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The Urgency of Regulating Forfeiture of Assets Gained from Corruption in Indonesia

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Abstract

Corruption threatens democratic principles that highly value transparency, accountability, and integrity. Indonesia must continuously innovate in its efforts to combat corruption. Establishing more comprehensive asset forfeiture regulations is crucial, given the increasing rates of corruption. This study addresses two main research questions: 1) Asset forfeiture regulations in various countries; 2) The urgency of regulating asset forfeiture for corruption crimes in Indonesia. This research employs a normative legal research method, using a literature study to collect legal materials. The findings indicate that various countries have established and implemented asset forfeiture regulations with different concepts, namely Conviction-Based Asset Forfeiture and Non-Conviction-Based Asset Forfeiture. However, Indonesia does not yet have specific provisions and only treats asset forfeiture as an additional penalty.

INTRODUCTION

Corruption is one of the crimes categorized as Extraordinary Crimes due to its heinous nature and its severe impact on a country's economy (Andini et al., 2023; Arifin et al., 2023). This type of crime can be considered organized and transnational, as its modus operandi is often deeply embedded within the bureaucratic system. The general section of the Explanation of Law Number 7 of 2006, which ratifies the United Nations Convention Against Corruption, 2003 (United Nations Convention Against Corruption, 2003), highlights that corruption poses a significant threat to democratic principles, which highly value transparency, accountability, and integrity. Consequently, comprehensive, systematic, and continuous measures for prevention and eradication are essential at national and international levels.

The incidence of corruption cases in Indonesia has shown little change. According to Indonesia Corruption Watch (ICW), 791 corruption cases were recorded throughout 2023, involving 1,695 suspects (Guritno & Ramadhan, 2024). *Indonesia Corruptio Watch* (ICW) noted that corruption in Indonesia has consistently increased since 2019. ICW reported that in 2019 there were 271 cases with 580 suspects. Then, in 2020, the number did not decrease and jumped to 533 cases with 1.173 suspects (Kompas, 2024). In 2022, corruption cases in Indonesia continued to increase with a total of 579 cases. Furthermore, Transparency International Indonesia (TII), in 2019 have release the report that related to the *Corruption Perceptions Index* (CPI). It was scored at 40/100 which in that yeard was the highest score in the last 25 years. In 2020, the *Corruption Perceptions Index* in Indonesia decreased by 3 points to 37/100. Placng Indonesia in 102nd place out of 180 countries surveyed (Transparency International Indonesia, 2021). Then, in 2021, CPI reported that Indonesia's CPI score was 38/100, which then decreased by 4 points in 2022. The points stagnated at 34/100 in 2023 (Transparency International Indonesia, 2023) A higher Corruption Perceptions Index score indicates a lower level of corruption in a country. Indonesia's low score remains a significant issue that requires urgent attention from the government and all elements of Indonesian society.

Indonesia must continue to innovate in its efforts to combat corruption (Herdani et al., 2022). Currently, there are no sanctions that effectively deter perpetrators (Halipah et al., 2022; Ismantara et al., 2021). Defendants are often acquitted due to insufficient material evidence to prove their corruption, even though it is a formal crime (Purwadi & Hartriwiningsih, 2018). Corruption-related assets are frequently not seized by the state because they are hidden or located outside Indonesia. The lenient sanctions, which only include imprisonment and fines, coupled with the lack of clear asset forfeiture regulations (Wulandari et al., 2023), exacerbate the persistent corruption problem in Indonesia.

Indonesia Corruption Watch (ICW) recorded losses due to corruption in Indonesia amounting to IDR 28.4 trillion in 2023. Ironically, the assets resulting from corruption cannot be seized. Combating corruption should focus on punishing the perpetrators and prioritizing the recovery of state finances. Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, in Article 18, paragraph (1), actually regulates additional penalties, including the confiscation of movable property. Normatively, this seems promising, but in practice, it is ineffective and rarely used by law enforcement officers. In various countries such as the United States, Australia, and the Philippines, regulations on asset forfeiture are well-established (Husein, 2023). These countries provide provisions for the state to seize assets located both domestically and internationally, including assets derived from Illicit Enrichment or Unexplained Wealth. The United Nations Convention Against Corruption (UNCAC) defines Illicit Enrichment as "a significant increase in the assets of a public official that

he or she cannot reasonably explain in relation to his or her lawful income," while Unexplained Wealth refers to wealth possessed by individuals that cannot be rationally explained in relation to their income, making it impossible for them to have legitimately acquired such wealth.

For the Indonesian government, the establishment of a Law concerning Asset Forfeiture is urgent and crucial, given the persistent and unabated cases of corruption year after year. Based on this background, the author conducted a study titled "The Urgency of Regulating Forfeiture of Assets Gained from Corruption in Indonesia" addressing two legal issues, namely a comparison of the regulations on forfeiture of assets related to corruption in several countries and the urgency of regulating the forfeiture of assets related to corruption in Indonesia.

