

Restorative justice approach in village fund corruption in Pamekasan Regency

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Abstract. Village fund is provided by the central government to support the development of infrastructure, people empowerment, and public service in each village in Indonesia. However, in practice, there have been misuses in the management of village funds that have led to corruption. At least hundreds of suspects, including village heads and officials, have been arrested for corruption of village funds. Consequently, the operation of the village government and its development has stalled. A special approach from the concept of restorative justice is needed to resolve the problem. This research was conducted to explore the use of the restorative justice concept approach in resolving village fund corruption cases. This research applies juridical-empirical research method and sociological juridical approach. The types of data used were primary and secondary data. Primary data was obtained from respondents' information including experts through interviews. Meanwhile, secondary data was obtained from documents of related laws and regulations, scientific journals, and others. The research location was in Pamekasan Regency, Madura Island, East Java Province. The results of this research are expected to illustrate the ideal concept of the restorative justice approach and how it can be used to identify case characteristics in handling corruption of village funds. In the future, this research is expected to generally prevent other acts of manipulation and village funds can be optimized for village development.

1 Introduction

According to Widjaja (2003:3), a village is a legal community unit that has an original structure based on matters of origin that are special in nature, the basis of thought in village government is diversity, participation, autonomy, democratization, and community empowerment. As a government that is in direct contact with the community, villages are an important part of national development efforts, given that most of Indonesia is located in rural areas. This includes the village financial management that has been regulated in Law No. 6/2014 on Villages, which states that village government financial administration is separate from district government finances. The purpose is to improve the efficiency and effectiveness of village financial management in order to upgrade the welfare and services to the village community. Villages contribute to the development of Indonesia's economy. The central government has created a national program with the slogan "building from the village periphery", which target is to improve the quality of human resources and the rural communities welfare (Setiawan, 2019). One of the realizations of the program is the village funds provided by the central government for all villages in Indonesia. The village funds can be used for village infrastructure development, village community

empowerment, and village public services. In decentralized systems, transfers of authority and funds to the local government are expected to strengthen the quality of local governance, improve economic growth and reduce regional disparity by increasing resource allocation. After 15 years of 'big bang decentralization', the Indonesian government initiated the Village Fund (Hartojo dkk. 2024).

Thus, the mandate of Law No. 06/2014 regarding Villages has provided a considerable foundation for villages to become autonomous regions that function to optimize development in villages. Village autonomy is original, unanimous and complete autonomy and is not a gift from the government, and for that reason the government must respect the original autonomy of the village. As a legal community that has an original structure based on privileges, the village can carry out legal acts both in the public field, in the field of civil law, management of village assets, property, village finances, and can be prosecuted and sued before the court (Widjaja: 2003: 165). The village autonomy referred to in the study is the autonomy of the village government in village financial management. However, the implementation of village financial management, in this case used for development, is still not optimal due to the inadequate capacity and capability of village government officials and the lack of active community

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participation in monitoring the management of village funds. The importance of village funds for village development is very important to be used as the promotion of human resources and development in the village. According to data from the Ministry of Villages, Development of Disadvantaged Regions and Transmigration in 2023 the budget allocation for economic growth of village funds in 2023 reached 45.7 percent of the total village funds. In the 2023 State Budget reached Rp 70 trillion, an increase of 3.09%, so that the effectiveness of village funds on human development indices such as education, health and welfare improvement in rural communities. (Department of Business Administration, Atma Jaya Catholic University of Indonesia, South Jakarta, Indonesia and Sijabat: 2024: 238).

As a result, there are many irregularities in the use of village funds which have become criminal acts of corruption of village funds. Based on data from the Corruption Eradication Commission of the Republic of Indonesia (KPK-RI) from 2012 to 2021, there were 601 cases of corruption of village funds along with 686 unscrupulous village heads and village officials who were caught by law enforcement officials, one of which was the District Prosecutor Office. (KPK RI, 2023). The mode of corruption of village funds carried out based on the results of research is carried out through misuse of village funds, manipulation, fictitious reports and fictitious activities and projects and budget inflation, so that the corruption of village funds is very destructive and makes development in the village hampered. (Hidajat 2024) Therefore, a study is needed to explore how the application of restorative justice as a solution in overcoming corruption of village funds.

Consequently, with hundreds of village heads and village government officials arrested, the running of the village government for development activities has been hampered due to the absence of existing village government officials. The District Prosecutor Office is the law enforcement agency that handles the most corruption of village funds, based on the Attorney General's Circular Letter with Special Letter Number: B-23/A.SKJA/02/2023 dated February 14, 2023 which instructs the District Prosecutor Office in handling reports on irregularities in village financial management to prioritize preventive efforts and punishment as a last resort. In the Circular Letter, it can be seen that the approach used in handling criminal acts of corruption of village funds is the Restorative Justice approach. According to Tony Marshal in (Braithwaite, 2002: 10) Restorative Justice is a process that involves all parties who have an interest in the issue of a particular offense to come together to collectively resolve how to address and resolve the consequences of the offense and its implications for the future. Meanwhile, Marian Liebman (2007: 25) simply defines Restorative Justice as a legal system that aims to restore the welfare of victims, offenders, and communities damaged by crime and to prevent further offenses or acts of crime. Therefore, with the restorative justice approach, punishment is the last resort and prioritizes prevention and guidance efforts, so that one of them can prevent development in the village

from being hampered because many village government officials are entangled and support the independence of village financial autonomy.

