



Recovery of assets proceeding from corruption crimes In Indonesia based on justice values

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Abstract

The magnitude of state financial losses caused by corruption in Indonesia is disproportionate to the magnitude of returns to state finances due to corruption. The sentences handed down by judges tend to be light, so they do not affect reducing corruption in Indonesia. This research aims to find out and analyze the regulations for recovering assets resulting from criminal acts of corruption and the weaknesses in the current rules for recovering assets resulting from criminal acts, which are based on the value of justice. The research method uses a post-positivism paradigm with a normative juridical approach and descriptive research type. Types and sources of data use secondary materials in the form of primary, secondary, and tertiary legal materials. Data collection methods use literature and qualitative descriptive data analysis methods.

The results of the research regarding the regulation on the recovery of assets resulting from criminal acts are not yet fair, namely that the amount of state financial losses caused by corruption is wildly disproportionate to the size of the returns to state finances because there is a legal vacuum specifically regarding the recovery of assets resulting from criminal acts, the mentality or personality and mentality of law enforcement officials play a role. It is critical in the law enforcement process against perpetrators of criminal acts of corruption, and there are negative habits of convicts who are reluctant to pay replacement money and prefer alternative imprisonment. So, it is necessary to reconstruct the Asset Recovery Regulations in Article 4 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes and Article 7 of Law Number 13 of 2006 concerning the Protection of Witnesses and Victims.

Keywords: Reconstruction, regulation, asset recovery, crime

Introduction

Indonesia is a country based on law, so the government is obliged to synergize law enforcement efforts based on the values of justice with efforts to achieve national goals and realize the general welfare of society. To realize these noble ideals related to the manifestation of the welfare of all Indonesian people, a guideline for the Administration of a State that is Clean and Free of Corruption, Collusion and Nepotism was born, formulated in Law Number 28 of 1999. This law contains principles of legal certainty, orderly state administration, public interest, openness, proportionality, professionalism and accountability.

These guidelines regarding the administration of a country that is clean and free from KKN are essential to avoid the practices of collusion, corruption and nepotism, not only involving the officials concerned but also their families and cronies, which, if left unchecked, the Indonesian people will be in a terrible position disadvantaged. Law enforcement against perpetrators of corruption in Indonesia is still unsuccessful, partly because the sanctions imposed by judges do not affect the number of criminal acts of corruption because the punishment is still considered light [1].

Currently, the Indonesian criminal law system has not yet entirely made recovery from the impact of crime a substantive part of the national criminal law system, so the recovery of assets resulting from crime is not the target/focus of criminal law material. The current criminal law relating to recovering assets from crime is only symbolic in implementing criminal law. Consequently, the interest in recovering the impact of crime is regulated indirectly and abstractly. Even if there are criminal law

provisions that regulate the recovery of the effects of crime, they are only partial and have no basis. Theory and philosophy of criminal law, making it difficult to enforce in the practice of criminal law enforcement.

If understood in depth, the terms assets or items stolen and recovery of assets resulting from crime can have different meanings. Objects or assets must be understood broadly because they can be objects of value or all tangible or intangible goods with economic value. However, almost all laws and regulations in Indonesia still regulate that objects or assets that can be confiscated must first prove that the assets or objects are related to an offence or crime [2].

Meanwhile, asset recovery focuses more on victims of crime so that they can recover the assets they lost in the crime so that they are not harmed. The definition of confiscation itself is formulated in Article 1 number 16 of the Criminal Procedure Code, which states, "Confiscation is a series of actions by investigators to take over and keep under their control movable or immovable, tangible or intangible objects for evidentiary purposes in investigations, appointments and trials." The provisions in the Criminal Code, as well as in the Criminal Procedure Code, if studied in more depth, actually no article regulates what if goods/assets taken/stolen by the perpetrator of the crime cannot be returned intact to the victim of the crime because the perpetrator has already enjoyed some or all of them, or the confiscated goods/assets have shrunk from their original condition as a result of a prolonged legal process. This needs to be regulated in a limited way in the future because, up to now, there has been no regulation at all [3].

