

Research Article

Asset Seizure as a Form of Impoverishment To Perpetrators of Corruption

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ABSTRACT

Corruption is an extraordinary crime that causes great harm to the country's finances and threatens social justice and national economic stability. The urgency of this study lies in the search for effective strategies to cause a deterrent effect against corruption perpetrators who have been considered still weak. This study aims to analyze the concept of asset seizure as an instrument of impoverishment of corruptors in order to strengthen the effectiveness of law enforcement and recovery of State losses. The research method used is juridical normative, with an analytical approach to legislation, legal doctrine, and relevant academic literature. The Data was collected through a literature study of primary legal materials (such as the corruption law and the TPPU law) and secondary legal materials in the form of research results and views of criminal law experts. The application of asset confiscation has a strategic role in returning state losses and impoverishing corruption perpetrators so that they no longer enjoy the results of their crimes. However, its effectiveness is still hampered by the absence of the Non-Conviction Based (NCB) asset seizure law and weak coordination between law enforcement agencies. The concept of impoverishment of corruptors through asset expropriation also has a philosophical basis in retributive justice theory and deterrence theory, which emphasize deterrent effects through the removal of economic gains from criminal acts. Asset seizure as an additional crime needs to be regulated more comprehensively in special regulations so that it can be applied consistently and transparently. Legal reform, increased inter-institutional coordination, and accelerated ratification of the asset seizure law are important steps in strengthening the eradication of corruption in Indonesia.

Keywords: Asset confiscation; impoverishment of corruptors; corruption

1. INTRODUCTION

The term corruption comes from the Latin "corruptio" or "corruptus", which describes something corrupt, rotten, or dishonest, especially when it comes to finances. (Widijowati, 2022) In English it appears as corruption and in Dutch it becomes corruptie. Meanwhile, according to Black's Law Dictionary, corruption is defined as an action that is carried out with the intention of obtaining benefits using official positions, as well as harming the rights of other parties, namely the abuse of position for the benefit of personal or other parties. (Alam et al., 2022) corruption has very varied notions. In this sense, because of the many definitions that have been produced by social and political scientists and theorists with different meanings (Djaja, 2010). Corruption has developed into a systemic problem that undermines the foundations of national life. In Indonesia as a country of law, there are still major obstacles in realizing a clean government and free from corrupt practices. Based on the Corruption Perception Index (CPI) 2024 report from Transparency International, Indonesia only received a score of 34/100, and is in 115th position out of 180 countries, which reflects the lack of progress in combating corruption. (Ningrum et al., 2025) in addition, according to a report-metanalysis from ICW, throughout 2023 the KPK handled more than 120 corruption cases with state losses reaching trillions of rupiah, emphasizing the magnitude of the challenges faced in public governance reform.

Corruption is classified as an extraordinary crime because it has a very wide impact not only in terms of state finances, but also economic, political, and social stability in society. Data from the Corruption Eradication Commission (KPK) states that corruption eradication efforts cannot only be relied on in criminal confinement: state losses are very large and asset recovery is still minimal. In some studies, it is stated that the return of assets through confiscation and confiscation is an important instrument in addition to imprisonment, so that assets resulting from corruption can be returned to the state treasury and the deterrent effect can be increased. (Lisa Dwi Fitriyanti*1, 2025) Efforts that are repressive against corruption are currently not only in arrest and punishment of perpetrators with imprisonment and confinement, but also

through efforts to recover financial losses of the state and the state economy by confiscation and impose additional penalties in the form of asset seizure to the defendant with the aim of being able to return state assets that were harmed due to corruption. Corruption Eradication cannot rely solely on criminal sanctions in the form of imprisonment.

