



The Feasibility of Deferred Prosecution Agreements for Individual Corruption Offenders in Indonesia

Melta Variza¹; Sanusi Sanusi²; Mohd. Din³;
 Yusri Yusri⁴; Yusrizal Yusrizal⁵

^{1,2,3,4}Faculty of Law, Syiah Kuala University, Banda Aceh, Indonesia

⁵Faculty of Law, Malikussaleh University, Aceh, Indonesia

¹Correspondence Email: melta22@mhs.usk.ac.id

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Abstract

Indonesia's anti-corruption enforcement remains predominantly conviction-oriented, and the recovery of state financial losses has not been maximized. Article 4 of the Anti-Corruption Law requires prosecution to continue even after full restitution has been made, which limits prosecutorial flexibility and often results in enforcement costs that exceed the value of the losses in low-value corruption cases. This study examines the feasibility of applying Deferred Prosecution Agreements (DPA) to individual corruption offenders in Indonesia. Using normative juridical research with statutory and comparative approaches, the study analyzes Indonesian legal provisions alongside DPA practices in the United Kingdom and the United States. The findings reveal that Indonesia's current legal framework lacks a mechanism for the conditional termination of prosecution following restitution, although the prosecutorial role as dominus litis offers an institutional basis for such reform. Comparative analysis shows that a DPA combines restitution, cooperation, judicial oversight, and prosecutorial discretion within a structured legal mechanism. Consequently, this study proposes a normative-operational DPA model for individual offenders involving state financial losses below IDR 200,000,000, subject to full restitution, administrative sanctions, judicial approval, and compliance monitoring. Ultimately, this study contributes a legally feasible framework for reorienting anti-corruption prosecution away from incarceration-centered punishment toward more efficient and accountable state asset recovery.

A. Introduction

Despite decades of anti-corruption enforcement, Indonesia recovered only approximately IDR 21.26 trillion out of the IDR 203.9 trillion in state losses caused by corruption between 2001 and 2015, leaving around IDR 182.64 trillion unrecovered (Nelson, 2019; (Riady et al., 2025; Firmansyah et al., 2026). This striking disparity reveals a fundamental paradox within Indonesia's anti-corruption regime: while substantial resources have been devoted to investigation, prosecution, and imprisonment, the restoration of state financial losses remains largely ineffective. Corruption therefore continues to represent one of the most persistent structural challenges to governance and public finance in Indonesia (Arsad, 2023). Although the legal framework has been strengthened through Law No. 31 of 1999 in conjunction with Law No. 20 of 2001, the effectiveness of anti-corruption enforcement should be assessed not only by the number of convictions secured but also by its capacity to recover public assets and restore state finances (Ginting, 2011). The limited success of asset recovery is particularly concerning because corruption has been shown to impede economic growth, weaken institutional effectiveness, and erode public trust in government and public institutions (Shleifer & Vishny, 1993; Alfada, 2019; Ceschel et al., 2022).

The persistence of this asset recovery gap is not merely an implementation problem but also reflects the underlying legal orientation of Indonesia's anti-corruption regime, which remains predominantly grounded in a retributive paradigm that places imprisonment at the center of criminal accountability (Riady et al., 2025; Firmansyah et al., 2026). This orientation is reinforced by Article 4 of the Anti-Corruption Law, which stipulates that the return of state financial losses does not extinguish criminal liability (Rukmono et al., 2024; Syarafi & Syahbandir, 2024). Consequently, prosecutors are required to proceed with prosecution even when offenders have fully reimbursed the losses suffered by the state, while restitution functions only as a mitigating factor during sentencing rather than as a basis for terminating criminal proceedings (Sianturi et al., 2023). This statutory design significantly constrains prosecutorial discretion despite the prosecutor's institutional role as *dominus litis*, namely the authority to control the direction and continuation of criminal proceedings (Artadinata & Sahuri, 2023).

In practice, corruption cases that satisfy the formal elements of an offence generally proceed through investigation, prosecution, trial, and sentencing regardless of

whether the costs of enforcement exceed the value of the losses involved (Rukmono et al., 2024). As a result, anti-corruption enforcement tends to prioritize punishment over restoration, even though recent scholarship increasingly argues that the successful recovery of state losses should be regarded as a central indicator of anti-corruption effectiveness rather than merely a supplementary consequence of conviction (Rukmono et al., 2024; Syarafi & Syahbandir, 2024).

