



The Role of Prosecutors in The Effort for Assets Recovery from Corruption Crimes

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Abstract

Corruption is a significant crime due to its detrimental impact on a country's financial stability and alleged violation of societal and economic rights. Given its extraordinary nature, combating corruption necessitates extraordinary measures. Establishing deterrents against corruption perpetrators is imperative, with asset recovery emerging as a key strategy. By reclaiming state losses attributable to corrupt practices, such measures serve both punitive and preventive purposes. This research explores asset recovery methods in corruption cases and examines the role of the Prosecutor's Office in this process. Employing a normative legal research approach, the research reviews pertinent laws and regulations. Findings indicate that asset recovery can be pursued through criminal and civil legal channels. Furthermore, the Prosecutor's Office, entrusted with law enforcement in asset recovery from criminal activities, recognizes two principal mechanisms: asset seizure without punishment and voluntary asset return. The asset recovery process entails several stages, including asset



tracing, blocking or freezing, foreclosure, confiscation,
and return.

A. Introduction

In today's world, corruption is increasingly recognized as an extraordinary crime¹ by numerous states², including Indonesia. This acknowledgment stems from the profound impact corruption inflicts on a nation's finances and its infringement upon the social and economic rights of its citizens.³ The legal framework for combating corruption, as outlined in Law Number 31 of 1999 concerning the Eradication of Corruption, amended by Law Number 20 of 2001, characterizes corruption as a systematically pervasive offense, warranting classification as an extraordinary crime.⁴

This legislative emphasis underscores the commitment of the government and law enforcement agencies to address and prevent corruption.⁵ In Indonesia, corruption has insidiously permeated various facets of society, manifesting itself in a myriad of forms and affecting individuals at all levels. Each passing year witnesses a concerning escalation in corruption cases, accompanied by a corresponding rise in financial losses to the state and the sophistication of corrupt practices.⁶

It is worth noting that a significant portion of corruption in Indonesia is perpetrated by educated individuals who wield considerable influence, extending from grassroots communities to political circles.⁷ To deter future transgressions, robust measures are imperative. Punitive actions against offenders must not only seek to redress the financial harm inflicted upon the state but also serve as a preemptive measure against future instances of corruption.⁸

Efforts to eradicate corruption must address three key focal points: prevention, eradication, and the recovery of corruption assets.⁹ Simply imposing criminal penalties on perpetrators is insufficient to deter future corruption or prevent potential offenders from engaging in corrupt

¹ Initially the term extraordinary crime appeared in cases of gross human rights violations. This can be seen in Article 5 of the 1998 Rome Statute which states that the criteria that can be called extraordinary crimes are war crimes, genocide, crimes against humanity, and crimes of aggression. See Sunarto. (2007). *Kriminalisasi Dalam Tindak Pidana Terorisme. Jurnal Equality*, 12 (2), 1-18.

Claude Pomerleau said that an extraordinary crime is an action, behavior or deed that has been planned, systematized and well-organized. The act is carried out for discriminatory reasons, mainly targeting certain individuals and groups. See Pomerleau, Claude. (2008). Reviewed Work: Atrocity, Punishment, And International Law by Mark A. Drumbl. *International Journal on World Peace*, 25 (2), 118-120.

² The Corruption words in Indonesia is better known as KKN (Corruption, Collusion, and Nepotism). Corruption actions in Indonesia leads to various Illicit and illegal activities or actions, these actions are carried out in order to gain benefits for themselves as well as benefits for the group. This definition then developed into the notion of corruption which emphasizes the abuse of power or public position for personal gain. See Azra, azyumardi. (2002). *Korupsi Dalam Perspektif Good Governance. Jurnal Kriminologi Indonesia*, 2(1), 31-36.

³ Sibuea, Deypend Tommy., Sularto, R.B. & Wisaksono, Budi. (2016). Kebijakan Hukum Pidana Dalam Perampasan Aset Hasil Tindak Pidana Korupsi Di Indonesia. *Diponegoro Law Journal*, 5 (2), 1-6.

