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Dolna 17, Warsaw,
Poland 00-773
+48 226 0 227 03
editorial_office@rsglobal.pl

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ECONOMIC ANALYSIS OF LAW IN THE SETTLEMENT OF CORRUPTION CASES

Sukarmi
Faculty of Law, Universitas Brawijaya, Indonesia

Fikran Warnangan
Faculty of Law, Universitas Brawijaya, Indonesia

ABSTRACT

Corruption has always been a disease for a republic, including Indonesia. The attention of the Indonesian government to resolve criminal acts of corruption has started since Indonesia's independence. Regulations regarding criminal acts of corruption start from the Criminal Code (lex generalis) to the Law. No. 31 of 1999 concerning the Eradication of Corruption (lex specialis). The fight against corruption advanced even further with the creation of a special commission through legislation No. 30 of 2002 concerning the Corruption Eradication Commission. However, in reality it has not been able to solve the problem of corruption. A new approach to solving corruption needs to be proposed. Economic Analysis of Law (EAL) sees that the settlement of corruption is not merely a moral issue that stops at right and wrong, far from that, EAL looks at the beneficial impact of solving corruption (cost and benefit ratio). This paper seeks to use microeconomic analysis to criticize the law enforcement of criminal acts of corruption, especially in the settlement of criminal acts of corruption through the Tipikor Law and efforts to provide solutions to the settlement of criminal acts of corruption through the EAL approach.

KEYWORDS

Corruption Crime, Economic Analysis of Law (EAL), State Financial Losses

CITATION

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1. Introduction.

Nowadays, in every mass media whether electronic media, print media or online media, news about corruption is always buzzing. Corruption is now being viewed as a common offense, similar to stealing motorcycles, livestock, or donation boxes, and is often committed by individuals with a lower level of education. Despite the clear statement in Law Number 20 of 2001, which amends Law Number 31 of 1999 regarding the eradication of corruption, stating that corruption is an extraordinary crime that requires exceptional measures for eradication. This is because corruption causes great and widespread damage, is systemic, violates Human Rights/HAM, is threatened with severe punishment, corruption threatens world order, and extraordinary methods are needed to overcome it because the perpetrators of corruption crimes are those who are educated and have power (white collar crime).

Corrupt behavior in Indonesia today has occurred in various circles. For example, in executive institutions, corrupt behavior occurs from the lowest to the highest levels of office, from village heads, subdistrict heads, regents, governors to ministers. In judicial institutions, corrupt behavior occurs in the most honorable professions (*officium nobile*) such as Judges, Prosecutors, Police, Advocates and Correctional Institutions. Likewise, corrupt behavior in legislative institutions, red-handed arrests that snare members of the DPR (House of Representatives), DPRD (Regional House of Representatives) and DPD (Regional Representative Council) are no longer rare events. Indonesia's focus on corruption eradication has existed since independence, as demonstrated by successive regulations, including Law No. 3/1971, MPR Decree No.

XI/MPR/1998, Law No. 28/1999, Law No. 31/1999 as amended by Law No. 20/2001, and the establishment of the Corruption Eradication Commission (KPK) through Law No. 30/2002. Many of these regulations have undergone judicial review and revisions to adapt to the evolving challenges of corruption.

Handling corruption crimes should rightfully be the main concern of the Government. Indonesia, which is a country with the 4th (four) largest population in the world, with more than 17,000 islands, with a presidential government system centered on Java Island (more specifically Jakarta) certainly makes supervision and accountability of state finances increasingly complex and difficult. This complexity and difficulty would certainly be easier if law enforcement could be carried out fairly. The Anti-Corruption Law is a method of law enforcement aimed at safeguarding the state's financial resources and economy by preventing corruption and obstructing national progress (Tambunan et al., 2025). As per the Anti-Corruption Law, corruption crimes not only damage state finances or the economy but also impede the progress and sustainability of national development.