The Supreme Court, through PERMA Number 1 of 2020 concerning Sentencing Guidelines Article 2 and Article 3 of

the Corruption Eradication Law, was born on the basis that every criminal sentence must be carried out by paying attention to the certainty and proportionality of the sentence to realize justice based on Pancasila and the State Constitution. The Republic of Indonesia in 1945. Apart from that, the most important thing is avoiding disparities in cases with similar characteristics. Sentencing guidelines are needed. The Attorney General also reinforced this through Guideline Number 1 of 2019 concerning Criminal Prosecution in Corruption Crime Cases, where this guideline is intended as a reference for Public Prosecutors in determining criminal charges in Corruption Crime Cases while still paying attention to the principles of justice and expediency.

Influence and pressure in law enforcement in criminal acts of corruption are the obstacles to recovering assets resulting from corruption. It can result in law enforcement experiencing disorientation in criminal acts of corruption. In this case, law enforcement is still focused on arresting and imprisoning perpetrators of criminal acts of corruption, not for the recovery of assets resulting from corruption to the State. Even though several corruptors have been criminally prosecuted and sentenced to the additional penalty of paying compensation, the assets obtained from corruption have not been significantly returned to the State, so the State remains the party that suffers losses as the owner of assets or public funds.

According to Todung Mulya Lubis, one of the criticisms of eradicating corruption in Indonesia is the low success rate in returning corruption money. Corruption is a crime against property or assets, in this case, property or assets belonging to the State, so that the State suffers losses due to criminal acts of corruption. Therefore, the main thing in eradicating criminal acts of corruption is to recover assets resulting from criminal acts of corruption by returning corrupted state financial losses. The payment of replacement money is expected to be able to recover assets resulting from criminal acts of corruption and retrieve all the funds obtained from criminal acts of corruption from perpetrators of criminal acts of corruption.

The recovery of assets resulting from criminal acts must receive special attention because of the losses to the State and society. Therefore, researchers consider it necessary to conduct an in-depth study regarding the importance of recovering assets resulting from acts of corruption in Indonesia^[4].

Research methods

In this research, the author uses a post-positivism paradigm, which states that legal science does not only deal with statutory regulations. Law must be applied, and it is more likely that people will not question the value of justice and its usefulness to society.

The type of research used to complete this is a normative juridical research method, namely research that examines by conducting research sourced from literature studies, which are secondary data. Secondary data sources include primary, secondary, and tertiary legal materials. The data obtained was then analyzed using qualitative descriptive methods.

Results and discussion

1. Current Regulations for the Recovery of Assets Proceed from Corruption Crimes in Indonesia

Acts of corruption in Indonesia are currently showing an increase, as evidenced by the report on the trend of prosecution of corruption cases in 2021. Based on data compiled by Indonesia Corruption Watch (ICW), the number of prosecutions for corruption cases during 2021 reached 533 cases. This number increased compared to the same period in the previous year, namely 444 cases. The increasing number of corruption cases causes the amount of state financial losses to increase, and this can be seen in data from ICW, which states that in 2020, the potential value of state financial losses from corruption cases is IDR 18.6 trillion, then in the following year, the possible state financial losses reached IDR 26.438 trillion. In other words, there was an increase in the value of state losses due to corruption by 47.6%. From 2022 to 2023, 3,295,310 people participating in online gambling games can be identified as having a total deposit of IDR 34,512,310,353,834. Furthermore, throughout 2023, PPATK has temporarily suspended transactions for 1,322 parties consisting of 3,236 accounts, with a total value of balances whose transactions have been stopped reaching IDR 138 billion^[5].

One of the breakthroughs that has emerged is the Non-Conviction Based (NCB) concept, also known as the concept of asset confiscation. In Indonesia, regulations regarding asset confiscation are regulated in Article 10 of the Criminal Code, Article 3 and Article 18 of Law Number 31 of 1999 in conjunction with Law 20 of 2001 concerning the Eradication of Corruption Crimes (UU TIPIKOR). The primary difference that must be understood between the Non-Conviction Based (NCB) concept and also the current confiscation is that confiscation of assets as regulated in the Criminal Code (KUHP) and the Corruption Crime Law (TIPIKOR) is an additional punishment, which is handed down in a judge's decision after going through a trial process (court process). Meanwhile, what is meant by confiscation of assets in the Conviction concept is a legal mechanism that allows state assets taken by criminals to be confiscated again. In this case, one of the aims of the idea is to return state losses (asset recovery) from criminal cases or a form of accelerating the trial process with the only agenda being reverse evidence of assets and the output in the form of a decision to carry out confiscation of these assets or not. The Corruption Eradication Commission ("KPK") is a state institution that carries out its duties and authority independently and free from the influence of any power (executive, judicial, legislative).^[1] The Corruption Eradication Committee (KPK) was formed to increase the efficiency and effectiveness of efforts to eradicate corruption.^[2] In Article 38 of the Corruption Eradication Committee Law, it is explained that all authorities relating to investigations, inquiries and prosecutions are regulated in Law no. 8 of 1981 concerning Criminal Procedure Law ("KUHP") also applies to investigators, investigators and public prosecutors at the Corruption Eradication Commission^[6].