This prosecution-centered approach also raises concerns regarding the efficiency of anti-corruption enforcement. Corruption cases require substantial public expenditure for investigations, prosecutions, judicial proceedings, and correctional administration (Sulantoro, 2021). In cases involving relatively minor state losses, particularly those below IDR 200,000,000, enforcement costs may exceed the value of the losses recovered, creating a tension between punitive justice and effective resource management. Although corruption is rightly treated as an extraordinary crime, the uniform application of full criminal prosecution may reduce enforcement efficiency and impose disproportionate burdens on public resources (Sianturi et al., 2023). Consequently, legal scholars increasingly argue that anti-corruption enforcement should be assessed not only by the severity of punishment but also by its proportionality, efficiency, and measurable public benefit (Prasetyo et al., 2023), a concern that has become increasingly prominent in contemporary debates on legal reform and public resource optimization (Firmansyah et al., 2026; Koeswayo et al., 2024).

In response to these challenges, scholars and policymakers have increasingly explored alternative mechanisms capable of balancing deterrence, accountability, and institutional effectiveness (Musatajab & Tajuddin, 2018). One of the most significant developments is the Deferred Prosecution Agreement (DPA), which has been widely implemented in the United Kingdom and the United States. Under this mechanism, prosecution may be deferred subject to the fulfilment of specified obligations, including the admission of wrongdoing, financial restitution, payment of penalties, and commitments to future compliance (Bu, 2021; Søreide & Vagle, 2022). Although DPAs were initially developed to address corporate misconduct, their underlying rationale reflects a broader shift in contemporary criminal justice toward outcome-oriented approaches that prioritize substantive public interests alongside formal punishment. Within broader governance discourse, legal institutions are increasingly encouraged to adopt adaptive and forward-looking mechanisms capable of aligning accountability with institutional effectiveness and long-term policy objectives (Abdul Rahim et al., 2020; Triwati, 2021).

Despite the growing body of literature on anti-corruption enforcement, significant gaps remain. Existing scholarship continues to be dominated by deterrence-oriented perspectives that regard severe punishment and maximum sentencing as the primary instruments for combating corruption (Yanto, 2017; Yolanda et al., 2023). Other studies have examined asset confiscation and *mashlahah*-based approaches to restoring state finances, yet these discussions remain largely disconnected from prosecutorial settlement mechanisms such as DPAs (Asmawi, 2010; Firmansyah et al., 2025; Syarafi & Syahbandir, 2024; Alam et al., 2022; Dewi, 2022). Meanwhile, comparative studies on DPAs have focused predominantly on corporate liability within common law jurisdictions and have paid limited attention to the possibility of adapting such mechanisms within Indonesia's legality-based legal system (Bu, 2021; Nelson, 2022). Existing research has also not established measurable eligibility thresholds, models of judicial supervision, or operational indicators for assessing the effectiveness of DPAs in the context of corruption-related asset recovery. Furthermore, insufficient attention has been given to the question of how prosecutorial discretion can be exercised consistently with the principles of legality, proportionality, public benefit, and judicial control, as reflected in both national and Islamic legal traditions (Riady et al., 2025; Haryadi et al., 2025; Shukri Nordin et al., 2025; Soehartono et al., 2021; Abrar et al., 2024).

These limitations reveal the absence of an integrated prosecutorial framework capable of connecting deterrence objectives, restorative outcomes, and procedural safeguards within a single legal model. To date, no study has developed a normative framework specifically designed for individual corruption offenders in Indonesia that simultaneously incorporates prosecutorial discretion under the *dominus litis* principle, judicial oversight, and clearly defined criteria for the recovery of state financial losses.

This study addresses that gap by proposing a Deferred Prosecution Agreement model specifically designed for individual corruption offenders involving measurable state financial losses below IDR 200,000,000. The novelty of this research lies in the development of a normative-operational framework that integrates three key components: a clearly defined loss threshold, prosecutorial discretion exercised under the *dominus litis* principle and subject to judicial approval, and measurable asset recovery indicators consisting of full restitution, proportionate administrative sanctions, and post-agreement compliance obligations. By integrating deterrence theory, restorative justice, responsive law, and economic rationality, the proposed



framework offers a more balanced approach to anti-corruption enforcement that strengthens accountability while enhancing the efficient recovery of state assets.

This article aims to examine the structural limitations of Indonesia's current prosecution model, analyse the legal architecture and implementation of Deferred Prosecution Agreements in the United Kingdom and the United States, and formulate a legally feasible DPA framework for individual corruption offenders within the Indonesian legal system. Beyond its contribution to Indonesian legal reform, this study seeks to enrich broader international debates concerning prosecutorial discretion, restorative justice, and innovative approaches to state asset recovery in anti-corruption governance.

B. Method

This study employed a normative juridical research design to examine the legal feasibility of applying Deferred Prosecution Agreements (DPAs) to corruption offences committed by individual offenders in Indonesia. The analysis focused on legal norms, principles, and doctrines governing corruption law enforcement, particularly those related to prosecution, asset recovery, and prosecutorial discretion, as well as the comparative legal structures of DPAs in the United Kingdom and the United States (Irwansyah, 2021; Rohrohmana, 2017; Nelson & Santoso, 2021). The primary object of this study is the body of legal rules and doctrinal materials relevant to the development of an alternative prosecutorial mechanism aimed at optimizing state asset recovery.

