

IMPOVERISHMENT OF PERPETRATORS OF CRIMINAL ACTS OF CORRUPTION AS A FORM OF PUNISHMENT ALTERNATIVE

PEMISKINAN PELAKU TINDAK PIDANA KORUPSI SEBAGAI SALAH SATU HUKUMAN ALTERNATIF

Rangga Sasmita ^{*(a,1)}, Muhammad Khattab ^(b,2) Aris Machmud ^(c,3)

^{a,b,c}Al-Azhar University Indonesia Jl. Sisingamangaraja, South Jakarta City, 12110, Indonesia
^{1*}ranggasasmita22@gmail.com; ²muhammad.khutub@uai.ac.id; ³aries_machmud@uai.ac.id
^{*}aries_machmud@uai.ac.id

Abstract

Corruption in Indonesia has become a complex issue, systematically, structurally, and massively damaging the governance system. As a result, the exercise of state power cannot fully focus on the public interest due to the widespread influence of corruption. This situation has raised public concern over the increasing prevalence of corruption, which causes significant losses to the state. This article employs a juridical legal approach. The findings indicate that impoverishment can serve as an alternative punishment that effectively deters corrupt actors. However, efforts to eradicate corruption in Indonesia by impoverishing corruptors have not been implemented optimally. The legal process has not yet exerted significant pressure through the confiscation of assets obtained from corruption or the restitution of state losses resulting from such crimes. A firmer implementation is necessary so that corruptors face a real deterrent effect in accordance with applicable laws and regulations. This research is expected to assist in identifying and analyzing the current legal regulations related to the impoverishment of perpetrators of corruption crimes, particularly in the context of asset confiscation from criminal proceeds. In addition, this research aims to examine and evaluate the implementation of court decisions against perpetrators of corruption crimes concerning asset recovery or the confiscation of unlawfully acquired wealth.

Keywords: *Asset confiscation, Corruption, Impoverish, Offender*

INTRODUCTION

Corruption occurs in various sectors, including the executive, legislative, and judicial branches, as well as the private sector. The handling of corruption cases continues to show weaknesses, such as incomplete prosecutions and sentences or consequences imposed on perpetrators that are often far less severe than the severity of the crime. Therefore, eradicating corruption is a top priority for the Indonesian government and society. Various steps have been taken to prevent and eradicate corruption comprehensively, considering that corruption is an extraordinary crime. ¹

During the reform era, in addition to the police and the prosecutor's office, various supporting institutions for corruption eradication were established, such as the Corruption Eradication Commission (KPK), the Financial Transaction Reports and Analysis Center (PPATK), and the Witness and Victim Protection Agency (LPSK). Furthermore, a

¹ Ermansjah Djaja, *Tipologi Tindak Pidana Korupsi Di Indonesia* (Mandar Maju, 2010).

special court to handle corruption crimes was established. All of these steps were designed to strengthen and optimize corruption eradication efforts in Indonesia.² In relation to Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption (UU Tipikor), corruption is stated to have a significant impact on state financial stability, the national economy, and the smooth running of development. Therefore, efforts to eradicate corruption are considered a crucial step towards realizing a just and prosperous society, in line with the principles of Pancasila and the demands of the 1945 Constitution.

According to Devi and Otto in their journal, discourse impoverishment of corruptors as an alternative form of punishment is relevant for further study. This punishment is oriented towards eliminating the economic benefits obtained from corruption through the confiscation and seizure of assets, including those not directly registered in the perpetrator's name. This idea aligns with the urgency of ratifying *Bill (RUU) on Asset Confiscation*, which has long been stalled in the legislative process, even though its existence is vital to strengthening a legal system that is just and pro-recovery of state losses.³

In her journal, Lonna explains that the Asset Confiscation Bill opens up opportunities for the state to use a legal approach, non-conviction-based *asset forfeiture*, a mechanism for confiscating assets without having to wait for a final and binding criminal verdict. This allows law enforcement officials to act more quickly and effectively in recovering assets suspected of being the proceeds of corruption. Thus, impoverishing corruptors serves not only as an alternative punishment but also as a strategic step to narrow the scope for future corruption.⁴

The primary element in a criminal act of corruption is the loss to the state's finances or economy. According to Rudi, the key focus in a judge's decision in a corruption court is the effort to recover the losses to the state resulting from the perpetrator's actions. State losses are a crucial element that must be proven by the public prosecutor so that the lost funds can be recovered for the state treasury for the benefit of society as a whole.⁵