⁴ Siswanto, Heni. (2015). Pembangunan Penegakan Hukum Pidana Yang Mengefektifkan Korporasi Sebagai Subjek Tindak Pidana Korupsi, *Fiat Justisia Jurnal Ilmu Hukum*, 9 (1), 1-16.

⁵ Ariawan, I Gusti Ketut. (2008). Stolen Asset Recovery Initiative, Suatu Harapan Dalam Pengembalian Aset Negara. *Kertha Patrika*, 33(1), 1-8.

⁶ Megawati. (2014). Kebijakan Formulasi Sanksi Pidana Terhadap Pelaku Tindak Pidana Korupsi. *Usu Law Journal*, 2 (3), 125-134.

⁷ Deli, Rizi Rizki. (2016). Implementasi Perampasan Aset Hasil Tindak Pidana Korupsi Menurut Undang-Undang. *Lex Administratum*, IV (4), 46-55.

⁸ Syamsudin, Aziz. (2011). *Tindak Pidana Khusus* (h.155). Jakarta: Sinar Grafika.

⁹ Arifin, Ridwan., Utari, Indah Sri., & Subondo, Herry. (2016). Upaya Pengembalian Aset Korupsi Yang Berada Di Luar Negeri (*Asset Recovery*) Dalam Penegakan Hukum Pemberantasan Korupsi Di Indonesia. *Indonesian Journal Of Criminal Law Studies*, I (1), 105-137.

activities. Therefore, additional measures, such as asset recovery, are essential to deliver a decisive blow to corruption and instill fear and consequences within all segments of society.¹⁰

Asset recovery plays a pivotal role in preventing the loss of assets resulting from corrupt acts.¹¹ According to Article 10, letter b, number 2 of the Criminal Code, asset recovery is classified as an additional crime akin to property offenses, similar to imposing fines. The Regulation of the Attorney General of the Republic of Indonesia Number: 013/A/JA/06/2014 further delineates asset recovery as a coercive measure undertaken by the State to segregate assets belonging to perpetrators, subject to court decisions.¹²

Asset recovery serves as a vital measure in preventing the loss of assets resulting from corrupt acts. According to Article 10, letter b, number 2 of the Criminal Code, asset recovery is classified as an additional crime akin to property offenses, similar to imposing a fine. Moreover, the Regulation of the Attorney General of the Republic of Indonesia Number: 013/A/JA/06/2014 provides comprehensive guidelines for asset recovery. This regulation defines asset recovery as a coercive action carried out by the State to segregate assets belonging to the perpetrator, with the separation of these assets determined by a court decision.

During the investigation stage, asset recovery acts as a coercive tool with enduring legal validity, ensuring that ill-gotten gains from corrupt activities are reclaimed. Subsequently, the court determines the fate of these assets, deciding whether they will be confiscated to recoup state financial losses or serve as additional penalties in the form of asset retrieval. This process underscores asset recovery as a coercive measure with permanent legal force, serving as a crucial component of anti-corruption efforts and upholding the integrity of the state.

Asset recovery encompasses a series of civil and criminal processes and mechanisms aimed at reclaiming or restoring state financial losses incurred as a result of corruption crimes committed by perpetrators. This involves the seizure and removal of rights to assets obtained through corruption from the perpetrators. Confiscated assets and their associated rights are then returned to the state to redress and replenish financial losses caused by corruption. Additionally, asset recovery serves as a preventive measure to prevent perpetrators from utilizing or leveraging ill-gotten assets for further criminal activities, thus acting as a deterrent to both current and potential future offenders.