Corruption is not just the theft of state money, because the impact is so much to be borne by the people. As a result of corruption we become a nation that is forced to lose dignity because it is underestimated by other nations. Corruption causes us to lose competitiveness in bringing in investors. Now even many potential investors have moved their investments to other countries. The number of illegal levies that led to a high cost economy became the reason they moved businesses, in addition to asset security problems due to labor demonstrations that often led to anarchist actions.(Astuti, n.d.) The sad thing is that corruption causes mass poverty and forces so many of our people to try their luck as migrant workers. This is certainly contrary to the lofty ideals of the founders of the Republic (the founding father) who dreamed of Indonesia and its people being able to achieve prosperity. They also want their people to come out of the dignity of coolies as it happened during colonized life.

The repressive approach needs to be strengthened with measures that can eliminate the economic benefits derived from the proceeds of crime. One mechanism that is considered effective is asset forfeiture, which is the action of the state to take back the proceeds of corruption, both inside and outside the country.(Dessy Rochman Prasetyo, 2016) Asset seizure is not only a form of State loss recovery, but also a strategy to impoverish perpetrators so that they no longer enjoy the results of their crimes. The urgency of this policy is increasingly relevant given the number of corruptors who remain well-off even after serving their sentences. Prison sanctions that are not accompanied by asset confiscation make corruptors still able to maintain their luxurious lifestyle through assets that are not touched by the law.(Susilo et al., 2023) Therefore, the concept of impoverishment of corruptors through asset expropriation is a potential legal measure to create a deterrent effect and strengthen the morality of criminal law in the context of social justice.

One of the important instruments in combating corruption is the seizure of assets resulting from criminal acts, which serves to recover State losses while negating the economic benefits of crime.(Dita Veronikaa, 2025) this concept is in line with the United Nations Convention Against Corruption (UNCAC) 2003, which encourages member states to implement asset recovery mechanisms as part of national anti-corruption strategies.(Nations, 2004) in the context of Indonesia, asset seizure is regulated in a limited manner in Law No. 31 of 1999 jo. Law No. 20 of 2001 on the eradication of corruption and Law No. 8 of 2010 on the Prevention and Eradication of money laundering.(Putri & Universitas, 2024) its implementation still faces obstacles, both in terms of proof, asset tracing mechanisms, and coordination between law enforcement agencies. In addition, the absence of a specific law on Non-Conviction Based Asset Forfeiture (NCB Asset Forfeiture) creates a legal vacuum that hinders its effectiveness.(Ganjar, 2025)

These conditions indicate the existence of normative and structural gaps in the Indonesian legal system. Normatively, the existing regulations do not yet comprehensively regulate the mechanism of asset seizure without a criminal verdict, although this is important to prevent the perpetrator from transferring or hiding his wealth. While structurally, law enforcement agencies have not been fully able to integrate financial data and information across sectors, both nationally and internationally (Theodorus Sendjaja, 2023). In addition to the legal aspect, the social and economic dimensions of asset seizure also deserve attention. Impoverishment of corruptors can be viewed as a form of distributive justice, in which the state seeks to restore people's rights to stolen public wealth. In other words, this policy not only enforces retributive justice but also restores the social and moral balance of society.(Wahyuni Saputri1, 2024) in the context of national development, this effort also strengthens public confidence in the rule of law and encourages transparency in governance. The implementation of asset forfeiture still faces various obstacles, especially because Indonesian legal provisions still require the existence of a conviction-based asset forfeiture as the legal basis for foreclosure(Lily Solichul Mukminah ,Hartiwiningsih, 2023). As a result, the expropriation process is often delayed until the inkraft verdict, while assets resulting from crimes can change hands, be diverted, or hidden through complex money laundering mechanisms.

