

The Role of The Prosecutor's Office in Rescuing State/Regional Assets As An Effort To Prevent Corruption in Indonesia

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Abstract. *The recovery of state/regional assets is one of the important strategies in preventing corruption in Indonesia. The AGO, as a law enforcement agency, has a central role in restoring state assets suspected of being the proceeds of corruption. However, in practice, the AGO faces various obstacles that affect the effectiveness of asset recovery. Legal constraints such as overlapping regulations, complicated procedures, and asset ownership, are core difficulties. In addition, limited human resources and technology, as well as socio-political factors involving corruption in government institutions, also worsen the asset recovery process. This research focuses on identifying and analyzing the obstacles faced by the AGO in recovering state and regional assets. It also aims to outline the necessary steps to enhance the AGO's effectiveness in preventing corruption.*

Keywords: *Asset Recovery, Prosecutor's Office, Corruption, Corruption Crime*

1. INTRODUCTION

The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) mandates that the state has the authority to control important branches of production and natural resources that are used for the benefit of the people. This is regulated in Article 33 paragraphs (2) and (3) of the 1945 Constitution, which emphasizes that the state must manage important assets for the prosperity of the people (Asshiddiqie, 2006). Such management includes natural resources and resources that have a strategic role in people's lives, so they should not be privately controlled or released without state control. The message implied by this article is the importance of regulating these assets so that they do not fall into the hands of irresponsible individuals or parties, which can harm the people. The state must ensure that the resources it controls are used as optimally as possible for the public interest and the welfare of the people (MD, 2007).

The management of state finances and the state treasury, which is also regulated in the 1945 Constitution of the Republic of Indonesia, must be carried out with the principle of maximizing the prosperity of the people. The implementation of this principle is reflected in the State Budget (APBN) and Regional Budget (APBD) policies, which form the basis for the allocation of resources for development and public services. The Constitutional Court in Decision Number 35/PUU-XI/2013 also emphasized that changes to the APBN during the fiscal year are still valid as long as they are aimed at the interests of the people, strengthening the argument that state financial management must always prioritize the prosperity of the community. Law No. 17/2003 on State Finance and Law No. 1/2004 on State Treasury provide

a clear legal framework related to the management and accountability of state finances, as well as the management of state/regional assets (Anggara, 2016).

State/regional assets have a strategic role, so their management must be specifically regulated through various regulations, such as the Decree of the Minister of Home Affairs Number 153 of 2004 and Regulation of the Minister of Finance (PMK) Number 172/PMK.06/2020. These assets are not only intended to fulfill administrative needs but must also be used for public services that benefit the wider community. The Constitutional Court in Decision Number 25/PUU-VII/2009 emphasized that state property must be treated specifically, given its function which is not only for individual interests but for the public interest (Mumpuni, 2014).

Basically, the management of state/regional assets must be carried out with the principle of maximizing its best potential (the highest and best use principle), in order to achieve the main goal, namely the prosperity of the people (Halim, 2001). However, in practice, the management and utilization of state/regional assets are often not in accordance with this principle and instead cause various problems (Mulyana, 2020). Some of the issues that are frequently found include the disorderly administration of assets, the absence of valid proof of ownership, and the seizure or sale of assets by unauthorized parties. It can lead to disputes and difficulties in controlling state/regional assets, which opens up opportunities for corruption. Corruption, which is defined as the abuse of authority for personal gain to the detriment of the state's interests, poses a serious threat because it can damage state finances and worsen economic conditions. When state assets that should be utilized for the community welfare are misused, the potential of existing resources is wasted, hampering national development and worsening the socio-economic conditions of the community (Ali, 2016).

Facing the serious impact of corruption crimes that damage the economic system and slow down national development, corruption eradication requires extraordinary handling (extraordinary crimes). Corruption can no longer be considered as an ordinary crime, but as an special crime that affects the social and economic rights of society systematically and widely. Eliminate corruption, demands a unified dedication and earnestness from everyone involved to reject any corrupt actions (Darul Rosikah, 2016). The Attorney General's Office of the Republic of Indonesia plays a crucial role in dealing with corruption offenses associated with state or regional assets. Based on Law Number 16 of 2004 concerning the Prosecutor's Office, the Prosecutor's Office must detect, identify, and handle corruption cases, including the control of state / regional assets by unauthorized parties. The AGO works closely with the

government, both central and regional, to carry out the necessary legal efforts, both through criminal, civil, and state administrative channels, to ensure that state / regional assets can be managed and used by predetermined objectives (Effendy, 2005).

