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The Legal Certainty Versus National Economic Recovery: Peace Fines by Prosecutors in Corruption Crimes Comparative Law Perspective

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Abstract

Introduction: *The application of peace fines in corruption crimes in Indonesia creates a complex legal dilemma. The Prosecutor's Law grants prosecutors the authority to use peace fines in economic crimes, but on the other hand, the Anti-Corruption Law explicitly states that the return of state losses does not absolve the criminal liability of corruption perpetrators.*

Purposes of the Research: *This research aims to analyze the aspect of legal certainty related to the application of peace fines in connection with corruption crimes, linked to national economic recovery efforts, and a comparative legal analysis in other countries regarding peace fines in the enforcement of corruption crimes.*

Methods of the Research: *This research is a normative legal study with a conceptual, legislative, and comparative legal approach.*

Results Main Findings of the Research: *The research results show that the application of restorative fines related to corruption crimes in connection with national economic recovery efforts does not yet guarantee legal certainty due to a conflict of rules between Article 35 paragraph 1 letter (k) of the Amendment to the Prosecutor's Law and Article 4 of the Anti-Corruption Law. The issue can be resolved with the principle of lex specialis derogat legi generali. The application of peace fines in England, the United States, and Saudi Arabia above shows that peace fines are of a global nature and constitute a general legal policy in their efforts to save a country's national economy from losses due to corruption. The implementation of peace fines in Indonesia to achieve legal certainty needs to consider several factors, such as clear regulatory revisions to avoid legal uncertainty and conflicts of rules in various laws and regulations.*

Keywords: Peace Fine; Prosecutor's Office; Legal Certainty; Corruption Crime.

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INTRODUCTION

Indonesia as a state of law as stated by Albert Venn Dicey has an important aspect in the form of optimal law enforcement efforts by emphasizing that law enforcement is carried out objectively, professionally, and based on the principle of equality.[1] Law enforcement is the

[1] Dicky Eko Prasetio et al., "The Legal Pluralism Strategy of Sendi Traditional Court in the Era of Modernization Law," *Rechtsidee* 8 (March 9, 2021): 1–14, https://doi.org/10.21070/jihr.2021.8.702.

process of applying applicable laws to ensure compliance and uphold justice.[2] It involves various institutions and mechanisms, including the police, prosecutors, courts, and prisons. Effective law enforcement is critical to a country's stability, justice and progress. Law enforcement helps maintain public order and community safety.[3] One of the law enforcement efforts that has an important orientation for the community is criminal law enforcement.

Criminal law enforcement is very important in maintaining order, security and justice in society. Criminal law acts as a tool of social control by providing strict sanctions for violators, which is expected to prevent actions that harm the public interest.[4] Fair and consistent criminal law enforcement is essential for the legal system to function properly. By enforcing criminal laws, such as prohibitions against theft, violence, and fraud, law enforcement creates a safe environment for citizens to live, work, and interact.[5] One important aspect of law enforcement is related to law enforcement related to corruption. Law enforcement of corruption is very important because corruption is considered an extra ordinary crime that has a broad impact on state finances, economy, social, culture, morals, politics, and national security.[6] One of the authorized institutions related to law enforcement related to corruption is the Public Prosecutor's Office, which is part of the criminal justice system, especially related to corruption.[7]

The Public Prosecutor's Office is one part of the criminal justice sub-system in Indonesia which has a very important obligation and role in the criminal justice system, especially in the eradication of corruption.[8] The Public Prosecutor's Office has the authority to conduct investigations and prosecutions independently, which is independent of the influence of

[2] Daniel M Thompson, "How Partisan Is Local Law Enforcement? Evidence from Sheriff Cooperation with Immigration Authorities," *American Political Science Review* 1, no. 2017 (2019): 1–15, https://doi.org/10.1017/S0003055419000613.

[3] Kuntadi, "House of Restorative Justice as a Forum of Actualizing the Nation's Culture in Solving Criminal Cases," *Dinamika Hukum* 22, no. 2 (2022): 144–53, https://doi.org/10.20884/1.jdh.2022.22.2.3242.

[4] Ajoy P. B, "Effectiveness of Criminal Law in Tackling Cybercrime: A Critical Analysis," 2022, https://doi.org/10.36348/sijlcj.2022.v05i02.005.