Financial losses incurred by the government or economic losses suffered by the state play a crucial role in corruption offenses. This aspect is clearly outlined in both Article 2 and Article 3 of the Anti-Corruption Law. According to this legislation, those responsible for causing financial harm to the government can include both individuals and corporate entities. Perpetrators who negatively impact state finances or economy are at risk of facing imprisonment, hefty fines, and other punitive measures. Meanwhile, corporate legal subjects that harm state finances or the state economy are threatened with fines. Since the Anti-Corruption Law Jo. KPK Law was enforced, many corruption perpetrators have been successfully prosecuted and many state financial losses have been successfully saved. However, an unresolved issue is whether the implementation of the Anti-Corruption Law has been sufficiently efficient in mitigating state financial or economic losses. Data from the 2022 KPK Annual Report show that corruption resulted in state financial losses of Rp144.2 trillion and USD 61.9 million, whereas the amount recovered was only Rp84 trillion. This data shows that the resolution of corruption crimes using the Anti-Corruption Law has not been able to maximally save state financial losses or state economic losses.

One approach that can be used to test whether the Anti-Corruption Law has been efficient in eradicating corruption crimes is Economic Analysis of Law (EAL). The concept of "law and economics" involves using microeconomic principles to analyze legal issues (Soetopo, 2019). Hilaire McCoubrey and Nigel D. White believe that the economic perspective on law is a refined version of Jeremy Bentham's utilitarianism. In 1960, the Journal of Law and Economics released an article called "The Social Cost Problem" by Ronald Coase, a trailblazer in the field of law and economics. Coase's article discusses the impact of law and regulation on the economy (Soetopo, 2019). According to Richard A. Posner, this economic analysis of law wants to provide a new perspective and analytical tool for legal science that tends to be too philosophical and metaphysical, which ultimately at a certain point seems less pragmatic and actually adds new problems (Posner, 1993).

At the core of Posner's EAL is the notion of efficiency in resource allocation, meaning the maximization of value. He argues that "many doctrines and institutions of the legal system are best understood and explained as attempts to promote efficient resource allocation." From this, he formulated the wealth maximization theory of justice, asserting that "the most common meaning of justice is efficiency," with wealth maximization as the highest moral end (Soetopo, 2019). Richard A. Posner's thinking is in line with Jeremy Bentham's thinking, that the benefits of a criminal act are a driving factor for humans to commit deviations (delinquency), while the pain caused by punishment is a coercion to limit humans from committing such deviations (Jeremy Bentham (1789) in (Marbun & Laracaka, 2019)). If the first factor is greater, then the crime will definitely be committed. Conversely, if the second factor is actually greater, then the crime will not be committed (Jeremy Bentham (1789) in (Marbun & Laracaka, 2019)). The view that a crime is worth doing (worthwhile) as long as the benefits of committing the crime (expected/utility) are greater than the benefits obtained if not committing the crime (benefit/utility of abstention) was also proposed by Gary Becker, Steven Shavell & Pollinsky, Nuno Garoupa & Daniel Klerman.

Essentially, when examining law through an economic lens, it is commonly believed that individuals will assess the potential gains and losses of their actions up to a specific threshold, even when it comes to engaging in criminal behavior. In short, criminal activity is a result of cost and benefit considerations and the theory assumes that when someone wants to commit a crime, the person concerned has linked it to the costs or benefits that will be received by them (Bill McCarthy (2002) in (Marbun & Laracaka, 2019)). Economic analysis of law (EAL) involves applying economic principles to assess how laws, regulations, and policies influence society. This approach examines the development, implementation, and consequences of legal frameworks through an economic lens (Soetopo, 2020). As a tool for testing knowledge that is neutral to various fields of law in society, EAL implementation can be done through various instruments such as CBA and RIA. CBA is a useful method for assessing the efficiency of a policy. RIA is an EAL instrument that aims to measure the impact of a policy.

Economic calculations of crime perpetrators when linked to the resolution of corruption crimes, certainly corruption crime perpetrators have rationally considered the advantages and disadvantages of the Anti-Corruption Law before committing corruption crimes, so it is logical if the State must also think about the advantages and disadvantages of implementing the Anti-Corruption Law, so that there is no counter-productive effect from the purpose of the Anti-Corruption Law, as the saying goes, the heart intends to embrace the mountain, but the hands cannot reach it. Based on this description, this paper attempts to see and analyze 1) What are EAL's criticisms of corruption crime resolution; 2) What are the solutions from the EAL approach to corruption crime resolution. Meanwhile, the purpose of this paper is 1) to criticize case resolution carried out using the Anti-Corruption Law in terms of EAL by measuring benefits (effectiveness, efficiency and usefulness; 2) to try to provide an EAL perspective on corruption crime resolution to Law Makers and law enforcement officers in the corruption criminal justice system; 3) Efforts to expand EAL discussions among intellectuals, professionals and academics.