The study utilized statutory and comparative approaches. The statutory approach analyzes Indonesian legislation on corruption and criminal procedure, with particular emphasis on Article 4 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001, which stipulates that the restitution of state financial losses does not extinguish criminal liability (Indriana, 2019). Additional legal materials include the Criminal Procedure Code (KUHAP), the Indonesian Criminal Code (KUHP), and the Law on the Prosecutor's Office. Concurrently, the comparative approach examines the legal design of DPAs and Non-Prosecution Agreements in the United Kingdom and the United States to assess their compatibility and potential adaptation within the Indonesian legal system (Soekanto and Mamuji, 2001).

Data were collected exclusively through library research. Primary legal materials consist of statutory regulations, official legislative documents, and judicial decisions that possess authoritative legal force (Rukmono et al., 2024; Suyanto, 2023; Marzuki, 2006).

Secondary legal materials include books, scholarly journal articles, and expert opinions that provide doctrinal explanations and analytical perspectives. Tertiary legal materials, such as legal dictionaries and encyclopedias, are used to clarify legal terminology and ensure conceptual consistency.

The analysis is conducted in several sequential stages. First, the study identifies the central legal issue, the absence of a mechanism for conditional termination of prosecution in corruption cases involving full restitution. Second, relevant legal materials are systematically collected and organized. Third, these materials are interpreted to identify normative patterns, inconsistencies, and structural limitations within the existing legal framework. Fourth, comparative analysis is undertaken to examine the design and operation of DPAs in the United Kingdom and the United States. Finally, the findings are synthesized to construct a normative-operational model of DPAs for individual corruption offenders in Indonesia, utilizing legality, proportionality, due process, public interest, and the effectiveness of state asset recovery as evaluative parameters.

This study did not involve human or animal participants, as it relied solely on the analysis of published legal materials and documentary sources. Accordingly, formal ethical approval was not required. Nevertheless, all stages of data collection and analysis were conducted in accordance with established academic ethical standards and principles of scholarly integrity.

C. Results and Discussion

This section presents the findings of the study concerning the structure of corruption prosecution in Indonesia, the legal design of Deferred Prosecution Agreements (DPA) in the United Kingdom and the United States, and the normative conditions that support the possible adoption of a similar mechanism for individual corruption offenders in Indonesia. The results are first presented descriptively, based on the analysis of statutory regulations, legal doctrines, and comparative legal materials. These findings are subsequently analyzed in the Discussion section to interpret their implications and to formulate the proposed DPA model within the Indonesian legal framework.

1. Results

This study examines the structure of corruption prosecution in Indonesia, the legal design of Deferred Prosecution Agreements (DPAs) in the United Kingdom and the United States, and the normative conditions that may enable the adoption of a comparable



mechanism for individual corruption offenders in Indonesia. Based on the analysis of statutory regulations, judicially recognized doctrines, and comparative legal materials, the research generated four principal findings.

First, Indonesia's current prosecution system remains conviction-centered and lacks a legal mechanism for terminating prosecution after state financial losses have been fully restored. Second, the DPA mechanisms used in the United Kingdom and the United States demonstrate that prosecution may be deferred under legally binding conditions designed to secure restitution, cooperation, and compliance. Third, several provisions within Indonesian law reveal an institutional basis that could support a similar mechanism, particularly through the prosecutorial role as *dominus litis*. Fourth, the study identifies specific eligibility criteria and procedural stages that may serve as the normative foundation for applying DPAs to individual corruption offenders.

Tabel 1. Overview of main findings

No.	Main Findings	Description
1.	Conviction-centered prosecution model	Indonesian corruption cases must proceed to trial even after full restitution of state losses.
2.	Comparative DPA structure	The UK and US use conditional agreements to defer prosecution while requiring restitution and compliance.
3.	Normative basis in Indonesian law	Prosecutorial discretion and <i>dominus litis</i> provide institutional support for a future DPA mechanism.
4.	Proposed Indonesian DPA model	The study formulates eligibility criteria and procedural stages for DPA application to individual offenders.

The first finding concerns the structural orientation of corruption prosecution under Indonesian law, while the second describes the legal architecture of DPAs in common law jurisdictions. The third finding identifies the normative conditions within Indonesian law that support the feasibility of such a mechanism, and the fourth presents the operational model proposed by this study.

a. The existing prosecution structure of corruption cases in Indonesia

The prosecution of corruption offences in Indonesia is centered on the public prosecutor as the principal actor in the criminal justice process. Under the Indonesian Criminal Procedure Code (KUHAP), the public prosecutor is authorized to draft indictments, submit cases to court, present evidence, and demand criminal sanctions against defendants. This authority places the prosecutor in a decisive position within the

criminal process, as the progression of a case to judicial examination depends entirely on prosecutorial action.

