In addition, in the Strategic Plan of Ministries/Sectoral Institutions, recovery from service damage due to corruption has also not been used as a *strategic output* or *outcome* so that there is no mandate for technical work units to carry out interventions based on the impact of corruption, either in the form of social audits, recovery responses, or litigation support for affected victims.

In the performance indicators, law enforcement agencies and state financial management institutions still focus on the amount of state money that has been successfully saved or returned. There are no performance indicators that measure social recovery, such as the number of affected communities receiving compensation, or improvements in public services due to the reinvestment of looted funds. In addition, there is no fiscal mechanism that ensures that the proceeds of corruption are reused in the affected sectors. Until now, all the proceeds of the confiscation of corruption assets have been returned to the state treasury as general Non-Tax State Revenue (PNBP) without a *sectoral earmarking* scheme. This creates an inequality between the aspects of fiscal recovery and social recovery of the community.

In the global context, a number of countries have developed a corrective-sectoral approach to the impact of corruption, such as *Repair Trust Funds* in Uganda and Colombia, or integration *Social Harm Assessment* in impact-based budgeting. Indonesia has not adopted similar practices, so victims remain outside the reach of national recovery policies. In other words, without a shift from a fiscal orientation to a social recovery-based approach, development policies will continue to fail to address the needs of citizens who are direct victims of public governance irregularities due to corruption. (StAR, 2023)

3. RIGHT TO SUE AND COMPENSATION FOR CORRUPTION VICTIMS

The issue of recovering losses for crime victims has become increasingly relevant in the discourse of Indonesian criminal law, especially when the Head of the Criminal Investigation Branch of the National Police, Komjen Agus Andrianto, stated that victims of illegal investments can demand the return of assets that have been confiscated by the state through a lawsuit mechanism to the court. This statement, although delivered in the context of non-corruption economic crimes, opens up a wider space for reflection on the importance of providing a legal avenue for victims of crime, including victims of corruption, to fight for the right to recovery of their losses. (Tempo, 2022)

The proposed model, namely the establishment of a victims' association, the appointment of a legal representative, and the submission of a collective restitution application, shows that the state recognizes the potential of a lawsuit-based recovery mechanism in the applicable legal system. This can actually also be applied in the context of corruption, considering that corruption is also a crime that directly or indirectly causes losses to citizens, especially those who lose access to social assistance, health services, education, or public infrastructure.

On the other hand, the question of the defendant in the compensation lawsuit also has complexity. So far, Indonesia's legal orientation has placed individual perpetrators of corruption as the sole responsible party. But in many cases, victim losses are not only generated by individuals, but also by companies or institutions that profit from corrupt practices. For example, in the case of Surya Darmadi, the Supreme Court handed down a decision in damages of trillions of rupiah against the corporation he controls.

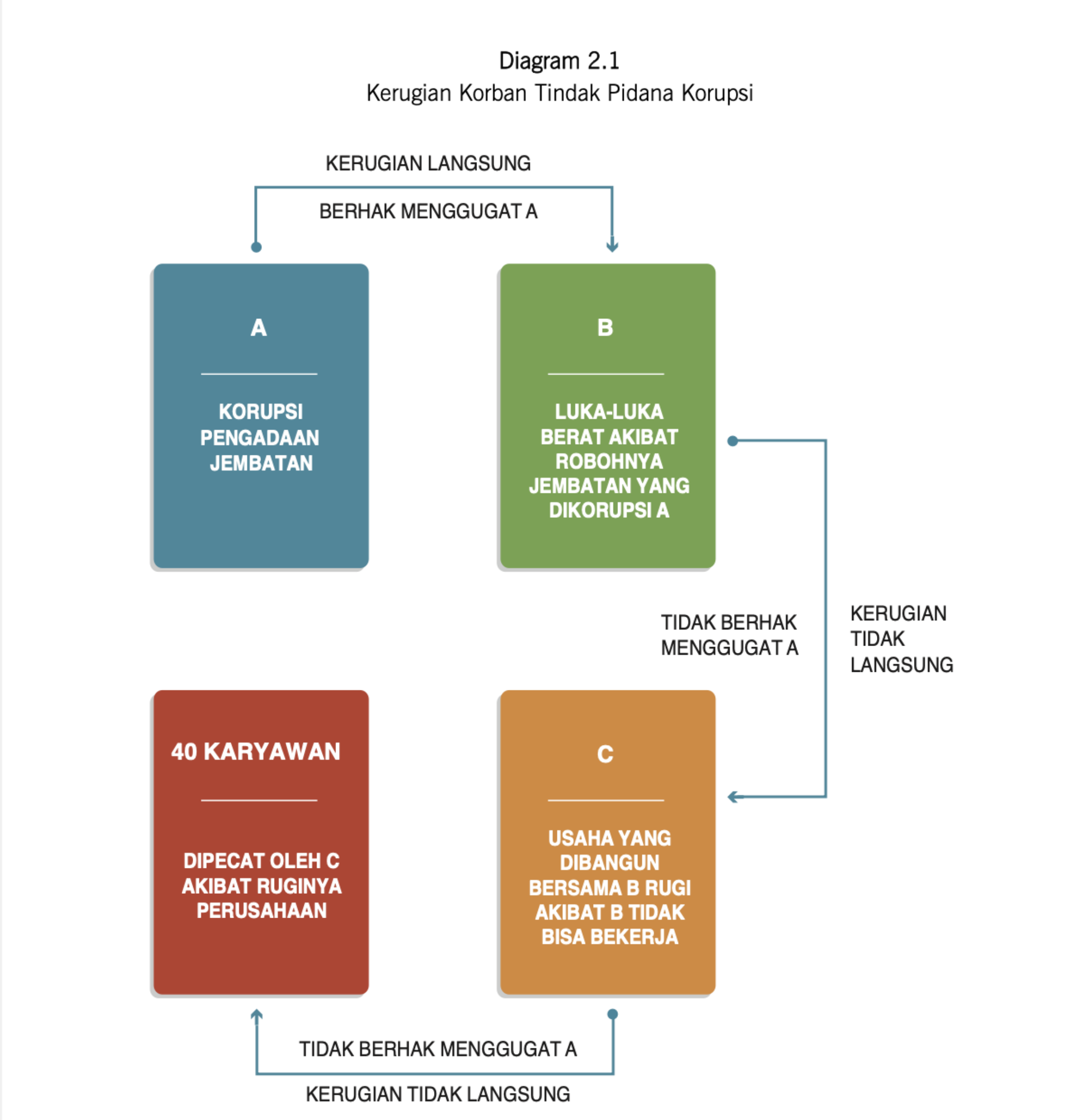
3.1 Right to Sue Victims of Corruption

In unraveling the parties who can file a lawsuit, the KPK in *"A Study on the Recovery of Corruption Rights"* has provided an illustration of the recovery of victims in corruption crimes within the framework of Indonesian law which has a number of complexities as below:(Komisi Pemberantasan Korupsi, 2021)

> *"The acts of corruption committed by A in the bridge construction project have an impact on the use of material specifications that are not in accordance with standards. As a result, the bridge collapsed shortly after it was inaugurated and opened to the public. At the time of the incident, a resident named B was crossing the bridge on a motorcycle and was seriously injured. This condition causes B to be unable to work for some time.*
>
> *The indirect impact was also experienced by business partner B, namely C, because their business activities were hampered due to B's absence. Thus, in addition to B as a direct victim, C and the employees who lost their jobs were also affected by the criminal act of corruption committed by A.*
>
> *However, if all affected parties, namely B, C, and 40 employees simultaneously file a compensation lawsuit against A, then recovery efforts can be distorted. On the one hand, A as a perpetrator of corruption may not have the financial ability to pay*

all these demands, so that no victim receives proper compensation. On the other hand, there is a risk that direct victims such as B will not be given priority in the recovery mechanism because compensation must be shared with the parties affected indirectly."