[5] Andrew Cornford, "The Aims and Functions of Criminal Law," *The Modern Law Review* 87, no. 2 (October 3, 2023): 398–429, https://doi.org/10.1111/1468-2230.12846.

[6] Zico Junius Fernando et al., "Deep Anti-Corruption Blueprint Mining, Mineral, and Coal Sector in Indonesia," *Cogent Social Sciences* 9, no. 1 (2023): 1–18, https://doi.org/10.1080/23311886.2023.2187737.

[7] Toar Neman Palilingan Rivana Tesalonika Troreh, Rumokoy, Donald A, "Praktik Konvensi Ketatanegaraan Terhadap Masa Jabatan Jaksa Agung Di Indonesia," *Lex Privatum* 9, no. 4 (2023): 6–9.

[8] Deni Setya, Bagus Yuherawan, and Muhammad Huzaini, "Pertentangan Antara Asas Oportunitas Dengan Asas Equality before the Law (Pasal 35 Huruf c Uu Nomor 16 Tahun 2004 Tentang Kejaksaan Republik Indonesia)," *Justitia* 6, no. 2 (2021): 165.

PATTIMURA Legal Journal, 4 (1) April 2025: 89- 103
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government power and the influence of other powers.[9] Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia (the Amended Prosecutor's Law) which is an update to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia (the Prosecutor's Law) is the basis for the prosecutor's office in carrying out various legal actions in general criminal cases and special criminal cases, including corruption crimes. Based on Article 35 paragraph 1 letter (k) of the Prosecutor's Law Amendment, the prosecutor's office has the authority to handle criminal offenses that cause losses to the state economy and can use peace fines in economic crimes based on statutory regulations. However, this provision creates a legal dilemma in its application to corruption crimes.

This dilemma arises because Article 4 of Law Number 31 of 1999 concerning the Eradication of Corruption (PTPK Law) states that the return of state financial or economic losses does not eliminate the criminalization of the perpetrators of corruption. This means that even though the perpetrators of corruption have returned state losses, criminal sanctions must still be imposed in accordance with applicable law. This contradicts the concept of an amicable fine made possible by Article 35 paragraph 1 letter (k) of the Amended Prosecutor's Office Law which provides an option for amicable settlement of cases in exchange for payment of a certain fine. In practice, prosecutors experience a dilemma in interpreting these two different legal provisions. On the one hand, there is a requirement to continue to prosecute corruption offenders even though state losses have been returned, in accordance with the principle of legality in criminal law. On the other hand, the existence of Article 35 paragraph 1 letter (k) of the Amended Prosecutor's Office Law which provides an opportunity for prosecutors to apply amicable fines as part of a faster and more efficient case settlement for national economic recovery.[10] The debate on whether corruption is included in the scope of economic crimes that can be subject to peaceful fines is also an issue. In theory, corruption can be categorized as part of economic crimes, along with money laundering, banking, taxation, and excise crimes.

[9] Farida Pahlevi, "Pemberantasan Korupsi Di Indonesia Perspektif Legal System Lawrence M. Freidmen," *El-Dusturie* 1, no. 1 (2022), https://doi.org/10.21154/eldusturie.v1i1.4097.

[10] Rachmadi Usman, "Exploration of Nexus between Legal Liability and Corporate Fraud: Where Do Business Laws and Criminology Converge?," *International Journal of Criminal Justice Sciences* 18, no. 1 (2023): 232-243–232–243, https://doi.org/10.5281/zenodo.4756212.

PATTIMURA Legal Journal, 4 (1) April 2025: 89- 103
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However, in the existing laws and regulations, there is no confirmation on whether corruption can be included as an economic crime that can be resolved with an amicable fine mechanism. This further complicates the position of prosecutors in enforcing the law.

This research aims to analyze aspects of legal certainty related to the application of peaceful fines related to corruption crimes associated with efforts to restore the national economy and comparative analysis of laws in other countries related to peaceful fines in law enforcement of corruption crimes. The legal comparison in this research is carried out by comparing the provisions in the United Kingdom, the United States, and Saudi Arabia. The United Kingdom and the United States were chosen because they have long applied the sanction of peaceful fines related to corruption crimes, while Saudi Arabia was chosen because in addition to being both Asian countries, both Indonesia and Saudi Arabia accommodate religious values in relation to law enforcement. From the background description above, this research aims to answer two research questions, namely: (i) how is the legal certainty aspect of the application of peaceful fines related to corruption crimes associated with efforts to restore the national economy? and (ii) how is the comparison of laws in the United Kingdom, the United States, and Saudi Arabia related to peaceful fines in law enforcement of corruption crimes.