Since there are so many problems of misappropriation of village funds by village officials or even some have led to corruption of village funds, this has become a problem of village fund management where the human resources of village officials are still low and there is no measurable policy to understand how to manage village funds. Therefore, the District Prosecutor's Office as a law enforcement institution that performs prosecution functions and other functions in handling corruption crimes has a major role in the regions to carry out a restorative justice approach by emphasizing prevention and handling when there is misuse of village funds. Pamekasan Regency, which is the research location, is an area that has problems in managing village funds. Therefore, the purpose of this research is to evaluate and examine the effectiveness of restorative justice in resolving village fund corruption cases and propose an ideal framework for its implementation. So that the results of this study can be known what the characteristics of the criminal act of corruption of village funds can be carried out with a restorative justice approach and the efforts made by the Prosecutor's Office as law enforcement and other stakeholders to prevent misappropriation of village funds to support the realization of village autonomy and support the optimization of development in the village area.

2 Research methods

2.1 Research type and data source

The type of this research was an empirical juridical legal research using a sociological approach, which was a literature legal research conducted by examining secondary data namely by using field data data in the community. (Asikin Zainal, Amirudin, 2004: 34). Data collection is conducted from primary legal materials, namely through interviews with expert respondents and secondary legal materials are legislative documents and literature. The case approach is carried out by examining cases of criminal acts of corruption of village funds in Pamekasan Regency, East Java. as a process of finding legal rules, legal principles, and legal doctrines to answer the legal problems faced to produce new arguments, theories or concepts as prescriptions to solve problems. According to Fajar Mukti, Yulianto Achmad, (2010: 26) the data used for secondary data or library data or known as legal materials in legal research, were collected by tracing materials related to primary legal materials, secondary legal materials and tertiary legal materials.

The research method applied in this research was a scientific research procedure to find the truth based on legal scientific logic from the normative side (Supranto J, 2003: 3). The scientific logic that also exists in legal research is built on the scientific discipline and

procedures of normative legal theory, or the theory which object is the law itself.

The problem approach used in this research was:

- a. Statute Approach, an approach that uses legislation and regulations in the applicable laws and regulations (Marzuki Peter Mahmud, 2005: 97). The use of this approach was to study and examine the legal basis of the applicable laws and regulations, and how the application of the law was carried out.
- b. Conceptual approach, an approach based on existing concepts and theories, by reviewing views of previous legal scholars. (Marzuki Peter Mahmud, 2005: 102).

Primary legal materials are authoritative, which means that they have authority consisting of legislation, judges' decisions, and secondary legal materials in the form of publications about laws that are not official documents, for example, the results of interviews and data in the field, tertiary legal materials which provide instructions or explanations if not found in premier legal materials, and secondary legal materials such as large Indonesian dictionaries, legal dictionaries, encyclopedias, and internet sources. In addition, it is supported by data obtained in the field such as interviews with agencies related to law enforcement in Pamekasan district.

2.2 Data collection and data analysis methods

Data collection methods were based on normative legal research methods by literature study such as by reading and studying various relevant literature. Meanwhile, the research approach used was a conceptual approach and a regulatory approach.

This research employed a qualitative normative juridical method since it dealt with research on legal norms that exist in the existing laws and regulations, court decisions, as well as legal norms that exist in society, (Ali Zainudin, 2009: 56) with the following steps:

- a. Inventorying and identifying relevant primary, secondary, and tertiary legal materials;
- b. Performing overall systematization on legal materials, legal principles, theories, concepts, and other reference materials by first selecting legal materials, classifying legal materials, and compiling research data systematically which were carried out logically by connecting and linking legal materials with one another. (Fajar Mukti, Yulianto Achmad, 2010: 22)

The analysis of the collected legal materials was carried out according to the methods of analysis as well as grammatical and systematic interpretation where interpretation was carried out by interpreting the law as part of the overall legislative system by connecting it with other laws in a logical and systematic manner. (Fajar Mukti, Nuswardani Nunuk, 2012: 43). 43).

The research results obtained were analyzed qualitatively and conclusions were drawn deductively, which starts from general to specific things (Arifin Syamsul, 2011: 45). This research is descriptive in

nature which purpose was to describe the properties of individuals, circumstances, symptoms or certain groups, or to determine the relationship between one symptom and another in society. While in terms of its form, this research belonged to the perspective research since it tried to get suggestions related to the problems along with the suggestion to overcome those problems. This research is expected to find out how the restorative justice approach can overcome corruption of village funds and the various challenges in the application of restorative justice can be done to make law enforcement more effective.