The objectives of asset recovery are manifold. Firstly, it seeks to replenish state finances, thereby providing resources for government initiatives and programs aimed at enhancing the welfare of the populace and fostering societal well-being. Secondly, it aims to restore justice in the lives of individuals affected by corruption, ensuring that those who have been wronged receive restitution. Lastly, asset recovery endeavors to deter parties or individuals from engaging in corruption in the future by signaling the severity of consequences associated with such actions.¹³

However, the process of stolen asset recovery presents considerable challenges. Perpetrators of corruption often possess extensive resources, connections, and means, making it arduous for law enforcement agencies to locate and access assets hidden by them.¹⁴ Despite

¹⁰ Santos, Ricardo., Firmansyah, Hery. (2021). Prosedur Pelaksanaan Mutual Legal Assistance Terhadap Pemulihan Aset Hasil Korupsi Yang Dilarikan Ke Luar Negeri. *Jurnal Hukum Lex Generalis*, 2 (1), 40-56.

¹¹ Asset recovery is a legal step in the scope of execution or carrying out court decisions that have permanent legal force to confiscate the assets of the corruption and then become state assets.

¹² Prakarsa, Aliyth., & Yulia, Rena. (2017). Model Pengembalian Aset (*Asset Recovery*) Sebagai Alternatif Memulihkan Kerugian Negara Dalam Perkara Tindak Pidana Korupsi. *Jurnal Hukum Prioris*, 6 (1), 31-45.

¹³ Yanuar, Purwaning M. (2007). *Pengembalian Aset Korupsi Berdasarkan Konvensi Pbb Anti Korupsi 2003 Dalam Sistem Hukum Indonesia*. (h. 104). Bandung: Alumni.

¹⁴ Vlasic, Mark V., & Cooper, Gregory. (2011). Beyond The Duvalier Legacy: What New “Arab Spring” Governments Can Learn From Haiti And The Benefits Of Stolen Asset Recovery. *Northwestern Journal Of International Human Right*, 10 (3), 19-26.

these challenges, the pursuit of asset recovery remains essential in combating corruption and safeguarding the integrity of public resources.

The Attorney's Office, acting as the State Attorney (*JPN*), holds significant authority and responsibility, as outlined in the Attorney General's Regulation Number: PER-025/A/JA/11/2015. In this capacity, the Prosecutor's Office is tasked with providing legal services, considerations, and assistance, as well as law enforcement to protect the state's civil rights. This includes defending the state against financial losses or damages that can be quantified materially, with the aim of restoring the state to its original position prior to any corruption.

Furthermore, the Prosecutor's Office possesses the authority for asset recovery from corruption, enabling it to initiate legal proceedings¹⁵ to reclaim assets or property acquired through corrupt means. This authority is established by Law No. 2001 concerning the Eradication of Corruption and further regulated by the Regulation of the Attorney General of the Republic of Indonesia Number: PER-013/A/JA/06/2014 regarding Asset Recovery.

Despite these powers, prosecutors encounter various obstacles in their asset recovery efforts. In some instances, court rulings in corruption cases may not lead to the optimal return of state assets. This could occur when convicts are unable to reimburse the state due to depleted assets or assets transferred to third parties. Nevertheless, prosecutors strive diligently to fulfill their roles and exercise their authorities to maximize the recovery of state assets. Their efforts are crucial in ensuring accountability and justice in cases of corruption, underscoring the essential role prosecutors play in restoring state assets tainted by corruption.¹⁶

B. Discussion

1. The Efforts of Asset Recovery from Corruption Crimes

Law Number 7 of 2006 concerning the Ratification of the United Nations Convention against Corruption, 2003, underscores that asset recovery stemming from corrupt acts can be pursued through both criminal and civil avenues. This international convention outlines mechanisms for the recovery of assets acquired through corruption, which can be executed through judicial proceedings. The process involves the direct return of property or assets and may also incorporate confiscation mechanisms based on court decisions, either directly or indirectly.

Moreover, Article 32, paragraph (1), and Article 38B, paragraphs (2) and (3) of the Corruption Eradication Law (*UU PTPK*) affirm that asset recovery resulting from corruption can be pursued through civil means. According to this law, if an investigator determines that there is insufficient evidence to establish one or more elements of a suspected corruption offense, but concludes that the perpetrator's actions have led to state losses, the investigator may promptly submit the case file, along with investigation findings, to the State Attorney (*JPN*), as specified in Article 32, paragraph (1). Subsequently, the case file is brought before the court, with the State Attorney initiating legal action. In this capacity, the State Attorney, serving as the representative legal advisor for the State, possesses the authority to litigate in court.