To distinguish between assets originating from corruption and money laundering crimes ("TPPU"), we will explain the types of criminal acts of corruption and TPPU. Based on Law Number 31 of 1999 concerning the Eradication of

Corruption Crimes ("UU 31/1999") as amended by Law Number 20 of 2001 ("UU 20/2001"), groups of criminal acts of corruption include:

1. Corruption related to State financial losses is regulated in the provisions of Article 2 and Article 3 of Law 31/1999;
2. Corruption related to bribery is regulated in the provisions of Article 5, Article 6, Article 11, Article 12 letters a to d of Law 20/2001 and Article 13 of Law 31/1999;
3. Corruption related to embezzlement in office is regulated by the provisions of Article 8, Article 9, and Article 10 of Law 20/2001;
4. Corruption related to extortion is regulated in the provisions of Article 12 letter e, Article 12 letter f and Article 12 letter g of Law 20/2001;
5. Corruption related to fraudulent acts is regulated in the provisions of Article 7 and Article 12 letter h of Law 20/2001;
6. Corruption related to conflicts of interest in procurement is regulated in the provisions of Article 12 Letter i of Law 20/2001;
7. Corruption related to gratification is regulated in the provisions of Article 12B jo. Article 12C Law 20/2001.

Then the form of TPPU is based on Law No. 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering ("UU TPPU"):

1. TPPU, which is related to committing acts to hide the origin of assets, is regulated by the provisions of Article 3 of the TPPU Law;
2. TPPU, relating to the act of hiding information about assets, is regulated in the provisions of Article 4 TPPU;
3. TPPU, relating to the act of receiving and controlling assets, is regulated in the provisions of Article 5, paragraph (1) of the TPPU Law.

As stated in the provisions above, what is meant by assets that result from criminal acts?

The confiscation of assets by the Corruption Eradication Commission must be seen from the regulations in the Criminal Procedure Code. Article 1 point 16 of the Criminal Procedure Code explains: "Confiscation is a series of actions by investigators to take over or keep movable or immovable, tangible or intangible objects under their control for evidentiary purposes in investigations, prosecutions and trials."

From the explanation of the contents of this article, we can generally understand that the purpose of the Corruption Eradication Commission (KPK) in carrying out a confiscation is to prove that a criminal act has indeed occurred and that the Defendant was the one who committed it and must be held accountable for it^[7].

Regarding the proceeds of corruption or TPPU, the purpose of confiscation is to safeguard the assets resulting from the crime so that they are not lost or destroyed or their rights transferred by the Defendant to another party. The confiscation of items suspected to result from corruption or TPPU by the Corruption Eradication Commission was carried out based on previous inquiries and investigations. This is done with the intention that the Court can request that the confiscated goods if the Defendant is guilty or the goods are proven to be the proceeds of corruption, be seized by the State. An auction will be held where the proceeds

from the confiscated goods will be entered into the State treasury. This confiscation cannot be carried out haphazardly. Only objects related to criminal acts can be seized by Article 39, paragraph (1) of the Criminal Procedure Code.

What may be subject to confiscation are:

- a. objects or bills of suspects or defendants which in whole or in part are suspected to have been obtained from criminal acts or as proceeds from criminal acts
- b. objects that have been used directly to commit a criminal act or to prepare it;
- c. objects used to obstruct the investigation of criminal acts;
- d. objects specifically made or intended to commit criminal acts;
- e. other objects that have a direct connection with the crime committed and are carried out without related signs

If the goods confiscated by the Corruption Eradication Committee (KPK) are deemed by the suspect to be utterly unrelated to the criminal act he is suspected of/accused of, then the suspect has the right to submit pre-trial measures as regulated in Articles 77 to 83 of the Criminal Procedure Code. If, after the Court examines the main case and declares the Defendant guilty, the Panel of Judges can also assess whether the items confiscated by the Corruption Eradication Commission are the result of the criminal act of corruption indicted.