2. Research Method

This research will attempt to answer the legal problems posed by using a socio-legal approach (interdisciplinary study). Socio-legal studies involve the application of social science methodologies to legal studies in a general manner (Irianto et al., 2012). Because it uses an interdisciplinary approach, in this paper every problem will be approached more specifically with legal science (normative) and microeconomics or EAL. An effort to test how law works (implementation of law). Economics is used to analyze the extent of regulatory impact that occurs with the issuance of government policies. Regulatory impact analysis based on the economic analysis approach to legal policy has brought major changes in the United States that distinguishes it from the Continental legal system (civil law), namely not prioritizing the need to normalize actions with right or wrong assessments but using accurate, measurable and definite analysis of the possible regulatory impacts produced with "cost and benefit ratio" assessments (Atmasasmita & Wibowo, 2016).

Analyzing using an economic perspective often relies on making assumptions, such as the belief that all people are driven by maximizing their own satisfaction in a rational way. Economic theory suggests that human behavior is guided by rational thinking and self-interest, shaping their choices based on their personal values and goals (Soetopo, 2019). The EAL approach will also be supported by several theories from EAL thinkers to show the reasons corruption crimes occur when viewed from an economic perspective. The foundation of EAL, or the microeconomic analysis of criminal law, is rooted in microeconomic theory, which concerns "the study of how scarce resources are allocated among competing ends." Microeconomic theory establishes a general explanation of how individuals and groups make decisions, emphasizing human behavior as shaped by three key principles: (i) optimization (involving maximization and minimization), (ii) equilibrium, and (iii) efficiency (Atmasasmita & Wibowo, 2016). Further, the researcher also uses a statute approach, conceptual approach, and case approach.

3. Result and discussion

3.1. EAL Criticism of Corruption Crime Resolution

In the EAL approach, there are several theories that explain why people commit crimes. Several experts who have tried to explain EAL include Ronald Coase, Guido Calabresi, Becker and Posner. However, before these experts spoke about EAL, in the 18th century there were several philosophers who had questioned the relationship between economics and crime, namely Montesquieu (1748), Beccaria (1770), and Bentham (1789). When these pioneers of the economic approach to criminal law introduced "the economic model of criminal behavior" which states that someone will commit a crime if the benefits of committing the crime exceed its risks (costs). To reduce crime therefore, the expected benefits must be reduced or the risks increased. As Becker argues, rational individuals would certainly commit crimes if the expected net benefits (utility) from committing crimes exceed the benefits (utility) derived from activities that do not violate rules/law. Posner believes that economic factors are crucial in influencing legal decision-making. In his book Economic Analysis of Law, he argues that rational actors with self-interests in a world of limited resources will aim to maximize their wealth through economic analysis (Posner, 2011).

The EAL theory employs the Regulatory Impact Analysis (RIA) approach, a method that systematically evaluates both the advantages and disadvantages of a legal regulation or proposed legislation in a comprehensive and participatory manner. EAL theory with the RIA method will assess whether a regulation or (discretionary) policy will take a limitative and rigid legal approach or use EAL as a flexible economic side approach (Adji, 2021). The EAL approach with value, utility and efficiency is in accordance with the principle of benefit whose ultimate goal is social welfare maximization (Posner, 2011). Basically, the main goal is to evaluate law by referring to external methods, namely legal costs and benefits, meaning maximizing benefits and minimizing costs (Adji, 2021). Economic analysis of law is looking at the efficiency aspect in determining a choice in human life. The concept of choice and rationality causes people to incur costs because they have to abandon one choice to pursue another choice that they consider better (Murni, 2012). Based on this reason, the author attempts to analyze several legal issues that can be criticized by EAL in resolving corruption crimes. EAL criticism of corruption crime resolution will certainly emphasize the cost benefit ratio with the aim of realizing legal benefits. The concentration of economists focused on efficiency does not feel the need for the element of justice (Trebilcock, 1993). This would certainly conflict with the positivism view that emphasizes legal certainty.

