Asset Forfeiture Punishment for Corruptor In the Perspective of Indonesia's Social Justice

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Abstract

This study discusses the prospect of criminal asset forfeiture in the Corruption criminal act as a staple criminal. The research is based on the fact that the state's financial loss recovery due to corruption crimes is not achieved, whereas the purpose of law enforcement corruption is aimed at restoring the state's financial loss. But these objectives are not manifested through proper measurement to accomplish that goal. The purpose of this research is to assess the prospect of asset deprivation as a staple criminal in the framework of the national criminal law reformation. The methods used in this study used normative research methods with a conceptual approach as a breakthrough problem occurred. This research gain results when criminal asset forfeiture is placed as principal criminal; it will realise the goal of state financial recovery due to corruption crimes and will be aligned with community justice.

Keywords: *Asset forfeiture, Corruption, Penal Reform.*

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A. Introduction

The growth of crime today has changed the paradigm of conventional motives from criminals to economic causes for getting financial gain. Economic crime and loss is a unity of actions and consequences. The purpose of regulating evil deeds into normative rules that contain sanctions is to reduce the number of evil acts committed. This type of criminal offence is corruption, a massive economic advantage often creates the basis of the motivation of the perpetrator to repeat and develop such perpetrators to commit a criminal act, the cause of this phenomenon is because of the economic benefit that is still controlled by the perpetrator.

The mastery of instruments resulting from criminal acts, especially corruption by the perpetrators, occurs because *first*, a seizure through an illegal decision does not yet cover the entire booty originating from the crime committed. *Second*, because of the sophisticated mode of acting on behalf of criminal object offence to other people outside the perpetrator, this is what causes the first reason. *Third*, Indonesian criminal law instruments have not made asset deprivation to the main objective, it can be seen in the placement of criminal sanctions for seizure of goods resulting from criminal acts (can also be called assets) as additional criminal characteristics of assessors of necessary crimes and facultative.¹ If the action continues it will have the potential to damage the living order of the community and hinder the welfare of the community. Regarding the *third* reason above about the seizure of assets in the Indonesian criminal law system, the problem arises whether such a system is capable of creating justice during society. Because validity is an idea and purpose of law based on the reality of the people.²

In connection with corruption, which is regulated in Law Number 31 Year 1999 jo. Law Number 20 the Year 2001 aim the act of *aquo* is a material advantage, and the purpose of enforcement is to return loss suffered by the state. However, in Article 18 paragraph (1) of Law Number 31 Year 1999, the criminal asset forfeiture is used as an additional criminal. Therefore, with such a criminal model, for implication to the criminal seizure of these assets is facultative or optional. Its means that in case of corruption, a judge may not provide this type of sanction. Even if it is released, it must follow the imposition of principal kind of crime, as the

¹ See article 10 of the Criminal Code (Law Number 1 Year 1946) and Article 18 of Law Number 31 Year 1999 Concerning the eradication of criminal acts of corruption, it is clearly stated that the seizure of assets is part of an additional crime.

² Bahder Johan Nasution, "Kajian Filosofis Tentang Konsep Keadilan Dari Pemikiran Klasik Sampai Pemikiran Modern", *Jurnal Yustisia*, 3 (2), (2014), p.119.

postulate of *Ubi non est principalis, non potest esse accessorius* (where there are no main definition, there are no additional meaning).³

Barda Arief Nawawi criticised the strategy for eradicating corruption, which according to him was only focused on repressive efforts emphasising physical crime. In terms of crime policy, the primary crime prevention strategy is ideally directed at efforts to eliminate or overcoming and improving overall causes and conditions that become criminogenic factors for occurrence of corruption crimes.⁴ It can be seen in the following table which shows the enforcement of corruption cases that have not yet achieved the initial goal of eradicating corruption to recover loss suffered by the state. The following is a comparison of state loss due to corruption in the past two years:

Table 1
Comparison of State's Loss due to Corruption

Years	State's Loss	State's Loss in Return
2016	3 Trillion ⁵	497,6 Billion ⁶
2017	6,5 Trillion ⁷	188 Billion ⁸

Source: taken from any sources

Based on table 1 above, shows the number of State's Loss due to corruption since 2016 continues to increase.⁹ The increase in injuries is not proportional to the return of loss due to corruption to the state. And in 2016 from the total State's Loss around Rp. 3 Trillion, only returning to the state of Rp. 497.6 billion, or 6.2% of total loss. Likewise in 2017, from the total

³ Eddy O.S Hiariej, *Prinsip-prinsip Hukum Pidana*, Yogyakarta: Cahaya Atma Pustaka, (2014), p. 403.

⁴ Singgih Herwibowo, "Problematisa Pengembalian Kerugian Keuangan Negara Dalam Tindak Pidana Korupsi Melalui Gugatan Perdata", *Jurnal Pasca Sarjana Hukum UNS*, IV (2), p. 131.

⁵ <https://nasional.tempo.co/read/852637/sepanjang-2016-negara-rugi-rp-3-triliun-dari-kasus-korupsi>.

⁶ See: Komisi Pemberantasan Korupsi, Laporan Tahunan 2016, <https://www.kpk.go.id/images/Laporan%20Tahunan%20KPK%202016%20Bahasa%20Indonesia.pdf>, p. 70.

⁷ See: Indonesia Corruption Watch (ICW), *Tren Penindakan Kasus Korupsi Tahun 2017*, https://antikorupsi.org/sites/default/files/tren_korupsi_2017.pdf, Februari 19, 2017.

⁸ See: Komisi Pemberantasan Korupsi (KPK), Capaian dan Kinerja KPK di Tahun 2017, <https://www.kpk.go.id/berita/siaran-pers/260-capaian-dan-kinerja-kpk-di-tahun-2017>, 27 Desember 2017. See too: <https://www.rappler.com/indonesia/berita/192394-uang-negara-diselamatkan-kpk-sepanjang-2017>.

⁹ See: Indonesia Corruption Watch (ICW), *Tren Penindakan Kasus Korupsi Semester 1 2018*, https://www.antikorupsi.org/sites/default/files/tren_penindakan_kasus_korupsi_smt_1_2018_0.pdf, 1 Januari – 30 Juni 2018.

state loss of around Rp. 6.5 Trillion, only returning to the country of Rp. 188 billion, or 34.5% of total loss.