METHODS OF THE RESEARCH

This research with a focus on legal certainty related to the application of peaceful fines related to corruption crimes associated with efforts to restore the national economy and comparative analysis of laws in other countries is normative legal research.[11] As normative legal research, the primary legal materials used are: PTPK Law, Prosecutor's Office Law, Prosecutor's Office Law Amendment. Secondary legal materials are journal articles, books, and research results that discuss peaceful fines in corruption law enforcement. Non-legal materials are language dictionaries. Analysis of legal materials is carried out in a qualitative-prescriptive manner that refers to the legal solution of the problem formulation that has been analyzed and answered.[12] The approaches used are conceptual, statutory, and comparative legal approaches.

[11] Tunggul Ansari Setia Negara, "Normative Legal Research In Indonesia: Its Origins And Approaches," *ACLJ* 4, no. 1 (2023): 5.
[12] Terry Hutchinson, *Reseaching and Writing in Law* (Pyrmont: Thomson Reuters, 2010).

PATTIMURA Legal Journal, 4 (1) April 2025: 89- 103
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RESULTS AND DISCUSSION

A. Aspects of Legal Certainty in the Application of Peace Fines in Connection with Corruption Crimes and Efforts to Restore the National Economy

Criminal law enforcement is a series of activities to maintain the balance of rights and obligations of society in accordance with human dignity, based on the rules of law and legislation.[13] Criminal law enforcement aims to realize justice, legal certainty, and welfare by upholding legal norms as guidelines in the life of society and the state.[14] Criminal law enforcement consists of two core stages, namely criminal law enforcement in abstracto which is the stage of making or formulating laws by the legislature and criminal law enforcement in concreto, namely concrete actions of law enforcement officials to enforce criminal law rules that are still abstract.[15] This stage includes investigation, prosecution, and execution of court decisions.[16] One of the institutions authorized to enforce criminal law is the Prosecutor's Office where the Prosecutor has an important role in enforcing criminal law.

Prosecutors are authorized to conduct an examination to determine whether a case is worthy of being brought to court.[17] In the investigation process, the prosecutor is authorized to collect evidence, examine witnesses, and conduct other investigative actions deemed necessary to uncover the case.[18] Prosecutors are the only officials authorized to prosecute a person suspected of committing a criminal offense. Prosecutors are responsible for preparing indictments, presenting evidence, and presenting criminal charges before the court.[19]

The prosecutor must present sufficient and convincing evidence to the court to prove the guilt of the suspect. The dominus litis principle is attached to the prosecutor, which means that

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[13] Dave David Tedjokusumo and Carissa Amanda Siswanto, "Criminal Law Reform In Criminal Responsibility For People In Mental Disorders Oriented To Dignified Justice," *Jurnal Usm Law Review* 6, no. 3 (2023): 1040, https://doi.org/10.26623/julr.v6i3.7928.

[14] Lies Sulistiani et al., "Forgiveness and Peace Agreement as an Implementation of Living Law in Certain Crimes in Indonesia," *International Journal of Health Sciences* 6, no. 1 (2022): 4083–4100, https://doi.org/10.53730/ijhs.v6ns7.12715.

[15] Keris Aji Wibisono and Umar Ma'ruf, "The Law Enforcement Against The Crime Of Illegal Mining," *Law Development Journal* 3, no. 2 (2021): 424, https://doi.org/10.30659/ldj.3.2.424-430.

[16] Satjipto Rahardjo, *Penegakan Hukum:Suatu Tinjauan Sosiologis* (Yogyakarta: Genta Publishing, 2009).

[17] Bambang Slamet Riyadi, Usman, and Elly Sudarti, "The Disparity in Criminal Prosecution against Acid Attack on Investigator of Corruption Eradication Commission: "novel Baswedan" Case," *International Journal of Criminology and Sociology* 9, no. 1999 (2020): 1676–87, https://doi.org/10.6000/1929-4409.2020.09.191.