If the Panel of Judges is sure and considers this to be the case, then the goods confiscated can be declared seized by the State. However, suppose the Panel of Judges thinks that the items confiscated are not related to the criminal offence charged. In that case, the Panel of Judges can order the seized items to be returned to the Defendant or the person entitled to them^[8].

Apart from that, efforts can also be taken through civil lawsuits, as can be seen from the Republic of Indonesia Supreme Court Decision No. 2580 K/Pdt.G/2013 dated 13 March 2014 concerning the case of Judge Syarifuddin who sued the Corruption Eradication Commission regarding the return of assets confiscated by the Corruption Eradication Committee where in this decision the Supreme Court in its consideration stated that the items seized by the Corruption Eradication Commission in Judge Syarifuddin's criminal case were are personal property and are not related to the criminal act committed by the Petitioner (Judge Syarifuddin) so in this decision the Supreme Court punished the Defendant (KPK) to return confiscated goods which were not related to the criminal act and pay immaterial compensation to the Plaintiff (Syarifuddin) amounting to Rp. 100,000,000,- (one hundred million rupiah).

2. Regulations on the Recovery of Assets Proceed from Crimes Are Not Yet Justice-Based

In legal practice, polemics often occur regarding the confiscation of assets that are not related to corruption cases. If investigators use the instrument of the money laundering crime law, then the assets confiscated must be assets originating from the corruption crime. And proof must be sought that the assets confiscated came from corruption crimes. So that only assets that arise purely from corruption cases are worthy of confiscation. The Defendant indeed obtained these assets after corruption occurred.

This must be clear: the Corruption Eradication Commission must be able to convey the results of its investigation along with the evidence in Court. This was expressed by Yenti Garnasih in Jakarta at the webinar 'Abuse of Power Over Assets Under the Guise of Law Enforcement'.

The Corruption Eradication Committee needs proof of why third-party assets were confiscated and auctioned off in corruption crimes such as the Rohadi, Jiwasraya and Asabri cases. The reason is that a person has a civil right to own an asset. Moreover, he continued, these assets have nothing to do with the case. It is these people whose rights must be protected. Furthermore, they are not related to the party involved in the criminal act of corruption; for this reason, there is something called procedural law, which means that law enforcers are not considered to have committed abuse of power^[9].

In criminal acts of corruption, there is legal protection for parties harmed by confiscating assets, complemented by Article 19 of Law No. 31/1999 concerning the Eradication of Corruption Crimes. However, it has not been implemented well in Court. Logically, Article 19 of the Corruption Law accommodates various objections from third parties, hoping to find out whether or not assets not related to the case are executed in the judge's decision. Still, strangely, it seems like there is no synergy. Frankly, it doesn't make sense to me. What's the point? There is a trial if the judge appears reluctant to protect the rights of third parties as mandated by law.

For your information, based on the legal protection in Article 19 of the Corruption Law, efforts are given to parties who feel disadvantaged by the investigator's action of confiscation of assets to object by providing reverse evidence. This must have a common thread so that no citizen should suddenly have his assets confiscated or even auctioned off because of other people's problems. There must be rules, and the calculations, when related to company shares, must also be appropriate. Don't let this confiscation be carried out in a way that can later be called an abuse of power. It would be even worse if the confiscation resulted in the companies affected by the confiscation stopping and even laying off their employees.

Efforts to recover assets resulting from crime are one of the main concerns of the global community in tackling financial crime today. This is one of the rules regulated in the 2003 United Nations Convention Against Corruption (UNCAC). Party countries are expected to maximize efforts to confiscate assets resulting from crime without criminal prosecution.

Through the Asset Confiscation Bill (RUU), which the government has initiated, it is hoped that efforts to recover assets resulting from crime can be made effective. Some of the challenges the government must face include property rights and a fair judicial process. The confiscation in rem approach has shifted the value of material truth about errors in criminal law to being limited to the need for formal truth regarding the origin of assets. In implementing the Asset Confiscation Bill later, the government must at least emphasize that the mechanism used does not prove a person's guilt at all but only proves that an asset is not valid^[10].