In their paper, Arifin et al. argue that, to ensure fair implementation and avoid human rights violations, the impoverishment of corruptors must be firmly regulated in clear legal regulations. The impact will be felt not only by the perpetrators but also by their families, thus providing a significant deterrent effect. Corruption is a major obstacle to national development and contributes to the destruction of the very foundations of society, the nation, and the state.⁶

² Riza Sirait and Ismaidar Ismaidar, 'Politik Hukum Kedudukan KPK Sebagai Lembaga Pemberantasan Korupsi Di Indonesia', *Jurnal Hukum, Politik Dan Ilmu Sosial*, 3.1 (2024), h. 279–91, doi:10.55606/jhps.v3i1.3346.

³ Devi Eka Verawati and Otto Yudianto, 'Urgensi Perampasan Aset Tanpa Pemidanaan Dalam Tindak Pidana Korupsi Sebagai Upaya Pengembalian Kerugian Negara', *Civilia: Jurnal Kajian Hukum Dan Pendidikan Kewarganegaraan*, 1.2 (2022), h. 29–44.

⁴ Lonna Yohanes Lengkong, 'Urgensi Penerapan Perampasan Aset Dalam Tindak Pidana Pencucian Uang', *Jurnal Hukum To-Ra : Hukum Untuk Mengatur Dan Melindungi Masyarakat*, 9.3 (2023), h. 351–64, doi:10.55809/tora.v9i3.278.

⁵ Rudy Pardede, *Proses Pengembalian Kerugian Negara Akibat Korupsi* (Genta Publishing, 2017).

⁶ Ridwan Arifin, Indah Sri Utari, and Herry Subondo, 'Upaya Pengembalian Aset Korupsi Yang Berada Di Luar Negeri (Asset Recovery) Dalam Penegakan Hukum Pemberantasan Korupsi Di Indonesia', *IJCLS (Indonesian Journal of Criminal Law Studies)*, 1.1 (2017), h. 105–37, doi:10.15294/ijcls.v1i1.10810.

Seeing the increasing trend of corruption cases every year, the author was motivated to explore the concept of thinking, legal basis, and application of impoverishment sanctions against corruptors as an alternative form of punishment in handling criminal acts of corruption in Indonesia.

Justicia believes that efforts to combat corruption in Indonesia still face major challenges, as seen by the large number of defendants in corruption cases who have been acquitted or received very light sentences, disproportionate to the impact of their actions.⁷

This situation is clearly detrimental to the state and hinders national development. If allowed to persist, this situation has the potential to undermine the sense of justice and weaken public trust in the legal system and existing regulations. It is important to remember that in cases of corruption, the state is the victim of the crime and must be compensated for its losses.⁸

Based on these issues, the author felt compelled to conduct more in-depth research to analyze this issue. This research aimed to answer questions regarding how criminal provisions are applied to perpetrators of corruption in Indonesia, as well as how impoverishment sanctions are applied to corruptors as an alternative form of punishment in the Indonesian legal system.

METHOD

This research uses a normative juridical method, an approach based on the study of applicable legal norms, both in the form of statutory regulations and evolving legal doctrines. This approach is used to analyze the concept of impoverishment of perpetrators of corruption from the perspective of Indonesian positive law and its urgency in relation to the Draft Law (RUU) on Asset Confiscation.

The data sources used in this study are secondary data consisting of primary legal materials in the form of laws, draft laws, and court decisions, and secondary legal materials in the form of legal literature, scientific journals, and relevant articles. Data analysis was conducted qualitatively, emphasizing legal arguments and logical reasoning regarding the normative substance studied.

This method is considered appropriate because it allows researchers to explore in depth the legal basis and normative implications of applying the concept of impoverishment as a form of alternative punishment in eradicating criminal acts of corruption.

DISCUSSION or RESULTS/FINDINGS

A. Impoverishment of Corruption Offenders as an Alternative Punishment in Corruption Crimes in Indonesia

Corruption is no longer a foreign concept to Indonesians, given the frequent involvement of high-ranking state officials in corruption cases involving enormous sums, ranging from billions to trillions of rupiahs. This situation is one of the reasons the author was compelled to examine in more depth alternative punishments for corruption. Perhaps because the sentences handed down to corruptors in Indonesia have often been too lenient and disproportionate to the significant losses caused to the state.