In corruption cases, prosecution remains predominantly oriented toward obtaining criminal convictions and custodial sanctions. Although the recovery of state assets is formally recognized, it is positioned as a consequence of conviction rather than as an independent mechanism for resolving the case. For instance, Article 18 of the Anti-Corruption Law authorizes the confiscation of assets derived from corruption or used in the commission of an offence; however, this confiscation can only be executed after a final and binding court judgment establishes the defendant's guilt. Consequently, state asset recovery is structurally dependent on the completion of the full criminal process.

The most significant legal finding concerns Article 4 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001. This provision stipulates that the return of state financial losses does not eliminate criminal liability. The legal consequence of this rule is that prosecutors are required to proceed with prosecution even when the defendant has fully reimbursed the losses suffered by the state. Restitution, therefore, functions solely as a mitigating factor and does not provide a legal basis for discontinuing the proceedings.

This statutory arrangement applies uniformly to all corruption cases, regardless of the amount of state loss involved. Cases involving losses of less than IDR 200,000,000 are processed through the exact same procedural stages as large-scale corruption cases. The existing legal framework does not distinguish between high-value and low-value cases in terms of procedural treatment, prosecutorial discretion, or case resolution options.

Furthermore, the handling of corruption cases requires a series of resource-intensive formal stages, including investigation, forensic audits, expert testimony, prosecution, judicial examination, and sentence execution. Each stage demands substantial financial and administrative resources. In low-value cases, the aggregate costs of investigation and prosecution frequently exceed the amount of state losses ultimately recovered. This pattern demonstrates that the current prosecution model fails to incorporate a mechanism for balancing enforcement costs against actual fiscal recovery.

Table 2. Main characteristics of Indonesia's current corruption prosecution model

Aspect	Current Legal Position
Primary objective in practice	Criminal conviction and imprisonment
Asset recovery mechanism	Article 18 of the Anti-Corruption Law
Requirement for confiscation	Final and binding conviction
Effect of restitution	Does not terminate prosecution



Aspect	Current Legal Position
Legal basis	Article 4 of the Anti-Corruption Law
Prosecutorial discretion	Limited by mandatory prosecution
Procedural consequence	All cases must proceed to trial
Economic implication	Enforcement costs may exceed recoverable losses

The findings indicate that Indonesia’s current anti-corruption framework treats prosecution as a mandatory process and lacks a statutory mechanism for conditional settlement after restitution has been completed.

b. Prosecutorial authority and the dominus litis principle

The study also reveals that Indonesian law grants prosecutors substantial authority to control criminal proceedings. Article 35(c) of the Law on the Prosecutor’s Office authorizes the Attorney General to set aside cases in the public interest. In legal doctrine, this authority is understood through the principle of *dominus litis*, which recognizes prosecutors as the primary controllers of criminal cases.

The prosecutorial role extends far beyond filing indictments. Prosecutors determine whether a case is brought before the court, what charges are pursued, and how proceedings are conducted. This structural position provides the prosecutor’s office with a central role in managing the flow and direction of criminal cases.

Additional statutory support is found in Law Number 20 of 2025 on the Criminal Procedure Code. Article 65(f) authorizes prosecutors to discontinue a prosecution by notifying investigators, while Article 65(k) expressly permits the conclusion of deferred prosecution agreements. Taken together, these provisions establish a clear procedural foundation for prosecutorial discretion within the Indonesian criminal justice system.

However, these powers cannot currently be applied to corruption offences because Article 4 of the Anti-Corruption Law mandates that prosecution continue despite restitution. As a result, the authority recognized in the general criminal procedure framework remains unavailable for corruption cases.

Table 3. Prosecutorial powers relevant to DPA implementation

Legal Provision	Prosecutorial Authority
Article 35(c), Prosecutor’s Law	Setting aside cases in the public interest
<i>Dominus litis</i> doctrine	Control over the continuation and direction of cases
Article 65(f), KUHAP 2025	Discontinuing prosecution
Article 65(k), KUHAP 2025	Concluding deferred prosecution agreements
Current limitation	Article 4 of the Anti-Corruption Law

These findings demonstrate that the institutional role of prosecutors already contains the structural features necessary for administering a conditional prosecution mechanism, provided that a specific statutory exception is established for corruption cases.

c. Deferred prosecution agreements in the United Kingdom and the United States

The comparative analysis examines the legal design of Deferred Prosecution Agreements (DPAs) in the United Kingdom and the United States. In both jurisdictions, a DPA functions as a formal agreement between the prosecutor and the defendant under which prosecution is suspended, subject to compliance with specified obligations.