3 Village fund management and implementation of village autonomy

According to Article 1 Point 1 of Law of the Republic of Indonesia Number 17 of 2003 concerning State Finance (hereinafter referred to as the State Finance Law), state finances are described as all state rights and obligations that can be valued in money, as well as everything in the form of money and in the form of goods that can be used as state property related to the implementation of these rights and obligations (Makawimbang, 2014: 7). Meanwhile, the terminology of state finances according to the Anti-Corruption Law is found in the explanation of paragraph 3 which states that the state financial losses referred to are all state assets in any form, which are separated or not separated, including all shares of state assets and all rights and obligations incurred as a result of (Makawimbang, 2014: 8-9):

1. Being in the possession, management, and accountability of state institution officials, both at the central and regional levels;
2. Under the control, management, and accountability of State-Owned Enterprises/Region-Owned Enterprises (BUMN/BUMD), Foundations, legal entities, and companies that include state capital or companies that include third-party capital based on agreements with the state.

Those are the basis for the idea that state financial losses in misappropriation are always referred to the corruption crime. With the Law of the Republic of Indonesia Number 20 Year 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption, all village heads who commit fraud against village funds can be included in the crime of corruption.

The village government consists of the village head assisted by village officials as an element of the Village Government organizers. With regard to the implementation of village finances, Law No. 6/2014 on Villages states that the village head is the holder of village financial management power, which in its implementation is assisted by village officials. Village finances, which are reflected in the Village Budget, indicate the authority of the village government in financing village government activities. Each year, the village head determines the Village Budget through deliberations with the Village Consultative Body

(BPD). Village Budget is prepared by the village secretary based on the Village Development Work Plan. Village Budget is a financial plan, consisting of the revenue, expenditure, and financing sections of the village. Village financial management is a consequence of village autonomy. However, the village law confers a multitude of fundamental rights to both the village government and the people. Villages are endowed with increased autonomy, allowing them to autonomously make decisions and implement initiatives without necessitating authorization from higher authorities (Ginting dkk. 2024).

Village financial management requires the existence and completeness of village officials. According to Minister of Home Affairs Regulation No. 37/2007 on Village Financial Management Guidelines, the positions of village head and village secretary must be held by one person each. However, the existence of the village secretary as the main assistant to the village head in village financial management has not been filled (Abidin, Muhammad Zainul, 2015: 61-67). Stimulate development in rural areas, Indonesia's government aids by providing a village funds policy. Village funds refer to financial programs aimed at providing funding and support to rural or village communities, often in developing countries. Village Funds in Indonesia and other support programs such as microcredit programs in other countries are distinct financial initiatives with different purposes and structures. Village Funds, funded by the Indonesian government, aim to foster community development by financing projects such as infra structure, education, and healthcare within rural villages. These funds are collectively managed by local authorities and are not repaid by the community. (Hilmawan dkk. 2023).

Village Funds are funds from the state budget (APBN) designated for villages that are transferred through the Regency/City budget and prioritized for the implementation of village community development and empowerment. The Village Fund is calculated based on the number of villages and allocated by taking into account the population, poverty rate, area and level of geographical difficulty. The purpose of the Village Fund is, among others, to improve public services in the village, alleviate poverty, develop the village economy, overcome development gaps, and strengthen village communities as subjects of development. Institutionally, villages have been regulated in Law No. 6 of 2014 concerning Villages which becomes the jurisdictional basis. The law regulates village finances, ranging from general provisions, sources of income, Village Budget (APB Desa) and its management, to the establishment of Village-Owned Enterprises (BUMDes). These rights and obligations give rise to revenues, expenditures, financing, and management of Village Finance. Specifically, village financial management has been regulated by the Regulation of the Minister of Home Affairs (Permendagri) Number 37 of 2007 concerning General Guidelines for Reporting and Accountability Procedures for Village Governance (Asmawati Ika and Prayitno Basuki, 2019: 63-76). One of the functions of the Village Fund is to improve rural infrastructure and

economic empowerment of village communities, therefore the Central Government also issued laws and regulations governing general and technical guidelines for the management of village funds. In addition to Government Regulation No. 60 of 2014 concerning the Implementation of Village Funds, there is also Minister of Finance Regulation No. 222/PMK/2020 concerning Disbursement Mechanisms, Reporting and Sanctions, Minister of Home Affairs Regulation No. 20 of 2018 concerning Determination of Village Fund Priorities. Overall, both central and local governments have a role to monitor, evaluate, and assist in the implementation of village funds. (Sidik dan Habibi 2024: 392).