As comparative data in Table 1, the author took the data from the Corruption Eradication Commission (KPK), related to the execution of cases of corruption that have permanent legal force, as the table below:

Table 2.
Details of Corruption Penalty Sanctions Executed by KPK
Based on the Judge's Decision *Inkracht*

	Total Cases	In Jail			Fine	Additional Criminal Penalties		
		1-5 years	6-9 years	Up to 10 years		Fore-closure	Replacement Money	Revocation of Political Right
2016	81 (104 tdw)	79 tdw	21 tdw	4 tdw	104 tdw (in total about IDR. 27,865 billion)	-	22 tdw (About IDR. 68,839 billion + USD. 1.397.500)	6 tdw
2017	83 (92 tdw)	66 tdw	22 tdw	4 tdw	91 tdw (in total about IDR. 21,025miliar)	1 tdw ¹⁰	15 tdw (About IDR. 43,190 billion + USD 50.000)	6 tdw

Data source: KPK Last Report processed.¹¹

Based on the data in Table 2, the authors conclude that the sanctions threatening additional criminal penalties in the form of assets seizure resulting from corruption as listed in Article 18 paragraph (1) letter an of Law Number 31 Year 1999 are still not maximally implemented. In practice, judges always prioritise sanctions for payment of substitute money as a form of compensation for loss received by the state as a result of criminal acts of

¹⁰ See: Komisi Pemberantasan Korupsi, Laporan Tahunan 2017, [https://www.kpk.go.id/nuweb/ images/Laporan% 20Tahunan%20KPK%202017.pdf](https://www.kpk.go.id/nuweb/images/Laporan%20Tahunan%20KPK%202017.pdf), p. 169.

¹¹ See: Komisi Pemberantasan Korupsi, Laporan Tahunan 2016, [https://www.kpk.go.id/ images/Laporan%20Tahunan%20KPK%202016%20Bahasa%20Indonesia.pdf](https://www.kpk.go.id/images/Laporan%20Tahunan%20KPK%202016%20Bahasa%20Indonesia.pdf); and see: Komisi Pemberantasan Korupsi, Laporan Tahunan 2017, [https://www.kpk.go.id/nuweb/ images/Laporan% 20Tahunan%20KPK% 202017.pdf](https://www.kpk.go.id/nuweb/images/Laporan%20Tahunan%20KPK%202017.pdf).

corruption committed by the defendant, as stated in Article 18 paragraph (1) letter b. Cases of corruption that bring loss to the state.

The ratification of the *United Nations Convention Against Corruption* (UNCAC) through Law Number 7 the Year 2006 concerning to the Ratification of the United Nations Anti-Corruption Convention has consequences, seizure of results and instruments of criminal acts are an essential part of efforts to reduce crime rates.¹² Therefore in the context of reforming Indonesian criminal law, reflection on an absolute norm is necessary to create valid regulation and can be a deterrent to potential acts that are prohibited and can provide justice to the community and realisation of the ideals for Indonesian people.

Through this research, the author tried to give the idea of the reformulation of the existence of asset forfeiture in criminal acts of corruption that already existed in Law Number 31 the Year 1999, which currently places it as additional criminal sanctions Subject to future criminal penalties. The idea is based on the efforts and ideals of Indonesian criminal law renewal, which is intended to be the means of financial recovery of the state due to corruption crimes, as well as the means of realising the values of justice for the People Indonesian.

After exploration of background, the authors formulated the problems as a topic of discussion, Is the criminal asset forfeiture for corruptor relevant to the objectives of value of social justice in Indonesian society? And what is the prospect of criminal asset forfeiture for future convicts of corruption in fulfilling the amount of Indonesian social justice?

B. Research Methods and Legal Materials

1. Type of Research

In this research, authors use a descriptive research method, which is research aimed at discussing the problem with the way of collecting data, compiling, classifying, and analyzing about the concept of asset forfeiture As an additional criminal in the case of corruption crimes in order to give an overview of the prospect of the criminal sanctions of asset forfeiture as a future staple in the perspective of renewal of criminal law in Indonesia.

2. Research Methods

The research method used in this study is normative juridical. A normative juridical method is an approach carried out based on the primary

¹² Academic Script Draft Law on Criminal Seizure Asset, *National Law Development Planning Center National Law Development Agency Ministry of Law and Human Rights Republic of Indonesia*, (2012), p. 13.

legal material by examining theories, concepts, legal principles and laws and regulations related to this research.

3. Types and Sources of Legal Materials

The kind of data used in this research is secondary data types, namely the type of data taken from library materials. This type of secondary data consists of:

- a. Primary Law Material: Includes constitutions rule.
- b. Secondary Legal Materials: literature and other scientific writings that can explain problems in this research.

4. Data Collection Method

Data collection method used:

- a. Literature study: by collecting materials in the form of books relating to criminal acts of corruption and criminal sanctions, specific sanctions for seizure assets, as well as those relating to renewal of criminal law.
- b. Documents Study: by collecting legal documents that function as one of study objects, for example, are related laws and regulations, such as the Criminal Code (KUHP), Law Number 31 Year 1999 concerning Eradication of Corruption Crime and Law Number 20 Year 2001 concerning Amendments to Law 31 Year 1999 concerning to Eradication of Corruption Crimes.

C. Discussion

1. Criminal Sanction of Asset Forfeiture for the Convicted Criminal Acts in Indonesia in the Perspective of the Indonesian Social Justice Value

a. Criminal Asset Forfeiture of Corruption according to the Law in Indonesia

Talk the discussion about criminal asset forfeiture will not be separated from the problem of corruption that has become an acute problem of the country. According to the language, "corruption" comes from the Latin, "*corruption/corruptere*" meaning foul, broken, shake, distort, a bribe. It is then handed down to the English language "corruption", Dutch "*corruptie/korruptie*", and Bahasa Indonesia (korupsi), which can be interpreted as evil, immoral decay, and malice.¹³ There is also a mention of

¹³ Wawaysadhyana dan Andri Azis Putra, "Karakter Kepancasila sebagai Konsep Atas Pondasi Hukum Untuk Mereduksi Praktik Korupsi", *Jurnal Cakrawala Hukum*, VXIV (1), (2017), p. 7.

“corruption” derived from the word “*corruptus*” which means a change in behaviour from either to bad (to change from good to bad in morals, manners, or actions).

Meanwhile, according to Black's Law Dictionary, corruption is interpreted as “a deed done to give a profit that does not match the official duties and rights of others” (an act was done with an intent to give some advantage inconsistent with official duty and the right of others).¹⁴ According to *Transparency International*, corruption is a behaviour of public officials, both politicians and civil servants, who are unreasonably and illegally enriching themselves or those close to them, by abusing the public authority entrusted to them.¹⁵ Based on such definitions, corruption is seen as a crime because it is illegal and acts against the law that harms the state through means of power and insecurity in carrying out a position.

The term “corruption”, according to historian Ong Hok Ham,¹⁶ appeared at the beginning of the 19th century when humans distinguished between personal finances and general financial/public finances. This kind of separation was never known in the concept of traditional power so that in other words, new corruption emerged along with the emergence of a modern political system. While in Indonesia itself, the term “corruption” began to be used in article 1 Government Regulation Number 24 year 1960 concerning the investigation, prosecution, and criminal examination of corruption.¹⁷ If from a sociological perspective, corruption in Indonesia is divided into three models, namely *first*, corruption due to the needs (corruption by lack) which means people corruption because of circumstances or conditions; *secondly*, the corruption of greed (corruption by greed) means people with corruption due to the greedy nature; and *third*, corruption because of opportunity (corruption by chance) which means corruption is done because of the occasion.¹⁸ Seeing the three models of corruption is not excessive if Marwan Effendy calls corruption in Indonesia such as not inexhaustible, even development continues to increase from year to year both in the

¹⁴ Rifyal Ka'bah, “Korupsi di Indonesia”, *Jurnal Hukum dan Pembangunan*, 37 (1), (2007), p. 78.