Diagram 1. Losses of Victims of Corruption (Komisi Pemberantasan Korupsi, 2021)

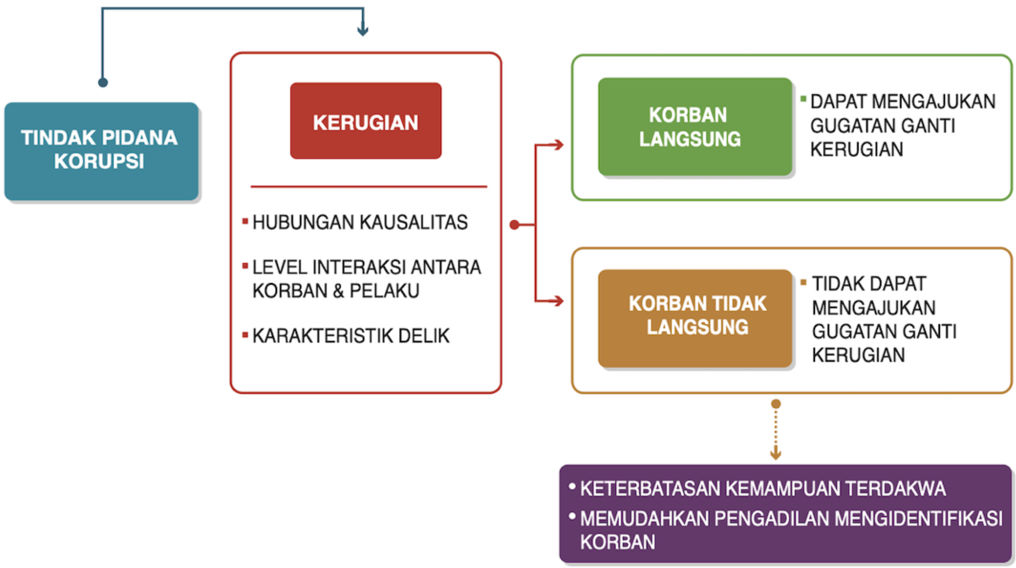


In the illustration above, the KPK proposes that victims of corruption who have the right to file compensation claims should be limited to those who suffer direct losses as a result of corrupt acts. According to the KPK, this limitation is important to maintain effectiveness and fairness in the recovery mechanism, as well as to prevent the expansion of claims that are disproportionate to the capacity of the perpetrator's accountability.

However, this study will specifically recommend dividing victims of corruption into 4 categories, namely state victims, collective/community victims, corporate victims, and individual victims so that no one is left behind.

Diagram 2. Victims of Corruption Who Can File a Lawsuit (Komisi Pemberantasan Korupsi, 2021)

Diagram 2.2
Korban tindak pidana korupsi yang dapat mengajukan gugatan ganti kerugian



In addition, the main issue in the restriction lies in establishing a clear causal relationship between corrupt acts and losses suffered by victims. Without measurable causality, it is difficult to determine the extent to which the perpetrator's liability can be legally withdrawn. In addition, in the process of identifying victims, it is important to pay attention to the level of proximity of interaction between the victim and the perpetrator, and consider the characteristics of the criminal act that occurred, in this case, for example, including the modus operandi, the affected sector, and the structure of the losses generated.

Furthermore, there is an intersectional issue that is often overlooked: not all victims of corruption have the ability, capacity, or legal resources to file lawsuits. Vulnerable groups such as the poor, women, or informal sector workers often face structural barriers to accessing justice. In certain contexts, the practice of *sextortion* (sexual extortion using a position of power) shows a special form of this vulnerability, in which the victim suffers not only economic or social disadvantage, but also multiple layers of sexual violence. This challenge confirms that the design of a compensation mechanism for victims of corruption cannot be based solely on the aspects of causality and priority of claims, but must also be sensitive to power inequalities and social vulnerabilities that limit victims from pursuing legal paths.

Illustration of the Struggle of Corruption Lawsuits of Yogyakarta Citizens

The case of the construction permit of the Fave Hotel in the Miliran area during the time of Mayor Haryadi is an example of how corruption in urban spatial governance causes extensive socio-ecological losses to residents. Local residents had taken the initiative to calculate the economic value of the losses caused, especially due to the water wells drying up after the hotel was built. Advocacy efforts are carried out in two ways: first, encouraging the hotel to compensate for losses, which in the end is only realized in the form of limited compensation for one RT; and second, advocacy for a more strategic living space, namely demanding the cancellation of development permits. Although there is a corruption case that ensnared officials in this hotel permit, the case only targeted one hotel permit, even though there were 106 other hotel permits that had been issued previously. After the case, the government had imposed a moratorium on hotel construction, but a similar practice then continued with a new mode through the Flats Regulation.

The success of advocacy cannot be separated from the important role of citizen organizing, including involving religious leaders to strengthen the moral legitimacy of the movement. However, organizers must be careful to respond to group dynamics so as not to cause division. This movement also received strong support from local women, who were at the forefront of maintaining the living space of their community. The systemic impact of hotel construction is not only in the form of loss of clean water sources, but also causes social dislocation, changes in the environmental landscape that reduce sun exposure in residents' homes, and ecological losses that are difficult to recover. Thus, the case of Fave Hotel Miliran reflects that licensing corruption is not only a matter of bribery and personal profits of officials, but a structural problem that erodes the basic right of the community to a healthy and fair environment.

a. Legal Path for Corruption Victim Lawsuits

In the context of recovering losses due to corruption, there are currently two main legal channels that can be taken by victims, namely civil lawsuits on the basis of unlawful acts (PMH) as stipulated in Article 1365 of the Civil Code and the incorporation of compensation lawsuits into criminal cases as stipulated in Articles 98-101 of the Criminal Code.

However, the effectiveness of these two pathways often faces serious challenges, both in terms of the victim's capacity to file a lawsuit and in terms of the clarity of the sued party. In practice, victims are required to be more active in proof, while the success of restitution depends heavily on the attitude of law enforcement officials (APH) and judges.