METHOD

This study employs a normative-legal method supported by statutory, conceptual, and comparative approaches. Comparisons in general research are comparisons of micro laws relating to legal regulations, cases and institutions that are specific/actual (Husa, 2023). The sources of legal materials used are primary legal materials in the form of laws and regulations that are relevant to this research such as Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, General Assembly resolution 58/4 of 31 October 2003 concerning the United Nations Convention against Corruption, Regulation of the Attorney General of the Republic of Indonesia No. PER-027/A/JA/10/2014 concerning Guidelines for Asset Recovery. Furthermore, secondary legal materials in the form of legal journals and relevant legal books. The technique for collecting legal materials is library research, and the analysis of legal materials is conducted descriptively, supplemented by prescriptive analysis.

RESULTS AND DISCUSSION

Asset Forfeiture Regulations in Several Countries

Asset forfeiture because of corruption crimes is aimed at restoring the nation's economy (Nelson & Santoso, 2021; Peters, 2018; Zahrulyani et al., 2024). In Indonesia, specific and clear regulations regarding asset forfeiture are lacking. However, Article 18 paragraph (1) of Law Number 31 of 1999 on the Eradication of Corruption Crimes (the Corruption Eradication Law) stipulates that perpetrators can be subjected to criminal sanctions, including asset forfeiture and payment of compensation. This norm is crucial to the state's efforts to recover financial losses caused by corruption crimes (Pranoto et al., 2018) In practice, asset forfeiture resulting from corruption has both benefits and drawbacks. It can serve as a long-term deterrent, and the proceeds can be

used to enhance society's social and economic conditions (Caliano Anugerah et al., 2023).

Asset forfeiture provisions can also be pursued through civil legal remedies. Article 33 of the Corruption Eradication Law states, "In the event that the suspect dies during the investigation while there are evident financial losses to the state, the investigator must hand over the case file to the State Attorney or the injured party for a civil lawsuit against the heirs." Additionally, Article 38 C of the same law states, "After a court decision with permanent legal force, if it is known that there are still assets owned by the convict that are suspected or reasonably suspected to be derived from corruption and have not been confiscated, the state can file a civil lawsuit against the convict or their heirs."

Unfortunately, the sanctions outlined in the Corruption Eradication Law are considered supplementary penalties. Andi Hamzah points out that, as the name suggests, these additional penalties are meant to complement the main penalties imposed. Consequently, they cannot stand alone unless specifically stated otherwise regarding the confiscation of certain items. Furthermore, these additional penalties are facultative, meaning they are optional rather than mandatory. As a result, while Indonesia has regulations on asset forfeiture generally governed by the Penal Code (KUHP), there are no specific regulations for corruption crimes. These provisions are insufficient to support effective asset forfeiture sanctions, and therefore, forfeiture cannot be fully maximized (Ghondohi, 2023).

Regarding the plan to establish the Law concerning Asset Forfeiture for criminal acts, preparations have been underway since 2012 with the Draft Law concerning Asset Forfeiture of 2012. The 2012 Draft Law concerning Asset Forfeiture defines asset forfeiture for criminal acts as a coercive effort by the state to take over control and/or ownership of criminal assets based on a court decision that has permanent legal force without relying on the conviction of the perpetrator. Furthermore, the Regulation of the Attorney General of the Republic of Indonesia No. PER-027/A/JA/10/2014 concerning Guidelines for Asset Recovery, in Article 1, point 18, also states, "Asset Forfeiture is a legal action carried out by the Asset Recovery Center (PPA) and/or the technical work units of the Attorney General's Office, to take over control/separate ownership of assets from an individual/corporation, under the control of the PPA based on a judge's determination or a court decision that has obtained permanent legal force." If viewed from the considerations, the basis for forming the Draft Law concerning Asset Forfeiture is that the existing systems and mechanisms regarding the forfeiture of criminal assets cannot support equitable law enforcement related to corruption crimes in Indonesia (Agustine, 2019).

Asset forfeiture regulations are also applied in common law countries. From the perspective of criminal law, asset forfeiture is conducted simultaneously with proof of whether the defendant truly committed the crime (Husein, 2023). Then, in civil law,

forfeiture can be executed against the assets even if the judicial process is not yet complete. This is because asset forfeiture targets the assets, not the perpetrator of the crime. In contrast, in administrative law related to asset forfeiture, the state can confiscate assets obtained from criminal acts without involving judicial institutions (Putra & Prahassacitta, 2021; Siregar, 2023).

The following are the differences in asset forfeiture regulations based on Conviction and non-conviction processes.

Table 1. Conviction Based v. Non-Conviction Based

MEASURE	CONVICTION-BASED	NON-CONVICTION-BASED
Forfeiture	Targeted at individuals *(in personam)* and is part of the criminal sanctions imposed on the defendant	Legal action against assets/property *(in rem)* and constitutes a civil asset forfeiture regime (Explanation of Article 2 of the Draft Law concerning Asset Forfeiture)
Filing of Charges	Part of the criminal sanctions imposed by the court on the defendant. It is done simultaneously with the filing of charges by the Public Prosecutor	Can be filed before, during, or after the criminal trial process or even in cases where the matter cannot be examined in a criminal court
Proof of Guilt	Asset forfeiture is based on proving the defendant's guilt in the crime committed. The judge must be convinced that the defendant has been legally and convincingly proven to have committed the crime	The defendant's guilt in the criminal case is not a determining factor for the judge in deciding the asset forfeiture lawsuit. Proof in this lawsuit allows for the use of the principle of reverse burden of proof

These two types of asset forfeiture models indicate several similarities as follows (Greenberg et al., 2009):

1. Both models aim to ensure that criminals do not profit from the proceeds of their crimes;

2. Asset forfeiture serves as a preventive measure to deter offenders, ensuring that the assets are not used for further criminal purposes.