¹⁵ Shoim, “Laporan penelitian individual (Pengaruh pelayanan publik terhadap tingkat korupsi pada lembaga peradilan di Kota Semarang), dalam Ade Mahmud, Problematika Asset Recovery Dalam Pengembalian Kerugian Negara Akibat Tindak Pidana Korupsi, Kajian Putusan Nomor 62/Pid.Sus/Tipikor/2013/PN.PBR”, *Jurnal Yudisial*, 11 (3), (2018), p 350.

¹⁶ Ong Hak Ham, *Dari Soal Priyayi sampai Nyi Blorong, Refleksi Historis Nusantara*, Jakarta, Kompas, 2002, in Wawaysadhya dan Andri Azis Putra, *Karakter Kepancasilaan ... Op.Cit.*, p. 8.

¹⁷ *Ibid.*, p. 8.

¹⁸ Brian Lemuel Rachman, “Tinjauan Hukum Atas Sanksi Tindak Pidana Korupsi Sebagai Kejahatan Luar Biasa Di Indonesia”, *Jurnal Lex Et Societatis*, VI (2), (2018), p. 63.

number of cases, the number of state loss, or quality.¹⁹ There are various causes of corruption cases so fertile in Indonesia, among them is weak law enforcement, weak public officials mentality both central and regional, the game from the holders of economic power, to the lack of Indonesian ideology.²⁰

Currently corruption has entered the borders of the country, which was affirmed in the 4th paragraph of the introduction United Nations Convention Against Corruption 2003 (UNCAC), "*Convinced that corruption is no longer a local matter but a transnational phenomenon that affects all societies and economies, making international cooperation to prevent and control it essential*".²¹ The extent of its impact and victims and the increasingly complicated mode of Operandi and the perpetrator, then to seat corruption as the type of White Collar Crime (WCC), where according to Harkristuti Harkrisnowo, the corruption actors are not carelessly because they have Access to the Corruption act, by abusing the authority, opportunity or means thereof.²² The more extensive and complicated cases of corruption can be seen from the analysis of Geetanee Napal, where corruption starts from the micro-level that is in the context of the business, which then becomes a macro when the business sector is connected to the government sector.²³ Basing on the opinion of the **Napal** then in its current development corruption has exceeded cross border countries and governments, so it is not wrong if corruption is categorised as transnational crime and as an extraordinary crime.

The development of corruption that has been so extraordinary usually has a negative impact on both the country and the people; it is necessary prevention and eradication efforts, one of them through criminal law enforcement efforts. Noting that the orientation of penal law for corruption crime is not only to punish the perpetrator but most importantly about how to return the loss due to corruption. The country's refund efforts become law enforcement obligations, as well as political theories and responsibilities to realise social justice, which provides a moral justification for the country to

¹⁹ Marwan Effendy, "Perjanjian Bilateral Mengenai Bantuan Timbal Balik Dalam Masalah Pidana Dalam Upaya Pemberantasan Korupsi", *Hukum Nasional Magazine*, Number 2, (2007), p.1.

²⁰ Wawaysadhya dan Andri Azis Putra, *Op.Cit.*, p. 10.

²¹ Ahmad Hadi Prayitno, "Kebijakan Formulasi Ancaman Pidana Minimal Khusus Sebagai Upaya Penanggulangan Tindak Pidana Korupsi Di Masa Yang Akan Datang", *Jurnal Meta-Yuridis*, 2 (1), (2019), p. 85.

²² Binov Handitya, "The Principles of Good Government dalam Menekan Korupsi", *Jurnal Seminar Nasional Hukum Universitas Negeri Semarang*, 5 (1), (2019), p. 7.

²³ Napal, G, "An Assessment of the Ethical Dimensions of Corruption", *Electronic Journal of Business Ethics and Organization Studies*, 11(1), (2006), pp. 5-9.

make back-loss efforts corruption.²⁴ Efforts to refund the country due to corruption in the current Indonesian positive criminal law, drawing from the provisions of article 18 paragraph (1) letter A and B of Law Number 31 Year 1999 concerning additional criminal types, which reads as follows:

- a. "Deprivation of tangible or intangible moving goods or stationery goods used for or obtained from corruption crimes, including any criminal-owned company in which the corruption act is conducted, as well as from Items that are in line with the goods
- b. The amount of substitute money is equal to the property obtained from the Corruption criminal act."

Efforts to refund the country due to corruption through the threat of the above article, are justified for several reasons, according to Michael Levi²⁵ include: *First*, the reason for prevention (prophylactic) is to prevent corruption actors from controlling Assets obtained illegally to perform other acts in the future; *Second*, the reason for propriety is that the perpetrators have no proper rights to the assets acquired by the unauthorized; *Third*, the reason for priority, namely because criminal acts give priority to the country to prosecute assets obtained illegally from the rights owned by the perpetrators of the criminal law; and fourth, the reason for ownership (proprietary) is because the asset is obtained illegally, then the country has the interest as the owner of the asset.

The return of corruption attempts was justified, as corruption was a type of organised crime, as stated by Matthew H Fleming.²⁶ In addition to the means of eradication of corruption crimes, the efforts to refund the country due to corruption are also intended as a means of resolving conflict due to corruption as the purpose of measurement according to the direction of criminal law Indonesia, as stipulated in article 52 paragraph (1) letter c of the National Criminal Code draft in 2019.²⁷ The country's loss should be made integrated into every stage of law enforcement, so its value/magnitude can be maintained and fully returned to crime victims including to the state,

²⁴ Ade Mahmud, *Op.Cit.*, p. 351.

²⁵ *Ibid.*, p. 351.

²⁶ In the perspective of eradication of corruption crimes, the return of state loss is a means of combating profit-oriented criminal acts, including Aquisition (criminal acts are driven by greed) and follow-up Organized criminal. *Ibid.*, p. 352.