In addition, the PMH pathway is often constrained by complex causality and high case costs that burden the victim, while the merger mechanism in practice is often ignored by judges on the grounds of slowing down the trial process. PBHI data shows that in the case of Trafficking in Persons (TPPO), only about 19% of restitution applications are submitted, with 17% granted, and 0% successfully executed through asset confiscation, showing the weak coercion of the restitution mechanism.

For example, in the case of corruption in the construction of the Surabaya Turi Market (Surabaya District Court Decision No. 1833/Pid.B/2015/PN Sby), even though there are traders who have suffered direct losses due to the failed project, their compensation lawsuit is not considered in the criminal process and must be pursued separately through civil proceedings. Another example can be seen in the corruption case of the permanent housing procurement project for earthquake victims in Bantul, Yogyakarta, or the construction of the Lili Market Building, Kupang Regency, East Nusa Tenggara (NTT) where residents affected by substandard specifications did not get direct access to the compensation mechanism through criminal cases. (Detik, 2019)(Kompas, 2010)(TVRI News, 2021)

This legal vacuum shows that although the PMH and merging lawsuit channels are available normatively, the absence of technical arrangements regarding the priority of direct victims, corporate involvement as defendants, and compensation execution mechanisms make the right to sue corruption victims still limited to formalities.

Civil Lawsuit on the Basis of Unlawful Acts (PMH)

In the civil route, one of the main approaches in this realm is to use the principle of unlawful acts (PMH) as stated in Articles 1365 to 1380 of the Civil Code (KUHPerdata). This provision provides a legal basis that every person who, due to his or her actions, violates the law and causes harm to others, is obliged to compensate for the damage.

Losses in the context of PMH can be grouped into three main components, namely costs (*kosten*), material losses (*schaden*), and interest or loss of profits (*interessen*). In other words, this mechanism allows the victim to claim compensation for all dimensions of the loss, both actual and potential, as long as it can be proven that the loss is the result of an unlawful act.

However, in practice, the use of the PMH principle to rehabilitate victims of corruption is still very limited. This happens because there is no explicit recognition in laws and regulations that victims of corruption have the right to demand restitution or compensation in a civil manner. Unlike victims of gross human rights violations, human trafficking, or terrorism who are expressly given legal channels to demand recovery through the LPSK or state mechanisms, victims of corruption still do not get an equal legal basis. (Supanto & dkk, 2022)

This limitation becomes even more evident when we observe that victims of corruption generally do not suffer direct and personal losses. In many cases, the losses are collective, dispersed, and cannot always be calculated in simple monetary units. This makes it difficult to prove in PMH cases which still tend to rely on an individualistic approach.

However, Indonesia's legal system has actually set a progressive precedent in the context of environmental lawsuits. In environmental law, civil lawsuits using the principle of PMH have developed through the application of the principle of *Strict Liability* (absolute responsibility). This principle allows the plaintiff to file a claim for damages without the need to prove the existence of an element of fault, simply by showing that an act has caused the impact of damage or loss. This principle is applied in Law No. 23 of 1997 and strengthened by Law No. 32 of 2009 concerning Environmental Protection and Management. (Komisi Pemberantasan Korupsi, 2020)

An example of its application can be seen in the Supreme Court Decision No. 460 K/PID. SUS/2007[7] related to forestry corruption. In the ruling, state losses are calculated solely in terms of physical damage, such as the loss of wood cubication, but fail to accommodate ecological losses, socio-economic damage to the surrounding community, and potential long-term loss of environmental function. This decision indicates that the approach to calculating losses in corruption cases is still very narrow and has not considered losses holistically.

Incorporation of Damages Lawsuit into Criminal Cases

[7] See in the Directory of Supreme Court Decisions https://putusan3.mahkamahagung.go.id/direktori/index/pengadilan/mahkamah-agung/kategori/korupsi-1.html

Outside of the civil mechanism, another form of legal breakthrough that has begun to be sought by the public in demanding justice for losses due to corruption crimes is through the mechanism of merging civil lawsuits into criminal cases, or known as *voeging*. This mechanism is based on Articles 98–101 of the Criminal Procedure Code (KUHAP), which allows victims to file claims for compensation in criminal justice proceedings against the perpetrator. In addition, Article 35 of the UNCAC also affirms the right of victims to obtain compensation for losses suffered due to corruption crimes.

Although normatively this opportunity is open, in practice this mechanism has not yielded significant results. The social assistance corruption case in Malang is a clear illustration of the structural obstacles faced by victims when trying to claim their rights. In this case, as many as 37 beneficiary families (KPM) suffered direct losses due to the non-receipt of social assistance funds worth a total of Rp 450 million. The pattern of misuse of the distribution of the Prosperous Family Card (KKS) shows a concrete form of the impact of corruption on the poor who are the main targets of the state's social program.

In the context of Covid-19 social assistance corruption, as many as 18 affected residents have submitted an application for the merger of civil lawsuits into the ongoing criminal proceedings at the Jakarta Corruption Court (Tipikor). This application, instead of being processed substantively, was rejected by the panel of judges on the formalistic grounds of the defendant's legal domicile. In fact, Article 101 of the Criminal Procedure Code explicitly states that in the context of the merger of cases, the criminal procedure law applies as *a lex specialis* which overrides the provisions of the civil procedural law.

More than just a technical error, the ruling created a negative precedent for victims' right to sue in corruption cases. The Civil Society Coalition considers that the judge in this case is considered to have ignored the principles of fair justice and did not facilitate the participation of victims as interested parties. The provisions in Law No. 48 of 2009 concerning Judicial Power, especially Article 4, 5 paragraph (1), and 10 paragraph (1) which guarantee equal treatment before the law, are blatantly violated. In fact, the logic of this verdict traps the victim in a situation where (Tempo, 2021)*deadlock*, because the lawsuit to the South Jakarta District Court is impossible to accept considering that the criminal case is handled by the Jakarta Corruption Agency.

Although normatively available, this path still hinders corruption victims from accessing justice. A lawsuit based on Article 1365 of the Civil Code can theoretically be filed even though there is no criminal verdict that has permanent legal force. However, in practice, such a lawsuit is difficult to win because the burden of proof becomes very heavy. The victim must prove that PMH has occurred and prove that there is a causal relationship between the perpetrator's actions and the losses suffered without the support of a criminal verdict.

On the other hand, if the victim chooses to wait until the *inkracht* criminal verdict to file a civil lawsuit, the recovery process becomes very slow and hinders access to justice. The incorporation of a lawsuit for damages into a criminal case as stipulated in the Criminal Code is not free from weaknesses. The provision limits the type of losses that can be claimed only to costs that have been incurred by the victim directly. In fact, in cases of corruption, the losses suffered by victims are often indirect or collective, such as the loss of public services or the delay in the right to social assistance.