Various crime prevention efforts continue to develop along with crime itself. Where efforts to arrest criminals and then imprison them to have a deterrent effect gradually begin to fail, especially for offences related to efforts to seek illegal

financial gain. Recently, efforts to tackle this crime have started to shift towards pursuing illegal profits rather than the perpetrators of the illicit activities themselves.

This view began to germinate when inter-state narcotics trafficking networks spread, making it difficult for law enforcement to eradicate them. The output of illegal narcotics production increased and reached its peak in the 1980s. The amount of money obtained from the proceeds of crime is vast and can finance subsequent criminal activities. In addition, they can bribe public officials, including local law enforcement, to cover up crimes committed.

The model of pursuing illegal profits was then formalized in the provisions of the United Nations Covenant Against Corruption (UNCAC) in 2003. Apart from setting out several provisions regarding cooperation in dealing with criminal acts of corruption worldwide, UNCAC also mandates member countries to confiscate assets resulting from crime. Article 54 paragraph (1) letter c UNCAC requires all Contracting States to consider taking necessary measures so that confiscation of assets resulting from corruption is possible without criminal proceedings in cases where the offender cannot be prosecuted because of death, escape or not being found or in other cases. In this case, UNCAC focuses not just on one legal tradition because the fundamental differences in each legal tradition will hinder the convention's implementation. Therefore, it is proposed that each State Party use confiscation without criminal charges (Non-Conviction Based NCB) as a tool or means - capable of transcending differences in legal systems to confiscate assets resulting from corruption in all jurisdictions^[2].

Asset confiscation is an anticipatory step aimed at saving or preventing the escape of assets. It is these assets that the Court will later decide whether they should be taken as an effort to recover state financial losses or as an additional crime in the form of confiscating the proceeds of crime. The confiscation process is a coercive measure that is part of the investigation stage, while the confiscation process occurs after a judge's decision has permanent legal force (*inkracht*). Asset tracking can be carried out from the investigation stage. Confiscated goods in the form of money or savings in accounts (starting with blocking) will be stored in a holding account owned by the Corruption Eradication Commission. Meanwhile, if it is in non-cash form (goods), it is stored in the State Confiscated Objects Storage House, or *Rupbasan* for short.

Confiscation also secures movable goods because they can quickly move from place to place and change hands. In Indonesia, the issue of human rights (HAM) has emerged as a central theme in discussions about State and social life. The seeds of human rights (HAM) have been sown in Indonesia since the New Order was still in power.

As a state party to UNCAC, as formalized in Law No. 7 of 2006, Indonesia is still considering national sovereignty, so it is mandatory to implement the convention's provisions. Regarding confiscating assets without criminal charges, Indonesia has made it a proposed legal product (RUU) for the DPR since 2012 by creating an academic paper. If seen in general, the content of the Asset Confiscation Bill is considered very revolutionary in law enforcement regarding the acquisition of proceeds of crime. This can be seen from at least 3 (three) paradigm changes in criminal law enforcement. Namely, first, the party accused of a criminal act is not only the legal subject as the perpetrator of the

crime but also the assets obtained from the crime. Second, the justice mechanism used for criminal acts is the civil justice mechanism. Third, court decisions are not subject to criminal sanctions like those imposed on perpetrators of other crimes^[11].

The Asset Confiscation Bill aims to pursue assets resulting from crime, not against criminals. Thus, the existence of the Asset Confiscation Bill has changed the paradigm of criminal law, starting from the most traditional, namely to create a deterrent effect with retribution, to even the most recent, rehabilitation. Then, with the implementation of the Asset Confiscation Bill, will it shift or even eliminate the conventional law enforcement process in pursuing criminals, or will collaboration between the two approaches take place?

In corruption cases, as regulated by Law Number 31 of 1999 in conjunction with Law Number 20 of 2001, matters regarding the return of assets resulting from criminal acts of corruption can be resolved either through civil procedures in the form of civil lawsuits or criminal procedures^[12].