⁷ Y Justicia, 'Penerapan Model Alternatif Penegakan Hukum Tindak Pidana Korupsi Sebagai Jalan Pemulihan Kerugian Keuangan Negara', *Lex Superior*, 1.2 (2022), h. 1–16 <<https://ojs.ukb.ac.id/index.php/jls/article/view/615%0Ahttps://ojs.ukb.ac.id/index.php/jls/article/download/615/430>>.

⁸ Justicia, 'Penerapan Model Alternatif Penegakan Hukum Tindak Pidana Korupsi Sebagai Jalan Pemulihan Kerugian Keuangan Negara'.

According to Muhammad Dliyaul's journal, many also believe that imposing the death penalty on corruptors can be an effective deterrent and prevent others from committing similar acts. Every crime carries inherent sanctions, and universally, the types of criminal sanctions are regulated in the Criminal Code (KUHP), which distinguishes between principal and additional penalties.⁹

In his journal, Susilo argues that criminal justice measures solely focused on arresting perpetrators and imposing prison sentences (following the suspect) are still unable to optimally reduce crime rates. These measures need to be balanced with the confiscation and seizure of proceeds and tools used in criminal acts to provide a stronger deterrent effect.¹⁰

Allowing the perpetrator to retain control over the proceeds or tools used in the crime potentially provides the perpetrator, or other related parties, with the opportunity to benefit from the proceeds. This also opens up opportunities for reusing the criminal instrument or even repeating and developing previously committed crimes.¹¹

According to Agus in his journal, the crime of corruption is regulated in Article 2 and Article 3 of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption. Article 2 paragraph (1) states that anyone who unlawfully enriches themselves, another person, or a corporation to the detriment of the state's finances or economy, can be sentenced to imprisonment of between four and 20 years, and a fine of between IDR. 200,000,000.00 (two hundred million rupiah) to IDR 1,000,000,000.00 (one billion rupiahs).¹²

Based on this article, the elements of the crime of corruption include:

- a. Acts against the law,
- b. Enriching oneself, others, or corporations,
- c. Harming the country's finances or economy.

In the same journal, Agus explained that the criminal threats in the New Criminal Code are not much different from those regulated in Law Number 31 of 1999 as amended by Law Number 20 of 2001. Criminal sanctions for criminal acts of corruption include imprisonment and fines, with the provisions of fines categorized in Article 79 paragraph (1) of the Criminal Code as follows:¹³

- Category I: IDR 1,000,000.00 (one million rupiah),
- Category II: IDR 10,000,000.00 (ten million rupiah),
- Category III: IDR. 50,000,000.00 (fifty million rupiah),
- Category IV: IDR 200,000,000.00 (two hundred million rupiah),
- Category V: IDR 500,000,000.00 (five hundred million rupiah),
- Category VI: IDR 2,000,000,000.00 (two billion rupiah),

⁹ Muhammad Dliyaul Lami, 'Ancaman Penjatuhan Hukuman Pemiskinan Pelaku Tipikor Di Indonesia Sebagai Upaya Preventif', *CLEAR: Criminal Law Review*, 1.1 (2023), h. 51–76.

¹⁰ Jenny Susmita Susilo, Elwi Danil, and Nani Mulyati, 'Pemiskinan Koruptor Sebagai Alternatif Pidana Tambahan Dalam Pemberantasan Tindak Pidana Korupsi Di Indonesia Dikaitkan Dengan Rancangan Undang-Undang Perampasan Aset', *Unes Law Review*, 6.1 (2023), h. 3781–3730 <<https://review-unes.com/>>.

¹¹ Achmad Taufan Efendi and Budiarsih, *Alternatif Sanksi Pidana Dan Denda Korupsi* (Madza Media, 2023).

¹² Agus Sugiarto, 'Pidana Pemiskinan Koruptor Pada Tindak Pidana Korupsi Berdasarkan Undang-Undang Pemberantasan Tindak Pidana Korupsi', *Yustitia*, 6.1 (2020), h. 68–78, doi:10.31943/yustitia.v6i1.102.

¹³ Sugiarto, 'Pidana Pemiskinan Koruptor Pada Tindak Pidana Korupsi Berdasarkan Undang-Undang Pemberantasan Tindak Pidana Korupsi'.