In an effort to strengthen the national legal system, the idea arose to implement non-conviction based asset forfeiture (NCBF) as an alternative to expedite the return of State losses and impoverish the perpetrators of corruption.(Komalasari & Mustafa, 2024) This approach is oriented to the principle of follow the money, namely tracing the origin and flow of proceeds of crime as the legal basis for confiscation. This practice has been implemented in several countries such as the United Kingdom and Switzerland, with significant results in the recovery of assets across countries.(Loeke Larasati, 2017) The idea of impoverishing corrupt actors through asset expropriation also has a philosophical foundation in modern conviction theory, especially deterrence theory and retributive justice.(Husin et al., 2019) by depriving the state of wealth resulting from corruption, it not only physically punishes through imprisonment, but also destroys the economic profit that is the main motive for the crime. This is expected to change the orientation of society towards corrupt behavior that has often been considered beneficial. Although currently there are still juridical challenges arise in the aspect of harmonization of regulations and law enforcement. The absence of a stand-alone asset seizure law has caused law enforcement officials (KPK, prosecutor's office, and police) to experience obstacles in proving the origin of assets and legal proceedings against third parties who receive corruption results. (Dimas Muhammad Erlangga, 2025).

2. RESEARCH METHOD

The research method used is the normative juridical method, which is a legal research approach that focuses on the study of positive legal norms that apply and develop through legal practice and doctrine. This approach is done by reviewing primary legal materials such as Law No. 31 of 1999 jo. Law No. 20 of 2001 on the eradication of corruption, the Criminal Code, and the draft law on asset seizure as the main normative basis in the discussion of the concept of impoverishment of perpetrators of corruption. In addition, this study also uses secondary legal materials which include scientific literature, legal journals, the results of previous research, as well as the opinions of relevant criminal law and criminal policy experts to strengthen theoretical and conceptual analysis. This study aims to describe and analyze the theoretical and practical application of asset seizure penalties as an effort to impoverish in the context of law enforcement in Indonesia.

3. RESULTS AND DISCUSSION

3.1 How is the mechanism of asset seizure as an effort to impoverish corruptors in indonesia

One of the main elements in corruption is the loss of state finances. To deal with this, both Law No. 3 of 1971 (old corruption law) and Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 stipulate that corruption perpetrators must return or compensate the state for losses through a mechanism known as asset recovery.(Wijaya, 2021). When corruption is menggurita and the verdict given cannot cause a deterrent effect, considering the judge's decision that is too light to the perpetrators, many ideas arise to aggravate the punishment. The idea that arises from the need to apply the death penalty, the bodies of corruptors do not need to be discussed (proposed by a group of religious people), and impoverish corruptors. The verdict that can make the poor corruptors, even more destitute than before, is the most likely legal breakthrough to be implemented in Indonesia (Amalia, 2024). Because there are so many kinds of punishments given, it is difficult to apply. The death penalty can indeed have a deterrent effect but is difficult to apply because it is considered contrary to human rights. In the corruption law, the return of state financial losses can be done through two legal channels, namely the criminal and civil channels. The criminal path is carried out by the investigator by confiscating the assets of the perpetrator, which have been decided by the court in an additional criminal decision in the form of state compensation money.(Simanjuntak, 2025) Efforts to restore state losses through civil channels fully follow the provisions of civil law, both material and formal aspects, even though the case involves corruption. In contrast to criminal proceedings that apply a material proof system, civil proceedings use a formal proof system that in practice is often more complex and requires a stricter level of proof.(Faisal Rachman Januar, 2022)

Asset seizure as an additional sanction in combating corruption is regulated in Article 39 paragraph (1) of the Criminal Code and Article 18 paragraph (1) letters A and b of the corruption law. In addition, the application of Article 7 Paragraph (2) of the TPPU law against corruptors allows the application of more severe crimes, including the seizure of corporate assets for the state as stipulated in Article 7 Paragraph (2) letter e of the TPPU law. This shows the government's commitment to crack down firmly on corruptors in the spirit of impoverishing corruption perpetrators in order to ensure the return of state financial losses to the seizure of corruptors ' property.(Muhammad Hilmy Aziz, 2025). If the convict is unable to recover State losses equal to the amount of replacement money (UP), then the last alternative if the convict is unable to recover State losses in accordance with the amount of replacement money (UP) required is to impose a body penalty with the same duration as the principal crime that has permanent legal force (inkracht).(Munzil & Wr, 2015) The concept of impoverishment of corruptors is rather "the expected result of Juridical efforts in the form of the implementation of the seizure of assets/ property resulting from corruption in order to optimally return state losses".(Hasan et al., 2025) The implementation of confiscation and seizure of TPPU assets derived from corruption, must be connected (functioned) with corruption articles in order to impose additional penalties for asset seizure on individual legal subjects (non-corporations), so it is expected that as much as possible seizure of assets resulting from tppu derived from corruption which leads to "impoverishment of corruptors".(Dini Anastasya, 2025).