In addition to the above two approaches, in law enforcement practice at the local level, there is a tendency to consider the *restorative justice* as an alternative to the settlement of the matter. This discourse often arises even though the Supreme Court has emphasized that this approach cannot be applied in corruption crimes. This arises from a paradoxical reality where the value of state losses in such cases is relatively small, while the cost of legal proceedings can be very large and burden law enforcement budgets. There are a number of thoughts where the perpetrator returning funds directly to the victim can be considered a faster and more efficient solution than conventional criminal justice channels. (Kompas, 2022)

In addition, the application of *restorative justice* For corruption cases, it has reaped a lot of controversy. On the one hand, this approach is considered to prioritize substantive justice and partiality to the victim. But on the other hand, many parties consider that corruption is not an ordinary criminal act that can be solved through dialogue and compensation. A number of legal experts and stakeholders warn that the use of this approach in the context of corruption could risk creating a precedent of impunity, obscuring the principle of entrapment, and threatening the integrity of the criminal justice system. (Hukum Online, 2022)

Normatively, this approach does have limitations. Legal instruments in Indonesia expressly place corruption as a serious crime against the public interest. Article 4 of the Corruption Law emphasizes that the return of state losses does not abolish the crime against the perpetrator. In addition, internal provisions such as the Attorney General's Regulation and the National Police Chief's Regulation also explicitly exclude corruption cases from the *restorative justice* scheme. In this framework, restoration cannot replace punitive obligations.

However, in certain conditions, such as small-scale corruption and actors who proactively work together to recoup losses, the *quasi-restorative* based on open mediation and social recovery can be considered. However, its implementation must remain framed within a strict legal framework, involve public oversight, and not abolish criminal proceedings entirely. (Hukum Online, 2022)

Thus, such an approach should not be interpreted as a weakening of law enforcement, but rather as a complement in situations where the formal justice system faces limitations. Thus, *restorative justice* for corruption cases must be positioned as a *limited exception* mechanism, not the main norm.

Restitution Application through the Witness and Victim Protection Agency (LPSK)

Apart from the Criminal Procedure Code and the Civil Code, there are also provisions on compensation and restitution in Law No. 13 of 2006 concerning the Protection of Witnesses and Victims, and in Government Regulation No. 3 of 2002. However, the regulation is limited to certain types of criminal acts such as gross human rights violations, terrorism, and trafficking, and does not cover corruption. This mechanism is regulated in Government Regulation (PP) Number 7 of 2018 concerning the Provision of Compensation, Restitution, and Assistance to Witnesses and Victims, which is a refinement of Government Regulation (PP) Number 44 of 2008. (Lembaga Perlindungan Saksi dan Korban)

In the regulation, restitution is defined as a form of recovery that requires the perpetrator to provide compensation to the victim or his family. The form of restitution includes two main things, namely compensation for loss of wealth or income directly arising from a criminal act, and reimbursement for medical costs or psychological services for the suffering experienced by the victim.

This restitution application can be submitted by the victim himself, his family, or their legal representative, either before or after the court decision with permanent legal force (*inkracht*). If the application is filed before the *inkracht verdict*, then restitution will be part of the criminal legal process and decided together with the main case. However, if the application is submitted after a final verdict, LPSK can still submit an application to the court as long as the perpetrator has been found guilty and has permanent legal force.

Interestingly, Government Regulation 7/2018 also opens the possibility for restitution payments by third parties. In this case, the perpetrator is required to present the third party officially before the LPSK to provide information and a statement of willingness. This provision makes room for broader civil liability, especially when the perpetrator's assets are insufficient to cover the victim's losses. Unfortunately, although normatively open, the restitution scheme through LPSK has not been tested in corruption cases, because corruption has not been explicitly included in the type of criminal act that can trigger the right to restitution according to PP 7/2018.

However, there are practical obstacles in implementation. LPSK can only provide services if the victim or his family already has proof of a report from the Police. This means that the victim must first report to law enforcement officials so that the case enters the criminal justice system. This provision makes the restitution mechanism dependent on formal legal initiatives and processes, which in practice are often convoluted and difficult for victims. Unfortunately, although normatively open, the restitution scheme through LPSK has never been tested in corruption cases because corruption crimes are not included in the category explicitly regulated in PP 7/2018.

In this context, the existence of Supreme Court Regulation (Perma) No. 1 of 2022 concerning Procedures for Settling Applications and Providing Restitution and Compensation to Victims of Crime can actually be an important reference. This Perma provides technical guidance for judges to decide restitution without having to sacrifice the smooth running of the criminal trial, as well as opening up the possibility for victims to apply for restitution both in criminal cases and after the inkracht verdict.

However, in practice, the potential of this Perma to strengthen access to justice for victims of corruption has not been utilized because corruption has not been explicitly included in the category of criminal acts guaranteed restitution by PP 7/2018 and the Law on the Protection of Witnesses and Victims. Thus, although Perma 1/2022 provides clearer technical instruments, its application to corruption cases is still hampered by the disharmony of sectoral regulations that have not placed victims of corruption as subjects of recovery on an equal footing with other criminal acts (Mahkamah Agung, 2022).

3.2 Compensation for Victims of Corruption

Recovery for victims includes not only financial compensation, but also includes restitution, rehabilitation, non-recurring guarantees, and recognition of rights. This recognition has become especially important because of its far-reaching, collective, and often indirect impact. However, in the Indonesian context, the forms of compensation (*remedies*) available to victims of corruption are not comprehensively available.

Illustration of Corruption and Its Impact on Football Supporters

The corruption case of the renovation of the Mandala Krida Stadium is one of the real examples of how residents' living spaces are eroded by corrupt practices. The problem is not only limited to the construction of stadiums, but also reflects the face of Indonesian football in general which is full of corrupt practices. The Kanjuruhan tragedy should be a momentum to improve national sports governance, but the fact is that there has been no significant change.

In the case of Mandala Krida, losses were not only experienced by the state, but also by the local club PSIM and its supporters. They suffered reputational losses due to failing to develop sports tourism, experiencing a psychological condition of "away home" due to not being able to make the stadium their own home, to financial losses due to additional costs from the organizing committee and the burden of traveling to an alternative stadium in Maguwoharjo. This condition shows how fragile the independence of football clubs in Indonesia is very dependent on the government, so that when corruption occurs in stadium projects, the impact is multi-layered: not only fiscal losses, but also social, cultural, and emotional losses for the supporter community.

a. Form of Compensation

Within the framework of international law, in particular those set out in the United Nations Basic Principles and Guidelines on the Right to Reparation and Reparation for Victims of Gross Human Rights Violations (*UN Basic Principles and Guidelines on the Right to a Remedy and Reparation*), compensation to victims does not only include financial compensation. (OHCHR, 2005)

Compensation is recognized as a broad spectrum that includes five main dimensions: *restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition*.

- ***Restitution*** means restoring the victim's condition to its original condition before the violation occurred, as far as possible. In the context of corruption, this move could mean the return of access to disrupted public services, such as social assistance, clean water, or education. However, this mechanism is almost never implemented in Indonesia, because the focus of restitution in corruption cases is always directed at recovering state losses, not directly restoring the victim's condition.