Based on research results by Doctor of Law, Muhammad Yusuf, it shows that the value of state financial losses from crimes that were successfully saved during a 5 (five) year period from 2007-2012 was 20.82% of the total loss of Rp180,309,318,403.96 and 20.82% of USD37,261,549.65 (Atmasasmita & Wibowo, 2016). Then, during 2021 based on the Attorney General's Office report, state financial losses that were successfully saved reached Rp21,267,994,771,809 in the form of cash and assets such as land, buildings and others. In 2022, the Attorney General's Office reported that the Special Criminal Team (Pidsus) of the Attorney General's Office had successfully collected and deposited Non-Tax State Revenue (PNBP) to the state treasury amounting to Rp 2.1 trillion from the total PNBP of the Indonesian Attorney General's Office of Rp 2.7 trillion. Pidsus prosecutors throughout Indonesia have carried out asset rescue through seizure of cash, motor vehicles, helicopters, ships, palm oil plantations, palm oil factories, hotels, office buildings or towers, land, buildings, and others with an estimated total value of approximately Rp21.1 trillion; USD 11.4 million and SGD 646.04. Meanwhile in 2022 as well, from the handling of corruption cases handled, state and state economic losses reached Rp144.2 trillion and USD61,948,551. This amount consists of state financial losses of Rp 34.6 trillion and USD 61,948,551, as well as state economic losses of Rp 109.5 trillion.

In addition to the Attorney General's Office report, state financial losses that were successfully saved were also reported by KPK through Annual Reports. The figure for state financial losses successfully saved by KPK during 5 (five) years (2018-2022) is as follows:

Table 1. State Financial Losses Successfully Saved by KPK during 5 (five) years (2018-2022)

Year	Amount of state financial losses successfully saved (in rupiah)
2018	528,120,000,000
2019	330,630,000,000 and 200,000,000 Singapore dollars
2020	59,320,000,000,000
2021	120,040,000,000,000
2022	84,000,000,000,000

Source: Corruption Eradication Commission Annual Report 2018-2022

Although the Indonesian Attorney General's Office and KPK reports have shown estimated figures for state financial losses that were successfully saved, the total state loss figures during that period have not been fully recorded. Compiled from various sources, state financial losses due to corruption crimes over a 5 (five) year period (2018-2022) can be presented as follows (Bayu, 2022; merdeka.com, 2023; Rachman & Wedhaswary, 2019):

Table 2. Amount of State Financial Losses Due to Corruption Crimes

Year	Amount of state financial losses due to corruption (in rupiah)
2018	9,290,000,000,000
2019	12,000,000,000,000
2020	56,740,000,000,000
2021	62,930,000,000,000
2022	144,200,000,000,000 and 61,948,551 US dollars

The total estimate of state financial losses and their rescue will be even higher when looking at data on food costs for prisoners and detainees (BAMA) in correctional institutions, as follows (Awaliyah, 2018; Kusnandar, 2022; Melda, 2021; Rizaty, 2022; Sugiarto, 2019):

Table 3. Number of Prisoners and Detainees (BAMA) in Correctional Institutions

Year	Number (people)
2018	240.962
2019	267.912
2020	249.000
2021	252.384
2022	276.172
2023	228.204

On average, the state bears the food costs of approximately 250,000 prisoners and detainees annually. With the daily unit cost of BAMA (side dishes and rice) amounting to Rp15,000 per individual, the total daily expenditure reaches Rp3,750,000,000. This results in an annual cost of Rp1,368,750,000,000 from the state budget. If the average duration of imprisonment is estimated at three to five years, without remission or parole, the cumulative state expenditure for BAMA and related provisions is Rp4,106,250,000,000 for three years and Rp6,843,750,000,000 for five years.

It should be noted that the state's financial burden extends beyond food costs, as case-handling expenditures are also covered under the state budget. For corruption cases, the average litigation cost ranges from Rp250,000,000 to Rp500,000,000 per case. In 2022, the Corruption Eradication Commission (KPK) and the Attorney General's Office collectively managed 579 corruption cases, excluding cases at the provincial and district prosecutor levels. Based on these figures, the estimated expenditure for corruption case handling in 2022 amounted to between Rp144.75 billion and Rp289.5 billion.