The obligations commonly include full restitution, payment of financial penalties, cooperation with ongoing investigations, and the implementation of measures designed to prevent future violations. If the defendant satisfies these conditions, the prosecution is permanently discontinued; conversely, if the defendant fails to comply, criminal proceedings may resume.

In the United States, DPAs have long been used to resolve corporate criminal cases. These agreements allow prosecutors to secure restitution and cooperation while avoiding lengthy, resource-intensive litigation. Consequently, the mechanism has become a standardized approach for addressing economic and financial offences.

In the United Kingdom, the DPA framework was introduced through Section 45 and Schedule 17 of the Crime and Courts Act 2013, coming into force on 24 February 2014. The British mechanism operates under strict judicial supervision and features three procedural stages: negotiation, court approval, and enforcement.

During the negotiation stage, the prosecutor and the defendant prepare a draft agreement containing the statement of facts and all obligations to be fulfilled. During the approval stage, the Crown Court examines whether the proposed agreement is fair, reasonable, and proportionate. During the enforcement stage, the court may reactivate criminal proceedings if the defendant fails to comply.

Table 4. Core components of DPAs in the UK and US

Component	United Kingdom	United States
Legal basis	Crime and Courts Act 2013	Prosecutorial practice and DOJ policy
Judicial approval	Mandatory	Limited
Main obligations	Restitution, fines, cooperation, compliance	Restitution, fines, cooperation, compliance



Component	United Kingdom	United States
Transparency	Agreements published	More limited disclosure
Consequence of compliance	Prosecution discontinued	Prosecution discontinued
Consequence of breach	Prosecution resumed	Prosecution resumed

The comparative materials show that a DPA combines restitution, prosecutorial discretion, and structured oversight within a single legal mechanism. The essential features of the mechanism are not conceptually dependent on corporate status and may be applied independently of the legal nature of the defendant.

d. Normative conditions supporting DPA adoption in Indonesia

The analysis identified three principal normative conditions that support the feasibility of adopting DPAs for individual corruption offenders in Indonesia. The first condition is the existence of a legal gap: Indonesian corruption law does not regulate any mechanism for conditional termination of prosecution after state financial losses have been fully restored. At the same time, the broader criminal procedure framework already recognizes prosecutorial authority to defer or discontinue prosecution.

The second condition is the limited effectiveness of the current prosecution model in recovering state assets. Asset recovery remains dependent on conviction and often occurs only after lengthy and costly proceedings. The third condition is the institutional role of prosecutors as *dominus litis*. Prosecutors already possess authority to control criminal proceedings and to exercise discretion in the public interest. This institutional position provides an operational basis for managing DPA procedures.

Table 5. Normative conditions supporting DPA feasibility

Condition	Description
Legal gap	No mechanism for conditional termination after restitution
Limited recovery effectiveness	Asset recovery depends on conviction
<i>Dominus litis</i> authority	Prosecutors control criminal proceedings

These three findings collectively indicate that Indonesian law contains both a regulatory deficiency and an institutional foundation relevant to the future development of a DPA mechanism.

e. Proposed eligibility criteria for individual corruption offenders

The study formulated specific eligibility criteria for applying DPA to individual corruption offenders. These criteria are intended to limit the mechanism to cases involving measurable losses and demonstrable compliance. First, the value of state financial loss must be below IDR 200,000,000. Second, the offender must fully restore the losses and pay administrative fines as well as law enforcement costs. Third, the offender must acknowledge wrongdoing and agree to cooperate in disclosing related offences or other participants. Fourth, the offender must not have prior convictions for corruption offences.

Table 6. Eligibility criteria for DPA application

No.	Eligibility Criteria	Description
1.	State financial loss below IDR 200,000,000	Limits the mechanism to low-value cases where enforcement costs may exceed the amount recoverable.
2.	Full restitution of losses	Ensures complete restoration of state financial losses before prosecution is deferred.
3.	Payment of fines and law enforcement costs	Requires the offender to bear additional financial obligations associated with case resolution.
4.	Admission of wrongdoing	Confirms acknowledgment of responsibility as a condition for entering the agreement.
5.	Cooperation with authorities	Supports the disclosure of related offences or other involved parties.
6.	No prior corruption conviction	Restricts the mechanism to first-time offenders and reduces the risk of repeated abuse.

