

## Agreement to Discontinue Prosecution of Money Laundering Crimes with Original Corruption Crimes: Perspectives from Criminal Law, Criminology, and Victimology

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**Abstrak:** *Corruption and money laundering are extraordinary crimes that have a major impact on state finances and public welfare. However, Indonesia's conventional criminal justice system has shown weaknesses in recovering state losses, with only 2.2% of the total losses of Rp 62.9 trillion successfully recovered. This article examines the concept of non-prosecution agreements as an alternative mechanism to improve the effectiveness of law enforcement and realize legal benefits, with a focus on integrating the principles of restorative justice. The research method used is normative juridical, analyzing legislation, legal doctrine, and relevant literature. This approach is evaluated from the perspectives of criminal law, criminology, and victimology. This study aims to explore the potential of this mechanism in accelerating the return of state assets and creating a more significant deterrent effect. The results show that the application of non-prosecution agreements can be a pragmatic solution, provided that they are implemented with strict supervision and high transparency, thereby providing tangible benefits to the public.*

**Keywords:** *Corruption; Non-Prosecution Agreement; Money Laundering Offenses*

### INTRODUCTION

One of the most common forms of corruption in Indonesia is money laundering. Unlike other extraordinary crimes, such as theft, murder, or rape, money laundering does not involve obvious or transparent activities. However, an increase in this activity can be detected by Bank Indonesia (BI) or other banking institutions through large amounts of funds entering without clear information about the identity of the owner.<sup>1</sup> Based on data from the Financial Transaction Reports and Analysis Center (PPATK), in 2022 there were 27.8 million reports of suspicious financial transactions, but only about 21% of money laundering cases involving corruption were successfully prosecuted in court.<sup>2</sup> This situation

shows a significant gap between the number of crime indications and cases that are thoroughly handled. This condition is exacerbated by the minimal return of state assets, where from the state's losses of Rp 62.9 trillion due to corruption, only around Rp 1.4 trillion has been successfully returned through court decisions, or only 2.2% of the total losses.<sup>3</sup>

This problem is not only financially damaging but also undermines public confidence in the legal system. The complexity of money laundering as a follow-up crime to corruption requires an innovative approach, one of which is through the implementation of a non-prosecution agreement.<sup>4</sup> This concept

<sup>1</sup> Rasidi, Moh. "Analisis Perampasan Aset Oleh Negara Dalam Kasus Tindak Pidana Pencucian Uang (Money Laundering) Di Tinjau Dalam Perspektif Hak Asasi Manusia (Ham)." *Dinamika* 28, no. 10 (2022): 4523-4542.

<sup>2</sup> Ashady, S., Dudy, A. A., Nirmala, A. Z., & Rahmania, N. (2023). Pengembalian Kerugian Negara Hasil Tindak Pidana Pencucian Uang Dengan Metode Parallel Investigation. *Jurnal*

*Rectum: Tinjauan Yuridis Penanganan Tindak Pidana*, 5(2), 137-144.

<sup>3</sup> Buletin Statistik, Edisi Maret 2023 Vol. 11, No. 3, <https://www.ppatk.go.id/publikasi/read/195/buletin-statistik-apuppt-vol-11-no-3---edisi-maret-2023.html> diakses pada 26 Oktober 2023, 23:41

<sup>4</sup> Wardhana, Rangganata Adhi Kusuma, and R. B. Sularto. "Studi Komparasi Formulasi

allows perpetrators who have been punished for corruption to resolve their money laundering cases by focusing on returning state assets. In comparison, countries such as the United States have successfully implemented Non-Prosecution Agreements (NPAs) for similar cases, which have proven effective in accelerating the asset recovery process without having to go through lengthy and costly court proceedings.<sup>5</sup> This kind of legal reform is necessary to improve the efficiency and effectiveness of the law in efforts to eradicate corruption in Indonesia.

The weakness of the traditional criminal justice approach to handling money laundering crimes rooted in corruption is evident in its inability to have a significant impact on recovering state losses. According to data, state losses due to corruption in a given year reached Rp 62.9 trillion, but only 2.2% or around Rp 1.4 trillion was successfully recovered through court decisions. The existing system tends to focus on punishing perpetrators without prioritizing the effective return of state assets. This results in lengthy and complicated legal processes, with operational costs that are disproportionate to the value of the assets that are successfully seized. In addition, the difficulty of tracing assets after a verdict has been handed down is a major obstacle in the existing legal system.