The AGO has several legal remedies that can be used in handling corruption crimes involving state / regional assets. One of the efforts that is often used is criminal law, especially to seize state / regional assets that are lost or misused, by Article 46 paragraph (2) of Law Number 8 of 1981 concerning Criminal Procedure Law (KUHAP). However, this approach often encounters various issues, regarding time-consuming process that contradict the principles of fast, simple, and low-cost justice. The lengthy legal process can lead to the risk of state/regional assets being transferred to other parties before the seizure is carried out. On the other hand, if criminal proceedings are pursued, there are coercive measures such as detention and confiscation that also affect the speed and effectiveness of asset recovery. Therefore, although criminal law is important in handling corruption crimes, there is a need to find alternative legal remedies that are more efficient and focus on recovering assets lost or damaged as a result of criminal acts (Ekawati, 2013).

Along with the paradigm shift in law enforcement that prioritizes the recovery of losses, including the recovery of state / regional assets, the Attorney General's Office now also plays a role through the civil and state administrative functions (Datun). Based on the Regulation of the Prosecutor's Office of the Republic of Indonesia Number 7 of 2021, the Prosecutor's Office has the authority to provide legal assistance, legal services, and law enforcement to recover state assets. It is also emphasized in Presidential Regulation Number 38 of 2010 which stipulates that one of the duties of the Prosecutor's Office is to save and restore state assets. In addition, the AGO also plays a role in the field of intelligence that oversees and prevents corruption, as well as in the field of special criminal acts that have the authority to follow up on state economic losses through legal actions such as confiscation of executions and peace fines. Although the AGO has various functions related to the rescue of state/regional assets, there are still several legal issues that hinder effective asset recovery. One of them is the problem of overlapping authority between various fields in the AGO, such as Datun, intelligence, and special crimes, which are often not well coordinated due to sectoral egos. This leads to inefficiency in the implementation of tasks, which hampers efforts to optimize the recovery of state / regional assets that are lost or damaged due to corruption (Kusnadi, 2020).

In addition to coordination issues between fields, there are still gaps in analyzing the effectiveness of the three fields' utilization in the recovery of state / regional assets. There is no comprehensive analysis of the factors that influence the effectiveness of each field, making it difficult to know the strengths and weaknesses of each field in carrying out its duties. Therefore, a more in-depth evaluation of the successes and obstacles faced by each field in the Prosecutor's Office in recovering state / regional assets is needed. Without this analysis, it will be difficult to make improvements and improvements to the existing system, which can hinder the main goal of saving and recovering state / regional assets to the maximum. Furthermore, in the context of the existing legal system (*ius constitutum*), the handling of state / regional assets by the AGO tends to be repressive, because it is more focused on recovering assets that have been lost or damaged due to corruption crimes, rather than preventing these assets from being lost or damaged in the future. This is important because the prevention of corruption, especially in terms of state / regional asset management, should be a top priority, to avoid criminal acts from occurring in the first place.

Seeing these problems, it is necessary to have a deeper understanding of the role of the Prosecutor's Office in saving state / regional assets through existing functions, as well as evaluating the effectiveness and obstacles faced in the recovery of state / regional assets. Through a more thorough understanding, the formulation of handling and prevention of state / regional asset salvage can be done comprehensively. Thus, the management and utilization of state/regional assets in Indonesia can be carried out better, by their best potential, to realize the main goal of the state, namely "Social Justice for all Indonesian People". As stated in Pancasila, especially in the 5th principle which emphasizes the importance of people's welfare, every social policy or legal action must prioritize equal distribution of welfare and avoid inequality in the distribution of state assets, to create a just and prosperous society.