- Category VII: IDR 5,000,000,000.00 (five billion rupiah),
- Category VIII: IDR 50,000,000,000.00 (fifty billion rupiah)

In the formulation of these criminal sanctions, there are a number of weaknesses, such as the following points:

- The costs of corruption are often calculated based only on explicit costs, without considering the broader economic impacts.
- The application of maximum criminal sanctions can actually encourage potential perpetrators to continue committing corruption, because they consider the risk of punishment to be disproportionate to the potential benefits.
- Corruption perpetrators cannot be given a sentence heavier than the maximum limit set, even if the level of the crime is very serious.
- Demands and court decisions regarding fines and compensation are often disproportionate to the amount of money embezzled.

Therefore, this criminal sanction has not been fully able to achieve the objectives of punishment as formulated in Article 51 of the New Criminal Code.¹⁴

Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, through Article 18 paragraph 2, stipulates a one-month deadline for convicts to pay the replacement fine. If the convict fails to fulfill his obligation within this time period, the law regulates the mechanism for confiscating the convict's assets, which are then auctioned to cover the replacement fine. Furthermore, Article 18 also emphasizes that the prison sentence in lieu of replacement fine may not exceed the threat of the principal penalty that has been imposed, considering that this replacement penalty is additional. The main purpose of this additional penalty is to strengthen the legal effect of the principal penalty that has been imposed.¹⁵

Under this provision, confiscation of assets through the additional penalty of compensatory money is imperative, meaning it must be implemented if the convict fails to pay the compensatory money within the specified time, namely 1 (one) month. This distinguishes compensatory money from a fine, which is an alternative with the threat of imprisonment if not paid.¹⁶

Novellita explains in her journal that prosecutors, acting as executors as stipulated in Article 270 of the Criminal Procedure Code, often face a number of obstacles in following up on court decisions that have become legally binding, particularly regarding the payment of compensation. One of the main obstacles faced is the tendency of convicts to prefer serving their prison sentences rather than fulfilling their obligation to pay the stipulated compensation. Furthermore, prosecutors often face difficulties in confiscating property because convicts no longer have assets that can be confiscated after the decision becomes legally binding.¹⁷

In his journal, Sigit explained that to address the outstanding compensation payments, early preventative measures are needed, such as conducting data collection

¹⁴ Permana Indra, Hulman Panjaitan, and Armunanto Hutahaeon, 'Analisis Yuridis Penerapan Sanksi Bagi Pelaku Tindak Pidana Korupsi Berupa Perampasan Aset Sebagai Upaya Pengembalian Kerugian Negara', *Jurnal Cahaya Mandalika ISSN 2721-4796 (Online)*, 4.3 (2023), h. 994 <<https://ojs.cahayamandalika.com/index.php/JCM/article/view/1715>>.

¹⁵ Asram Tama S. Langkun, Bahrain, Mouna Wassef, Tri Wahyu, 'Studi Atas Disparitas Putusan Pemidanaan Perkara Tindak Korupsi', *Indonesia Corruption Watch*, 2014, h. 15–200.

¹⁶ Tama S. Langkcun, Bahrain, Mouna Wassef, Tri Wahyu, 'Studi Atas Disparitas Putusan Pemidanaan Perkara Tindak Korupsi'.

¹⁷ Tama S. Langkun, Bahrain, Mouna Wassef, Tri Wahyu, 'Studi Atas Disparitas Putusan Pemidanaan Perkara Tindak Korupsi'.

and asset seizures during the investigation phase. The Prosecutor's Office needs to improve the effectiveness of its duties and functions in judicial intelligence and investigations, particularly in efforts to locate and record assets belonging to perpetrators of corruption.¹⁸

Novellita et al. explained that the Standard Operating Procedure (SOP) for Asset Tracing must be used as a reference by prosecutorial intelligence officers in the process of tracking, identifying, and locating assets related to the proceeds of crime, civil cases, or other assets relevant for recovery purposes. This step also aims to detect assets that may be hidden by perpetrators, their families, or other related parties, in order to provide adequate intelligence support to other areas of the legal process.¹⁹

B. IMPLEMENTATION OF LEGAL DECISIONS AGAINST PERPETRATORS OF CORRUPTION DURING THIS TIME

If we examine several domestic corruption cases involving state losses, public prosecutors and prosecutors from the Corruption Eradication Commission (KPK) tend to use articles that are considered advantageous to the accused. This is evident from data showing that more than 600 (six hundred) defendants were charged under Article 3 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, while only 408 defendants were charged using Article 2 of the same law.²⁰