The concept of a non-prosecution agreement, as applied in other countries, could be an alternative to overcome this weakness. This approach allows perpetrators who have served prison sentences for corruption to focus on asset recovery without going through protracted further court proceedings. With

conditions such as the payment of large fines and internal reforms, this concept offers a pragmatic solution to recover state losses more quickly and improve legal compliance. Its implementation also creates a more effective deterrent effect while supporting the objectives of legal utility, namely providing tangible benefits to society and maintaining economic stability.

The integration of criminological and victimological perspectives in handling money laundering crimes originating from corruption provides a more comprehensive approach to this crime. From a criminological point of view, corruption is often understood as the result of interrelated structural, social, and individual factors.<sup>6</sup> For example, weak internal oversight, a work culture that is permissive of illegal acts, and a low risk of getting caught are the main factors that encourage perpetrators to commit these crimes. Criminological analysis also helps identify patterns and mechanisms of money laundering used to hide the proceeds of corruption, such as through the establishment of fictitious companies or international interbank transactions.<sup>7</sup> By understanding these root causes, countermeasures can be designed to not only punish perpetrators but also prevent future crimes.

Meanwhile, victimology offers a perspective that places the state and society as the main victims of corruption and money laundering. The financial losses caused by these crimes have a direct impact on the provision of public services, such as education, health, and infrastructure, which ultimately harms the welfare of society. The victimology perspective emphasizes the importance of recovering state

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Tindak Pidana Pencucian Uang Di Indonesia Dan Malaysia." *Jurnal Pembangunan Hukum Indonesia* 4, no. 2 (2022): 227-244.

<sup>5</sup> Rehia Sebayang, "HSBC Sepakat Bayar Rp 13,7 Triliun Untuk Hentikan Penuntutan" <https://www.cnbcindonesia.com/news/20180119125540-4-1988/hsbc-sepakat-bayar-rp-137-triliun-untuk-hentikan-penuntutan> diakses pada 03 Maret 2024

<sup>6</sup> Indahni, A., Cassanti, R., & uliarta Manalu, R. M. (2022). *Memperdagangkan Alibi*

dalam Perkara Keterlibatan Korupsi Menggunakan Teori Anomie dari Emile Durkheim. *Jurnal Humaya: Jurnal Hukum, Humaniora, Masyarakat, Dan Budaya*, 2(1), 21-33.

<sup>7</sup> Willyams, F. J., & Yusuf, H. (2024). Peran Otoritas Jasa Keuangan Dalam Mencegah Tindak Pidana Perbankan Dan Pencucian Uang Di Indonesia. *Jurnal Intelek Insan Cendikia*, 1(9), 5292-5308.

losses as a form of protection for society as collective victims.<sup>8</sup> This approach is also in line with the objectives of restorative justice, which is not only oriented towards punishment but also towards recovery. By integrating criminology and victimology, the legal system can become more responsive to the needs of society, creating mechanisms that not only punish perpetrators but also restore the losses caused by the crime.

Restorative mechanisms through non-prosecution agreements offer innovative solutions to realize legal benefits in handling money laundering crimes with underlying corruption crimes. This approach focuses not only on punishing perpetrators but also on maximizing and efficiently recovering state losses. By providing perpetrators with the opportunity to return assets derived from crime without going through lengthy court proceedings, this mechanism creates a balance between retributive and restorative justice. In addition, this measure can create a more significant deterrent effect with strict conditions, such as the payment of large fines and full cooperation with authorities to uncover criminal networks. Thus, plea bargaining not only saves state resources but also ensures that the proceeds of crime can be immediately used to restore the negative impact on society, making the law more effective and oriented towards public benefit.

## RESEARCH METHOD

The research method used in this study is the normative juridical method, which focuses on the analysis of secondary data in the form of legislation, legal doctrines, and relevant literature.<sup>9</sup> This approach aims to evaluate the synchronization between existing legal norms and their application in cases of money

laundering originating from corruption. Data was collected through a literature study, which included primary legal materials such as Law No. 15 of 2002 on Money Laundering Crimes and its amendments, and secondary legal materials in the form of scientific journals, textbooks, and relevant court decisions.

## RESULT AND DISCUSSION

### *Regulation and Implementation of the Law on Termination of Prosecution Agreements in Corruption Cases*

Legal regulations related to money laundering crimes originating from corruption in Indonesia reflect serious efforts to eradicate this extraordinary crime. Through Law No. 15 of 2002 on Money Laundering, which was updated by Law No. 25 of 2003, the government has established an adequate legal framework to punish perpetrators and trace the proceeds of their crimes. However, the implementation of these regulations still faces major challenges. Data shows that only a small fraction of money laundering cases are prosecuted to trial, and even fewer state losses are successfully recovered. Of the Rp 62.9 trillion in losses due to corruption, only about Rp 1.4 trillion, or 2.2%, has been returned to the state.