²⁷ The purpose of the drafting in the framework of the update as described in the National Criminal Code draft in 2019 which includes: "Preventing the crime of the Act by enforcing legal norms for the protection and Pengayoman of society; Socialize criminal by conducting coaching and mentoring in order to be a good and useful person; Resolving conflicts caused by criminal acts, restoring balance, and bringing peace and security to the community; And foster a sense of regret and liberate guilt on the convicted ".

as a preventive attempt to Keep the value of the asset not diminished.²⁸ The return of stolen asset recovery is crucial to the development of developing countries, including Indonesia, because it is not merely to restore the assets of the country, but also to reinforce the legal supremacy.

b. The Criminal Term of Assets Forfeiture for Convicted Criminal Acts in Indonesia in the Perspective of the Indonesian Social's Value

The location of the law should not only be interpreted as the tool to build society discipline. But also expected to be able to change the mindset of society in responding to a phenomenon, coupled with the development of more modern lifestyle; the law must put itself in minimising unwanted conditions.²⁹ This view is in line with the inquiry from Satjipto Rahardjo in addressing the law as a sense of legal norms are not a final product and the code in the understanding of legal rules will always be in the process and will continue to grow and develop (*law as a process, law in the making*).³⁰

Legal presence during society has a purpose, which is conventionally three legal objectives. The ethical sect that wants the law to create justice divides justice into two types, namely, Retributive justice (giving justice by looking at its portion), and Cumulative justice (equal justice without looking at each portion). Then utilise sect, where Jeremy Bentham as one of the leaders of this sect said the purpose of the law was to guarantee as much happiness as possible to as many people as possible. Whereas there is also dogmatic-normative sect which emphasises certainty based on the law and considers the law to be autonomous which only comes from acts that cannot be interpreted beyond the sound of the text.³¹ To respond to the three sects, Gustav Radbruch wants the priority of the three legal objectives. The objective of law which must first be achieved is justice, followed by legal benefit and certainty.³²

In line with the objectives of the law, criminal law has the purpose of protecting the rights held by the community by "rights-taker" through actions that are contrary to values or contrary to the norm.³³ Discussing

²⁸ Fira Saputri Yanuar Andri, Amarru Muftie Holish, Aditya Wicaksono, "Upaya Pengembalian Kerugian Keuangan Negara Melalui Jalur Pidana Studi Kasus Terhadap Tindak Pidana Korupsi", *Jurnal Seminar Nasional Hukum Universitas Negeri Semarang*, 5 (1) (2019), p. 26.

²⁹ Marwan Mas, *Pengantar Ilmu Hukum*, Jakarta: Ghalia Indonesia, (2004), p. 72.

³⁰ Liky Faizal, "Problematika Hukum Progresif Di Indonesia", *Ijtima'iyah*, 9 (2), (2016), p. 4.

³¹ Mertokusumo, *Mengenal Hukum (suatu pengantar)*, Yogyakarta: Liberty, (1992), p. 71.

³² Rena Yulia, *Viktimologi Perlindungan Hukum Terhadap Korban Kejahatan*, Yogyakarta Graha Ilmu, p. 129.

³³ *Ibid.*, p. 130. Muladi and Barda Nawawi Arief, argued that not all legal experts argue that "criminal" is a suffering or sorrow. As stated by Hulsman, where the criminal has the essence as an invader for order (tot de order of the roepen); so that the criminal has two objectives,

criminal law is incomplete if it does not discuss criminal sanctions and punishment.³⁴ The main objective of punishment is to recovery of relationship between the perpetrator and the social community, according to Emil Durkheim, where illegal and criminal offences are not free from the interests of community, because later after undergoing the criminal life will be standard in the community.³⁵ The provision of criminal sanctions according to Pompe, which incidentally a figure from the classical sect, said that there is no crime applied except based on unlawful acts and blameworthy mistakes.³⁶ It is different from modern cult which emphasizes the punishment as the final choice after other legal mechanisms are used, as stated by Mekel where criminal law is the outermost part in the sense that it is a subsidiary of other requirements.³⁷ It can be concluded that the occurrence of criminal acts has implications for the loss of the community because criminal acts are synonymous with disruption to the balance of the people. So that the criminal is an effort to restore the lost balance and this is the basis of criminal provision because there are configurations in society that are not operating correctly.³⁸ However, it should be noted if criminal law is *ultimum remedium* and becomes a subsidiary effort of other legal efforts.

namely affecting the behavior (*gedrags-beinvloeding*) and resolving conflicts (*conflictoplossing*). There is also an opinion from Hoefnagels, which explains that criminal is all reactions to violations of law determined by law, from detention to verdict dropped. Even Plato and Aristoteles said that *the crime was imposed not because it had done evil, but rather not to do evil*. See: Dwidja Priyatno, *Sistem Pelaksanaan Pidana Penjara di Indonesia*, Bandung: PRefika Aditama, (2006), hlm. 8. Lihat juga: Marlina, *Hukum Penitensier*, Bandung: Refika Aditama, (2011), p. 8. See also: Marlina, *Hukum Penitensier*, Bandung: Refika Aditama, (2011), pp. 21-22.

³⁴ As according to Andi Hamzah, that criminal (*straf*) is interpreted as a sentence imposed on a person proven guilty of offense based on a decision that has a permanent legal force, while punishment is defined as matters relating to criminal matters, for example regarding the purpose or intent of imposing a criminal. See: Andi Hamzah, *Terminologi Hukum Pidana*, Jakarta: Sinar Grafika, (2009), p. 119.

³⁵ Eddy O.S Hiariej, *Op.Cit.*, p. 406.

³⁶ *Ibid.*, p. 25. The opinion of Pompe is slightly different from the opinion of Hoefnagels who disagrees with the opinion that criminal is a denunciation (*censure*) or an entrapment (*discouragement*) or a suffering (*suffering*). The provision of sanctions is a process of encouragement and encouragement for the purpose that someone is oriented or adapted to a norm or law that applies. See: Muladi and Barda Nawawi Arief, *Teori-teori dan Kebijakan Pidana*, Bandung: Alumni, (1984), pp. 9-10.

³⁷ The same thing was also conveyed by Frank Von Litz and Modderman who put criminal law as a last resort if other laws were unable to cope. Eddy O.S Hiariej, *Loc.Cit.*

³⁸ The purpose of punishment is strongly influenced by the philosophy of conviction as the basis. The philosophy of punishment is also a philosophical foundation for formulating a measure / basis of justice if there is a violation of criminal law. Where the basis of the criminal philosophy raises two types of justice, namely justice based on retributive justice and justice based on the philosophy of restoration or restoration (*restorative justice*). See: M. Sholehuddin, *Sistem Sanksi Dalam Hukum Pidana (Ide Dasar Double Track System dan*

Restoring the balance³⁹ of a developing and always dynamic society must be addressed wisely and appropriately, including through the renewal of Indonesian criminal law.⁴⁰ The discussion about renewal of criminal law will automatically discuss the old Indonesian criminal law system which still has colonial tastes, including the expropriation of criminal assets, which are inspired by illegal seizure of certain goods which are included in additional criminal penalties. Even though since 1959 judges in Netherlands may impose other criminal sanctions in form of a seizure or confiscation without accompanying the primary crime.⁴¹ Placing the criminal forfeiture of assets in an additional criminal case in a corruption case will reduce the essence of law enforcement for criminal acts of corruption is the recovery of loss suffered by the state.

In current positive law of Indonesia, criminal acts of seizure on assets in corruption are regulated in Article 18 paragraph (1) letter a of Law Number 31 Year 1999 concerning Eradication of Corruption Crime, which reads as follows: "*Deprivation of tangible or intangible movable or immovable property which is used for or obtained from criminal acts of corruption, including the company belonging to the convicted person where the criminal act of corruption is committed, as well as from the goods that replace the goods*". Taking into formulation as mentioned above, and by paying

Implementasinya), Jakarta: Raja Grafindo Persada, (2003), p. 80. See also: Dwidja Priyatno, *Sistem Pelaksanaan Pidana Penjara di Indonesia*, Bandung: Refika Aditama, (2006), p. 13.