The amount of village funds given to each village and its management by the village government must be the concern of various parties in the village in conducting joint supervision and control in accordance with applicable laws and regulations. The need for supervision is due to the increasing cases of misappropriation of village funds that occurred in Indonesia, which ended with the implementation of the Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes (hereinafter referred to as the Corruption Law). The Corruption Law is applied in cases of misappropriation of village funds because there are elements of state financial losses caused by cases of misappropriation of village funds.

Village funds as one of the sources of village income, in its management as stipulated in the Village Law must be managed based on the principles of transparency, accountability, participation, and orderly budget discipline. The administration of village funds encounters a range of challenges, encompassing the potential ramifications of a lack of transparency, the risk of authority abuse, the potential for legal infractions, the possibility of fraudulent practices, and the potential for mismanagement resulting in the failure of fund administration. Acquiring a thorough comprehension of the potential hazards linked to the administration of village finances is an essential endeavor for village governments aiming to improve the effectiveness and efficiency of their practices in managing village funds (Ginting dkk. 2023).

Because the management of village funds has been delegated independently to the village, the allocation of village funds allocated by the regency government to the village is sourced from part of the central and regional financial balance funds received by the regency/city, for the village of at least 10%, which is distributed to the village proportionally, as mandated by Government Regulation of the Republic of Indonesia Number 72 Year 2005 (*Peraturan Pemerintah Republik Indonesia Nomor 72 Tahun 2005*, t.t.). Based on the Minister of Home Affairs Regulation No. 37/2007 on Village Financial Management Guidelines, it is stated that the allocation of village funds comes from the Regency/City APBD, which is sourced from the share of central and regional financial balance funds received by the regency/city for villages of at least 10%.

President Joko Widodo has called for good management of the Village Fund. Therefore, in the management and implementation of Village Government activities, there needs to be an aspect of good governance practice. One of the main elements of good governance is accountability. Therefore, government accountability is needed to support the implementation of village autonomy so that it can run well. In addition to accountability for the implementation of good governance, transparency is also important. Transparency and accountability are two keywords in the administration of government and good governance. Transparency is characterized by whether government policies, regulations, programs, budgets and activities are open to the public. (Sukmawati, 2019: 52-66).

The allocation of village funds according to Law Number 6 of 2014 concerning Villages is part of the balancing funds received by the regency/city of at least 10% in the regional revenue and expenditure budget after deducting special allocation funds. The allocation of village funds is mostly used for the development and implementation of village government in its development, the village has its own authority to regulate its own area in accordance with the potential and capabilities possessed by the village, in order to achieve prosperity and economic equality in the village.

Based on the Regulation of the Minister of Home Affairs No. 37/2007 Article 19 on Village Financial Management Guidelines, it has been confirmed that the objectives of the Village Fund Allocation are: Overcoming poverty and reducing inequality; Improving development planning and budgeting at the village level and community empowerment; Improving rural infrastructure development; Increasing the practice of religious, socio-cultural values in order to realize social improvement; Increasing community peace and order; Improving services to the village community in the context of developing social and economic activities of the community; Encouraging increased self-help and community mutual cooperation Increasing village income and village communities through Village-Owned Enterprises (BUMDesa).

The use of village funds must also pay attention to the priority scale that must be considered, which based on the Village Minister Regulation Number 11 of 2019 concerning Priorities for the Use of Village Funds in 2020 stipulates 6 (six) principles for prioritizing the use of village funds, which are:

1. The principle of justice, which prioritizes the rights and interests of all villagers without discrimination;
2. The Principle of Priority Needs, which prioritizes village interests that are more urgent, more needed and directly related to the interests of most villagers;
3. The principle of village authority, which prioritizes the authority of the right of origin and village-scale local authority;
4. Participatory principle, which prioritizes community initiative and creativity;
5. The principle of self-management and based on village resources, namely independent implementation with the use of village natural

resources, prioritizing the mind power and skills of villagers and local wisdom;

6. The principle of village typology is to consider the circumstances and realities of the village's distinctive geographical, sociological, anthropological, economic, and ecological characteristics as well as changes or development and advancement.

Village financial management is also a mandate of the enactment of village autonomy, which in its implementation of village autonomy is the right to regulate its own household based on local wisdom, so that an autonomous village is a village that has a legal subject, meaning that legal actions by the village can be carried out, for examples:

1. Making decisions or regulations that can bind all villagers or other parties as long as they concern their own households;
2. Running the village government;
3. Democratically electing the Village Head;
4. Having their own property and wealth;
5. Having its own land assets;
6. Investigating and established own financial resources;
7. Developing APBDes (Village Budget)
8. Organizing mutual cooperation;
9. Organizing village courts;
10. Carrying out other affairs for the welfare of the village community (Ndraha Talizidhu, 1991: 7-8).