  In Indonesia, Articles 98–101 of the Criminal Code do allow victims to file civil lawsuits in criminal proceedings (restitution), but their use is very limited. In practice, victims must actively prove their losses and rely heavily on law enforcement officials and judges, even though systemic support for them is minimal. PBHI's research noted that in the case of trafficking in persons (TPPO), only 19% of restitution applications were submitted, with 17% granted, and zero (0%) were successfully executed through asset confiscation. This figure shows that the restitution mechanism often stops on paper.

  Other obstacles include the absence of victim advocacy mechanisms in the justice system, the limited authority of public prosecutors and judges in calculating individual victims' losses, and the difficulty of establishing a causal relationship between corruption and direct losses experienced by citizens. As a result, even though restitution norms are available, victims of corruption in reality remain marginalized from real access to recovery.

- ***Compensation*** refers to the payment of compensation for both material (such as loss of income, economic opportunity, or assets) and immaterial (mental distress, psychological distress, or loss of dignity). In many cases of corruption in Indonesia, such as in the procurement of medical devices, village funds, or infrastructure projects, people suffer real and prolonged losses. Unfortunately, there is no legal or fiscal policy pathway that allows compensation to affected individuals or communities.

  The LPSK Law actually allows restitution and compensation, but its implementation is limited to cases of sexual violence, human trafficking, and gross human rights violations. In practice, LPSK does not have a specific budget and mandate for corruption cases. For example, in the case of corruption in basic education budgets in Papua, schools in rural areas did not receive full budgets, but there was no compensation mechanism for affected students and teachers.

- ***Rehabilitation*** includes medical, psychological, social, and legal services to restore the victim's condition. This approach is particularly relevant in cases of corruption that cause prolonged trauma, such as in the case of modern slavery in the Langkat Regent[8]'s house or psychosocial damage due to crop failure due to corrupted irrigation projects. However, until now, Indonesia has not had rehabilitation services for victims of corruption in social or legal protection schemes.

- ***Satisfaction*** is concerned with symbolic and moral forms of recognition of wrongdoing, such as a formal apology, a ceremony of restoration of dignity, or the straightening of history. In many countries, this strategy is used to rebuild public trust in state institutions. In Indonesia, acknowledging victims of corruption has not yet become an institutional practice. There is no mechanism that allows the government to publicly acknowledge the suffering of citizens due to corruption, let alone to apologize or affirm its commitment to recovery.

- ***Guarantees of non-repetition*** emphasize the need for institutional and policy reforms to prevent the recurrence of violations. In the context of corruption, this can mean increased budget transparency, citizen participation in oversight, and ethical enforcement in the public sector. However, without involving victims and affected communities in the formulation of prevention policies, these reforms risk only formalities that do not touch the root of the problem.

Illustration of the Struggle of Citizens to Seek Restitution in Corruption Cases

Residents of Trihanggo Village, Gamping, Sleman, successfully organized a rejection of the plan to build *a Liquid discotheque* on village treasury land (TKD), which should be protected under the Yogyakarta Privileges Law. Especially, these proactive efforts of the residents are complemented by the calculation of the economic value of losses,

[8] See in *the Course of the Human Cage Case of the Former Langkat Regent Who Was Sentenced to Freedom* https://www.tempo.co/hukum/perjalanan-kasus-kerangkeng-manusia-eks-bupati-langkat-yang-divonis-bebas-41411

especially because the wells and water access of residents have dried up drastically due to dredging and paving, a concrete indicator that infrastructure corruption targets the basic needs of the community.

Although the application for compensation made by some residents (one RT) against the entrepreneur had been carried out, the compensation received was very inadequate compared to the social burden beared. Public advocacy capital also succeeded in thwarting the permit, triggering the arrest of the Trihanggo Village Head (Putra Fajar Yunior, PFY) and businessman PT Liquid Next Generation (ASA) on charges of bribery in the use of TKD—with a total of Rp316 million, which was partly used and divided in the village structure—as a crime of gratuity and corruption.

Unfortunately, this success has not been followed by systemic compensation for society, as victims are returned to "public" status without recovery being paid. This case is a classic illustration that corruption violations that damage infrastructure and citizens' rights to living space are not automatically followed by an adequate restitution mechanism. The law enforcement approach so far has only cracked down on formal perpetrators—but it has not redistributed benefits proportionately to affected citizens

Unfortunately, these five forms of compensation have not been fully adopted in the Indonesian legal system. The current legal framework only regulates the recovery of state finances and does not recognize the rights of the community as victims who are entitled to reparations. All proceeds from asset recovery, whether carried out by the KPK, the Prosecutor's Office, or judicial institutions, are returned to the state treasury as Non-Tax State Revenue (PNBP), without an allocation scheme for victim recovery.

b. Collective Recovery

Until now, the Indonesian judicial system does not explicitly recognize the concept *of collective redress*. The approach to victims is still individual, even though the impact of corruption is often structural and long-term. When one village does not benefit from village funds due to corruption, or one district fails to enjoy a road project because the contract is fictitious, then the disadvantage is not only the individual, but the entire community living in the area.

Illustration of the Impact of Corruption on Education

The case of the renovation of SD Inpres Bismarak in Kupang Regency shows how corrupt practices in education projects have a direct impact on student safety. This school, along with a number of other schools in Kupang City and Regency, was built through a project by the Ministry of PUPR for the 2021-2022 fiscal year. However, the physical quality is very poor: the ceiling collapses during study hours when it rains heavily, electrical cables are left dangling, and the condition of the building is far from the promised specifications. The school committee since 2022 has been monitoring this project and reporting it to the High Prosecutor's Office, as parents' concerns are immense for the safety of their children. Although the legal process is now underway, the urgent need is support for the immediate repair of school buildings so that students can learn safely.

Although there are legal instruments such as Supreme Court Regulation (PERMA) No. 1 of 2002 concerning Class *Actions*, their application in corruption cases is still very limited.

Affected communities rarely have sufficient legal capacity, assistance, or understanding to file a collective lawsuit. In addition, in practice, *class action* lawsuits in Indonesia are still dominated by environmental and consumer issues, not including the issue of public budget corruption.

The corruption case in the procurement of permanent housing (huntap) of Bantul earthquake victims shows how the victims ultimately did not get the benefits promised by the state. The criminal process only emphasizes the criminalization of the perpetrator and the return of state losses, while the victim's right to decent housing is neglected. To demand recovery, residents take a mechanism *Citizen Law Suit* (CLS) by suing the government for the negligence of public services after the disaster. However, this path is full of obstacles, ranging from the absence of the defendant to the issue of legal standing and the difficulty of proving concrete losses due to corruption. (Detik, 2007)

Another instrument that has the potential to be used is *actio popularis* or lawsuits against public organizations in the name of the public interest. WALHI, YLBHI, and several CSOs have used it in environmental or constitutional rights cases of citizens. However, there is no strong precedent for the use *of actio popularis* in cases of public corruption, especially those that have an impact on basic services such as health, education, or village infrastructure. The absence of this legal precedent makes the court tend to be conservative and reluctant to give space for a public lawsuit approach in the realm of corruption.