³⁹ Ter Haar describes Indonesian society as a relationship between humans, supernatural powers, land, goods, and everything that is worldly, which are all regarded as normal as an absolute condition for a happy and harmonious life called balance (*evenwicht*). Notonagoro also explained that with Pancasila, human beings are placed in nobility and dignity as God's creatures with the awareness to carry their nature as personal beings as well as social beings, where life happiness will be achieved if based on harmony and good balance in human life as a person, in its relationship with society, nature, other nations, God Almighty, and in pursuing outward and spiritual progress. In indigenous peoples when evil actions occur, they are considered a loss of balance in people's lives. See: Muladi, *Lembaga Pidana Bersyarat*, Bandung: Alumni, (1985), pp. 55-56. Furthermore, Iman Sudiyat revealed that such acts of lawbreakers must be restored by means, such as paying compensation, where in the cosmic flow the most important thing in people's lives is the existence of balance, harmony and harmony. See: Iman Sudiyat, *Hukum Adat Sketsa Asas*, Yogyakarta: Liberty, (2012), p. 178.

⁴⁰ The philosophy of Pancasila (as a criminal philosophy) adopted by Indonesia requires the balance and harmony between the interests of individuals, communities, nations, and the state. So that criminal law and punishment in Indonesia must be oriented to the interests of individuals (criminals), and public interests, including victims of crime. In the perspective of criminal law reform, it cannot be separated from the idea of developing national law based on Pancasila. So the renewal of national criminal law must be oriented to Pancasila values as a basic idea that contains a balance of values between religious / divine morality, humanity, nationality, democracy, and social justice. See: M. Sholehuddin, *Op.Cit.*, pp. 82-84. See also: Dwidja Priyatno, *Op.Cit.*, p. 19.

⁴¹ Eddy O.S Hiariej, *Op.Cit.*, p. 402.

attention to the concept of justice values, especially the importance of social justice, according to the author the criminal position of seizure on assets resulting from corruption is an additional criminal offence, not in line with criminal objectives and punishment in the same direction and ideals renewal of Indonesian criminal law and particularly regarding for recovery of balance lost to the community due to criminal acts of corruption committed by a convict (corruptor), which in this case is explicitly state loss due to crime.

Crimes in cases of corruption are only oriented to necessary criminal acts of physical crime. So the purpose of illegal and unlawful cases in the essential matters of corruption to restore state loss has not been able to be achieved optimally. It is illustrated on data in Table 1 on introduction above. The lack of state loss returned by the convicted corruptors has not fulfilled the sense of justice that Indonesian people have.⁴² Even though it must be admitted corruption has an impact on the deprivation of economic rights and welfare of people in Indonesia.⁴³ According to **Marc Ancel**, dropping a crime must be in line with the protection of people's rights,⁴⁴ because the consequences of corruption are various social problems arising and the balance of society is disrupted. In front with Ancel Lafave argued that criminal justice in the view of contemporary sect aims to restore justice known as restorative justice.⁴⁵ If we are getting out from the topic of assets forfeiture, where on July 9, 2015 through Decision Number 42 / PUU-XIII / 2015 the Constitutional Court (MK) issued a decision regarding the political rights of a formerly convicted corruption, which allowed former convicted corruption cases to nominate themselves back, this, according to the author, further injures the values of social justice for the people of Indonesia.

The lack of return on state loss compared to the total state loss due to corruption, in the author's view, is caused by the placement of criminal assets seized in additional criminal sections. So that it gives the judge of possibility not to give sanctions to prospective convicts of corruption. Plus,

⁴² Community justice when linked to the characteristics of Indonesian society, especially indigenous peoples whose existence is still valid, if violations occur or are included in the customary offense through a process of remedial recovery through payment of customary fines. Recovery of balance, harmony, harmony is a legal recovery effort. The materialistic values of customary law communities in Indonesia are one of the noble values which, according to Karl Von Savigny, are the soul of the nation as well as noble characteristics. See: Iman Sudyat, *Hukum adat Sketsa Asas*, Yogyakarta: Liberty, (2012), p. 175.

⁴³ M. Akil Mochtar, *Memberantas Korupsi, Efektifitas sistem Pembalikan Beban Pembuktian Terbalik dala gratifikasi*, Jakarta: Q-Comunication, (2006), p. 104.

⁴⁴ Jan Remmelink, *Hukum Pidana, Komentar atas Pasal-pasal Terpenting dari Kitab Undang-undang Hukum Pidana Belanda dan Padanannya dalam Kitab Undang-undang Hukum Pidana Indonesia*, Jakarta: Gramedia Pustaka Utama, (2003), p. 1.

⁴⁵ Eddy O.S, *Op.Cit.*, p. 36.

criminal penalties for fines are not balanced with amount of state loss arising from corruption. Especially if it refers to the opinion of Eddy Hiarij, where the purpose of criminal penalties is as a substitute for the obligation of criminal offender to serve a sentence and the State does not suffer loss due to criminal penalties.⁴⁶ So according to the author's idea, the more effective a criminal will be in the event of returning the state's injuries if it places sanctions on appropriation of assets in the central criminal section.

2. The Prospect of Asset Forfeiture for Criminal Acts of Corruption in the Future for Fulfilling the Value of Indonesian Social Justice

Legal attitudes facing social development must be done by responding quickly to changes that occur. The legal policy will not be separated from the integral concept of legal system and social policy, because law is not something impermeable to social studies. To deal with the dynamic development of complex human life, Legal policy tries to present justice as a noble goal of law.⁴⁷ Satjipto Rahardjo, as quoted in the book *Masa Depan Hukum Progresif* written by Suteki, defines policy or legal politics as activities to determine social and legal direction and goals.⁴⁸ So if we pay attention to the development of corruption in Indonesia at this time, the first set of criminal law enforcement should have been shifted. No longer punish as many as possible and impose prison sentences as heavy as possible at the beginning of 1999, but more important is how to restore state loss due to criminal acts of corruption. Because punishment (imprisonment) for perpetrators of corruption, proved unable to reduce the number of criminal acts of corruption and state loss incurred. So if it refers to the opinion of Packer that the theoretical legitimacy of illegal seizure of assets resulting from criminal acts of corruption, justified by considering that humans have responsible for actions and the consequences. So that according to Packer further, criminal is a way to prevent or reduce crime. Crimes may be

⁴⁶ *Ibid.*, p. 36. In the author's opinion, criminal penalties are principally aimed at giving a deterrent effect to perpetrators of crimes, or a frightening effect on the public so as not to commit a crime. principal crimes in the Criminal Code (KUHP) Article 10. So it is very irrelevant to expect the return of state loss as a result of criminal acts of corruption through criminal means of fines. Moreover, the fine has a maximum limitation limit for each offense (no exception in Law Number 31 Year 1999 and Law Number 20 Year 2001).