During the trial process, the defendant is required to substantiate their assets, demonstrating whether they were acquired through corrupt means. As per Article 38B, paragraph (3), the public prosecutor can present a claim for the confiscation of property or assets during the main case's prosecution reading. If the defendant fails to prove that their assets were not sourced or obtained through corruption, the judge, based on their authority, may decide to confiscate all or

¹⁵ Normative legal research is in practice influenced by pure legal doctrine and positivism. See Sonata, Depri Liber. (2014). *Metode Penelitian Hukum Normative Dan Empiris: Karakteristik Khas Dari Metode Meneliti Hukum. Fiat Justicia jurnal Ilmu Hukum*, 8 (1), 15-35.

¹⁶ Nasution, Bahder Johan. (2008). *Metode Penelitian Ilmu Hukum*. Bandung: Mandar Maju. (p. 86).

part of the assets on behalf of the State. This punitive measure aims to recover or restore state assets that have been unlawfully appropriated or harmed by the defendant's corrupt actions, as outlined in Article 38B, paragraph (2).

Civil lawsuits filed in the asset recovery process from corruption possess distinctive characteristics. These lawsuits can only be pursued when criminal legal remedies are no longer viable for recovering state losses. Circumstances rendering criminal efforts impractical include the death of the suspect, defendant, or convict; insufficient evidence to establish criminal elements; acquittal of the defendant; or the existence of unconfiscated assets despite a court's final decision, indicating assets believed to be sourced from corruption crimes¹⁷.

Asset recovery through criminal proceedings during trial hinges on the public prosecutor's ability to present evidence. This evidence typically comprises proof of the defendant's wrongdoing and the resulting material losses incurred by the state, as articulated in the prosecutor's indictment. This approach is known as Conviction Based Assets Forfeiture, wherein asset seizure is predicated on the defendant's culpability. The legal framework governing this concept is outlined in Article 39 and Article 46, Paragraph (2) of the Criminal Procedure Code, which delineate the limitations on assets subject to confiscation.

In criminal trial proceedings, asset recovery may entail additional criminal penalties. In other words, the judge, based on the evidence presented during the trial, can impose supplementary penalties, including the confiscation of the defendant's property or assets, in addition to the primary criminal sentence.¹⁸ This comprehensive approach underscores the court's authority to address the financial repercussions of corruption and underscores the severity of consequences for perpetrators.

Procedures that judges can carry out to recover assets by imposing or giving additional penalties in the form of confiscation of property or assets are as follows:¹⁹

- a. The confiscation of property produced by the defendant through his corrupt act, the property can be in the form of tangible and intangible objects, movable objects, and immovable objects, see Article 18 paragraph (1) letter an of the *PTPK* Law;
- b. Payment of replacement money (*UP*) is determined and carried out with a total nominal amount of money, the same as the assets obtained by the perpetrator through corruption. Suppose later the convict or the perpetrator of corruption does not pay the replacement money (*UP*) within a maximum period of 1 (one) month after the decision that has permanent legal force (*Eintracht*). In that case, the executing prosecutor can confiscate the corrupt defendant's assets. Then the prosecutor will be conducted to pay the replacement money (*UP*). Suppose on another day; the defendant does not have assets that can be confiscated and auctioned to pay replacement money (*UP*). In that case, the defendant of the crime will be imprisoned for a period that does not exceed the maximum threat of the principal crime. dropped;²⁰
- c. The formulation of criminal sanctions (*strafsoort*) in eradicating corruption has several characteristics, including cumulative and cumulative alternatives. Meanwhile, in terms of the formulation of the time length for criminal sanctions (*strafmaat*), it has several characteristics, including: *determinate sentences* and *indefinite sentences*;

¹⁷ Latifah, Marfuatul. (2015). Urgensi Pembentukan Undang-Undang Perampasan Aset Hasil Tindak Pidana Di Indonesia. *Jurnal Negara Hukum*. 6 (1), 17-30.