Paying attention to this data, starting from data on state losses due to corruption crimes, data on state losses successfully saved by the Attorney General's Office and KPK, data on living costs of prisoners and/or detainees, as well as case costs for handling corruption cases, actually the handling and resolution of corruption crimes has caused state financial losses that are not much different from state finances that are corrupted. So it is not wrong if there are those who say that the resolution of corruption crimes has been counterproductive to the main purpose of forming anti-corruption laws, namely saving state finances. In addition to the aforementioned premise, EAL theory provides evidence that repressive legal mechanisms within the criminal justice system generate inefficiencies, encompassing not only social, economic, political, and legal aspects but also state financial expenditures (Atmasasmita & Wibowo, 2016).

Furthermore, data from ICW indicate that corruption prosecutions in Indonesia are rising, with 579 cases and 1,396 suspects recorded in 2022, reflecting respective increases of 8.63% and 19.01% compared to 2021. The Attorney General's Office bore the largest share of enforcement, prosecuting 405 cases and charging 909 individuals. In contrast, the Police addressed 138 cases with 307 suspects, and the KPK managed only 36 cases involving 150 suspects. These figures highlight not only the persistence but also the escalation of corruption cases, underscoring the urgent need for stronger institutional coordination in combating corruption (Bayu, 2022).

Data reveal that the rise in corruption cases is accompanied by a deterioration in Indonesia's Corruption Perception Index (CPI). Transparency International reported that the CPI score for Indonesia fell to 34 points in 2022, a decrease of four points compared to the previous year. Consequently, Indonesia's global CPI ranking declined sharply, from 96th in 2021 to 110th in 2022. Based on this data, if using the EAL approach it can be concluded that efforts to resolve corruption crimes carried out repressively through imprisonment do not make other legal subjects afraid to commit corruption crimes. The lack of fear among other legal subjects to commit corruption crimes is a sign that imprisonment does not provide a terror/preventive effect in resolving corruption crimes. It can be said that legal subjects will make rational economic considerations in committing corruption crimes, where the benefits to be gained from corruption crimes are greater than the risks that will be received. The economic considerations made by corruption perpetrators can be seen in several cases below:

a) Bribes received by Idrus Marham related to the PLTU Riau-1 project amounting to Rp2,250,000,000 were only sentenced to 2 (two) years in prison and a fine of Rp50,000,000 subsidiary confinement for 3 (three) months (Supreme Court Decision Number 3681/K/Pid.Sus/2019);

b) Chairman of Bengkalis Regency DPRD Heru Wahyudi was caught in a corruption case of social assistance (*bansos*) funds amounting to Rp31,000,000,000 was only sentenced to 3 (three) years and a fine of Rp100,000,000 subsidiary 2 (two) months imprisonment (High Court of Pekanbaru Decision Number 30/PID.TPK/2017/PT PBR);

c) Head of the Education and Culture Office (Disdikbud) of Banten Provincial Government, Engkos Kosasih in the corruption case of procurement of 1,800 computer units for the 2018 Computer-Based National Examination worth Rp25,300,000,000 was only sentenced to 1 (one) year 4 (four) months and a fine of Rp100,000,000 subsidiary 3 (three) months imprisonment (District Court of Semarang Decision Number 16/Pid.Sus-TPK/2022/PN Srg).

In addition to the high costs of resolving corruption cases, the small amount of state losses that can be saved from the corruption case resolution process and the increasing number of corruption cases, the resolution of corruption crimes also often results in the birth of new corruption crimes. The birth of new corruption crimes due to handling corruption crimes can be seen from several cases, namely:

a) Bribery attempts by Defendant Hadi Setiawan to Judge at the Medan Corruption Court Merry Purba amounting to 150,000 Singapore dollars to influence the judge's decision in the corruption case being handled (Central Jakarta District Court Decision Number 8/Pid.Sus-TPK/2019/PN.Jkt.Pst);

b) Bribery attempts by Defendant Aditya Anugrah Moha to Manado High Court Judge amounting to 110,000 Singapore dollars so as not to detain Marlina Moha during legal remedies related to the corruption case of Village Government Apparatus Income Allowance (TPAPD) (Central Jakarta District Court Decision Number 11/Pid.Sus-TPK/2018/PN.Jkt.Pst);

c) Bribery, money laundering and criminal conspiracy committed by Prosecutor Pinangki Sirna Malasari in the case of processing a free fatwa for Djoko Tjandra (Jakarta High Court Decision Number 10/PID.TPK/2021/PT DKI);

d) Bribery attempts by Inspector General Napoleon amounting to 370,000 US dollars and 200,000 Singapore dollars for the removal of red notice at Interpol on behalf of Djoko Tjandra (District Court Decision Number 46/Pid.Sus-TPK/2020/PN Jkt.Pst_.