The return of assets (asset recovery) of perpetrators of criminal acts of corruption through civil lawsuits is regulated coherently in the provisions of Article 32, Article 33 and Article 34, as well as Article 38C of Law Number 31 of 1999 concerning Eradication of Corruption in conjunction with Law Number 20 of 2001. Then, through the punishment route as stipulated in Article 38 paragraph (5), Article 38 paragraph (6) and Article 38 B paragraph (2) with the confiscation and forfeiture process. as mentioned above, in principle, it has allowed the authority to the Prosecutor, Investigator or agency that has suffered the loss to file a civil suit against the convict and his heirs at the level of investigation, prosecution or examination at the court hearing.

Suppose the return of assets from a criminal trial is detailed, in principle. In that case, this can be done through a trial process where the judge's authority is in addition to imposing the main sentence. Then, the judge can also impose additional penalties. If this problem is detailed at the discretion of the judge, "Additional Punishment" can be imposed by the judge in his capacity, which correlates with the return of assets through criminal procedures in the form of a verdict^[13].

Confiscation of tangible or intangible movable property or immovable property used for or obtained from criminal acts of corruption, including companies owned by convicts where criminal acts of corruption were committed, as well as assets and goods that replace these goods. Article 18 paragraph (1) letter a Law Number 31 of 1999 concerning Corruption Eradication, in conjunction with Law Number 20 of 2001.

Payment of compensation money equals as much as possible to the property obtained from the criminal act of corruption. Suppose the convict does not pay the replacement money as intended in paragraph (1) letter b within 1 (one) month after the decision, which has obtained permanent legal force. In that case, his property can be confiscated by the prosecutor and auctioned to cover the replacement money. If the convict If you do not have sufficient assets to pay compensation as intended in paragraph (1) letter b, then you will be sentenced to imprisonment for a period not exceeding the maximum penalty of the principal sentence by the provisions of this law. The length of the sentence has been determined in a

court decision (Article 18 paragraph (1) letter b, paragraph (2), (3) Law Number 31 of 1999 in conjunction with Law Number 20 of 2001).

Criminal fines where this aspect in the Corruption Eradication Law uses the formulation of criminal sanctions (strafsoort), which are cumulative (imprisonment and exemplary), cumulative-alternative (imprisonment and fine) and the formulation of the length of criminal sanctions (strafmaat) is a corporal punishment within a certain period (determinate sentence and indefinite sentence)^[14].

Determination of confiscation of confiscated items if the Defendant dies (trial in absentia) before the verdict is handed down and there is sufficiently strong evidence that the perpetrator has committed a criminal act of corruption. The judge's decision regarding this confiscation cannot be appealed, and any interested person can submit an objection to the Court, which will hand down the decision within 30 (thirty) days from the announcement date. Article 38 paragraph (5), paragraph (6), paragraph (7) Law Number 31 of 1999 concerning the eradication of corruption, in conjunction with Law Number 20 of 2001.

The impoverishment of corruptors has excellent potential to eradicate corruption in Indonesia. Humanly speaking, no one wants to be poor. Of course, corruptors who are used to living well and even tend to be luxurious will be afraid of living in poverty. The impoverishment of corruptors must be confirmed in a precise regulation so that it remains in the corridor of legal principles and does not lead to human rights violations. When a corrupt person is impoverished, it is not only him personally who feels the effects, but his family also feels it^[15].

Conclusion

1. Regulations on the recovery of assets resulting from criminal acts in Law Number 31 of 1999 concerning the Eradication of Corruption Crimes article 4, Law Number 13 of 2006 concerning Protection of Witnesses and Victims article 7 are not fair, namely that the magnitude of state financial losses caused by corruption it is significantly disproportionate to the significant returns to state finances due to corruption. Returning State financial losses must be carried out in any way that can be justified according to law to make efforts as optimally as possible. In principle, state rights must return to the State for the welfare of the people. In legal practice, polemics about the confiscation of assets that are not related to corruption cases often occur. If investigators use legal instruments for money laundering, the confiscated assets must be those originating from the corruption crime. And proof must be sought that the assets confiscated came from corruption crimes. So that only assets that arise purely from the corruption case are worthy of confiscation. Indeed, the Defendant obtained these assets after corruption occurred. Likewise, the recovery of assets resulting from crime in acts of fraud that happened to the public is often unfair in returning the losses the victims suffered.
2. The criminal sanctions are still relatively light and cannot provide a deterrent effect. Setting criminal sanctions that are pretty light will weaken efforts to eradicate corruption and give the impression that criminal sanctions against perpetrators of criminal acts of corruption are much more profitable than ordinary