⁴⁷ Sudarto gives an understanding of legal policy, namely as: *first*, efforts to realize good regulations in accordance with the situation and situation at the time, and *secondly*, policies from the state through bodies that have the authority to make changes or the formation of policies that are expected to be able express what is contained in the community to achieve the desired goals. See: Lilik Mulyadi, *Bunga Rampai Hukum Pidana Perspektif Teoritis dan Praktik*, Bandung: Alumni, (2008), p. 31.

⁴⁸ Suteki, *Masa Depan Hukum Progresif*, Bantul: Thafa Media, (2015), p. 152.

imposed as long as they can have a better impact than if they are not convicted.

It is in line with what has been conveyed by Satjipto Rahardjo, that the inclusion of policies regarding people's prosperity has become an obstacle to the effectiveness of law.⁴⁹ Indonesian criminal law still does not pay attention to the purpose of success for community, especially regarding efforts to restore the original condition due to criminal acts. So that a humanistic approach to criminal law is absolutely necessary, as Sudarto argued as quoted by Barda Nawawi Arief:

*When discussing criminal matters, it must talk about people who commit crimes..... So the renewal of criminal law still revolves around humans, then they must never abandon human values is love for others.*⁵⁰

Restoration of criminal law revolves around the protection of the community is necessary to ensure the existence of concrete evidence of legal development following social change in society. Bassiouni revealed the purpose of the policy and value approach in criminal law relating to the mission of the social interests of community, including the values of human rights. Common interests as Bassiouni mentioned include. *First*, maintaining public condition. *Second*, protection of society from crimes, loss or harm that cannot be justified. *Third*, returning violators to the community (resocialization). *Fourth*, keeping integrity regarding the views of social justice, human dignity and individual justice.⁵¹

Current law must be recognised (*ius constitutum*) in cases of corruption crimes place criminal as a tool to achieve retributive justice that emphasises aspects of retaliation.⁵² As illustrated in Table 1 in introductory section above, state loss and returned assets are not balanced even though the spirit of establishing laws to eradicate corruption in the framework of asset recovery can be seen from the article that mandates the pursuit of assets from corruption. Indonesia itself in formulation of criminal still has a conservative view, the paradigm of *kantianism* as the basis for imposition of criminality in Netherlands state which incidentally as the biological mother of Indonesian legal system has been left over because it is not productive.

Furthermore, in Netherlands the handling of criminal acts of corruption using the asset recovery paradigm has been tremendously advanced, seen

⁴⁹ Lilik Mulyadi, *Op.Cit.*, p. 31.

⁵⁰ Barda Nawawi Arief, *Op.Cit.*, p. 43.

⁵¹ *Ibid.*, p. 36.

⁵² Marwan Efendy *Teori Hukum Dari Perspektif Kebijakan, Perbandingan, dan Harmonisasi Hukum Pidana*, Jakarta: ME Center Group, (2014), p. 82.

from the existence of institutions to deal with recovery assets of criminal acts of corruption.⁵³

Therefore, the author gives an idea or concept regarding criminal sanctions for asset forfeiture in the future against the perpetrators of fraud in Indonesia, by placing the sanction asset forfeiture as part of the principal types of crime listed in the law on combating corruption. It is expected to be a solution to the problem of the minimum return on state loss as a result of corruption. What's more is currently being discussed regarding the Draft Law on Criminal Seizure Asset, so that this is expected to be followed by reforming Law Number 31 Year 1999 concerning Eradication of Corruption Crime, Article 18 paragraph (1) letter a. The underlying ideas or concepts of the author will be further discussed in this paper.

The way to achieve the goal of social justice, which is the mandate of the fifth principle of Pancasila reflected in Indonesian criminal law, is to change the perspective of justice that was previously retributive justice into *restorative justice* (the paradigm of *recovery assets*). Douglas, quoted by Marwan Efendy, revealed that restorative justice is justice that is to be achieved based on the loss experienced by the community rather than the state.⁵⁴ Restorative justice can, therefore, be understood as a response to dissatisfaction and frustration with the formal justice system.⁵⁵ In the context of law enforcement of corruption using the paradigm of *kantianism*, the impact of not achieving the goal of restoring balance, harmony due to criminal acts of corruption. Where the materialistic values of the people in Indonesia are one of the noble values, according to Karl Von Savigny is a growth and development in the soul of the nation.⁵⁶ It is based on several reasons. *First*, the return of state loss is not achieved. *Second*, using the conservative paradigm burden on the state finances in this case for cost of living to convicted persons while serving a sentence in prison.

Restorative justice, according to the author has a relationship with the value of social justice. Such thinking based on the concept of restorative justice targeting how to recover imbalances that occur due to criminal acts.

⁵³ Marfuatul Latifah, "Urgensi Pembentukan Undang-Undang Perampasan Aset Hasil Tindak Pidana Di Indonesia", *Jurnal NEGARA HUKUM*, 6 (1), (2015), p. 21.

⁵⁴ Marwan Efendy, *Op.Cit.*, p. 132. Furthermore Dignan states *restorative justice* is a response to violations and conflicts by looking at victims, perpetrators, and impacts on society. See: *Ibid.*, P. 134. If seen as a concept of value, restorative justice contains values that are different from ordinary justice, where restorative justice focuses on recovery, not on condemnation. See: Dennis Sullivan and Larry Tift, *Handbook of Restorative Justice: A Global Perspective*, London and New York: Routledge of Taylor & Francis Group, (2006), pp. 555-556.

⁵⁵ Destri Tsurayya Istiqamah, "Analisis Nilai Keadilan Restoratif Pada Penerapan Hukum Adat Di Indonesia", *In VeJ*, 4 (1), (2018), p. 20.

⁵⁶ Atip Latipul Hayat, "Friedrich Karl Von Savigny", *Khazanah in Padjajaran Jurnal Ilmu Hukum*, 2 (1), (2015), p. 19.

The view of restoring balance is the lifetime value of the Indonesian people. Generally, this common reaction is payment offences in form of money or goods. With this customary reaction dropped, the disturbed balance will be restored. Changing the retributive perspective to become restorative will achieve social justice because what is being pursued the balance restoration of society. According to **Jhon Rawls** justice is that everyone must have the same rights to broadest basic freedoms, as much as the same freedom for all people.⁵⁷ The interests of community as a result of corruption are to get lost rights, fulfil lost rights is a way to achieve social justice.

In the context of asset forfeiture as a form of social compensation and a substitute or “medicine” to fix the balance that is lost by criminal acts of corruption committed with the perpetrators. According to **Andi Matalata**, as quoted by **J.E. Sahetapy** uses the “confession” approach that focuses on actions undertaken by perpetrators of crimes as a “sin” committed by humans to fellow God beings, the logical consequence which that the perpetrator must “repent” to remove sin. Through attention to the victim in form of recovering the loss suffered, not limited about the damage that appears (material) can also be an intangible loss (immaterial).⁵⁸ Then **Reiif** stated that the step of giving compensation was an effort to integrate the fields of social welfare, humanity and the criminal justice system.⁵⁹ In addition to the benefits for the community in the form of recovering the lost balance, the placement of criminal sanction asset forfeiture as a primary crime has benefits for the perpetrator, namely freeing guilt for the perpetrator.⁶⁰

Furthermore, the author's ideas or concepts related to the placement of criminal seizures of assets resulting from corruption in the principal types of crime are concerning the qualifications and limitation.