As Kenneth explains in his journal, one of the problems in eradicating corruption in Indonesia is the suboptimal utilization of available legal instruments to effectively prosecute perpetrators. In this context, the Anti-Money Laundering Law (AML) represents a significant legal breakthrough. The AML Law contains two important instruments that law enforcement can utilize in handling corruption cases: cumulative prosecution and reverse evidence against the defendant's assets.²¹

Further explanation was provided by the Deputy Head of the Financial Transaction Reports and Analysis Center (PPATK), Agus Santoso, who stated that this regulation authorizes investigators to combine investigations into the predicate crime, namely corruption, with investigations into money laundering. In practice, this allows prosecutors to file cumulative charges, thus broadening the scope of legal accountability for perpetrators. Through this approach, it is hoped that the deterrent effect on perpetrators will be increased, while also strengthening efforts to recover state assets damaged by corruption.²²

Rahmatullah stated that the application of the concept of impoverishment to corruptors in Indonesia can be seen in the case involving Angelina Sondakh. In this case, Angelina was proven to have committed corruption by diverting funds from the Ministry of Youth and Sports (*Kemenpora*) and the Ministry of National Education (*Kemendiknas*), resulting in state losses of 3 billion rupiahs. However, in the initial verdict handed down by the Jakarta Corruption Court (*Tipikor*), she was only sentenced to 4 years and 6 months in prison. This verdict was much lighter than the demand of the Public Prosecutor

¹⁸ Tama S. Langkun, Bahrain, Mouna Wassef, Tri Wahyu, 'Studi Atas Disparitas Putusan Pidana Perkara Tindak Korupsi'.

¹⁹ Anggraini, Indrawati, and Novianto, 'Rancangan Undang-Undang (RUU) Perampasan Aset: Impian Atau Solusi?'

²⁰ Gustav Robby Urbinas and Tantu Usman, *Penegakan Hukum Penanggulangan Tindak Pidana Korupsi: Suatu Kajian Kasuistis* (KBM Indonesia, 2025).

²¹ Nathanael Kenneth, 'Maraknya Kasus Korupsi Di Indonesia Tahun Ke Tahun', *JLEB: Journal of Law, Education and Business*, 2.1 (2024), h. 335–40, doi:10.57235/jleb.v2i1.1645.

²² Efendi and Budiarsih, *Alternatif Sanksi Pidana Dan Denda Korupsi*.

(JPU), who demanded a 12-year prison sentence. However, after filing an appeal, Angelina's sentence was increased to 12 years in prison. In addition, as part of the effort to impoverish corruptors, she was required to pay restitution of 12.58 billion rupiah and USD 2.35 million. This cassation verdict is in accordance with the initial demands of the JPU previously submitted to the court.²³

The judge's verdict at the Corruption Court level, which was lower than the prosecutor's demand, and the cassation led by Supreme Court Justice Artidjo, which restored the sentence to the original demand, demonstrate the law's determination to uphold justice. However, the restitution sanctions imposed of 12.58 billion rupiah and 2.35 million US dollars far exceed the amount of money embezzled by Angelina, which was 3 billion rupiahs. This indicates a serious approach to imposing harsh penalties and ensuring a deterrent effect for perpetrators of corruption, while also demonstrating the real practice of impoverishing perpetrators of corruption who have used state funds.²⁴

Although the concept of impoverishing corruptors is clearly evident in the Angelina Sondakh case, its implementation lacks a consistent and established legal framework. Furthermore, there is no consensus among anti-corruption activists regarding the definition and limits of this impoverishment. Some fully support efforts to impoverish corruptors as a step toward restoring justice, while others object to the concept's application to corruptors.