Not all assets can be seized. Article 2 of the asset seizure bill provides that the assets that can be seized under this draft law, namely :

- Assets obtained directly or indirectly from criminal acts that have been used as property of private property, other people, or corporations in the form of capital, income, or other economic benefits obtained from such property;
- Assets that are used or have been used to commit a criminal offense; other legitimate assets in lieu of Criminal Assets;
- Assets that are found items that are suspected of being from criminal acts. Meanwhile, the provision of assets that can be seized consists of assets worth at least Rp100, 000, 000.00 (one hundred million rupiah); or assets derived from criminal acts punishable by imprisonment of 4 (four) years or more. However, in the event of a change in the minimum value of the asset, the minimum value adjustment is regulated by government regulations.

The idea of impoverishment as one of the crimes against corruption is considered to have a significant effect because the main reason someone commits corruption is to get more wealth.(Dra Rasima, 2025). This idea of impoverishment has a relationship with the precepts of psychological coercion proposed by Von Feuerbach. The purpose of the existence of psychological coercion, according to Feuerbach, is to determine the actions that are prohibited in a criminal law, not only

these actions are clearly written in the criminal law but also about the types of crimes that are threatened. This is so that the person who commits a criminal act knows in advance about the criminal who was threatened. (Heru Susetyo, 2024).

Knowledge about the criminal threat of impoverishment is growing, it is considered rational as a preventive instrument against corruption because it hits the main motivation of the perpetrator, namely to increase personal wealth; impoverishment as an additional sanction is seen as able to create a strong deterrent effect and is repressive when associated with corruption more effective than conventional punishments such as prison or fines. Corruption as an extraordinary crime requires extraordinary measures for its prevention and enforcement. The idea of the formulation of this new criminal sanction becomes relevant if you look at the criminal law reform efforts that are being carried out by formulating a new Criminal Code, this impoverishment criminal sanction has the opportunity to be included in the criminal law reform efforts so that the Criminal Law book that is being formulated can answer one of the biggest.

Impoverishment of corruptors as an additional crime, can be implemented against corrupt actors and TPPU as an optimization of the return of extra state financial losses and in anticipation of corrupt actors or other TPPU by developing and based on the theory of "dignified Justice". Implementation, in the main criminal if the assets of corrupt actors who have been seized / seized have met the state losses and returned 100%, then the concept of additional crime in the form of "impoverishment of corruptors" will still be implemented by confiscating / seizing the lawful property of the convict whose amount is equal to the value of the State loss (Prof. Dr. Yasmirah Mandasari Saragih, 2024). Within the framework of the corruption conviction, the idea of impoverishment of corruptors as an additional crime is directed specifically to the perpetrators of corruption (tipikor) and TPPU as a strategic effort to optimize the return of state financial losses. This concept is also preventive, because it is seen to anticipate other corruption perpetrators and strengthen the deterrent effect based on the principle of dignified justice theory, namely Justice that respects human dignity while balancing the rights of the state and citizens.