These criteria define the circumstances under which a corruption case may be considered for conditional resolution rather than ordinary prosecution.

f. Proposed procedural stages of the Indonesian DPA model

The study also develops a five-stage procedural model for implementing DPAs in Indonesia. First, the public prosecutor initiates the process based on the authority attached to the *dominus litis* principle and Article 30, paragraph (1)(a) of the Law on the Prosecutor's Office. Second, the prosecutor and the suspect conclude a written agreement containing restitution obligations, fines, cooperation clauses, and compliance commitments. Third, the agreement is submitted to the court for approval. Fourth, implementation is monitored by the Prosecutor's Office with support from institutions such as the Corruption Eradication Commission (KPK) or the Audit Board of Indonesia (BPK). Fifth, if the offender fails to comply, prosecution is resumed through ordinary criminal proceedings.



Table 7. Procedural stages of the proposed DPA model

Stage	Procedural Phase	Description
1.	Prosecutorial Initiation	The public prosecutor identifies a corruption case that meets the eligibility criteria and determines that the case may be considered for resolution through a Deferred Prosecution Agreement based on the <i>dominus litis</i> principle and the applicable statutory framework.
2.	Written DPA Agreement	The prosecutor and the suspect conclude a formal written agreement containing the statement of facts, full restitution obligations, administrative fines, cooperation commitments, compliance requirements, and the consequences of non-compliance.
3.	Judicial Approval	The proposed agreement is submitted to the competent court for review to determine whether its terms are fair, reasonable, proportionate, and consistent with the public interest before it becomes legally effective.
4.	Monitoring and Oversight	The implementation of the agreement is supervised by the Prosecutor's Office, with support from relevant institutions such as the Corruption Eradication Commission (KPK) and the Audit Board of Indonesia (BPK), to verify restitution and compliance with all obligations.
5.	Resumption of Prosecution upon Breach	If the offender fails to fulfill any material obligation under the agreement, the prosecutor terminates the DPA and resumes ordinary criminal prosecution based on the original charges.

The proposed model establishes a structured process in which prosecution is suspended conditionally and may be reactivated if the agreed obligations are not fulfilled.

2. Discussion

The findings of this study indicate that Indonesia's current anti-corruption prosecution system remains fundamentally conviction-oriented and has not yet been structured to maximize the recovery of state financial losses. Although restitution is formally recognized within the Anti-Corruption Law, it does not alter the obligation to continue prosecution and obtain a criminal conviction. The results demonstrate that the legal framework continues to treat imprisonment as the principal measure of accountability, while asset recovery is positioned as a secondary consequence (Rukmono et al., 2024; Syarafi & Syahbandir, 2024). This configuration reveals a significant mismatch between the formal objectives of anti-corruption law and the practical design of law enforcement. The data presented in the Results section show that Article 4 of the Anti-Corruption Law obliges prosecutors to proceed with prosecution

even after full restitution, even when the costs of investigation, prosecution, and incarceration exceed the amount of state losses involved in low-value cases. These findings suggest that the existing system remains focused on procedural completion rather than on measurable fiscal outcomes, despite growing scholarly arguments that anti-corruption enforcement should be evaluated in terms of efficiency, proportionality, and actual public benefit (Firmansyah et al., 2026; Ceschel et al., 2022).

This structural orientation can be understood through the lenses of deterrence theory, restorative justice, responsive law, and economic rationality. Deterrence theory assumes that the threat of punishment will prevent future wrongdoing and therefore places criminal sanctions at the center of anti-corruption policy (Pandiangan et al., 2026; Yanto, 2017; Yolanda et al., 2023). However, the findings of this study show that deterrence, when implemented exclusively through imprisonment, does not necessarily lead to effective restoration of public assets. Restorative justice offers a different perspective by emphasizing the repair of harm as the principal objective of legal intervention (Wahid & Rajindra, 2023; Kutaraya et al., 2024). In corruption cases, the most direct harm suffered by society is the depletion of public resources. Responsive law further supports the adaptation of legal institutions to evolving social needs rather than rigid adherence to formal rules (Sulaiman & Nasir, 2023). Economic rationality complements these perspectives by evaluating whether the benefits of law enforcement exceed the costs incurred by the state (Ramadhan, 2016). Together, these theoretical approaches illuminate why a prosecution model centered exclusively on incarceration may be inadequate when the principal policy objective is the restoration of state finances.

The study also demonstrates that the rigidity of Indonesia's anti-corruption framework is primarily rooted in Article 4 of the Anti-Corruption Law. This provision prevents prosecutors from terminating prosecution even when state losses have been fully restored. From the perspective of modern criminal policy, such a rule reflects a strong commitment to legality and formal equality but leaves little room for differentiated responses based on the actual impact of prosecution (Badar, 2011; Sulfinadia et al., 2026). The results show that all corruption cases, regardless of their monetary value, are processed through identical procedural stages. This uniform treatment creates what may be described as over-criminalization, in which legal procedures are applied without sufficient consideration of proportionality and public benefit (Putri et al., 2024; Rifai et al., 2024). The significance of this finding lies in demonstrating that inefficiency in asset recovery is not merely an administrative problem but a structural consequence of statutory design.