Several of these cases, if using the EAL approach, can be concluded that efforts to resolve corruption crimes carried out repressively through imprisonment open up great opportunities for corruptors to bribe law enforcement officers (to be freed from charges or have their prison sentences reduced) thus giving birth to new corruption crimes. These various criticisms do not rule out the possibility of criticism from other sides seen from EAL towards corruption crime resolution. That to overcome problems arising from corruption crime resolution, a new effort is needed, one of which is by using an approach that is principled on benefits, advantages, efficiency and effectiveness. This approach is by using EAL.

3.2. EAL Solutions for Corruption Crime Resolution

Based on EAL criticism of non-criminal resolution as explained above, in substance this criticism attacks the weaknesses of the Anti-Corruption Law sentencing system. Rules stating that if individual legal subjects who commit corruption crimes will be sentenced to imprisonment and fines as well as additional penalties, as well as imposing fines plus one third if corruption crimes are committed by corporations from an EAL perspective are considered ineffective and inefficient. Considering that in the development of the criminal justice system, repressive punishment has begun to be re-evaluated as it is considered not to solve problems.

Various ideas about sentencing have been proposed and even used in several crimes. The restorative justice approach, for example, is proposed as an effort to restore the consequences of crime to previous conditions.

Posner conceptualizes the role of law through the lenses of value, utility, and efficiency. Efficiency, as defined by Posner (1992), refers to the allocation of resources that maximizes value. In his view, economic theory provides the most coherent framework for interpreting legal doctrines and institutions, many of which are designed to promote efficiency. Accordingly, Posner asserts that the common law is best understood as an institutional mechanism for maximizing the wealth of society (Posner, 1992).

The concept of restorative justice emphasizes the settlement of criminal cases outside judicial proceedings by means of dialogue and consensus-building that engages victims, offenders, their families, community leaders, and law enforcement officers. In Indonesia, this approach has long been embedded within the legal framework, as reflected in Law No. 11 of 2012 concerning the Juvenile Criminal Justice System, which requires the application of diversion grounded in restorative justice principles. Over time, the practice has evolved, with institutions such as the Police, the Prosecutor’s Office, and the Supreme Court broadening its use to encompass certain minor criminal offenses. These regulations are:

a) Police: Republic of Indonesia National Police Regulation Number 8 of 2021 concerning Handling Criminal Acts Based on Restorative Justice, and Circular Letter of the Republic of Indonesia National Police Number SE/8/VII/2018 concerning Implementation of Restorative Justice in Criminal Case Resolution;

b) Prosecutor's Office: Attorney General Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice;

c) Court: Decision Letter of the Director General of the General Court Body of the Supreme Court Number 1691/DJU/SK/PS.00/12/2020 concerning Implementation of Restorative Justice Application Guidelines.

These regulations are the legal basis used by each law enforcement institution to apply the restorative justice approach even though the law determines otherwise. Like the Criminal Code which still prioritizes retributive justice and is not yet restorative and the Criminal Procedure Code which has not regulated restorative justice procedures.

In the context of corruption crime resolution, the idea of employing a restorative justice approach was presented by Attorney General S.T. Burhanuddin during a working session with Commission III of the House of Representatives of the Republic of Indonesia (DPR RI). He has given an appeal to his ranks for corruption crimes with state financial losses below Rp50,000,000,- to be resolved by returning state financial losses (Rachman & Wedhaswary, 2019). The Attorney General's appeal certainly creates controversy for the public. However, it does not rule out the possibility that in order to save state finances, corruption with relatively small values can be resolved with a restorative justice approach.