Ainun Najib argues in his journal that efforts to impoverish corruptors have generally been limited to the confiscation of assets directly derived from the proceeds of corruption. This confiscation process includes all goods obtained from the crime and/or the payment of compensation, the value of which is adjusted to the amount of state financial losses. However, this approach is considered ineffective in impoverishing perpetrators comprehensively, as they still possess and can exploit other assets not covered by the legal process.²⁵

Another example is a corruption case that was deeply ingrained in society around 2010-2011. The Jakarta Corruption Court sentenced Gayus Tambunan to six years in prison, along with a fine of Rp1,000,000,000.00 (one billion rupiahs) and the confiscation of his assets, namely an elite residence in the Kelapa Gading area of North Jakarta. Gayus was found guilty of corruption and money laundering while serving as a tax official. This was the fourth sentence handed down to Gayus.²⁶

Previously, Gayus had also received sentences for three other cases: passport forgery, tax evasion, and bribery, with a total sentence of 22 years in prison. Gayus's case could be the first step in implementing the concept of impoverishing corruptors. This step is considered to have strong potential to eradicate corruption in Indonesia,

²³ Fahmi Rahmatullah and Hudi Yusuf, 'Memiskinkan Koruptor Sebagai Hukum Alternatif Dalam Penegakan Hukum Kasus Korupsi Di Indonesia Impoverishing Corruptors As an Alternative Law in Law Enforcement of Corruption Cases in Indonesia', *Jurnal Intelek Dan Cendekiawan Nusantara*, no. 2 (2024), h. 2148–61 <<https://jicnusantara.com/index.php/jicn>>.

²⁴ Rahmatullah and Yusuf, 'Memiskinkan Koruptor Sebagai Hukum Alternatif Dalam Penegakan Hukum Kasus Korupsi Di Indonesia Impoverishing Corruptors As an Alternative Law in Law Enforcement of Corruption Cases in Indonesia'.

²⁵ M. Ainun Najib, 'Polemik Pengesahan Rancang Undang-Undang Perampasan Aset Di Indonesia', *Sosio Yustisia : Jurnal Hukum Dan Perubahan Sosial*, 3.November (2023), h. 160–75.

²⁶ Hendrik Khoiril Muhid, 'Cerita Panjang Pegawai Pajak Gayus Tambunan: Vonis 29 Tahun Karena 3 Kasus Korupsi 13 Tahun Lalu', *Tempo.Co*, 2024 <<https://www.tempo.co/hukum/cerita-panjang-pegawai-pajak-gayus-tambunan-vonis-29-tahun-karena-3-kasus-korupsi-13-tahun-lalu-96036>>.

because basically, no one wants to live in poverty. Especially for corruptors who have become accustomed to enjoying luxury, the threat of impoverishment will be a serious pressure. However, in reality, there is still 25 (twenty-five) billion rupiah in Gayus's account, suspected to be the result of bribes and gratuities.²⁷ However, the fine that Gayus had to pay was not commensurate with the losses incurred.

Another viral corruption case in 2023-2024 involved the misuse of village development funds by Aklani, the former head of Lontar Village in Serang Regency, Banten Province. Village funds, which should have been allocated for development and the welfare of the village community, were instead misused for personal gain, including spending money with karaoke bar hostesses. The total misappropriated funds reached 988 million rupiah.²⁸

This action represents an abuse of authority, diverting funds intended for development for personal consumption, resulting in significant losses for the state. Village funds themselves are crucial for empowering communities and advancing infrastructure at the village level. Consequently, this case not only caused financial losses but also undermined public trust in village officials and the village fund program as a whole.

On January 10, 2024, the Court sentenced the former Village Head to 5 years in prison and ordered him to pay compensation of more than 790 million rupiahs.²⁹ However, this punishment cannot be categorized as a step to impoverish corruptors, because some of the assets owned by the perpetrators remain outside the reach of the law and can still be used by the perpetrators and their families.

C. The Urgency of Ratifying the Asset Confiscation Bill as an Instrument for State Asset Recovery

According to Yasmirah's journal, the discourse on impoverishing corruptors stems from several fundamental reasons. First, corruptors appear to be undeterred, and the number of corruption cases continues to increase annually. Second, existing criminal sanctions, such as imprisonment, fines, and the obligation to pay compensation, are deemed insufficient as a deterrent. Third, corruption has its own unique characteristics that are often difficult to eradicate. Fourth, the low number of judges' sentences for corruptors also fuels the push to impoverish corruptors.³⁰

The seizure of corruptors' assets is hampered by the legal provisions underlying the seizure of assets derived from corruption, bribery, or gratification, and money laundering, which are scattered across several legal provisions. This often leads to multiple interpretations by law enforcement and delays in decision-making. Asset forfeiture is covered by all of the following legal provisions:

- a) Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption

²⁷ Khoirul Muhid, 'Cerita Panjang Pegawai Pajak Gayus Tambunan: Vonis 29 Tahun Karena 3 Kasus Korupsi 13 Tahun Lalu'.