In fact, the collective recovery model is crucial to address a widely distributed form of loss that is difficult to identify individually. In the international context, some countries have developed collective reparations approaches, especially in cases of human rights violations and large-scale corruption. In Peru and Colombia, for example, collective reparations funds are used to rebuild communities affected by conflict and gross abuses, including the rebuilding of schools, health facilities, and basic infrastructure. (StAR, 2023)

3.3 Repatriation to Social Reinvestment through The *Asset Recovery Framework*

In the Indonesian legal system, the mechanism for confiscation and recovery of assets resulting from corruption crimes is still limited to repressive and fiscal approaches. The assets confiscated through legal proceedings were returned to the state treasury through the Directorate General of State Assets (DJKN), based on a court decision. However, there is no legal provision that explicitly directs the proceeds of asset recovery to be used in a reparative framework for affected communities, for example to restore public services or infrastructure damaged by corruption.

The proceeds of confiscation or corruption loot are not automatically returned to affected sectors, such as schools built from fictitious projects, health centers that do not operate due to procurement corruption, or villages that fail to get access to clean water. The absence of the principle of reinvestment in asset recovery makes this process seem like a state accounting affair, rather than an instrument of social justice.

In the midst of this vacuum, the Asset Forfeiture Bill should have the potential to be a breakthrough. The bill is designed to allow the state to confiscate assets suspected of being derived from crimes without waiting for criminal proceedings to be completed ((Kompas, 2025)*Non-conviction based asset forfeiture*). This step is important considering that many corrupt actors flee, die, or hide assets through third parties.

However, the latest draft of the bill still dwells on the mechanism for managing confiscated assets by the state, with no regulation on how and for whom the confiscated proceeds are used. In addition, there is no protocol that requires the DJKN, KPK, or the Prosecutor's Office to assess the social impact of corruption and design the allocation of looted assets according to the needs of the affected communities. If the perspective of victim recovery and distributive justice is not added, this bill risks only strengthening the centralization of assets in the hands of the state, rather than restoring them for the public good.

The same thing also happens in the context of Non-Tax State Revenue (PNBP) which comes from fines, replacement money, or auctions of spoils. All PNBP goes into the state treasury without an *earmarking* scheme, so its use is not directed to the recovery of victims or improving the quality of public services. Furthermore, the largest portion of PNBP that comes from law enforcement officials is actually used to support institutional operational spending, not to repair community losses due to corruption.

In the long run, this practice creates a conflict of interest, especially in the Prosecutor's Office, which has dual authority, namely seizing assets as well as managing them. Without independent oversight mechanisms, there is a risk that confiscated assets are seen more as an institutional source of revenue than an instrument of social justice.

In addition, the 2023 Criminal Code has introduced additional penalties against corporations, including recovery obligations (*remedy*) that can be monetized in the form of recovery plans. However, this regulation is still limited to environmental issues, even though it should be extended to corruption cases, especially those that are detrimental to basic public services. If it is associated with the PNBP debate, the momentum of the 2023 Criminal Code can be used to encourage fines and additional penalties against corporations to be included in social reinvestment schemes aimed at victims of corruption.

4. THE WAY FOREARD: RECOVERING THE LOSSES OF CORRUPTION VICTIMS

4.1 Conclusion

Although corruption is often seen as an abstract crime with the state as a victim, in reality the impact of corruption is very real and directly felt by the community. As a result of corruption, citizens lose access to public services that should be enjoyed and become victims of a broken justice system, but are not formally recognized as those entitled to restoration. Unfortunately, in the midst of this situation, the criminal law system in Indonesia has not been fully on the side of the victim, especially in terms of recognition of legal standing and mechanisms for recovering losses caused by acts of corruption.

In addition, in the context of legal opportunities, it has been reviewed in the previous section that until now there are three normative mechanisms available and can be used to demand the right to recovery in Indonesia, namely through civil lawsuits, merging lawsuits into criminal proceedings, and restitution applications through the Witness and Victim Protection Institute (LPSK).

A civil lawsuit based on Article 1365 of the Civil Code provides space for victims to sue the perpetrator directly without the need to wait for the criminal process to be completed. This mechanism also allows for the filing of claims for immaterial losses. However, the causal relationship between the perpetrator's actions and the losses suffered must be convincingly proven. Not all victims are able to navigate this process, especially if they are not accompanied by legal counsel. Even when the lawsuit is granted, the implementation of the verdict is still hampered if the perpetrator is not found or dies.

Meanwhile, Articles 98 to 101 of the Criminal Code allow victims to combine civil lawsuits in ongoing criminal cases. The scheme promises time and cost efficiency, as lawsuits are filed in the same forum as criminal investigations. However, in practice, the merger of lawsuits is rarely carried out in corruption cases. Formal barriers such as filing deadlines before prosecutors' demands are read, as well as the limitations of legal subjects who can sue, make it difficult for collective victims such as affected communities or community groups to access.

Meanwhile, the other route is through the application for restitution through LPSK, which has become increasingly relevant since the strengthening of the mandate of this institution through the revision of the Law on the Protection of Witnesses and Victims in 2014. This mechanism allows victims to apply for restitution before and after the court verdict. The advantage lies in the administrative and technical support from LPSK in compiling the loss calculation. However, the fulfillment of restitution still depends on the ability of the perpetrator to pay compensation, so its effectiveness is not even in all cases.

The three pathways normatively show that the Indonesian legal system has opened up space for victim recovery. However, the available roads are still narrow, winding, and not easy to pass. Low legal literacy, limited assistance, and technical and bureaucratic procedures also complicate this condition. At the same time, law enforcement officials have not fully adopted a victim-side paradigm. Therefore, comprehensive reforms are needed to expand access to justice, simplify procedures, expand the scope of the subject and object of the lawsuit, and build a more responsive and inclusive victim recovery ecosystem in corruption cases.

4.2 Recommendations

Victim recovery is an important pillar of substantive justice. Without attention to this dimension, the eradication of corruption risks becoming a punitive instrument that contributes little to social justice. Therefore, a more progressive, comprehensive, and integrated approach is needed, both in regulations, fiscal policy, audits, public participation, and national development planning.

In the context of legal reform, the 2025 RKUHAP needs to encourage a paradigm shift from a criminal justice system that focuses on perpetrators to a system that places victims as subjects of justice. One of the crucial aspects is a clearer regulation of restitution in corruption cases. So far, the Criminal Procedure Code has only given a narrow space through articles 98–101, while practice in the field shows that the restitution mechanism is almost never implemented due to the absence of procedural standards, lack of legal advocacy, and weak initiative of judges and public prosecutors.