Based on the principle of dominus litis or case controller, which means that in the criminal process, the prosecutor has the authority whether a case can be prosecuted in court or not (Surahman, 1996). The author believes that the principle of dominus litis is the basis for prosecutors to set aside a prosecution if it has been resolved with a restorative justice approach. This is also regulated in Article 14 letter (h) of the Criminal Procedure Code which states that prosecutors as law enforcers have the authority to prosecute and close cases in the interest of law. The Attorney General's appeal certainly drew criticism from various practitioners, observers, activists and legal intellectuals. Some argue that corruption as a crime should not be resolved with a restorative justice approach, because:

a) Corruption is an extraordinary crime so it must also be resolved in extraordinary ways;

b) Article 4 of the Anti-Corruption Law states that the return of state financial losses or state economic losses does not eliminate the punishment of perpetrators of crimes as referred to in Articles 2 and 3;

c) Corruption not only harms state finances but also troubles the people;

d) Discussion between corruption perpetrators and law enforcement is only possible for justice collaborators;

e) Corruption crimes are mostly committed by Village Heads with nominal amounts of less than 50 million rupiah, so it is feared that with the return of state losses that eliminates punishment, it can make more Village Heads commit corruption crimes.

However, from various arguments from parties who are contra, there are also arguments from parties who are pro to the Attorney General's opinion. Such as arguments about law enforcement costs that are relatively the same as losses experienced by the state, correctional institutions that have exceeded capacity and many state financial losses that occur only due to administrative errors. From an EAL perspective, the Attorney General's policy regarding the resolution of corruption crimes that harm state finances of less than 50 million rupiah is appropriate. Because viewed from the principles of benefit, effectiveness and efficiency, if crimes that harm state finances of less than 50 million rupiah are resolved with the corruption criminal justice system, it would certainly cause counterproductive results with the purpose of the Anti-Corruption Law, namely saving state financial losses. One way to address corruption cases, according to the Attorney General's policy, is to have specific regulations for handling corruption offenses that result in financial loss to the state. This approach allows for resolving these cases through restorative justice measures.

Article 4 of the Anti-Corruption Law should be revisited as it mentions that criminals cannot escape punishment even if they return the state's financial or economic losses. If this provision is calculated by corruption perpetrators who are rational humans and economic subjects, it is unlikely that perpetrators will return the corrupted state financial losses, considering that even if perpetrators return them, they are still punished. Economically, perpetrators will think it is better to be sentenced without returning the corrupted state losses. The provisions of this article can be renewed by stating that if perpetrators return the corrupted state financial losses, it will be used as a mitigating circumstance for perpetrators. So that in terms of EAL this will be beneficial for perpetrators, and also beneficial for the state.

4. Conclusions

Corruption as an extraordinary crime committed by educated people with power (white collar crime) should certainly be approached with an extraordinary approach as well. One approach that needs to be used to resolve corruption crimes is Economic Analysis of Law (EAL). EAL views corruption crime resolution not merely as a moral issue that stops at right and wrong, far from that EAL looks at the beneficial impact of corruption crime resolution (cost and benefit ratio). Considering that the purpose of the Anti-Corruption Law, namely saving state financial losses, is actually appropriate when approached through EAL glasses. For EAL, every person is an economic human who will rationally make economic decisions that refer to cost and benefit ratios.

Meanwhile, corruption crime resolution when criticized by EAL has several issues that benefit perpetrators and harm the state. These issues include: (1) The small amount of state financial losses successfully saved compared to state financial losses experienced due to corruption crimes; (2) the high living costs of prisoners/detainees that must be borne by the state if all corruption perpetrators are sentenced to prison; (3) the high costs borne by the state for handling each corruption case; (4) repressive corruption crime resolution has proven not to reduce corruption cases, it is even recorded that corruption cases increase every year and the corruption perception index (CPI) continues to decline; (5) repressive corruption crime resolution (imprisonment) does not provide a terror effect to other legal subjects not to commit corruption crimes because the benefits of corruption crimes are greater than the risks experienced; (6) repressive corruption crime resolution (imprisonment) often opens opportunities for new corruption crimes to occur. This criticism certainly provides input to lawmakers and law enforcers to anticipate the economic calculations calculated by corruption perpetrators.

Corruption crime resolution to save state financial losses can be resolved with an EAL approach. EAL provides effective and efficient solutions to achieve legal benefits. Solution offers that can be given include efforts to resolve corruption crimes with relatively small state financial losses can be resolved using a restorative justice approach. Using a restorative justice approach aims to avoid further burdening state finances and aims to recover funds lost due to corruption. Additionally, Article 4 of the Anti-Corruption Law, which currently states that the return of funds does not negate punishment, should be reconsidered to make the return of funds a mitigating factor, allowing corrupt individuals to rectify their actions.

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