2. METHOD

The normative legal research method can analyze legal issues based on the norms established within the current legal system. The statutory approach is operated to examine and comprehend legal provisions pertinent to the topics under discussion by referencing applicable laws and regulations. Additionally, the conceptual approach is applied to investigate the legal concepts that underpin a regulation or policy, as well as to explore relevant theories to comprehend and explain existing legal challenges. By integrating these two approaches, this

study aims to provide a comprehensive understanding of legal regulations and their application within a specific context.

3. RESULT AND DISCUSSION

The Role of the Prosecutor's Office in Rescuing State/Regional Assets as a Form of Efforts to Prevent Corruption in Indonesia

The Attorney General's Office of the Republic of Indonesia has a very important role in the law enforcement system in Indonesia, especially in terms of saving and restoring state/regional assets related to corruption. As a state institution tasked with exercising authority in the legal field, the Attorney General's Office is not only responsible for prosecuting criminal cases, but also has a role in safeguarding state assets, including supervising and managing state/regional assets. In the context of preventing corruption, the Attorney General's Office functions as a guardian and restorer of assets that are misused or lost due to corrupt acts. Through its duties, the Attorney General's Office strives to ensure that every state/regional asset is used according to its best potential, and to avoid losses that could harm the interests of the community. This role is increasingly important considering the negative impacts caused by corruption on the country's economy and public welfare (MaPPI-FHUI Tim, 2015).

Asset confiscation in the context of corruption is carried out through criminal channels with procedures involving investigations into assets owned by the perpetrator of the crime, such as blocking and confiscating assets. This action is part of the Prosecutor's Office's efforts to recover state losses arising from corruption. The asset confiscation process begins with an investigation to trace the assets controlled or owned by the convict, which are then confiscated by the authorities. Furthermore, in the trial process, evidence showing the relationship between the confiscated assets and the crime committed will be presented. The success of this asset confiscation effort depends on the success of proving the defendant's guilt in court. In this case, proving the defendant's guilt is very important so that the court's decision can result in a verdict that leads to the confiscation of assets for the state. It is under Law Number 31 of 1999 concerning the Eradication of Corruption (UU PTPK), which provides a legal basis for goods confiscation used or obtained from corruption (Mahendra, 1993).

Articles in the PTPK Law, such as Article 18, Article 19, Article 38, and Article 38B, provide guidelines regarding the mechanism for the confiscation of assets. Article 18, for example, regulates the confiscation of movable and immovable property used for or obtained

from corruption, as well as the mechanism for payment of compensation if the confiscated assets are insufficient to replace state losses. If the convict does not pay compensation, then his/her assets can be confiscated by the prosecutor and auctioned. Article 19 provides regulations regarding the rights of third parties in good faith over confiscated goods. If the goods belong to a third party, the party concerned has the right to file an objection to the confiscation of the goods. Article 38 and Article 38B also regulate the confiscation of assets if the defendant dies before the verdict is rendered, as well as the role of the prosecutor in the asset confiscation process.

Outside of the provisions in the PTPK Law, confiscation of assets related to corruption is also regulated in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering (UU TPPU). In this law, criminalization against individuals or corporations involved in the placement, transfer, or use of assets is suspected of originating from criminal acts, including corruption. Assets obtained from criminal acts, including corruption, can be confiscated for the state through a process regulated in the TPPU Law. One of the mechanisms regulated in the TPPU Law is the principle of Non-Conviction-Based (NCB) Asset Forfeiture, which allows for the confiscation of assets without having to wait for a criminal verdict against the perpetrator of the crime. Article 67 of the TPPU Law authorizes investigators to submit an application to the court to decide that assets suspected of originating from criminal acts are state assets (Kurnia Vani, 2020).

The asset confiscation process is further strengthened by the provisions in Article 79 and Article 81 of the TPPU Law, which regulate the confiscation of assets that have not been confiscated, including in cases where the defendant dies before the verdict is rendered. If sufficient evidence is found, the judge can decide to forfeit assets that have been seized and even authorize the prosecutor to confiscate assets that have not yet been confiscated. For corporate legal subjects involved in money laundering, the TPPU Law also provides special provisions related to the confiscation of corporate assets and the takeover of the corporation by the state if it is unable to pay the fines imposed.