[18] Dian Narwastuty Arman Tjoneng, "Judicial Review by the Public Prosecutor After Ratification of Prosecutor ' s Law in 2021," *Dialogia Iuridica* 14, no. 2 (2023): 160–81.

[19] Leonardo Adiguna, "The Prosecutor's Authority to Conduct a Criminal Investigation Based on The Government Administration Law," *Administrative and Environmental Law Review* 2, no. 1 (2021): 11–20, https://doi.org/10.25041/aelr.v2i1.2214.

PATTIMURA Legal Journal, 4 (1) April 2025: 89- 103
E-ISSN: 2830-2435
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the prosecutor has a central role in the criminal justice system.[20] Prosecutors are also authorized to execute court decisions that have permanent legal force as well as to execute judges' decisions.

Prosecutors have the authority to investigate corruption crimes in Indonesia. This authority is regulated in the Prosecutor Law, which states that the prosecutor is authorized to investigate certain criminal acts based on the law.[21] The authority of the prosecutor in investigating corruption is based on the Prosecutor's Office Law and the Corruption Eradication Law. The Prosecutor's Office is one of the tools of state power authorized to enforce the law together with the police and the courts. In conducting investigations into corruption crimes, the Prosecutor adheres to the Transitional Provisions of the Criminal Procedure Code and the Explanation of the Prosecutor's Office Law. Apart from the Prosecutor's Office, the KPK and the Police also have the authority to investigate corruption crimes. This emphasizes that in enforcing the law on corruption, the AGO must cooperate with several institutions, especially the KPK and the Police.[22]

Article 35 paragraph 1 letter (k) of the Amended Prosecutor's Office Law states that the prosecutor's office has the authority to handle criminal offenses that cause losses to the state economy and can use peace fines in economic crimes based on laws and regulations. This is relevant to the provisions of Article 35 paragraph 1 letter (k) of the Amended Prosecutor's Office Law which provides an opportunity for prosecutors to apply amicable fines as part of a faster and more efficient case settlement for national economic recovery. Even so, a dilemma and legal uncertainty arises because Article 4 of the Anti-Corruption Law states that the return of losses to state finances or the state economy does not eliminate the punishment of the perpetrators of corruption crimes. This means that even though the perpetrators of corruption have returned state losses, criminal sanctions must still be imposed in accordance with

[20] Ahlul Fiqri, "Paradigm For The Application Of The Dominus Litis Principle In The Indonesian State Administrative Court," *Justices: Journal of Law* 2, no. 4 (December 2023): 202–212.

[21] Nurul Restu Azyanti Ilham Nur Pratama, "Application of Restorative Justice in the Settlement Of Corruption Crimes," *Corruptio* 2, no. 2 (2022): 139, https://doi.org/10.29240/negrei.v2i2.5854.

[22] Emmanuel Arianto Waluyo Adi and Theresia Rachelita Devia Irani, "Reflections and Expectations of Democracy in The Implementation of Regional Autonomy: Long - Term Potential for Appointment of Acting Regional Heads," *Pledoi: Jurnal Hukum Dan Keadilan)* 2, no. 1 (2023): 50–68, https://doi.org/10.56721/pledoi.v2i1.184.

applicable law.[23] This creates a legal conflict between the provisions of Article 35 paragraph 1 letter (k) of the Attorney General's Amendment Law which explains the amicable fine as part of a faster and more efficient case settlement for national economic recovery with Article 4 of the Anti-Corruption Law which emphasizes that the return of losses to state finances or the state economy does not eliminate the criminalization of the perpetrators of corruption.

Before analyzing the legal conflict between the provisions of Article 35 paragraph 1 letter (k) of the AGO Law and Article 4 of the PTPK Law, it is necessary to first analyze whether the crime of corruption is a crime that harms state finances or not. In general, it is understood that criminal acts that harm state finances are all types of criminal acts that can harm state finances. The crime of corruption, in terms of its impact, is also detrimental to state finances. This is as emphasized by Artidjo Alkostar that corruption is a serious criminal offense that abuses power and/or authority which has an impact on state financial losses.[24] This confirms that corruption is one type of criminal offense that harms state finances. As a criminal offense that harms state finances, the provisions of Article 35 paragraph 1 letter (k) of the AGO Law can be applied to corruption crimes. Even so, the problem with the application of Article 4 of the Anti-Corruption Law actually still imposes criminal sanctions even though an amicable fine has been applied. In fact, the spirit of the provisions of Article 35 paragraph 1 letter (k) of the Amended Prosecutor's Office Law is that an amicable fine can resolve a corruption crime that does not require criminal sanctions, especially imprisonment.