According to Soetardjo (1984:21), in the beginning, village communities were very broad because villages were first formed on the initiative of groups of people based on genealogical, territorial, or both, to form a legal community unit that was relatively free from outside forces. Based on this, the description of the form and content of village autonomy are as follows:

1. Autonomy in the field of community peace and order;
2. Autonomy in the field of agriculture/livestock and fisheries;
3. Autonomy in the religious field;
4. Autonomy in the field of Public Health;
5. Autonomy in Education or teaching;
6. Autonomy in the field of credit or village granaries;
7. Autonomy in village markets;
8. Autonomy of land rights.

It is necessary to note that the implementation of village autonomy and rights is inseparable from obligations and responsibilities so that the implementation of rights, authorities and freedoms in the implementation of village autonomy must continue to uphold the values of responsibility, accountability, transparency while remaining within the corridor of the Unitary State of the Republic of Indonesia. The implementation of the authority, rights, and freedoms of village autonomy is required with the aim of realizing the welfare of the community which is carried out in accordance with the provisions of laws and regulations.

4 Characteristics of village fund corruption crimes that can be approached with restorative justice in pamekasan regency

According to Steinberg Sheldon S. and Austern David T. (1999: 23), corruption is part of the behavior carried out by unscrupulous government officials and other people for different reasons but has the same result, which is an unethical act that damages the joints of good governance. Referring to the results of the United Nations Congress on Crime Prevention and Criminal Justice from the 5th Congress in 1975 in Geneva to the 11th Congress in Bangkok in April 18-25, 2005, countering corruption efforts require an integral approach, both preventive, repressive and educative (Narindrani, Fuzi, 2020: 605-617).

The restorative justice approach in modern criminal law enforcement approaches is often used, making this a new approach in criminal law enforcement which does not make imprisonment the main punishment. There are several expert opinions that define restorative justice, according to Tony Marshal, Restorative Justice is a process that involves all parties who have an interest in the problem of a particular offense to come together to collectively resolve how to address and resolve the consequences of the offense and its implications for the future (Braithwaite, 2002: 10).

Meanwhile, Marian Liebman (2007: 25) simply defines Restorative Justice as a legal system that aims to restore the welfare of victims, offenders, and communities damaged by crime and to prevent further offenses or acts of crime. Restorative justice theory is one of the theories in law to close the gap of weaknesses in the settlement of conventional criminal cases or as the repressive approach as implemented in the Criminal Justice System. The weakness of the repressive approach to resolving criminal cases is that it is oriented towards retaliation in the form of punishment and imprisonment of the perpetrator, resulting in a lack of satisfaction for the victim even though the perpetrators had served their sentence.

Seeing the development of the theory of punishment, which initially focused on the position of the perpetrator, now the theory of punishment also considers the important role of the victim. In the development of punishment thinking, a new philosophy of punishment was developed which was oriented towards the resolution of criminal cases that benefited all parties, including victims, perpetrators, and society. In resolving a criminal case, it is unfair to only pay attention to one of the interests, either the perpetrator or the victim. Therefore, a theory of the purpose of punishment is needed that represents all aspects of the settlement of a case, including the victim, the perpetrator, and the community, by combining one theory with another (Muladi, 1995: 81).

According to Mardjono Reksodipuro (1997: 33), law enforcement must be interpreted within the framework of three concepts, described as follows:

1. The total enforcement concept which demands all values behind the legal norms are enforced without exception.
2. The concept of full enforcement which assumes that the total concept needs to be limited by procedural law and so on to protect individual interests.
3. The actual enforcement concept which arises after it is believed that there is discretion in law enforcement due to limitations, both related to infrastructure, the quality of human resources, the quality of legislation and the lack of public participation (Muladi, 1995: 81).

Based on the 1945 Constitution of the Republic of Indonesia, the State of Indonesia is a state of law (*recht staats*). The consequence of being a state of law is that everyone who commits the violation of law must be held accountable for their actions through the legal process. Law enforcement means that there is no act prohibited by a rule of law, where the prohibition is accompanied by threats (sanctions) in the form of certain crimes as responsibility.

Based on data and information obtained in the field from the District Prosecutor's Office and the Government Inspectorate of Pamekasan Regency, it is known that in relation to cases and reports or complaints of corruption of village funds, law enforcement officials and the Pamekasan Regency Government have signed a Memorandum of Understanding (MOU) not to process all cases of corruption of village funds into the judicial process, especially by the Prosecutor's Office.

Meanwhile, complaints on cases of corruption of village funds received by the Pamekasan District Prosecutor's Office will first be audited by the Regional Government Internal Supervisory Unit, in this case the Regional Inspectorate of Pamekasan Regency (APIP) to see whether the corruption is detrimental to state finances or only related to administration in the reporting of village funds. Based on the data, there have been 10 cases of misappropriation of village funds in Pamekasan reported and audited by the Pamekasan District Prosecutor's Office. However, of these 10 cases there were only 2 cases that ended up in court, the rest did not end up in court because they had been resolved by following up on the audit results. Pamekasan is administratively divided into 13 subdistricts, and is divided into 178 villages. In 2022, the total Village Funds distributed to 178 villages in Pamekasan Regency will be IDR. 198,575,032,000 (one hundred ninety eight billion five hundred seventy five million thirty two thousand rupiah). Proppo District is the district that receives the largest Village Fund budget in Pamekasan Regency, namely IDR. 29,466,327,000. Meanwhile, the lowest Village Fund allocation based on Pamekasan Regency is Pamekasan Regency, namely IDR. 7,908,684,000 (Sutikno, Hanapi, dan Idealis 2024).