²⁸ Bahtiar Rifa'i, 'Ini Hal Memberatkan Tuntutan Kades Lontar Korupsi Dana Desa Untuk Karaoke', *Detiknews.Com*, 2023 <<https://news.detik.com/berita/d-7035143/ini-hal-memberatkan-tuntutan-kades-lontar-korupsi-dana-desa-untuk-karaoke>>.

²⁹ Rifa'i, 'Ini Hal Memberatkan Tuntutan Kades Lontar Korupsi Dana Desa Untuk Karaoke'.

³⁰ Yasmirah Mandasari Saragih, Rahul Ardian Fikri, and Nabilah Syahrani, *Memberantas Korupsi Dengan Pemiskinan Koruptor Dalam Perspektif Hukum* (Tahta Media, 2024), doi:10.1088/1751-8113/44/8/085201.

- Article 18: Regulates the confiscation of assets resulting from criminal acts of corruption, including:
 - Replacement money.
 - Confiscation of goods used or the proceeds of a crime.
 - Payment of fines.
 - Article 12B and 12C: Regulates gratuities as a form of corruption if the value is unreasonable and not reported.
- b) Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes
- Articles 3, 4, 5: State that hiding, diverting or disguising the proceeds of crime (including corruption, bribery) constitutes the crime of money laundering.
 - Articles 77–79: Regulate the confiscation of assets resulting from money laundering, including assets that are not in the name of the perpetrator, but are used to disguise the origin of the wealth.
- c) KUHP (Criminal Code) and KUHP
- Article 39 of the Criminal Code: States that goods obtained from criminal acts can be confiscated for the state.
 - Article 46 of the Criminal Procedure Code: States that confiscated objects can be confiscated for the state if they are used for or are the result of a criminal act.
- d) Law Number 11 of 2021 concerning the Indonesian Attorney General's Office (amendment to Law No. 16 of 2004)
- Granting authority to the prosecutor's office to confiscate and seize assets related to criminal acts, including corruption and money laundering. According to Ainun Najib, for this reason, the ratification of the Bill on Confiscation of Assets Produced from Corruption is increasingly urgent given the high level of state losses that have not been fully recovered through existing legal mechanisms. The criminal justice system, which focuses solely on imposing prison sentences without being balanced with maximum efforts to recover assets, has proven ineffective in providing a deterrent effect or providing restorative justice for society.³¹ In her journal, Lonna argues that, once passed into law, the Asset Forfeiture Law is expected to serve as a legal instrument strengthening the state's authority to proactively confiscate, freeze, and seize assets resulting from corruption, even without waiting for a final and binding criminal verdict. Thus, the law would not only be repressive against perpetrators, but also preventative against potential further state losses, as well as progressive in ensuring the restoration of the public's rights to misused resources.³² The following are some descriptions of the draft Asset Confiscation Law (Asset Confiscation Bill) which is still under discussion by the Indonesian House of Representatives.
 - This bill will specifically regulate non-conviction-based asset forfeiture, which means seizing assets without waiting for a criminal verdict if the assets are proven to originate from a crime.
 - Aimed at accelerating the recovery of state losses.

³¹ Najib, 'Polemik Pengesahan Rancangan Undang-Undang Perampasan Aset Di Indonesia'.

³² Lengkong, 'Urgensi Penerapan Perampasan Aset Dalam Tindak Pidana Pencucian Uang'.

The ratification of the Asset Forfeiture Bill (RUU) is an urgent need for law enforcement and the eradication of corruption in Indonesia. To date, this bill has not been passed, despite being included in the National Legislation Program (Prolegnas) several times. These obstacles are not solely normative, but also influenced by political dynamics, institutional unpreparedness, and minimal public awareness of the importance of asset recovery mechanisms.³³

The main factor hindering the bill's passage is political resistance, particularly from certain legislative and elite circles concerned about the potential for abuse of power. The bill's provision, which allows for the confiscation of assets without waiting for a final and binding criminal verdict, is considered to open the door to criminalization or be used as a political tool. However, this assumption can be refuted by designing accountable, transparent, and evidence-based legal procedures, as implemented in various countries that have adopted similar mechanisms.³⁴