Regarding the qualifications of what actions can be given criminal sanctions for asset forfeiture, the author provides the following ideas:

- a. His actions fulfil the element of “*enriching and/or benefiting himself, others, or a corporation against the law*”;

⁵⁷ Hendrikus Tri Wibawanto Gedeona, “Mempertanyakan Nilai Keadilan Sosial Dalam Pembangunan Ekonomi Di Tengah Kekuatan Modal”, *Jurnal Administrasi Publik*, 3 (2), (2004), p. 173.

⁵⁸ J.E. Sahetapy, *Viktimologi Sebuah Bunga Rampai*, Jakarta: Pustaka Sinar Harapan, (1987) p. 42.

⁵⁹ *Ibid.*, p. 37.

⁶⁰ Romli Atmasasmita, *Kapita Selekta Hukum Pidana dan Kriminologi*, Bandung: Mandar Maju, (1995), p. 93.

- b. The existence of state loss that have materialised/occurred, as a condition for the completion of a crime.⁶¹

As for the limitation, the author gives the following ideas:

- a. Seizing assets used as a primary crime in law to eradicate corruption, thus separating it from criminal substitute money which is still positioned as an additional type of criminal.
- b. Seizing assets must be based on a court decision that has permanent legal force (mentioning the criminal asset forfeiture in its decision). So that verdict is a basis of the state can do all legal actions against these assets. Not as stated in Article 18 paragraph (2) of Law number 31 Year 1999 concerning to the Eradication of Corruption Acts in force today, which authorises the Prosecutor's Office to auction off assets confiscated as a substitute for criminal substitute money;
- c. The object of asset forfeiture includes: wealth obtained from criminal acts of corruption, and or wealth of the offender worth the loss of the state due to corruption committed, in the form of movable/non-tangible goods, and/or other assets;
- d. The maximum value of assets seized by the state, should not be more than the total loss of the state that has been realized/completed due to corruption, and the minimum value is above the maximum threat of criminal penalties;
- e. If the property seized by the state does not reach the total loss of the state, it can be replaced with illegal social work (the new criminal as stated in the Criminal Code Bill (*Rancangan Kitab Undang-Undang Hukum Pidana*), or considered as the perpetrator's debt to the state. So as long as he indebted to the state, the rights of freedom of the perpetrators are limited such as: being given efforts to ban abroad, supervision of bank accounts, or other supervisory measures needed.
- f. Regarding potential value the loss of the state, where the matter has not been realized due to his actions, it can be imposed with criminal substitute money included in the additional illegal type, whose value is no more than potential loss of the state.
- g. Separate between the object of asset forfeiture between corruption and money laundering. Where according to the author's idea, the object of seizure assets on money laundering is all forms of property owned and / or controlled by a person obtained from the proceeds of crime as stated in Article 2 of Act Number 8 of 2010 concerning Prevention and Eradication of Acts Money Laundering Criminal. Whereas the

⁶¹ The element "detrimental to the state" can be in the form of: a) Reduced state finances; b) Not received in part or in full of state revenues; c) State expenditures increase as they should; d) Increase in state obligations as a result of deviant commitments.

appropriation of assets in corruption is maximum limit worth of state loss due to corruption. If from results of corruption the act gets profits/increases in wealth beyond the failure of the state, then it becomes the object of booty in money laundering;

- h. Regarding the weight / duration of imprisonment, acts of corruption can be limited, by paying attention to their balance with heavy sanctions for appropriation of assets, substitute money, other additional crimes (such as criminal revocation of individual rights), and / or penalties for social work (as a form of new criminal).

Placing assets forfeiture of corruption as a primary crime, as well as by using qualifications and limitations as the author has outlined above, expected to bring about enforcement effect that is in line with the concept of restorative justice, by returning community rights lost due to corruption. Where in this case there has been integration and correlation between philosophy and criminal purposes - punishment with the value of social justice of Indonesian people, which is reflected in the relationship between synergy prison sanctions and fines (which is relatively common now), with asset forfeiture, criminal money substitute (which has not been widely applied at this time), or illegal social work as a concept of sanctions in the Criminal Code Bill (RUU KUHP). Besides, there are also efforts to monitor and limit the right of freedom possessed by the perpetrators of corruption if they still "owe" state money as a result of the corruption committed so that the philosophy of Pancasila which proclaims the balance and harmony between the interests of individuals, communities, nations, and the state to create social justice for all the Indonesian people can be realized.

Assets forfeiture is expected to have an impact that corruption will be dissminished; the rationalisation that the perpetrators of criminal acts of corruption commit their actions is economic motives, if the results of their efforts are seized, the financial goals will not be achieved, and of course the perpetrators will think again to do so. Thus, the placement of criminal assets seized as a result of criminal acts against corruption is an embodiment of restorative justice for expediency, primarily aimed at approaching the value of Indonesian social justice which refers to Pancasila as its ideal foundation. So that the author's hope, with the ideas contained in this paper, can provide implications for renewal in various relevant laws and regulations, such as the eradication of corruption, money laundering and asset seizure laws that are currently still in design form.

D. Conclusion

The description of criminal placement assets forfeiture, which is in further criminality and the prospect for placement criminal assets forfeiture insignificant crimes is concluded as follows:

1. Indonesia's positive criminal law, particularly on corruption crimes, has recognized the criminal sanction asset forfeiture, i.e. in article 18 paragraph (1) of letter A of law Number 31 year 1999. However, the sanction is still placed as an additional criminal form, which is factitive and must be dropped following the type of criminal penalty. Considering such conditions, the seizure of assets as another criminal in the case of corruption crimes studied from the perspective of social justice has not been able to demonstrate the purpose of the measurement that resonate with the social justice, i.e. the recovery of balance which the public configuration of a missing criminal offence.
2. Renewal of national criminal law that demands harmony with the nation's ideology is achieving a lost balance in society. The prospect of asset forfeiture as a critical criminal is following the renewal of national criminal law, especially the civilizing philosophy which is characterized by Pancasila. Placing the criminal sanction asset forfeiture of the underlying crime in the criminal act of corruption has the prospect of restoring the lost balance to the community due to the criminal corruption act.