One of the main weaknesses in the conventional criminal justice system is its focus on punishing perpetrators rather than recovering losses incurred by the state.<sup>10</sup> Lengthy legal proceedings, high operational costs, and the complexity of tracing assets after a crime has been committed pose significant challenges.<sup>11</sup> This situation has given rise to the need for alternative mechanisms such as non-prosecution agreements. This mechanism allows perpetrators who have met certain conditions, such as returning assets or paying large fines, to settle cases without going

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<sup>8</sup> Ariyanti, V. (2019). Konsep Perlindungan Korban dalam Sistem Peradilan Pidana Nasional dan Sistem Hukum Pidana Islam. *Al-Manahij: Jurnal Kajian Hukum Islam*, 13(1), 33-48.

<sup>9</sup> Benuf, K., & Azhar, M. (2020). Metodologi penelitian hukum sebagai instrumen mengurai permasalahan hukum kontemporer. *Gema Keadilan*, 7(1), 20-33.

<sup>10</sup> Sujono, S., Sudarto, S., & Putra, H. A. (2024). Analisis Penerapan Restorative Justice Oleh Kejaksaan Republik Indonesia Dalam Bingkai Arah Pembaharuan Politik Hukum Pidana Di Indonesia. *JURNAL RECTUM: Tinjauan Yuridis Penanganan Tindak Pidana*, 6(3), 551-564.

<sup>11</sup> Budi Raharjo, *Fintech Teknologi Finansial Perbankan Digital*, Jakarta: Penerbit Yayasan Prima Agus Teknik, h. 299

through lengthy court proceedings. This approach is expected to improve the efficiency of the legal system and accelerate the recovery of state losses.

From a criminal law perspective, this non-prosecution agreement is in line with the principle of restorative justice, which emphasizes the restoration of losses and conflict resolution through more humane mechanisms. This differs from the retributive justice approach, which focuses only on imposing sanctions without prioritizing restoration. The implementation of this mechanism requires a paradigm shift in law enforcement, where the restoration of state losses becomes the main objective, rather than merely punishment.<sup>12</sup> In this way, the legal system can provide more tangible benefits to society and the state.

In addition, this approach also minimizes the burden faced by law enforcement officials, including prosecutors and judges, in handling complex cases such as money laundering. By reducing the number of cases that must be processed in court, existing resources can be allocated to other cases that require greater attention. This mechanism also enables the law enforcement process to be more efficient and measurable, thereby deterring perpetrators through the payment of significant fines and the obligation to return stolen state assets.

Ultimately, plea bargaining is not only a pragmatic solution to overcome the limitations of the conventional criminal justice system, but also reflects a more progressive legal paradigm. By combining the principles of restorative criminal justice, this mechanism provides an opportunity to create a more equitable and effective system. However, the implementation of this mechanism must still be closely monitored to ensure that there is no abuse of

authority or legal loopholes that can be exploited by criminals to avoid responsibility.

### ***Criminological and Victimological Perspectives on the Effectiveness of Non-Prosecution Agreements***

The criminological approach to understanding corruption and money laundering plays an important role in designing more effective policies. According to Bonger, criminology is a science that aims to investigate the phenomenon of crime broadly, including its etiology or origins.<sup>13</sup> Wolfgang added that criminology not only highlights criminal acts but also society's reaction to those crimes.<sup>14</sup> In corruption cases, contributing factors such as weak internal oversight, high opportunity, and low risk of punishment are the main triggers for criminal acts. Integrating this theory into the mechanism for discontinuing prosecution can help identify patterns of behavior among perpetrators of corruption and develop strategies that preventively suppress criminal motivation.

From a victimology perspective, corruption and money laundering crimes place the state and society as collective victims who experience direct and indirect impacts. As explained by Lilik Mulyadi, victimology studies victim issues, including the causes of victimization and its impacts in a social context.<sup>15</sup> Corruption causes economic losses that undermine public services such as health, education, and infrastructure, thereby exacerbating social inequality.<sup>16</sup> The victimology approach through non-prosecution agreements allows for the recovery of state losses to be a top priority, by expediting the return of stolen assets without going through lengthy court proceedings.

<sup>12</sup> Flora, H. S. (2018). Keadilan Restoratif Sebagai Alternatif Dalam Penyelesaian Tindak Pidana Dan Pengaruhnya Dalam Sistem Peradilan Pidana Di Indonesia. *University Of Bengkulu Law Journal*, 3(2), 142-158.