There is a conflict of rules between Article 35 paragraph 1 letter (k) of the AGO Law and Article 4 of the PTPK Law above, so this can actually be resolved by the principle of systematic lex specialist. The principle of systematic lex specialist in principle emphasizes that even though special rules override general regulations, they are still within the framework of a broader legal system, so that they do not conflict with the main principles in eradicating corruption, especially the application of peace fines as a mechanism for resolving economic crimes aims to provide a quick and effective solution in recovering state losses. This emphasizes that amicable fines only apply in certain cases, for example for corruption offenses

[23] Pahlevi, "Pemberantasan Korupsi Di Indonesia Perspektif Legal System Lawrence M. Freidmen."
[24] Artidjo Alkostar, *Korupsi Politik Di Negara Modern*, 2nd ed. (Yogyakarta: FH UII Press, 2015).

PATTIMURA Legal Journal, 4 (1) April 2025: 89- 103
E-ISSN: 2830-2435
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that are administrative in nature or do not involve elements of bribery and gratuities. In this way, the application of peaceful fines remains within the legal corridors that are in accordance with the principles of corruption eradication. To resolve the legal conflict between Article 35 paragraph 1 letter (k) of the Prosecutor's Office Law and Article 4 of the Anti-Corruption Law, it is necessary to harmonize regulations between the Prosecutor's Office Law and the Anti-Corruption Law. In addition, a clear policy is needed from the Attorney General regarding how peaceful fines can be applied without contradicting the basic principles of eradicating corruption in Indonesia.

B. Comparison of the Laws of the United Kingdom, the United States and Saudi Arabia Relating to Peace Fines in the Enforcement of Corruption Laws

The legal policy of peaceful fines in relation to law enforcement of corruption is one of the progressive orientations in law enforcement.[25] Peace fines in corruption cases in Indonesia, or better known as restitution payments, are a mechanism that allows corruption offenders to pay back state losses in lieu of a prison sentence.[26] The main purpose of an amicable fine is to recover state financial losses caused by the criminal act of corruption. The amount of the peaceful fine to be paid by the perpetrator of corruption is usually determined by the court and must be in accordance with the amount of state losses proven. If the perpetrator of corruption pays restitution in accordance with the provisions, this can be a consideration for the judge in sentencing. In some cases, the payment of restitution can reduce the prison sentence.

The urgency or importance of peace fines (payment of restitution) in corruption cases has several arguments, one of which is to recover state financial losses as quickly and efficiently as possible.[27] The lengthy and complicated judicial process is often time-consuming and costly. With restitution payments, the state can immediately recover the corrupted funds to be reused in development and public services. Restitution payments can speed up the legal process. If the perpetrator of corruption is willing to pay the state's losses, this can reduce the burden on the

[25] I Gusti Ayu Werdhiyani and I Ketut Rai Setiabudhi, "Policy Formulation Against Bribery in the Private Sector in Indonesian Criminal Law Reform," *Sibatik Journal: Jurnal Ilmiah Bidang Sosial, Ekonomi, Budaya, Teknologi, Dan Pendidikan* 2, no. 3 (2023): 781–92.

[26] Adi Darmawansyah, "People's Role as Victims in State Financial Corruption," *Indonesian Journal of Multidisciplinary Science* 2, no. 4 (2023): 2284–93, https://doi.org/10.55324/ijoms.v2i4.420.

[27] Rifdah Rudi Anindytha Arsa Prameswari, Gerhard Mangara, "Deferred Prosecution Agreement: Mekanisme Pertanggungjawaban Tindak Pidana Korporasi Terhadap Perusakan Lingkungan Melalui Paradigma Restorative Justice," *Lex Generalis* 2, no. 12 (2021): 1203.