In addition, the existence of the concept of non-conviction based asset forfeiture (NCB) in this bill has sparked legal debate regarding the principle *presumption of innocence*. Criticism of this approach needs to be seen in the broader context that the NCB mechanism is not a violation of this principle, but rather a form of legal innovation in addressing highly complex crimes, such as corruption and money laundering. Various countries, including those adopting a jurisdiction-based legal system, have adopted this approach. *rule of law*, has implemented NCB as an integral part of its asset recovery strategy.³⁵

A lack of understanding and publicity regarding the essence and benefits of this bill has also contributed to the legislative stagnation. In fact, asset recovery is not solely aimed at individual punishment but also aims to recoup state financial losses. This lack of awareness has resulted in low public support and minimal pressure on lawmakers.³⁶

Normatively, the discourse regarding the overlap between the Asset Forfeiture Bill and other laws and regulations, such as the Corruption Law, the Money Laundering Law, and the Criminal Procedure Code (KUHP), does require harmonization. However, the complexity of harmonization is not sufficient reason to delay ratification. In fact, with the new regulation, the national legal system has the opportunity to be strengthened through the integration of legal instruments that adapt to modern crimes.³⁷

Lack of public pressure and weak political momentum have contributed to the slow pace of deliberations on this bill. Amidst these conditions, support from civil society, academics, and the media is crucial to ensure the bill's passage remains relevant and urgent.

Taking all these aspects into account, it can be concluded that the ratification of the Asset Confiscation Bill is an urgent need that cannot be postponed any longer. The state requires effective and efficient legal instruments to ensure that the proceeds of crime are not enjoyed by the perpetrators, but are instead returned to the state for the

³³ Zilmi Haridhi, 'RUU Perampasan Aset: Revolusi Penegakan Hukum Melalui Pemulihan Aset Yang Disalahgunakan', *Indonesia Corruption Watch*, 2023 <<https://antikorupsi.org/id/ruu-perampasan-aset-revolusi-penegakan-hukum-melalui-pemulihan-aset-yang-disalahgunakan>>.

³⁴ Muhammad Yusuf, *Merampas Aset Koruptor: Solusi Pemberantasan Korupsi Di Indonesia* (Buku Kompas, 2013).

³⁵ Rosita Miladmahesi, 'Dinamika Baru Dalam Pemulihan Aset Akibat Korupsi Di Indonesia', *Journal of Judicial Review*, 22.01 (2020), h. 14–31, doi:10.37253/jjr.v22i1.720.

³⁶ Rosita Miladmahesi, 'Dinamika Baru Dalam Pemulihan Aset Akibat Korupsi Di Indonesia', *Journal of Judicial Review*, 22.01 (2020), h. 14–31, doi:10.37253/jjr.v22i1.720.

³⁷ Rosita Miladmahesi, 'Dinamika Baru Dalam Pemulihan Aset Akibat Korupsi Di Indonesia', *Journal of Judicial Review*, 22.01 (2020), h. 14–31, doi:10.37253/jjr.v22i1.720.

greatest possible prosperity of the people, as mandated by Article 33 of the 1945 Constitution.

CONCLUSION

Impoverishing corruptors is considered an innovative approach to addressing corruption. This concept involves confiscating assets obtained from corruption and compensating the state for the resulting losses. This measure is considered effective in providing a deterrent effect on perpetrators and is also a strategic effort to reduce the number of corruption cases.

However, the implementation of the concept of impoverishing corruptors in Indonesia has not been optimal. Law enforcement, in this case prosecutors and judges, tend to adhere strictly to applicable laws, both when handing down charges and sentencing. Impoverishment of criminal sanctions for corruptors has so far been limited to the confiscation of assets generated from corruption, the amount of which is adjusted to the state's losses. This approach cannot yet be fully categorized as impoverishing corruptors, because assets not directly related to corruption can still be exploited by the perpetrator, thus not guaranteeing the perpetrator's complete loss of all their wealth.

The Draft Law on Asset Confiscation represents a strategic opportunity in the fight against corruption in Indonesia. Through this scheme, law enforcement against corruption can be carried out through two channels: penal (criminal) and non-penal. The mechanism of asset confiscation without having to wait for a criminal verdict does not hinder the legal process against the perpetrator in court. Thus, the implementation of asset confiscation is expected to have a deterrent effect on perpetrators of corruption. However, the implementation of this policy still faces several challenges, one of which is the lack of attention and commitment from the House of Representatives (DPR) and the President in exercising their legislative authority to provide a strong legal basis for asset confiscation in Indonesia.

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