To fill these gaps, the RKUHAP needs to formulate a more operational and proactive restitution mechanism, for example by giving explicit authority to judges to calculate and determine compensation for victims or affected communities, as well as ensuring that prosecutors have an obligation to present an analysis of the impact of victims in their claims. In addition, the Supreme Court also needs to issue a Circular Letter (SEMA) as a technical guideline for the court, so that restitution in corruption cases is no longer understood as just an optional civil lawsuit, but as an integral part of criminal decisions. With the combination of normative revisions in the RKUHAP and the strengthening of technical regulations through SEMA, restitution can truly become an instrument for victim recovery and a means of distributing social justice in judicial practice in Indonesia.

The following section proposes five interrelated reform agendas, as concrete steps to build a more equitable, participatory, and impactful victim recovery system in Indonesia.

a. Regulatory Reform and Legislation: Strengthening the Legal Basis for Victims

The first and most fundamental step in ensuring the recovery of corruption victims is to fix the national legal framework which has been biased towards perpetrators and state losses, without providing equal space for victims to get justice. Currently, Indonesia's legal approach to corruption is still dominated by the penal paradigm, which focuses on criminalizing perpetrators and restoring state financial losses, but fails to recognize and protect victims as legal subjects entitled to recovery.

Revision of Law No. 31 of 1999 jo. Law No. 20 of 2001 concerning the Eradication of Corruption is very urgent. This reform needs to begin with expanding the definition of "victim" in corruption crimes so that it is not only limited to the state or government as an entity that has suffered financial losses, but also includes individuals, communities, or community groups that are directly affected by an act of corruption. For example, in the case of bribery to expedite illegal mining permits that lead to environmental pollution, the community around the mine should be treated as victims who have the legal right to demand compensation, environmental rehabilitation, or even collective compensation.

Furthermore, this legislative framework needs to explicitly contain victims' rights to compensation, restitution, and participation in criminal justice processes, including the right to provide *victim impact statements*, receive information about ongoing legal processes, and participate in mediation or restitution mechanisms, both individually and collectively.

In this regard, the revision of the Criminal Procedure Code (Criminal Code) which is currently underway is also an important prerequisite. The current Criminal Procedure Code is not sufficiently accommodating to victim participation, and does not require law enforcement officials to identify, empower, or provide adequate information to victims. Therefore, the Criminal Code needs to be amended in the future to guarantee the procedural rights of victims in corruption cases which include the right to:

- Filing *amicus curiae* in corruption cases with broad social impacts, to provide a perspective of victims in the trial process;
- Submit *victim impact statements* to directly explain the impact of psychological, economic, social, and environmental losses they experience due to corruption;
- Apply for collective restitution, which is very relevant in cases of corruption in social assistance, public infrastructure, or natural resource management.

This reform is not only about legal norms, but also the strengthening of the institutions that play a role in it. The Witness and Victim Protection Agency (LPSK) needs to expand its mandate to not be limited to the protection of witnesses or victims of violent crimes. Victims of corruption often experience pressure, intimidation, or retaliation for having the courage to expose irregularities. However, because they are not classified as victims of human rights violations or physical violence, they often do not obtain legal protection from the state. Therefore, the mandate of the LPSK needs to be redefined to include victims of corruption with non-physical threats or pressures; litigation support for recovery of damages or restitution; and able to provide psychosocial assistance services, especially for the affected communities collectively.

To strengthen the aspect of victim recovery, the Anti-Corruption Law also needs to be revised by adding a number of key provisions. First, Article 18 must be amended so that it expressly states that the payment of compensation must be made at most the amount of state losses due to corruption, not just the value of the perpetrator's profits. Second, the authority of the Corruption Court needs to be expanded so that it not only adjudicates criminal cases, but can also decide civil cases related to corruption, including compensation for victims; This expansion must also be followed by strengthening the authority of ad hoc judges to be able to handle compensation lawsuits.

Third, considering that corruption is often widespread and systematic, the Corruption Law needs to accommodate instruments of representative lawsuits, organizational lawsuits, and *class action* lawsuits so that collective victims can more easily obtain access to justice without being hit by individual capacity limitations. In addition, there is an opportunity through other legal channels, namely the provisions of Unlawful Acts by the Ruler (PMHP) in the State Administrative Court, which can be used when the actions or omissions of public officials directly cause losses due to corruption or abuse of authority.

b. Instruments of Social Recovery and Reparation: A Just Fiscal Scheme

So far, most of the proceeds of corruption crimes have been returned to the state treasury without a reallocation mechanism that considers who is affected and how the impact can be realized. Communities that are direct victims of corruption, whether in the form of disrupted public services, hindered access to education and health, or systemic environmental damage, have no guarantee of regaining their basic rights through fairer fiscal allocation.

In order to overcome this inequality, the government needs to issue a Presidential Regulation on the Corruption Victim Recovery Fund, So far, most of the proceeds of corruption crimes have been returned to the state treasury without a reallocation mechanism that considers who is affected and how the impact can be recovered in real terms. Communities that are direct victims of corruption, whether in the form of disrupted public services, hindered access to education and health, or systemic environmental damage, have no guarantee of regaining their basic rights through fairer fiscal allocation.

For example, in cases of corruption of education funds, such as embezzlement of education funds or bribery in school construction projects, the proceeds from the perpetrators can be allocated to repair damaged school infrastructure, fund scholarship programs for poor students in affected areas, or provide training for teachers and educators who have been neglected due to corruption. Another example is that in the case of the procurement of medical devices, the looted funds can be used to rebuild primary health care centers, provide viable medical equipment, or fund public health restoration programs in the directly affected areas.

These practices are not new internationally. Nigeria has implemented a similar approach through repatriation funds from the *Abacha* case, which are redistributed to the community in the form of social welfare programs such as road construction, clean water supply, and education subsidies. In Colombia, funds confiscated from armed conflict and corruption are used in *the Victims Reparation Fund*, which provides restitution, compensation, and social services to affected communities collectively.

Indonesia can adopt a similar approach by integrating victim recovery schemes into routine fiscal instruments, such as the General Allocation Fund (DAU), the Village Fund, or through special mechanisms managed across ministries. For example, the Ministry of Finance can develop a fiscal transfer framework based on data on sectoral and spatial losses from corruption cases, in collaboration with the KPK, Bappenas, and technical ministries such as the Ministry of Education, Health, and PUPR.

Beyond that, it's important to look at the linkages with existing instruments. The compensation fund provided by the state is currently only applicable for certain criminal acts (such as gross human rights violations or terrorism), so it has not reached the victims of corruption. Similarly, *the Victim Trust Fund* (VTF) scheme initiated through various regulations is still more inclined to use bail confiscation after a court decision, and is still focused on violent crimes such as human trafficking, sexual violence, or terrorism. In other words, the existing mechanism is not progressive enough to deal with collective losses due to corruption, even though the nature of corruption has a wide impact on access to basic services for the community.

To be implemented effectively, the scheme requires an integrated data-driven identification system of affected areas and sectors, including a map of sectoral corruption and a track record of the allocation of confiscated funds. It is also necessary to prepare outcome-based success indicators, such as increasing access to basic services, reducing school dropout rates, or restoring public service capacity in affected areas.