The following is the data on the handling of corruption cases in Pamekasan Regency and the follow-up of their handling presented in Table 1.

The various cases reported for alleged corruption of village funds were mostly related to discrepancies with the proposed Budget Plan (RAB) so that there were differences and or state financial losses, in addition to

misappropriation of funds or deductions from aid funds for the community. The rest are allegations of fictitious construction or fictitious road construction.

Table 1. Handling of corruption cases in pamekasan regency.

No.	Village Location	Alleged Corruption Crime	Handling
1	Branta Tinggi	Fictitious Road Construction	Submitted to Court
2	Larangan Slampar	Budget Plan (RAB) Discrepancy	Submitted to Court
3	Kodik	Budget Plan (RAB) Discrepancy	Out-of-court
4	Akkor	Budget Plan (RAB) Discrepancy	Out-of-court
5	Laden	Budget Plan (RAB) Discrepancy	Out-of-court
6	Gugul	Budget Plan (RAB) Discrepancy	Out-of-court
7	Samatan	Budget Plan (RAB) Discrepancy	Out-of-court
8	Bukek	BPD Fixed Income Misappropriation	Out-of-court
9	Sopa'ah	Budget Plan (RAB) Discrepancy	Out-of-court
10	Ambat	Misappropriation of Village Fund Cash Assistance (BLT), Village Fund and Community Group Assistance (Pokmas)	Out-of-court

The out-of-court case settlement approach in cases of alleged corruption of village funds based on the implementation of law enforcement is a better alternative way considering the rescue of assets and the return of state losses and state financial losses that do not harm the wider community compared to case resolution to the Court where the state losses incurred are not proportional to the costs incurred to try the case.

One of the goals of eradicating corruption in Indonesia is the recovery of state financial losses, so that the restorative justice approach in criminal cases has begun to be accommodated in the Indonesian legal system. Paradigmatically, there has been a shift from criminal law enforcement based on retributive justice to restorative justice, which does not yet apply to all types of criminal cases, for corruption crimes still refers to the provision that the return of state financial losses cannot eliminate criminal offenses (Sitepu, 2019: 67-75). However, it is possible that in the future the restorative justice approach can also be considered, especially regarding the criminal act of corruption of village funds, which in fact is a small state financial loss and the impact that occurs does not extend to the community.

Meanwhile, when viewed from the expansion in this study in the future, the characteristics of village fund corruption crimes that can apply the restorative justice approach are cases that have the following characteristics, for example, state financial losses are not too much, there are state assets that can be saved, the perpetrator returns state financial losses, and state losses are not widespread and have a broad impact on village communities. Thus, this becomes one of the

characteristics in the implementation of law enforcement in cases of corruption handling of village funds in Pamekasan Regency.

5 Efforts of the Pamekasan district prosecutor's office and law enforcement to prevent corruption of village funds to support the realization of optimization of village financial management

The crime of corruption is considered as a dangerous crime for the life of the nation and state, thus it belongs to extraordinary crimes. In the context of law enforcement, the eradication of corruption has become one of the demands of society to realize clean government and good governance practices, thus it will determine the effectiveness of law enforcement in eradicating corruption in Indonesia as a state of law. One of the law enforcement agencies that has duties and functions in the field of corruption, which is a special criminal offense, is the Prosecutor's Office, which in this case if corruption occurs in the regions, especially in village governments, the District Prosecutor's Office is the law enforcement agency that is expected to be at the forefront of eradicating corruption in the regions (Teguh Sulistia, 2021: 189).

Whereas, the duties and functions of the Prosecutor's Office have been regulated in Law No. 16 of 2004 concerning the Indonesian Prosecutor's Office which is a law enforcer in the field of prosecution and exercises authority in the field of investigation as well as prosecution in cases of corruption and cases of gross human rights violations. Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption (hereinafter referred to as the Corruption Law). The Corruption Law is applied in cases of misappropriation of village funds because there are elements of state financial losses caused by cases of misappropriation of village funds. Law enforcement in the eradication of criminal acts of corruption, especially in the case of village funds, must be carried out comprehensively, in addition to repressive actions, the Prosecutor's Office can take more proactive preventive actions by communicating and coordinating with other agencies or fellow law enforcers to eradicate criminal acts of corruption. Based on Article 30 paragraphs (1), (2) and (3) of the Prosecutor's Office Law, the authority possessed by the Prosecutor's Office in the process of enforcing criminal law, especially criminal acts of corruption, is to carry out the case handling process starting from the investigation process to determine whether a legal event has criminal elements as stipulated in Article 30 paragraph (1) letter d of the Prosecutor's Office Law which states *"in the criminal field, the prosecutor's office conducts investigations into certain criminal acts based on the law"*.