¹⁸ Kusnadi. (2020). Kebijakan Formulasi Ketentuan Pengembalian Aset Hasil Tindak Pidana Korupsi. *Corruptio*, 1 (2), 105-116.

¹⁹ Hayati, Nur., & Reynaido, Andrea. (2009). Pengembalian Kerugian Keuangan Negara Yang Dilakukan Secara Tidak Sukarela Berdasarkan Undang-Undang No. 31 Tahun 1999 Jo. Undang-Undang No. 20 Tahun 2001 Tentang Pemberantasan Tindak Pidana Korupsi (Studi Kasus Putusan Mahkamah Agung No. 2257 K/Pid/ 2006). *Lex Jurnalica*, 7 (1), 50-92.

²⁰ Article 18 paragraph (1) letter b, paragraph (2), (3) of the Corruption Eradication Law

- d. Suppose the defendant is found dead in the future, even though the trial process is still ongoing, and the judge has not yet rendered a decision on the criminal case committed by the defendant. In contrast, convincing evidence is found where the defendant has become the perpetrator of corruption. In that case, an appeal cannot be filed against the judge's determination to confiscate the defendant's assets. Within 30 (thirty) days from the date of the stipulation's announcement, any person with interest in the property or assets may file an objection to the court that issued the stipulation. See Article 38 paragraphs (5), (6), and (7) of the *PTPK* Law;
- e. If it is found in the trial process that the defendant is unable to prove that his assets were not obtained from the proceeds of corruption, as in the case in the previous trial by the Public Prosecutor which the prosecution was read out in the leading case by the public prosecutor, the decision on the seizure of assets shall be rendered the property or assets belonging to the defendant, to recover or restore the losses suffered by the state can be carried out by the judge through his decision, see Article 38B paragraph (2) and (3) of the *PTPK* Law.

The investigating prosecutor is vested with the authority, duty, and responsibility to confiscate the assets or property of not only the defendant but also the defendant's spouse, child, and any individual or entity suspected of having a connection with the defendant. This authority enables the investigating prosecutor to initiate asset confiscation proceedings from the outset of the investigation, aimed at mitigating the financial losses incurred by the state due to the defendant's corrupt activities.

According to Circular Letter of the Attorney General of the Republic of Indonesia Number: SE-04/JA/8/1998 regarding the Implementation of Additional Criminal Compensation Payments, in cases where the judge's decision has not been fully executed due to unpaid or insufficiently paid replacement money (*UP*), the executing prosecutor is empowered to confiscate assets from the defendant without requiring court approval. This includes confiscating property or other assets to fulfill the outstanding compensation amount. The executing prosecutor can undertake this action independently, without the need for a confiscation permit from the court or any other formal approval process. Assets subject to confiscation encompass various forms, including:

- a. Assets or property belonging to the defendant who is wholly or partly from the defendant committing a criminal act, in this case, corruption;
- b. Assets or property used by the defendant directly in terms of carrying out or to prepare for the corruption act that he has committed;
- c. Assets or property used by the suspect or defendant to obstruct the investigation process of the criminal act that he has committed;
- d. Assets or property that is deliberately submitted to launch a criminal act they have committed;
- e. Assets or property are directly related to the criminal act committed by the suspect or defendant.

Additionally, if the public prosecutor can demonstrate that the defendant has committed an error that materially harms the State and can establish that the assets have been confiscated and acquired through corrupt means by the defendant, then it becomes feasible to seize the assets derived from the defendant's criminal actions. This seizure is pursued through legal channels, involving court prosecution, provided the public prosecutor can substantiate the defendant's wrongdoing in committing the offense.²¹

²¹ Yunus, Muhammad. (2013). *Merampas Aset Koruptor Solusi Pemberantasan Korupsi Di Indonesia*. Jakarta: Kompas. p. 162.