<sup>13</sup> Devi, C., Pratiwi, E. S., Anjani, P. D., & Supriyadi, T. (2024). PSIKOLOGI SOSIAL DALAM KRIMINOLOGI. *IJBITH Indonesian Journal of Business Innovation, Technology and Humanities*, 1(1), 302-309.

<sup>14</sup> Mustofa, M. (2020). Kriminologi Budaya untuk Kesejahteraan Indonesia. *Jurnal Hukum Pidana dan Kriminologi*, 1(1), 73-91.

<sup>15</sup> Setiawan, I., & Saputra, T. (2024). Tindakan Hukum Bagi Pelaku Bullying Terhadap Anak Di Bawah Umur. *Journal of Social and Economics Research*, 6(1), 846-862.

<sup>16</sup> Salmon, H. C. J. (2024). Hubungan Antara Tindak Pidana Korupsi Dan Kerugian Ekonomi Negara. *LUTUR Law Journal*, 5(2), 97-104.

The use of this mechanism also reflects developments in criminology that are oriented towards restorative justice. The focus is on providing justice to victims while creating a deterrent effect for perpetrators by demanding the return of assets and the payment of significant fines. Wolfgang mentions that the reaction to violations of the law must be directed towards repairing the damage caused by the perpetrator, so that the legal process becomes more benefit-oriented.<sup>17</sup> This approach not only reduces the burden on the judicial system but also has a direct impact on the communities that are the main victims of major economic crimes such as corruption and money laundering.

The implementation of this mechanism requires strict supervision to prevent perpetrators from abusing it to avoid full legal responsibility. In this case, the theory of victimology, which views victims as legal subjects, becomes relevant. Law No. 26 of 2000 on Human Rights Courts and Government Regulation No. 3 of 2000 have provided a framework for the protection of victims of gross human rights violations, the principles of which can be adapted to the context of corruption and money laundering. For example, compensation and restitution can be applied as a measure of recovery for the state and society as the main victims.

In addition, the combination of criminology and victimology theories provides a strong basis for creating progressive legal reforms. As a study that examines the interaction between victims and perpetrators, victimology suggests a balance between punishing perpetrators and rehabilitating victims. This is in line with the objectives of the non-prosecution agreement, which is to provide maximum benefits to society while ensuring that perpetrators are held accountable for their actions in a fair manner.<sup>18</sup> Thus, criminological and victimological perspectives not only strengthen the theoretical basis of the prosecution discontinuation mechanism but also ensure that its implementation is capable of

creating restorative justice. This provides an opportunity for the legal system to become more responsive to the needs of society while creating a deterrent effect against future crimes.

## CONCLUSION

Corruption and money laundering crimes reflect major challenges in Indonesia's criminal justice system, particularly in recovering state losses and improving law enforcement effectiveness. The gap between the number of cases indicated and those processed to completion demonstrates the need for innovative approaches, such as non-prosecution agreements, to address the weaknesses of the existing system. By integrating the principles of restorative justice, this approach focuses on recovery of losses and significant deterrent effects. Furthermore, criminology helps analyze the causes of crime, while victimology highlights the impact on collective victims, namely the state and society. Careful implementation and strict oversight are necessary to ensure that these mechanisms operate fairly and effectively, providing tangible benefits to the public and encouraging progressive legal reform.

It is recommended that the government and law enforcement agencies immediately adopt a mechanism for non-prosecution agreements, prioritizing the recovery of state losses as the main objective. This step needs to be supported by strengthening specific regulations and consistently applying the principles of restorative justice. In addition, training for law enforcement officials in understanding criminology and victimology perspectives is also essential to ensure that the implementation of this mechanism is in line with the objectives of recovery and prevention. Strict supervision and transparency in the implementation process must also be a primary concern, so that this mechanism is not abused by criminals to avoid legal responsibility. Comprehensive legal reform must be carried out to create a more responsive, efficient, and fair judicial system for all affected parties.

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<sup>17</sup> Sukananda, S. (2018). Pendekatan Teori Hukum Refleksif Dalam Menjawab Permasalahan Keterbatasan Pengawasan Terhadap Pelaksanaan

Tanggung Jawab Sosial Perusahaan Di Indonesia. *Law and Justice*, 3(1), 12-21.

<sup>18</sup> Juni Sjafrien Jahja, *Say No To Korupsi*, Jakarta: VisiMedia, 2012, h. 36

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