Through this approach, this reparative scheme can also strengthen public trust in the state and broaden the social base of the corruption eradication agenda itself.

c. Social Audit: Shifting the Loss Calculation Paradigm

So far, the calculation of state losses due to corruption crimes is still narrow and reductive, focusing almost entirely on financial losses in the form of nominal budgets that are abused. This approach does not adequately reflect the real losses experienced by society, especially in terms of long-term social, environmental, and well-being impacts. In the context of corruption that is systemic and involves the public interest, such as in the infrastructure, education, or health sectors, losses do not stop at the lost value of the State Budget or APBD, but also become collective suffering that is difficult to compensate for through fiscal figures alone.

Therefore, the Audit Board (BPK) and the Directorate General of State Assets (DJKN) need to develop a multidimensional social audit and assessment methodology, which not only measures the nominal value of state cash losses, but also assesses its impact on citizens' rights, people's quality of life, and environmental sustainability. This methodology needs to take into account broader indicators, such as:

- **Gender impact**: how corruption in the procurement of social assistance or health services has a greater and more multiplied impact on women and children, especially in poor households.
- **Environmental impact**: as in the case of mining permit corruption that causes forest damage and water pollution, but is never counted as part of the loss.
- **Social and psychological costs**: including loss of public trust in institutions, psychological burdens due to uncertainty in public services, or damage to guarantees of basic rights of citizens.

Sectoral ministries also have a strategic role. The Ministry of Education, for example, can develop instruments to measure the impact of corruption of BOS funds on school dropout rates, teaching quality, or limited access for students in remote areas. The Ministry of Health can develop indicators that assess the effect of corruption in the procurement of medical devices on the death rate, service delays, or the spread of diseases. Meanwhile, the Ministry of PUPR can assess the extent to which corrupted infrastructure development causes road damage, traffic accidents, or increases in the travel time of residents to public facilities.

Furthermore, cross-sectoral cooperation with universities, non-governmental organizations, and independent *think-tanks* is needed to develop a *Social Harm Assessment* framework that can be adopted by audit agencies and used in criminal courts. This framework will allow judges to look beyond nominal harms, and incorporate considerations of social justice, collective impact, and potential collective restitution into the verdict. Concrete examples can be taken from the case of corrupt road construction in remote areas. The road is not only damaged and endangers users, but also causes disruption of children's access to school, pregnant women to health services, and farmers to markets. If all of that accumulates, the social and economic losses far exceed the value of the corrupted project.

Beyond the direct impact produced when corruption occurs, many parties also encourage that the calculation of losses also start from the planning stage. This is based on the fact that if planning is carried out with good governance, the opportunity for corruption can be minimized. For example, losses when a corrupt Musrenbang is implemented, must be quantified as an aggregate loss as well.

Through this audit methodology reform, Indonesia will be able to shift the paradigm of loss calculation from a fiscal-statistical approach to a substantive justice approach. This not only strengthens the legitimacy of the criminal process, but also opens up a fairer space for victim recovery and policy reform in the affected sectors.

d. Public Participation and Information Disclosure: Social Accountability as a Pillar of Recovery

It is difficult to recover from corruption victims if it is done behind closed doors and elitist. Public participation is not only complementary to the recovery process, but is a fundamental element that determines its legitimacy and accountability. In this context, information disclosure is an absolute requirement. Without access to relevant data, the public will not be able to assess, supervise, let alone participate meaningfully in the post-corruption reconstruction process.

For this reason, law enforcement agencies such as the Corruption Eradication Commission (KPK), the Prosecutor's Office, and the Supreme Court need to build a structured open data system related to corruption cases, starting from the location of the project, the value of state losses, the development of asset recovery, to the redistribution of confiscated proceeds. This information should be presented in a public portal that is interactive, easily accessible, and tailored to the needs of the average user. The "*Government Action Plan Tracker*" model initiated by Transparency International Sri Lanka can be a reference, where all government commitments, actions, and achievements in the anti-corruption and public service sectors are monitored in real time.

Furthermore, civil society organizations should also be given formal space and adequate resources to play an active role in the recovery cycle. This role can include:

- Identify victims in a participatory manner, including in areas beyond the reach of law enforcement;
- Propose and design *community-based recovery* programs;
- Supervise the implementation of the use of confiscated funds or fines returned to the public.

In remote areas or vulnerable communities, this approach can be developed through citizen committees or victim community forums facilitated by local governments or independent agencies. This forum is a two-way channel to accommodate complaints, convey aspirations, and monitor the results of reparative programs. In this regard, the principle of *Free, Prior, and Informed Consent* (FPIC) as adopted in environmental and human rights policies, can be extended to ensure that collective remedies are not carried out unilaterally, but through a consultative and consent-based process.

A concrete example can be seen in the case of corruption of village funds that harms communities in coastal areas. In some areas, losses due to corruption have caused the construction of bridges between villages to be stopped. In this context, information on the status of asset recovery should be accessible to citizens, while community forums can be used to decide whether confiscated funds will be reused for the construction of bridges, school infrastructure, or the strengthening of the local economy.

e. Integration in National Policies and Budgets: Mainstreaming Victims' Perspectives

Efforts to recover victims of corruption should not stand alone as sectoral initiatives or short-term projects. To be sustainable and have a systemic impact, reparative policies must be comprehensively integrated into the national development planning and budgeting architecture. This means that the recovery of victims must be treated as a strategic agenda of the state, not just an incidental matter of law enforcement.

The first step that can be taken is to include indicators and targets for victim recovery in high-level planning documents such as the National Medium-Term Development Plan (RPJMN), Government Work Plan (RKP), Strategic Plan of Ministries/Institutions, and National Strategy for Corruption Prevention (Stranas PK). Thus, victim recovery will be part of the macro framework of national development, in line with the indicators of poverty, education, health, and social resilience.

Furthermore, the Ministry of Finance and the National Development Planning Agency (Bappenas) need to develop a social impact-based budgeting mechanism. This initiative includes the integration of victim recovery programs into routine budget schemes such as the State Revenue and Expenditure Budget (APBN) and the Transfer Fund to the Regions (TKDD), including the General Allocation Fund (DAU) and the Special Allocation Fund (DAK). For example, areas affected by corruption in infrastructure projects can receive additional funds for the improvement of public facilities or the social recovery of the community, based on the results of the social loss audit.

In support of this, technical regulations such as the Minister of Finance Regulation and the Presidential Regulation on the use of funds from asset confiscation need to be updated to allow for restorative justice-based allocation. For example, in the case of corruption in the procurement of clean water, confiscated funds can be rebudgeted to build a clean water distribution network in the affected areas, instead of simply being returned to the state treasury without any concrete benefit to the community.

The role of the Ministry of Home Affairs (Kemendagri) is also crucial in strengthening implementation at the local level. Victim recovery indicators must be included in the Government Agency Performance Accountability System (SAKIP) as well as an internal supervision process by the Government Internal Supervision Apparatus (APIP). Regional governments that succeed in restoring public services affected by corruption, assisting victims, and opening public reporting channels must be recognized in performance evaluations.

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