PATTIMURA Legal Journal, 4 (1) April 2025: 89- 103
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

courts and law enforcement officials in handling the case. Prison sentences for corruptors can lead to overcapacity in correctional institutions. With the payment of restitution mechanism, some corruptors can avoid imprisonment, thus helping to reduce the problem of overcapacity.[28] Although controversial, restitution payments can have a deterrent effect if the amount is significant and in line with the state losses incurred. Perpetrators of corruption will think twice before committing acts of corruption due to the size of the peaceful fine. In some cases, the willingness of the perpetrator of corruption to pay restitution may indicate an acknowledgment of guilt and a desire to improve. This can be taken into consideration in the process of rehabilitation and reintegration of corruption offenders into society. However, what needs to be emphasized in an amicable fine is that the application of the mechanism must be carried out carefully and transparently to prevent abuse and ensure fairness.

The regulation and application of peaceful fines as an effort to enforce corruption law is actually a global legal development where the orientation of the application of peaceful fines is in line with the spirit of restorative justice. Restorative justice is an approach to justice that emphasizes the recovery of losses experienced by victims and the community due to a criminal act.[29] The main focus is not only on punishing the offender, but also on how to repair the harm that has been done and restore the relationships damaged by the crime.[30] In the context of corruption crimes, amicable fines (payment of restitution) can be seen as a form of restorative justice because the main purpose of amicable fines is to restore state financial losses caused by corruption. This is in line with the principle of repair in restorative justice. By paying restitution, the perpetrator of corruption admits his guilt and takes responsibility for his actions. Although not fully equivalent to a prison sentence, this payment shows that the perpetrator must take responsibility for his actions, thus in line with the value of restorative justice.[31] Compared to lengthy and expensive judicial proceedings, peaceful fines can recover

[28] Maria Ulfah, "Pidana Kerja Sosial, Tokyo Rules, Serta Tantangannya Di Masa Mendatang," *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)* 10, no. 3 (2021): 517, https://doi.org/10.24843/jmhu.2021.v10.i03.p07.

[29] Muhammad Cakranegara and Milda Istiqomah, "The Urgency Of Restorative Justice In Imposing Criminal Sanction Under Law Number 1 Of 2023 Concerning The Criminal Code And Law Number 8 Of 1981 Concerning Criminal Procedure Law Viewed From The Judge ' s Perspective," *Asian Journal of Management Entrepreneurship and Social Science* 04, no. 02 (2023): 822–35.

[30] Lauren Kohn, "Integrity & Accountability Commissions of Inquiry: A South African Perspective," *Utrecht Law Review* 20, no. 4 (2024): 98–119, https://doi.org/10.36633/ULR.1045.

[31] Ahmad Royani Suisno, Enik Isnaini, "Termination Of Accurate Investigations And Restorative Justice," *Independen* 10, no. 1 (2022): 32–42.

PATTIMURA Legal Journal, 4 (1) April 2025: 89- 103
E-ISSN: 2830-2435
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state losses more quickly and efficiently. The recovered funds can be immediately used to finance development programs and public services. This is in line with the goal of restorative justice which emphasizes effectiveness and efficiency in recovering state losses after corruption crimes.[32]

According to the author, the application of peaceful fines as an instrument of restorative justice in corruption crimes is debatable because it contradicts the principle of extraordinary crime inherent in corruption crimes.[33] Although amicable fines are claimed to accelerate case resolution and save budget, the long-term impact risks increasing the state's economic burden due to the increase in petty corruption cases. Normatively, the GCPL Law does not accommodate out-of-court settlement mechanisms, so its application has the potential to violate the principle of legality. If this policy is to be enforced, a clear regulatory revision is needed so as not to cause legal uncertainty and conflict of rules in various laws and regulations.

In various countries in the world, the application of peaceful fines related to corruption or various other similar terms has actually been carried out by several countries, such as the UK, the United States, and Saudi Arabia. In the UK, the application of such "peaceful fines" for perpetrators of corruption is generally only imposed on corporations. In the UK, the term Deferred Prosecution Agreements (DPA) is used, which is intended to recover state assets that have been lost due to corruption by mediating directly with the perpetrator of the crime to pay a certain amount of money as a sanction for committing a corruption crime.[34] Similar to the practice in the UK, the United States also applies amicable fines under the Foreign Corrupt Practices Act (FCPA).[35] The application of amicable fines is carried out as the DPA mechanism in the UK, especially for companies that commit corruption crimes, where in addition to paying the amount of money that was corrupted, a certain fine is also added. Similar to the practice in the United Kingdom and the United States, in Saudi Arabia an amicable fine has also begun to

[32] Walim, "The Concept of Restorative Justice in the Criminal Legal System: A Breakthrough in Legal Benefits," *IJLR: International Journal of Law Recontruction* 8, no. 1 (2024): 1–12.