In relation to the eradication of corruption of village funds, which has great potential to be misappropriated,

the eradication of corruption through criminal instruments which are part of criminal law policy (penal policy) must be carried out integrally and comprehensively, especially by combining non-penal efforts, and prioritizing prevention efforts by balancing repressive actions with law enforcement through educative and preventive means. It is because the success of corruption eradication is not seen from how many cases go to court but instead emphasizes public awareness not to commit corruption (Efendi M, 2010: 80). Repressive law enforcement according to Soerjono Soekanto (2008: 5) is only a part of law enforcement factors that cannot be ignored, which if carried out without balancing preventive and persuasive efforts will lead to the ineffective law enforcement.

The efforts of the Pamekasan District Prosecutor's Office and Stakeholders consisting of the Pamekasan Regency Government, the Regional Inspectorate, and the Village Government in preventing criminal acts of corruption of village funds are carried out by conducting an MOU or Cooperation in handling misappropriation of village funds which prioritizes the prevention aspect in eradicating corruption of village funds.

The duties and functions of the Public Prosecutor's Office have been regulated in Law No. 16 of 2004 concerning the Prosecutor General's Office of the Republic of Indonesia as well as the mandate of Law of the Republic of Indonesia No. 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning the Eradication of Corruption (hereinafter referred to as the Corruption Law). The Corruption Law is applied in cases of misappropriation of village funds because there are elements of state financial losses caused by cases of misappropriation of village funds. Law enforcement in the eradication of criminal acts of corruption, especially in the case of village funds, must be carried out comprehensively, in addition to repressive actions, the Prosecutor's Office can take more proactive preventive actions by communicating and coordinating with other agencies or fellow law enforcers to eradicate criminal acts of corruption.

Restorative justice is a form of criminal responsibility that is oriented towards restoring losses and returning to the way it was before the crime occurred, this concept is a thought that must be instilled in law enforcers, especially corruption crimes. Welgrave argues that the theory of restorative justice is any action that is oriented towards upholding justice by repairing the losses caused by criminal acts (Hestaria, Helena, 2022: 112-128). Law enforcement officials, such as the Police and the Prosecutor's Office, have issued Circular Letter, which are:

1. Letter of the National Police Chief No. B/3022/XII/2009/sdeops on the concept of Alternative Dispute Resolution (ADR), in the first point it is written that the handling of criminal cases that have small material losses, the settlement can be directed through the concept of ADR which actually has similarities with Restorative Justice which emphasizes deliberation between the parties involved;

2. Circular Letter of the Deputy Prosecutor-General for Special Crimes Number: B113/F/Fd.1/05/2010 dated May 18, 2010, one of the points in its content is to instruct all High Prosecutors which contains an appeal that in cases of suspected corruption, people who have consciously returned losses to the State need to be considered for follow-up restorative enhancing the concept of restorative justice in corruption crimes. The Circular Letter of the Deputy Prosecutor-General was again carried out by the Prosecutor General's Office of the Republic of Indonesia with the issuance of Circular Letter of Deputy Prosecutor-General for Special Crime (Jampidsus) Number: B765/F/Fd.1/04/2018 on April 20, 2018 regarding Technical Guidelines for Handling Corruption Cases at the Investigation Stage, which basically the Investigation is not only limited to finding the event of Corruption Crimes in the form of unlawful acts, but also must try to find the amount of State Financial Losses.

Circular letter issued by the Deputy Prosecutor General for Special Crimes Number: B113/F/Fd.1/05/2010 regarding priorities and achievements in handling corruption cases dated May 18, 2010. The Circular contains an order to Chief Prosecutors throughout Indonesia to prioritize big fish corruption cases (large scale, seen from the perpetrators of the value of losses) and corruption cases that are still going on. This Circular Letter emphasizes that for people who commit corruption crimes with small losses (under Rp. 100,000,000) and have returned the losses, the concept of restorative justice can be used. The need for corruption cases with a loss value of Rp. 100,000,000 and below to be resolved out of court through a restorative justice approach is based on the consideration that efforts to handle corruption cases require considerable time, cost, and energy, along with the trial examination process that must be carried out in the Provincial Capital (IA Court).

The trial of corruption cases that must be held in the provincial capital is felt to cost a lot of the budget for handling corruption cases, especially if corruption cases with small state losses occur in locations far from the provincial capital. The Prosecutor General's Office as one of the law enforcement agencies that has the authority to conduct preliminary investigations, full investigations, prosecutions, and executions for corruption crimes budgets the settlement of corruption cases for 1 (one) case from the investigation stage to execution is around Rp. 200,000.000, - (Two Hundred Million Rupiah) and will become a new problem if the state losses incurred as a result of a corruption case are not greater than the cost of handling the case, causing the state to experience excessive budget expenditures, especially if the location of the court which is often far from the location of the case which causes more trial costs to be incurred and is not proportional to the state losses caused by the small-scale corruption case. (Salsabila, 2022: 61-70).