2. The Role of the Prosecutors in the Effort for Assets Recovery from Corruption Crimes

Purwaning M. Yanuar outlines that the processes for reclaiming assets obtained through corruption committed by the defendant can be executed through various mechanisms or procedures, including civil asset recovery, criminal asset recovery, and administrative asset recovery. As a legal entity empowered to uphold laws concerning asset recovery stemming from criminal activities, the Prosecutor's Office acknowledges two primary mechanisms or procedures for asset recovery: asset seizure without punishment and voluntary asset recovery procedures.²² In Indonesia, the stages involved in asset recovery are delineated into several steps, as detailed below:

a. Asset Tracing

The asset tracing phase marks the outset of collecting and assessing evidence pertaining to properties or assets resulting from corruption by investigators. This stage involves gathering and scrutinizing evidence to identify assets concealed by corrupt individuals, thereby facilitating subsequent actions such as asset freezing and confiscation. These measures aim to rectify the financial losses incurred by the state due to corruption perpetrated by wrongdoers. Additionally, the Academic research (NA) of the Draft Law (RUU) on Asset Confiscation elucidates asset tracking as a sequence of activities undertaken to search, request, obtain, and analyze pertinent information to ascertain details regarding the origin and whereabouts of assets acquired through corruption. The Asset Tracking process comprises three stages: planning, implementation, and reporting. Notably, Asset Tracking serves as the initial step in asset recovery, which can be initiated independently of any ongoing case. Furthermore, the Asset Tracking phase may coincide with the investigation process, wherein efforts are made to ascertain the elements of a criminal act purportedly conducted by the perpetrator. This concurrent approach aids in identifying suspects and determining their associated assets.

b. Blocking Stage

The second phase of asset recovery involves the freezing of the perpetrator's properties or assets, commonly known as the blocking stage. This asset-freezing process serves as a preventive measure to impede the transfer of assets obtained through corruption. According to Law Number 1 of 2006 concerning Mutual Assistance in Criminal Matters, blocking is defined as the temporary freezing of the perpetrator's properties or assets during the investigation, prosecution, and trial processes. This measure aims to prevent the transfer of assets belonging to the perpetrator and to ensure that no individual or entity can benefit from assets derived from corruption.

During this stage, investigators or public prosecutors are only authorized to issue blocking orders to designated institutions or agencies. Such orders can be issued when sufficient evidence is obtained from asset searches and when there is reasonable suspicion that the assets are linked to corruption committed by the perpetrators. Investigators or prosecutors may request banks to freeze the accounts of individuals involved in corruption. If the assets to be blocked are located abroad, cooperation between law enforcement agencies in Indonesia and other relevant countries is essential. This cooperation facilitates the blocking or repatriation of assets held overseas back to Indonesia. To streamline the handling of assets located abroad, bilateral agreements on mutual legal assistance in criminal matters, such as Mutual Legal Assistance agreements²³, can be established between Indonesia and other nations.

²² Romansah, Fauzul. (2017). Pelaksanaan Penyitaan Aset Terpidana Korupsi Sebagai Upaya Pengembalian Kerugian Negara. *Jurnal Poenale*, 5 (4), 1-12.

²³ MLA is a form of agreement between countries whose focus is on the eradication of well-organized transnational crime. See Lutfi, Khoirur Rizal., & Putri, Retno Anggoro. (2020). Optimalisasi Peran Bantuan Hukum Timbal Balik dalam Pengembalian Aset Hasil Tindak Pidana Korupsi. *Undang: Jurnal Hukum*, 3 (1), 34-57.

c. Foreclosure Stage

The Criminal Procedure Code delineates confiscation as an investigative action involving the seizure or retention of various objects—whether movable or immovable, tangible or intangible—that were previously under the control of perpetrators, transferring said control to the investigator. This process is undertaken to secure evidence for the investigation, prosecution, and judicial proceedings.²⁴

Similarly, the Bill of Assets Foreclosure defines foreclosure as an action carried out by investigators or public prosecutors to expropriate and retain assets derived from criminal activities under their control. This action serves the same purpose of securing evidence for investigative, prosecutorial, and judicial purposes, or for the purpose of asset foreclosure.