Bibliography

A. Books

- Arief, Barda Nawawi. (2008). *Bunga Rampai Kebijakan Hukum Pidana*. Jakarta: Kencana.
- Atmasasmita, Romli. (1995). *Kapita Selekta Hukum Pidana dan Kriminologi*. Bandung: Mandar Maju.
- Efendy, Marwan. (2014). *Teori Hukum Dari Perspektif Kebijakan, Perbandingan, dan Harmonisasi Hukum Pidana*. Jakarta: ME Center Group.
- Hamzah, Andi. (2009). *Terminologi Hukum Pidana*. Jakarta: Sinar Grafika.
- Hiariej, Eddy O.S. (2014). *Prinsip-prinsip Hukum Pidana*. Yogyakarta, Cahaya Atma Pustaka.
- M. Sholehuddin. (2003). *Sistem Sanksi Dalam Hukum Pidana (Ide Dasar Double Track System dan Implementasinya)*, Jakarta: PT. Raja Grafindo Persada.
- Marlina. (2011). *Hukum Penitensier*, Bandung: PT Refika Aditama.
- Marwan, Mas. (2004). *Pengantar Ilmu Hukum*. Jakarta: Ghalia Indonesia.
- Mertokusumo, Sudikno. (1992). *Mengenal Hukum (Suatu Pengantar)*. Yogyakarta, Liberty.
- Mochtar, M. Akil. (2006). *Memberantas Korupsi, Efektifitas sistem Pembalikan Beban Pembuktian Terbalik dala gratifikasi*. Jakarta: Q-Communication.

- Muladi dan Barda Nawawi Arief. (1984). *Teori-teori dan Kebijakan Pidana*, Bandung: Alumni.
- Muladi. (1985). *Lembaga Pidana Bersyarat*, Bandung: Alumni.
- Mulyadi, Lilik. (2008). *Bunga Rampai Hukum Pidana Perspektif Teoritis dan Praktik*. Bandung: Alumni.
- Priyatno, Dwidja. (2006). *Sistem Pelaksanaan Pidana Penjara di Indonesia*, Bandung: Refika Aditama.
- Rommelink, Jan. (2003). *Hukum Pidana, Komentar atas Pasal-pasal Terpenting dari Kitab Undang-Undang Hukum Pidana Belanda dan Padanannya dalam Kitab Undang-undang Hukum Pidana Indonesia*. Jakarta: Gramedia Pustaka Utama.
- Sahetapy, J.E. (1987). *Viktimologi Sebuah Bunga Rampai*. Jakarta: Pustaka Sinar Harapan.
- Sidharta, Bernard Arief. (2013). *Ilmu Hukum*. Yogyakarta: Genta Publishing.
- Sudiyat, Iman. (2012). *Hukum adat Sketsa Asas*. Yogyakarta: Liberty.
- Sullivan, Dennis dan Larry Tifft. (2006) *Handbook of Restorative Justice: A Global Perspective*. London and New York: Routledge Taylor & Francis Group.
- Sunarso, Siswanto. (2012). *Viktimologi Dalam Sistem Peradilan Pidana*. Jakarta: Sinar grafika.
- Suteki. (2015). *Masa Depan Hukum Progresif*. Bantul: Thafa Media.
- Yulia, Rena. (2013). *Viktimologi Perlindungan Hukum Terhadap Korban Kejahatan*. Yogyakarta: Graha Ilmu.

B. Journals and Articles

- Abd Razak Musahib, "Pengembalian Keuangan Negara Hasil Tindak Pidana Korupsi", *e-Jurnal Katalogis*, 3 (1), (2015).
- Ade Mahmud, "Problematisasi Asset Recovery Dalam Pengembalian Kerugian Negara Akibat Tindak Pidana Korupsi, Kajian Putusan Nomor 62/Pid.Sus/Tipikor/2013/ PN.PBR", *Jurnal Yudisial*, 11 (3), (2018), <https://doi.org/10.29123/jy.v11i3.262> .
- Ahmad Hadi Prayitno, "Kebijakan Formulasi Ancaman Pidana Minimal Khusus Sebagai Upaya Penanggulangan Tindak Pidana Korupsi Di Masa Yang Akan Datang", *Jurnal Meta-Yuridis*, 2 (1), (2019).
- Atip Latipul Hayat, "Friedrich Karl Von Savigny", *Khazanah in Padjajaran Jurnal Ilmu Hukum*, 2 (1), (2015).
- Bahder Johan Nasution, "Kajian Filosofis Tentang Konsep Keadilan Dari Pemikiran Klasik Sampai Pemikiran Modern", *Yustisia*, 3 (2), (2014), <https://doi.org/10.20961/yustisia.v3i2.11106> .
- Binov Handitya, "The Principles of Good Government dalam Menekan Korupsi", *Jurnal Seminar Nasional Hukum Universitas Negeri Semarang*, 5 (1), (2019).

- Brian Lemuel Rachman, “Tinjauan Hukum Atas Sanksi Tindak Pidana Korupsi Sebagai Kejahatan Luar Biasa di Indonesia”, *Jurnal Lex Et Societatis*, VI (2), (2018).
- Destri Tsurayya Istiqamah, “Analisis Nilai Keadilan Restoratif Pada Penerapan Hukum Adat di Indonesia”, *VeJ*, 4 (1), (2018), <https://doi.org/10.25123/vej.2914>.
- Fira Saputri Yanuar Andri, Amarru Muftie Holish, Aditya Wicaksono, “Upaya Pengembalian Kerugian Keuangan Negara Melalui Jalur Pidana Studi Kasus Terhadap Tindak Pidana Korupsi”, *Jurnal Seminar Nasional Hukum Universitas Negeri Semarang*, 5 (1), (2019).
- G Napal, “An Assessment of the Ethical Dimensions of Corruption”, *Electronic Journal of Business Ethics and Organization Studies*, 11 (1), (2006).
- Hendrikus Tri Wibawanto Gedeona, “Mempertanyakan Nilai Keadilan Sosial Dalam Pembangunan Ekonomi Di Tengah Kekuatan Modal”, *Jurnal Administrasi Publik*, 3 (2), (2004).
- Liky Faizal, “Problematika Hukum Progresif Di Indonesia”, *Ijtima'iyya*, 9 (2), (2016).
- Marfuatul Latifah, “Urgensi Pembentukan Undang-Undang Perampasan Aset Hasil Tindak Pidana di Indonesia”, *Negara Hukum*, 6 (1), (2015).
- Marwan Effendy, “Perjanjian Bilateral Mengenai Bantuan Timbal Balik Dalam Masalah Pidana Dalam Upaya Pemberantasan Korupsi”, *Hukum Nasional Magazine*, Number 2, (2007).
- Rifyal Ka'bah, “Korupsi di Indonesia”, *Jurnal Hukum dan Pembangunan*, 37 (1), (2007).
- Singgih Herwibowo, “Problematika Pengembalian Kerugian Keuangan Negara Dalam Tindak Pidana Korupsi Melalui Gugatan Perdata”, *Jurnal Pasca Sarjana Hukum UNS*, IV (2), (2016).
- Wawaysadhya dan Andri Azis Putra, “Karakter Kepancasilaan Sebagai Konsep Atas Pondasi Hukum Untuk Mereduksi Praktik Korupsi”, *Jurnal Cakrawala Hukum*, XIV (1), (2017).

C. World Wide Web

www.nasional.tempo.co.
www.antikorupsi.org.
www.kpk.go.id.
www.rappler.com/.