

**Establishment of The Asset Confiscation Law To Minimize Corruption In
Indonesia**

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ABSTRACT

This research is qualitative research with a descriptive approach, namely describing a number of things that are closely related to confiscation of assets in criminal law, criminal acts of corruption, and other things. The data used in this research is secondary data in the form of the Criminal Code, Civil Code, statutory regulations, the official website of the House of Representatives, other credible websites, and so on. The researchers analyzed the data using grammatical and systematic legal analysis techniques, namely interpreting every word in the legislation and connecting it with other secondary data or other related legislation. The result in this article show there are three major urgencies for the presence of the Law on Asset Confiscation in Indonesia, namely to provide instruments that are stricter than the current regulations because in the Criminal Code, asset confiscation is only an additional crime and not the main crime, providing a deterrent effect for corruptors and potential corruptors, and of course minimizing corruption cases in Indonesia. Under existing legal structures, state losses resulting from criminal acts of corruption cannot be recovered. Recovering state losses takes years and may not even be returned at all. What is meant to provide a deterrent effect in this research is to impoverish corruptors, change the nomenclature of words whose nature is emphasized from facultative to imperative, and change its status not only to become an additional crime, but also to become a principal crime. On this basis, researchers are of the opinion that the presence of asset confiscation laws in Indonesia can be effective in minimizing the occurrence of corruption in Indonesia.

Keywords : *Establishment , Asset Confiscation Law . Corruption*

INTRODUCTION

Criminal acts with economic motives, which were initially conventional in nature, have become increasingly complex over time. Corruption, money laundering, illicit narcotics trafficking are types of criminal acts with economic motives which in their mode of implementation are more complex than conventional economic crimes. The complexity of these criminal acts can be seen from the development of the modes used in carrying out crimes, such

as the ease of escaping money from criminal acts, this can be done using a computer, internet network, without having to go abroad and only takes a short time (Latifah, 2015).

Confiscation of assets resulting from criminal acts is not something new in the legal system in Indonesia. Several criminal provisions regulate the possibility of confiscating and confiscating the proceeds and tools used in a crime. These provisions are contained in the Criminal Code (KUHP) regarding additional penalties. Apart from being regulated in the Criminal Code, provisions regarding the confiscation of assets resulting from criminal acts are also regulated in the respective criminal law provisions scattered in the Laws that specifically regulate them. As stated in Article 18 (a) of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes (Tipikor Law), Law Number 35 of 2009 concerning Narcotics, Law Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering (Kementerian Hukum dan HAM, 2018).

Usurpation can be equated with confiscation and forfeiture. In UNCAC there is a definition of confiscation in article 2 letter g, namely "confiscation" which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority, article 2 letter g is translated by UNODC as follows: "Confiscation" which includes the imposition of fines where applicable, means the deprivation of assets forever based on an order from a court or other authorized body. Confiscation is different from confiscation, the definition of confiscation is taking goods or objects from the control of the owner of the object, namely for the purposes of examination and evidentiary material. Confiscation only transfers control of goods and there is no transfer of ownership, whereas confiscation takes away a person's right to ownership of an object (Hafid, 2021).

In the Big Indonesian Dictionary, the definition of asset is that which has exchange value. Capital; riches. What is meant by asset is a commodity/object or commodity/object that can be owned or used by a business entity, institution or individual that has economic value, commercial value or exchange value. Assets are commodities or objects (legal concepts) consisting of real property and animals. The definition of asset confiscation is a combination of confiscation and assets. When combined, the definition of confiscation of assets means that there has been a decision stating that taking property from the owner without paying compensation which occurs because of a violation of the law. Confiscation of assets is a permanent act so it is different from confiscation which is a temporary act, because the items confiscated will be determined by the decision whether they will be returned. to those entitled to it, confiscated for the state, destroyed or remaining under the power of the prosecutor (Rizki Dwi Nugroho, 2021).

The division of types of asset confiscation internationally is that there are 2 types of asset confiscation actions in an effort to return assets in eradicating criminal acts, namely, confiscation of assets using civil law mechanisms (civil forfeiture, non-conviction based forfeiture or in rem forfeiture) and criminal confiscation of assets (criminal forfeiture or in

personam forfeiture). These two types of confiscation have several fundamental differences in terms of procedures and implementation in carrying out efforts to confiscate assets that are the result of a criminal act (Abdullah et al., 2021).

In practice, it is very difficult for law enforcement officials to confiscate assets resulting from criminal acts that have been controlled by criminals. There are many difficulties encountered in efforts to confiscate assets resulting from criminal acts, such as the lack of instruments in efforts to confiscate assets resulting from criminal acts, the absence of adequate international cooperation, and a lack of understanding of the mechanism for confiscating assets resulting from criminal acts by law enforcement officials, as well as the length of time required. is required until the assets resulting from criminal acts can be confiscated by the state, namely after obtaining a court decision that has permanent legal force. In the international world, there are legal developments which show that the confiscation and confiscation of the proceeds and instruments of criminal acts is an important part of efforts to reduce crime rates. In fact, confiscation of assets is regulated in a separate chapter, namely Chapter V of the United Nation Convention Against Corruption (UNCAC) as confirmation of the importance of confiscation of the proceeds of criminal acts in resolving cases (Sudarto, 2017).

Based on this, the researcher believes it is important to provide new ammunition for law enforcement officials in overcoming the legal problems presented by the researcher above. This is the background for formulating the title of this article, namely the Urgency of Establishing an Asset Confiscation Law to Minimize Corruption Crimes in Indonesia.

RESEARCH METHODS

Based on the results of the explanation above, it can be concluded that the researcher aims to explain the urgency of the presence of the asset confiscation law in minimizing corruption cases in Indonesia, especially in providing a deterrent effect on corruptors and potential corruptors (Wahyuni, 2019). This research is qualitative research with a descriptive approach, namely describing a number of things that are closely related to confiscation of assets in criminal law, criminal acts of corruption, and other things (Tustiyani, Isna, Vidiya Fitri Utami, 2020). The data used in this research is secondary data in the form of the Criminal Code, Civil Code, statutory regulations, the official website of the House of Representatives, other credible websites, and so on (Sugiyono, 2019). The researchers analyzed the data using grammatical and systematic legal analysis techniques, namely interpreting every word in the legislation and connecting it with other secondary data or other related legislation (Imam Gunawan, 2014).

RESULT AND DISCUSSION

Corruption And Asset Confiscation

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CONCLUSION

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