criminal crimes so that the return of assets resulting from criminal acts is less than optimal. The weakness of the legal structure aspect is that the mentality or personality of law enforcement officers plays an important role. If the regulations are reasonable, but the quality of the officers is not good, there is a problem. So far, there has been a strong tendency among the public to interpret the law as officers or law enforcers, meaning that the law is identified with the actual behaviour of officers or law enforcers. Unfortunately, in exercising their authority, problems often arise due to attitudes or behaviour deemed to exceed their authority or other actions that tarnish the image and authority of law enforcement. This is caused by the low quality of law enforcement officers. The weakness of the legal culture aspect is the negative habits that develop in society. Those included in this group include the existence of a "reticent" and tolerant attitude among government officials, which can hinder the handling of criminal acts of corruption; lack of openness by agency leaders so that they often appear tolerant and protective of perpetrators of corruption, executive, legislative and judicial interference in handling criminal acts of corruption, low commitment to dealing with corruption firmly and thoroughly, as well as the permissive attitude (indifferent) of the majority of society towards efforts to eradicate corruption.

Recommendations

1. The legislature should immediately pass the Asset Confiscation Law to be used as a basis for law enforcement to further optimize returns to state finances.
2. Police, prosecutors, and judges, as law enforcers and the public, need to increase cooperation further to optimize synergy in efforts to recover assets resulting from criminal acts of corruption.

References

1. Wahyuningsih SE, Indah A, Iksan M. The implementation of restorative justice to children as perpetrators in criminal investigation in Indonesia. *Test Eng Manag*,2020;83(2746):2746–2752.
2. de Vries I, Farrell A, Bouché V, Wittmer-Wolfe DE. Crime frames and gender differences in the activation of crime concern and crime responses. *J Crim Justice*,2020;66:101651.
3. Yuherawan DSB. Obstruction of justice in corruption cases. *J Indones Leg Stud*,2020;5(1):225–256.
4. Isra S, Yuliandri, Amsari F, Tegnan H. Obstruction of justice in the effort to eradicate corruption in Indonesia. *Int J Law, Crime Justice*,2017;51:72–83.
5. Said A, Sari K, Supriyono B, Fefta A. Measures based on a case study in the government of Riau Province, Indonesia,2022.
6. Khasanah P, Kusuma I. Anti-corruption disclosure and earnings management: a case in Indonesian capital market. *J Akunt dan Keuang Indones*, 2020, 17(1).
7. Risky Putra N, Linda R. Corruption in Indonesia: A challenge for social changes. *Integritas J Antikorupsi*,2022;8(1):13–24.
8. Butarbutar EN. Constitutional issue of the executorial power of fiduciary certificates as equal to court decision. *J Konstitusi*,2022;19(3):606–622.

9. Huda UN. The position and authority of the Election Supervisory Board in Indonesian constitutional system. *UNIFIKASI J Ilmu Huk*,2019;6(1):71.
10. Wibowo RA. When anti-corruption norms lead to undesirable results: learning from the Indonesian experience. *Crime, Law Soc Chang*,2018;70(3):383–396.
11. Seregig IK, Suryanto T, Hartono B, Rivai E, Prasetyawati E. Preventing the acts of corruption through legal community education. *J Soc Stud Educ Res*,2018;9(2):138–159.
12. Henderson JV, Kuncoro A. Corruption and local democratization in Indonesia: The role of Islamic parties. *J Dev Econ*,2011;94(2):164–180.
13. Wahyuningsih SE, Atmoko S, Iksan M. The implementation of punishment theories in the verdict of narcotics case by judge in Indonesia. *Test Eng Manag*,2020;83(2797):2797–2806.
14. Setyobudi CRA, Setyaningrum D. E-government and corruption perception index: a cross-country study. *Jurnal Akuntansi dan Auditing Indonesia*, 2019, 23(1).
15. Wahyudi R. Illegal journey: The Indonesian undocumented migrant workers to Malaysia. *Populasi*,2018;25(2):24.