In the Indonesian legal system, in addition to the criminal process, the return of assets resulting from corruption can also be carried out through civil channels as an alternative. This is regulated in the Corruption Eradication Law (UU PTPK), which provides a legal basis for the implementation of civil lawsuits to confiscate assets suspected of being the result of corruption, to recover state financial losses. Several articles in the PTPK Law regulate this mechanism, including Article 32 Paragraph (1), Article 33, Article 34, and Article 38 C.

Article 32 Paragraph (1), for example, states that if investigators do not find sufficient evidence to prosecute criminal charges, but state losses have occurred, then the case files can be submitted to the State Attorney to file a civil lawsuit. Likewise, Article 33 and Article 34 regulate the procedure if the suspect or defendant dies, while still ensuring the return of assets suspected of originating from corruption. In addition, Article 38 C allows the state to file a civil lawsuit against the convict or his heirs if, after the court decision, there are still assets suspected from corruption.

The Prosecutor's Office plays an important role in the asset confiscation process, both through criminal and civil channels, considering that this institution has broad authority in this field. Based on Law No. 16 of 2004 concerning the Prosecutor's Office which has been updated by Law No. 11 of 2021, the Attorney General's Office is given the authority to prosecute and execute court decisions, as well as act in the civil and state administrative fields with special powers. The Attorney General's Office also has the authority to investigate certain crimes, including those related to corruption and money laundering. In addition, the Attorney General's Office also has an Asset Recovery Center (PPA) established through Attorney General Regulation Number: Per-013/A/JA/06/2014, which is tasked with recovering state losses from corruption through the asset confiscation process (Sari Tri Nada, 2021).

The asset confiscation process executed by the Prosecutor's Office involves several stages. The initial stage is asset tracing, which consists of various actions aimed at identifying and obtaining information concerning the origin, existence, and ownership of assets suspected to be derived from criminal activity. This tracing is conducted by the intelligence unit of the Prosecutor's Office or by designated asset recovery practitioners. If any assets are located, the Prosecutor's Office has the authority to block and confiscate them. Asset blocking serves to prevent the transfer or diversion of assets believed to be linked to a crime, by Law No. 31 of 1999 concerning the Eradication of Corruption. Confiscation, on the other hand, is the act of seizing objects suspected of being procured through criminal means, to use these assets to recover state losses. The Prosecutor's Office can confiscate assets via criminal or civil procedures, as per the applicable legal provisions.

Asset forfeiture is defined as a legal action to assume control or rights over assets belonging to individuals or corporations involved in criminal activity, which are then transferred to the state. Additionally, the concept of Non-Conviction Asset Forfeiture (NCBF), currently being considered in the Criminal Asset Forfeiture Bill, allows for the forfeiture of assets without necessarily relying on the punishment of the perpetrator. This bill, still under

discussion in the DPR, aims to grant greater authority to the Prosecutor's Office as the State Attorney in enforcing the forfeiture of criminal assets, which is expected to expedite the recovery of state losses resulting from corruption.

Effectiveness of the Role of the Prosecutor's Office in Rescuing State/Regional Assets as a Form of Efforts to Prevent Corruption in Indonesia

The role of the Prosecutor's Office in saving state or regional assets is vital in anti-corruption effort in Indonesia. The Prosecutor's Office as a state institution responsible for law enforcement has the task of recovering assets suspected of originating from criminal acts of corruption. Through the establishment of the Asset Recovery Center (PPA), the Prosecutor's Office works to recover state losses due to corruption, by utilizing both civil and criminal legal channels. This PPA has a central role in coordination between the Prosecutor's Office, ministries, and other related institutions to ensure the return of misused assets. In addition, the Prosecutor's Office is authorized to seize assets involved in criminal cases, whether movable or immovable goods. Based on applicable law, the Prosecutor's Office can take legal steps to seize and seize assets proven to be related to crimes, with the aim that these assets can be returned to the state or region that is a victim of corruption.