Although the Circular Letter of the Prosecutor General's Office is contrary to Article 4 of the Anti-Corruption Eradication Law which states that the return

of losses to the state treasury no matter how small does not eliminate criminal charges against the perpetrator, the issuance of the circular letter becomes reasonable when compared to the workload of law enforcers who must focus on resolving large corruption cases that have a major impact on society, for example, the Bandung Corruption Court Decision Number: 30/Pid.Sus/TPK/2018/PN.Bdg where the loss incurred was only Rp. 5,000,000,0- but in the handling process it had to spend tens or even hundreds of times to get to court. This is what makes the state finally have to spend more budget to handle cases but the return on assets incurred is very small. (Budiah Herwan, 2019: 1-17).

One of the implementations is that the Pamekasan District Prosecutor's Office has a program, called the *Jaga Desa Program*, which aims to prevent misuse of village funds by providing assistance from the start in the village development process, one of which is by using village funds. With the assistance program from the beginning in the process of implementing the village fund budget, it can be seen that some potential fraud can be resolved properly with the assistance of the Prosecutor's Office.

In addition, when there are complaints about alleged misappropriation of village funds, the Prosecutor's Office always approaches the community because so far many incoming complaints related to village funds only have political motives and bring down political opponents, not the actual state financial losses or unlawful acts. The restorative justice approach according to the Pamekasan District Prosecutor's Office is to carry out prevention from the start, by conducting assistance programs and guarding village funds, so that the potential for corruption crimes can be minimized properly. Moreover, the legal process when reporting is also pursued by prioritizing internal supervision carried out by the government's internal supervisory apparatus, the Regional Inspectorate, so that from the start it can be calculated accurately the amount of state financial losses incurred and prioritize the return of assets or state losses carried out by the perpetrators who are recovered for the sake of expediency and justice and not blindly enforcing the law. Village heads and village officials must have sufficient capacity to manage funds effectively, while community participation in decision processes helps ensure the legitimacy and relevance of policies. Supporting structures, such as strong verification and evaluation mechanisms, as well as flexibility in policies, are needed to ensure successful policy implementation. Thus, efforts to increase the knowledge and capacity of the community and village government are the key to overcoming obstacles in implementing village fund allocation. Through continuous education and capacity strengthening, it is hoped that community participation can be increased, while village heads and village officials can carry out their roles more effectively. This will help achieve the objectives of the village fund allocation policy optimally. (Reginaldis dkk. 2024).

6 Conclusion

Since there are so many problems of misappropriation of village funds by village officials or even some have led to corruption of village funds, this has become a problem of village fund management where the human resources of village officials are still low and there is no measurable policy to understand how to manage village funds. As a result, many village heads and village government officials have been arrested and convicted for corruption of village funds. This requires an alternative approach, which involves a restorative justice approach in handling criminal acts of corruption of village funds, based on the fact that there are many cases of criminal acts of corruption of village funds caused by administrative problems, for example due to discrepancies in RAB or underpayment of reporting, where state financial losses are not significant and do not have a wide impact on society. Therefore, the characteristics that can be used as parameters in using the restorative justice approach in village fund corruption cases are that the state financial losses are not too much, there are state assets that can be saved, the perpetrators return the state financial losses, and the state losses are not widespread or have a broad impact on the village community. Based on these points, law enforcement in the case of handling corruption of village funds in Pamekasan Regency can be implemented on these characteristics.

The District Prosecutor's Office as a law enforcement institution that performs prosecution functions and other functions in handling corruption crimes has a major role in the regions to carry out a restorative justice approach by emphasizing prevention and handling when there is misuse of village funds. One of the implementations is that the Pamekasan District Prosecutor's Office has a program, called the *Jaga Desa Program*, which aims to prevent misuse of village funds by providing assistance from the start in the village development process, one of which is by using village funds. With the assistance program from the beginning in the process of implementing the village fund budget, it can be seen that some potential fraud can be resolved properly with the assistance of the Prosecutor's Office. Moreover, the legal process when reporting is also pursued by prioritizing internal supervision carried out by the government's internal supervisory apparatus, the Regional Inspectorate, so that from the start it can be calculated accurately the amount of state financial losses incurred and prioritize the return of assets or state losses carried out by the perpetrators who are recovered for the sake of expediency and justice. So that future recommendations with the role of the Prosecutor's Office in carrying out a restorative justice approach are important to ensure that the restorative justice approach used does not lead to impunity in law enforcement and is followed up with comprehensive corruption prevention measures for the long term.

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