[33] John C Mubangizi, "A Human Rights Based Approach to Fighting Corruption in Uganda and South Africa: Shared Perspectives and Comparative Lessons," *Law, Democracy and Development* 24 (2020): 225–47, https://doi.org/http://dx.doi.org/10.17159/2077-4907/2020/ldd.v24.10.

[34] Anindytha Arsa Prameswari, Gerhard Mangara, "Deferred Prosecution Agreement: Mekanisme Pertanggungjawaban Tindak Pidana Korporasi Terhadap Perusakan Lingkungan Melalui Paradigma Restorative Justice."

[35] Segun Kamoru Fakunmoju et al., "Effect of Cryptocurrency Trading and Monetary Corrupt Practices on Nigerian Economic Performance," *Binus Business Review* 13, no. 1 (2022): 31–40, https://doi.org/10.21512/bbr.v13i1.7305.

be imposed as a condition of acquittal for corruption crimes, especially those that harm state finances. This was carried out by the Government of Saudi Arabia in 2017 under the name "Operation Ritz-Carlton" which affected around 400 parties, including princes and royal officials who were indicated to have committed corruption crimes.[36] From these efforts, USD 106 billion (IDR 1,600 trillion) in both money and assets were saved.[37]

The application of amicable fines in the United Kingdom, the United States and Saudi Arabia above shows that amicable fines are global in nature and are a common legal policy in an effort to save the national economy of a country in overcoming losses as a result of corruption. However, as is the practice in the United Kingdom, the United States and Saudi Arabia above, the application of amicable fines in Indonesia to achieve legal certainty needs to pay attention to several things such as the revision of clear regulations so as not to cause legal uncertainty and conflict of rules in various laws and regulations. The need for regulations regarding restrictions on the application and regulation of amicable fines only applies in certain cases, for example for corruption crimes that are administrative in nature or do not involve elements of bribery and gratuities.

CONCLUSION

The application of peaceful fines related to corruption crimes associated with efforts to restore the national economy actually does not guarantee legal certainty due to a conflict of rules between Article 35 paragraph 1 letter (k) of the Attorney General's Law Amendment and Article 4 of the PTPK Law. These problems can be resolved by the systematic lex specialist principle which emphasizes that even though special rules override general regulations, they are still within the framework of a broader legal system, so that they do not conflict with the main principles in eradicating corruption, especially the application of peaceful fines as a mechanism for resolving economic crimes aims to provide quick and effective solutions in recovering state losses. This emphasizes that amicable fines only apply in certain cases, for example for corruption offenses that are administrative in nature or do not involve elements of

[36] Martin Chulov, "'Malam Pemukulan': Rincian Pembersihan Ritz-Carlton Di Riyadh Muncul," 2020.
[37] Chulov.

PATTIMURA Legal Journal, 4 (1) April 2025: 89- 103
E-ISSN: 2830-2435
Published by: Postgraduate Program Doctoral of Law, Universitas Pattimura, Ambon, Indonesia

bribery and gratuities. In this way, the application of peaceful fines remains within the legal corridors that are in accordance with the principles of corruption eradication. The application of amicable fines in the United Kingdom, the United States and Saudi Arabia above shows that amicable fines are global in nature and are a common legal policy in an effort to save the national economy of a country in overcoming losses as a result of corruption. However, as is the practice in the United Kingdom, the United States and Saudi Arabia above, the application of amicable fines in Indonesia to achieve legal certainty needs to pay attention to several things such as the revision of clear regulations so as not to cause legal uncertainty and conflict of rules in various laws and regulations. The need for regulations regarding restrictions on the application and regulation of amicable fines only applies in certain cases, for example for corruption crimes that are administrative in nature or do not involve elements of bribery and gratuities. This study recommends that to resolve the legal conflict between Article 35 paragraph 1 letter (k) of the Prosecutor's Office Law and Article 4 of the Anti-Corruption Law, it is necessary to harmonize regulations between the Prosecutor's Office Law and the Corruption Eradication Law. In addition, a clear policy is needed from the Attorney General regarding how peaceful fines can be applied without contradicting the basic principles of eradicating corruption in Indonesia.

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