The mechanism for saving state/regional assets carried out by the Prosecutor's Office begins with the asset tracing stage, which aims to identify, track, and ensure the existence of assets suspected of being the result of criminal acts of corruption. In this process, the Prosecutor's Office collects information through various sources, including transaction documents and witness statements. Once the assets have been successfully traced, the Prosecutor's Office can proceed with blocking accounts or other related assets, to prevent further transfer or concealment of assets. Furthermore, the Prosecutor's Office will seize the assets as part of a legitimate legal procedure. After confiscation, the asset confiscation process is performed under existing legal provisions, to return the misused assets to the state or region that has suffered losses, while also providing a deterrent effect on perpetrators of corruption. Efforts to save state or regional assets can be an effective form of prevention against corruption. Legal actions taken by the Prosecutor's Office, such as confiscation and recovery of assets, provide a significant deterrent effect on perpetrators of corruption and on other parties who intend to commit similar crimes. By returning misused assets, the Prosecutor's Office not only recovers state losses but also shows that corruption will not escape the legal process and strict sanctions. In addition, the Prosecutor's Office has a strategic role in increasing legal awareness, especially among state officials and apparatus, by encouraging

them to obey the law and avoid corrupt practices. Effective asset recovery is expected to convey a strong message that acts of corruption will have serious consequences, both in the form of loss of property and severe legal sanctions.

However, in efforts to save state or regional assets, the Prosecutor's Office faces several significant obstacles and challenges. Legal and administrative obstacles are often the main obstacles in the asset rescue process, for example the unclear status of assets or the difficulty in tracking assets that have been moved or hidden. The long and complex legal process, as well as the potential for intervention from certain parties, are also challenges in themselves. In addition, limited resources, both in terms of trained personnel and supporting facilities, hinder the optimization of tracing and confiscating assets suspected of being the result of criminal acts. In some cases, corrupt practices within government institutions themselves have worsened the situation, where certain individuals or groups who have access to information and resources may try to obstruct the ongoing legal process.

Although the Attorney General's Office has made various efforts to recover assets resulting from corruption, the results achieved so far are still considered not fully effective in replacing state losses. Several indicators that can be used to assess the effectiveness of the Attorney General's Office include the number of assets successfully recovered, the speed of the recovery process, and the extent to which the recovered assets can be used to replace state losses. However, major challenges are still faced, such as complex legal constraints, unclear asset status, and difficulties in tracking and identifying assets that have been transferred or hidden. In addition, limited resources and the potential for corruption in government institutions also hinder the achievement of optimal results. Therefore, despite the achievements that have been recorded, the Attorney General's Office still faces many obstacles that need to be overcome to increase the effectiveness of asset recovery and optimize efforts to prevent corruption in the future.

Obstacles Faced by the Prosecutor's Office in Rescuing State/Regional Assets as a Form of Efforts to Prevent Corruption in Indonesia

In efforts to prevent corruption in Indonesia, the Prosecutor's Office has a vital position in saving state/regional assets suspected of originating from corruption. Although it has broad authority in terms of saving and recovering assets, the Prosecutor's Office faces various obstacles that hinder the effectiveness of its implementation. These obstacles come from various aspects, including legal, administrative, social, and limited resources. In addition,

challenges related to the transfer or concealment of assets, as well as political intervention or internal corruption, also worsen efforts to save assets that should be able to replace state losses.

The legal obstacles faced by the Prosecutor's Office in saving state/regional assets to prevent corruption in Indonesia include unclear or overlapping regulations. There is a misalignment between the Corruption Eradication Law (UU PTPK) and other laws that regulate asset confiscation or account freezing, which often confuses the application of the law. In addition, the complicated and lengthy legal procedures are a challenge in themselves, where the Prosecutor's Office must deal with various agencies and court processes involving several time-consuming stages. This convoluted legal process, coupled with minimal coordination between related institutions, slows down the effectiveness of asset rescue which is much needed to replace state losses due to corruption.

In addition, the difficulty in enforcing rights to confiscated assets is also a significant legal obstacle. When the Prosecutor's Office attempts to seize assets suspected of being related to corruption, a third party is often found claiming legal ownership of the assets. This causes the Prosecutor's Office to have to involve a complex evidentiary process, which is often prolonged and usually ends in a deadlock. Legal uncertainty regarding the ownership status of assets, whether transferred or hidden, also worsens the process of asset recovery by the state.