Furthermore, the impoverishment of corruptors is expected to be a means to realize meaningful justice, in the form of social harmony and general welfare, in accordance with the ideals of the Founding Fathers listed in the Preamble to the 1945 UUD. This concept is also preventive, because it is seen to be able to anticipate other corruption perpetrators and strengthen the deterrent effect based on the principle of dignified justice theory, namely Justice that respects human dignity while balancing the rights of the state and citizens . Furthermore, the impoverishment of corruptors is expected to be a means to realize meaningful justice, in the form of social harmony and general welfare, in accordance with the ideals of the Founding Fathers listed in the Preamble to the 1945 Constitution (Yudha, 2023). The concept of "poverty corruptors" should be understood that :

- Impoverishment of corruptors is not the same as meant in the provisions of Article 321 of the Civil Code;
- Impoverishment of corruptors is also not the same as the definition of "poor" in the Indonesian dictionary (KBBI);
- Impoverishment of corruptors emphasizes more on a "way or effort" as a new spirit in carrying out confiscation or seizure of assets against corrupt actors until the condition of state financial losses can really be returned intact, and the condition of the convict is in a very sorry state (deterrent) because it is possible for the seizure of assets / lawful property belonging to.

The measure of impoverishment of corruptors is completed, when the corruption convict has returned the state's financial losses in full plus 100 % whose value is equal to the state losses that have been inkraht. However, if the convicted of corruption or TPPU cannot recover the additional financial losses of the state, then the last alternative is a corporal punishment or prison whose duration is the same as the main crime and must not exceed the main crime that has been inkraht.

The mechanism for implementing the concept of impoverishment of corruptors, of course, must be regulated by new regulations that do not contradict Article 1 Paragraph (1) of the criminal code on the principle of legality. The concept of additional punishment in the form of "impoverishment of corruptors", does not necessarily apply to corruptors. In its implementation, should be appropriate certain provisions of the various studies. (Sumardiana, 2025) the concept of additional punishment in the form of "impoverishment of corruptors" is, whenever it can be implemented, there must be limits applied, for example :

- The state suffered a minimum loss of Rp. 1 billion;
- The defendant cannot recover State losses;
- The defendant cannot prove in reverse the property he owns.

Or other criteria that essentially state financial losses can be returned 100% and can create a deterrent to perpetrators of corruption in accordance with applicable legal mechanisms. Many parties agree with the impoverishment of corruptors, but on the other hand there are also various parties who disagree with the impoverishment of corruptors for perpetrators of corruption. Because the impoverishment of corruptors has been carried out only by the seizure of assets resulting from corruption. The seizure of these assets by the seizure of all objects that are the result of corruption and/or by the payment of replacement money in the amount corresponding to the financial losses of the state from corruption. This cannot be said to impoverish the corruptors because the corruptors can still freely use and feel the assets they have that are not taken away.

4. CONCLUSION

Corruption Eradication in Indonesia has not been implemented explicitly. The law enforcers in this study, namely prosecutors and judges do not carry out criminal sanctions for impoverishment of corruptors in combating corruption. Prosecutors in dropping criminal charges adhere to the law as well as corruption judges in passing verdicts adhere to the law. The implementation of criminal sanctions for the impoverishment of corruptors only by the seizure of assets resulting from corruption, the amount of which is adjusted to state financial losses. This cannot be said to impoverish corruptors because only assets derived from corruption are seized and not necessarily the corruptors will become poor. The impoverishment of corruptors is carried out by the confiscation of all objects that are the result of a criminal act of corruption and/or by the payment of replacement money in the amount corresponding to the financial losses of the state taken and arising from the criminal act of corruption.

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Strengthening law enforcement, the government needs to make reforms in the legal system to ensure that the application of impoverishment penalties is carried out consistently and transparently. This includes strengthening law enforcement agencies and the justice system to prevent delays in legal proceedings; Law Reform is needed in terms of confiscation, seizure, and return of assets resulting from corruption and TPPU within the country and abroad to optimally restore state financial losses; Strengthen coordination between law enforcement agencies in terms of the implementation of the Corruption Eradication system in Indonesia; to the government both legislative and executive agencies to immediately discuss and pass asset seizure laws.

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