The initiation of the foreclosure process necessitates a written permit from the competent Head of the Court. Investigators must submit this permit along with an application for approval of the foreclosure of the goods/assets to the designated District Court. However, exceptions exist for urgent circumstances, wherein investigators must promptly act without prior written approval from the Court's Chairperson. In such cases, investigators may immediately confiscate movable objects, but they are then obligated to produce and submit a report regarding the confiscation to the authorized Chairperson of the Court. Subsequently, they must obtain a written approval letter for the confiscation from the Court's Chairperson.

d. Confiscation Stages

Article 2 letter g of the United Nations Convention against Corruption (UNCAC) defines confiscation as the imposition of a penalty resulting in the permanent deprivation of property assets or possessions owned by the perpetrator. This penalty is enforced through a court order or by other authorized bodies and agencies. In Indonesian criminal law, confiscation is understood as the act of seizing property or assets owned by perpetrators of corruption. This action is taken by the judge as an additional punishment alongside the primary conviction for the corruption offense. Moreover, asset confiscation is regarded as a state-imposed coercion aimed at seizing assets acquired through criminal activities. This confiscation can be executed based on a court decision.²⁵

e. Return Stage

The return stage represents the culmination of efforts in asset recovery processes, encompassing activities focused on managing assets obtained through criminal acts, particularly corruption. This phase involves various tasks, such as asset storage, security, maintenance, evaluation, transfer, utilization, distribution, and repatriation if assets are located abroad. Parties specified in court decisions directly undertake the stages of returning property assets resulting from criminal activities.²⁶

The significance of this research lies in its emphasis on creating a deterrent effect against corruption perpetrators through asset recovery measures. These measures may include property seizure and the payment of replacement funds. The pivotal role of the prosecutor's office is highlighted in realizing asset confiscation through mechanisms like non-criminal asset confiscation and temporary asset recovery. By contributing to anti-corruption efforts, this research aims to inform policies that effectively deter individuals from engaging in criminal activities.

²⁴ Article 1 paragraph (16) of the Law of the Republic of Indonesia Number 8 of 1981 concerning the Criminal Procedure Code.

²⁵ Article 1 paragraph (5) of Law Number 1 of 2006 concerning Mutual Assistance in Criminal Matters.

²⁶ Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2013 concerning Procedures for Settlement of Applications for Handling Assets in the Crime of Money Laundering or Other Crimes

C. Conclusions

Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption stipulates that asset recovery resulting from corruption can be pursued through both civil and criminal avenues. In criminal proceedings, additional penalties, including asset confiscation, may be imposed by the judge based on the evidence presented during trial. Asset recovery efforts in Indonesia are governed by various laws and regulations, including the Criminal Procedure Code, Law Number 31 of 1999, Law Number 20 of 2001, Law Number 7 of 2006, and Law Number 1 of 2006.

The Prosecutor's Office, empowered to enforce laws related to asset recovery from criminal acts, recognizes two primary mechanisms: asset seizure without punishment and voluntary asset recovery procedures. The asset recovery process encompasses several stages, including asset tracing, blocking or freezing, foreclosure, confiscation, and return stages, each delineated within the legal framework.

Recommendations

Based on the foregoing conclusions, the authors advocate for heightened attention to asset recovery efforts by the Indonesian government. This could be exemplified through the ratification of the long-pending Bill of Assets Confiscation, previously proposed in recent years. Additionally, the Indonesian government is encouraged to pursue increased cooperation agreements with other nations pertaining to Mutual Legal Assistance. Such initiatives would serve to bolster and streamline the efforts of law enforcement agencies in recovering assets situated abroad.

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C. Regulation

Criminal Code

Criminal Procedure Code

Law Number 31 of 1999 concerning Eradication of Corruption

Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning
Eradication of Corruption
Law Number 7 of 2006 concerning Ratification of the United Nations Convention against
Corruption, 2003
Law Number 1 of 2006 concerning Mutual Assistance in Criminal Matters