At the institutional level, the findings reveal that prosecutors occupy a strategic position as *dominus litis*, yet their discretion remains constrained by the prevailing statutory framework. Article 35(c) of the Law on the Prosecutor's Office and Articles 65(f) and 65(k) of the Criminal Procedure Code recognize broad prosecutorial powers, including the authority to discontinue prosecution and conclude deferred prosecution agreements. Nevertheless, these powers cannot be exercised in corruption cases because of the mandatory prosecution rule contained in Article 4 of the Anti-Corruption Law. This tension illustrates that Indonesia already possesses an institutional foundation for a more flexible prosecutorial model, but the substantive legal framework has not yet been harmonized to permit its application. In this respect, the study challenges the conventional assumption that anti-corruption effectiveness depends solely on expanding punitive sanctions. Instead, it shows that legal effectiveness may also depend on enabling prosecutors to manage cases strategically and in accordance with measurable public benefits (Ardi, 2021; Santoso, 2021; Safaruddin et al., 2025; Hakim et al., 2025).

The comparative analysis of the United Kingdom and the United States provides further insight into how prosecutorial discretion can be structured without undermining accountability. In both jurisdictions, Deferred Prosecution Agreements function as legally supervised arrangements that combine restitution, cooperation, and compliance obligations (Bu, 2021; Søreide & Vagle, 2022). The United Kingdom model is particularly relevant because it incorporates mandatory judicial approval, the publication of agreements, and court oversight based on fairness, reasonableness, and proportionality (Mujib et al., 2025; Nelson, 2019). These safeguards demonstrate that prosecutorial discretion need not operate in secrecy or without external control. At the same time, the United States experience illustrates both the practical advantages of DPAs and the risks associated with broad discretionary authority when judicial review is limited (Werle, 2019; Ernawati et al., 2023). The findings therefore suggest that Indonesia should adopt a balanced approach that combines prosecutorial flexibility with clearly defined procedural safeguards.

The principal contribution of this study lies in the formulation of a normative-operational Deferred Prosecution Agreement model specifically designed for individual corruption offenders. Existing scholarship has largely confined DPAs to corporate criminal liability or has focused separately on asset confiscation and restorative justice without integrating these concepts into a coherent prosecutorial mechanism (Asmawi, 2010; Firmansyah et al., 2025; Syarafi & Syahbandir, 2024; Tiranda, 2019). By proposing explicit

eligibility criteria, including a state loss threshold below IDR 200,000,000, full restitution, administrative fines, admission of wrongdoing, cooperation, and non-recidivism, this study introduces measurable parameters for determining when a DPA may be appropriate. The proposed five-stage process—prosecutorial initiation, written agreement, judicial approval, institutional monitoring, and resumption of prosecution upon breach—translates abstract legal principles into a practical institutional design.

This model contributes theoretically by bridging deterrence, restorative justice, responsive law, and economic rationality within a single framework. Rather than abandoning criminal accountability, the proposed Deferred Prosecution Agreement (DPA) mechanism reconceptualizes accountability as a conditional process in which prosecution is suspended only after concrete obligations are imposed and independently supervised. In this sense, deterrence is preserved through the possibility of renewed prosecution, restorative justice is operationalized through mandatory restitution, responsive law is reflected in the adaptive use of prosecutorial discretion, and economic rationality is incorporated through proportionality between enforcement costs and public benefit (Firmansyah et al., 2026; Haryadi et al., 2025). The novelty of this study therefore lies not merely in recommending DPAs, but in demonstrating how these distinct theoretical perspectives can be integrated into a coherent legal design compatible with Indonesia's legality-based system.

The practical implications of this research are substantial. For legislators, the findings indicate the need to harmonize the Anti-Corruption Law, the Criminal Procedure Code, and the Law on the Prosecutor's Office by creating an explicit statutory basis for Deferred Prosecution Agreements in corruption cases. For prosecutors, the proposed model offers a structured mechanism for resolving low-value cases more efficiently while preserving accountability. For courts, judicial approval serves as an institutional safeguard that maintains public trust and prevents arbitrary discretion. For oversight bodies such as the Corruption Eradication Commission (KPK) and the Audit Board of Indonesia (BPK), the model creates a defined role in monitoring compliance and verifying asset recovery. Collectively, these implications suggest that the adoption of DPAs could reduce case backlogs, improve recovery rates, and lower enforcement expenditures without compromising the rule of law.