Administrative obstacles also play an important role in hampering the rescuing of state assets. The Prosecutor's Office often has difficulty obtaining accurate data or information related to assets suspected of being the result of corruption. This is especially the case when the assets have been transferred or hidden by the perpetrators, making tracing more difficult. In addition, inefficient administrative procedures, including a lack of coordination between state institutions that have authority over assets, worsen the rescue process. The process of blocking accounts or confiscating assets is hampered, adding to the challenges in achieving the goal of recovering state losses.

The limited resources faced by the Prosecutor's Office in rescuing state/regional assets are one of the main obstacles that hinder the process of recovering assets resulting from corruption. One of the biggest problems is the limited number of personnel who are trained and competent in conducting effective asset tracing. The Prosecutor's Office often lacks staff who have special expertise in financial investigations, as well as technical skills in identifying and tracking hidden assets. In addition, financing and logistical constraints also exacerbate this situation, where limited funds to support asset rescue operations hinder the efficiency and

scope of investigations that can be carried out. This causes more complex asset tracing to be slow and less than optimal.

In addition to limited personnel, dependence on technology is also a major obstacle in the asset recovery process. The Prosecutor's Office faces major challenges in utilizing adequate information technology, such as problems in integrating data systems between institutions that are often separate or unconnected. Asset tracing involving various agencies, be it financial institutions, government, or private companies, requires a coordinated system that can share information effectively. However, the large amount of data spread across various isolated systems makes it difficult for the Prosecutor's Office to obtain accurate and timely information. This slows down the process of confiscation and recovery of assets that are urgently needed to replace state losses due to corruption.

On the other hand, social and political obstacles also play an important role in hampering the asset recovery process. One of the biggest challenges is the possibility of the involvement of individuals within government institutions or law enforcement agencies who can obstruct the legal process or manipulate the results of asset recovery. Corruption within government institutions themselves often hinders the return of state assets, because some parties try to protect or hide the proceeds of corruption. In addition, political and social pressure can also affect the objectivity in carrying out the Prosecutor's duties, especially when intervention from certain parties or influential groups tries to influence the judicial process. This creates difficulties in holding perpetrators of corruption accountable in a transparent and responsible manner.

The challenges in the prosecution and trial process related to the rescue of state/regional assets as a form of effort to prevent corruption are closely related to the problem of insufficient evidence. The prosecutor's office often faces difficulties in collecting sufficient evidence to prove that the recovered assets indeed originate from corruption. In many cases, assets that have been moved, hidden, or managed through third parties are often difficult to trace and directly link to the perpetrators of corruption. In addition, obstacles in collecting electronic evidence, such as data from hidden bank accounts or information related to transactions carried out through international channels, often slow down the investigation process. It creates difficulties for the prosecutor's office to prove the origin of assets involved in corruption legally in court, thus affecting the effectiveness of the asset recovery.

In addition, the obstacles in prosecuting corruption cases involving state assets are huge, especially when involving high-ranking officials or parties with power. The prosecutor's office

often faces obstacles in dealing with a judicial system that does not always support the disclosure of the truth, especially when the perpetrators of corruption have political connections or considerable power. Legal difficulties that arise, such as lengthy legal efforts and protection of people, can cause uncertainty in the judicial process. External pressures, both political and social, often affect the independence of law enforcement agencies in carrying out their duties. In some cases, bias towards the authorities or intervention in the judicial process can hinder the achievement of justice, making the prosecution of perpetrators of corruption involving state assets much more complex and time-consuming.

4. CONCLUSION

The rescue of state/regional assets to prevent corruption in Indonesia faces various complex obstacles, both in terms of law, administration, resources, socio-political, and technical. Complicated legal procedures, limited trained personnel, and difficulties in tracing and blocking assets are the main challenges for the Prosecutor's Office in carrying out its duties. In addition, the potential for corruption in government institutions and political pressure worsen the asset recovery process. However, with the role of the Prosecutor's Office, which continues to be strengthened through coordination between agencies, utilization of technology, and increased transparency in the legal system, efforts to rescue assets can still be carried out as a critical step in reducing corruption and holding perpetrators accountable.

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