The significance of this study extends beyond Indonesia. At the international level, the proposed model aligns with the asset recovery objectives of the United Nations Convention Against Corruption, which emphasizes the importance of restoring



public assets as a central component of anti-corruption policy (Ginting, 2011; Hiariej, 2019; Prasetyo et al., 2023). By combining restitution, prosecutorial discretion, judicial oversight, and transparency, the Indonesian-informed DPA model offers a framework that may be relevant to other developing jurisdictions facing similar challenges of high enforcement costs and limited recovery effectiveness. In many legal systems across Asia, Africa, and Latin America, anti-corruption efforts remain heavily dependent on punitive strategies despite significant fiscal constraints (Abdul Rahim et al., 2020; Ceschel et al., 2022; Koeswayo et al., 2024). The model proposed in this study demonstrates that accountability and efficiency need not be treated as competing objectives, but can be integrated through a carefully regulated prosecutorial mechanism.

The global relevance of the study also lies in its contribution to ongoing debates regarding prosecutorial discretion and legal legitimacy. Comparative scholarship has shown that the effectiveness of DPAs depends on transparent procedures, proportional sanctions, and credible oversight (De Vita & Voza, 2024). At the same time, concerns about moral hazard and selective enforcement remain significant when discretion is not adequately bounded (Efunniyi et al., 2024; Alfada, 2019; Rifai et al., 2024). By incorporating mandatory restitution, judicial approval, public accountability, and resumption of prosecution upon non-compliance, the proposed model addresses these concerns while adapting the DPA concept to a civil law jurisdiction strongly committed to legality. In this sense, the study contributes to the broader international discourse by demonstrating how legal innovation can emerge from local institutional conditions while remaining responsive to global anti-corruption norms. The broader significance of this approach is particularly relevant in countries where corruption continues to undermine economic development, weaken governance quality, and erode public confidence in state institutions.

While the proposed Deferred Prosecution Agreement (DPA) model is conceptually and legally feasible within the Indonesian legal system, this study has several limitations. The analysis is based solely on normative and doctrinal methods and does not include empirical testing; therefore, the actual impact of the model on asset recovery, enforcement costs, prosecutorial behavior, and public trust has not yet been measured. In addition, the study does not incorporate policy simulations or pilot applications to assess how the model would operate in practice. The proposed threshold of IDR 200,000,000 is also derived from normative considerations rather than statistical

analysis of corruption case patterns. Accordingly, although the model provides a coherent legal framework for improving the efficiency and accountability of anti-corruption prosecution, its practical effectiveness remains to be verified through future empirical and comparative studies.

D. Conclusion

This study demonstrates that Indonesia's current approach to prosecuting corruption offences remains predominantly oriented toward criminal conviction and imprisonment, while the recovery of state financial losses has not yet become the central measure of enforcement effectiveness. The analysis reveals a fundamental normative tension between Article 4 of the Anti-Corruption Law, which requires prosecution to continue even after full restitution, and the broader objective of restoring public assets efficiently. At the same time, the comparative examination of Deferred Prosecution Agreements (DPAs) in the United Kingdom and the United States shows that prosecution can be conditionally deferred through legally supervised agreements that combine restitution, cooperation, and accountability. These findings indicate that Indonesia possesses both a practical need and an institutional basis for adopting a more flexible prosecutorial mechanism, particularly through the prosecutorial role as *dominus litis*.

The principal contribution of this study lies in the formulation of a normative-operational DPA model specifically designed for individual corruption offenders involving state financial losses below IDR 200,000,000. By integrating measurable eligibility criteria, judicial approval, institutional monitoring, and clearly defined compliance obligations, the study offers a concrete legal framework that bridges deterrence, restorative justice, responsive law, and economic rationality. In practical terms, the proposed model provides an alternative pathway for optimizing state asset recovery, reducing enforcement costs, and preserving accountability within Indonesia's legality-based legal system.

Future research is needed to test the operational effectiveness of this model through empirical studies, policy simulations, and pilot applications involving prosecutors, courts, and oversight institutions. Such studies are essential to assess its impact on recovery rates, institutional behavior, public trust, and the broader legitimacy of anti-corruption enforcement.

This study affirms that the effectiveness of anti-corruption law should be measured not only by the severity of punishment imposed, but by the extent to which



the legal system restores public assets in a transparent, accountable, and proportionate manner. Reorienting prosecution through a carefully regulated Deferred Prosecution Agreement offers a promising pathway toward a more responsive, efficient, and globally relevant anti-corruption framework in Indonesia.

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Declaration of Competing Interest

The authors declare that they have no known competing financial or non-financial interests that could have appeared to influence the work reported in this paper.

Declaration of Generative AI

During the preparation of this manuscript, the authors used generative AI tools (QuillBot and Grammarly), to assist with language editing, grammar correction, and the improvement of clarity and readability. These tools were used solely to refine the presentation of the manuscript and did not contribute to the research design, legal analysis, findings, or conclusions. All substantive analyses, interpretations, and conclusions were developed by the authors, who take full responsibility for the content of this article.

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