In several common law countries such as the United States and Australia, the concept of Non-Conviction Based (NCB) Asset Forfeiture has been applied for a long time. In 2006, using the NCB Asset Forfeiture concept, the United States successfully seized assets worth 1.2 billion US dollars that originated from or were related to a crime (Hafid, 2021). In addition to conviction-based forfeiture, non-conviction-based asset forfeiture is also commonly used, especially in countries with common law systems. This concept is implemented to recover state losses resulting from corruption crimes without waiting for the perpetrator's conviction (Abdullah et al., 2021). The NCB Asset Forfeiture concept allows for the seizure of assets obtained directly or indirectly from the crime, including those donated or converted into personal wealth, other individuals' assets, or corporate assets.

Below are the asset forfeiture policies in several countries:

Table 2. Asset Forfeiture Policies in Several Countries

COUNTRY	REGULATION	FORFEITED ASSET	ASSET TYPE
United States	Patriot Act	Assets located domestically and internationally	Illicit Enrichment
Australia	Criminal Asset Recovery Act	Assets located domestically and internationally	Unexplained Wealth
Philippines	Rules of Procedure in Cases of Civil Forfeiture	Assets located domestically and internationally	Illicit Enrichment

In Australia, the "Criminal Asset Recovery Act" encompasses the concept of unexplained wealth, defined as the discrepancy between a person's total wealth and their lawfully acquired assets. In the United States, the "Patriot Act" includes the concept of Illicit Enrichment, which refers to a significant increase in a public official's assets that their lawful income cannot reasonably explain. Similarly, the Philippines' "Rules of Procedure in Cases of Civil Forfeiture" also incorporate the concept of Illicit Enrichment.

Thus, in the context of legal reform in Indonesia, particularly regarding the Draft Law concerning Asset Forfeiture, it is considered important to adopt the concepts of Unexplained Wealth and Illicit Enrichment, as well as the concept of Non-Conviction-Based (NCB) Asset Forfeiture recommended by the United Nations Convention

Against Corruption (UNCAC) 2003. The government should note that in its future implementation, the Draft Law concerning Asset Forfeiture should focus not on proving a person's guilt but on proving that the asset in question is the result of a crime.

The Urgency of Regulating Asset Forfeiture Over Corruption Crimes in Indonesia

The draft law concerning asset forfeiture, initiated by the President, has yet to be discussed with the Indonesian House of Representatives (DPR RI). Despite this, the draft of the Asset Forfeiture was completed more than a decade ago, in 2012, by the Financial Transaction Reports and Analysis Center (PPATK) (Draf Rancangan Undang-Undang Tentang Perampasan Aset Terkait Tindak Pidana Korupsi, n.d.-a). Despite this, the draft of the Asset Forfeiture was completed more than a decade ago, in 2012, by the Financial Transaction Reports and Analysis Center (PPATK) (Draft Law concerning Asset Forfeiture Related to Corruption Crimes, n.d.). President Jokowi, through Presidential Letter No. R-22/Pres/05/2023 has urged the DPR to prioritize the discussion of the Asset Forfeiture Bill for Criminal Acts. The reluctance of the DPR, as the legislative body, to ratify this global regulation reflects its lack of seriousness in upholding Indonesia's commitment to the UN Convention against Corruption (Rahayu, 2023). The evolving nature of corruption in the era of technology and globalization compels law enforcement to adopt more effective strategies that still maintain a deterrent effect and can recover state losses. This necessitates changes in legislation, the establishment of authorities to handle corruption issues, collaboration with the police and the prosecutor's office, ratification of the United Nations Convention Against Corruption (UNCAC), and cooperation with countries regarded as havens for corrupt assets through the signing of Mutual Legal Assistance (MLA) agreements.

The urgency of enacting the Asset Forfeiture Draft Law is underscored by data showing state losses due to corruption in 2022 amounting to Rp 48.7 trillion, with the recovery rate through fines and compensation payments only reaching Rp 3.8 trillion, or 7.83 percent of the total losses incurred by the state. The significant losses to the state align with Indonesia's Corruption Perceptions Index (CPI) decline at the beginning of 2023. Indonesia's CPI dropped from 38 to 34, ranking it 110th out of 180 countries regarding corruption (Indonesia Corruption Watch, 2023a). According to Transparency International Indonesia (TII), Indonesia is now among the one-third most corrupt countries in the world. Corruption offenses span various sectors, all contributing to financial losses for the state. Transparency International Indonesia provides a regular CPI report, which indicates the government's commitment to the anti-corruption agenda.

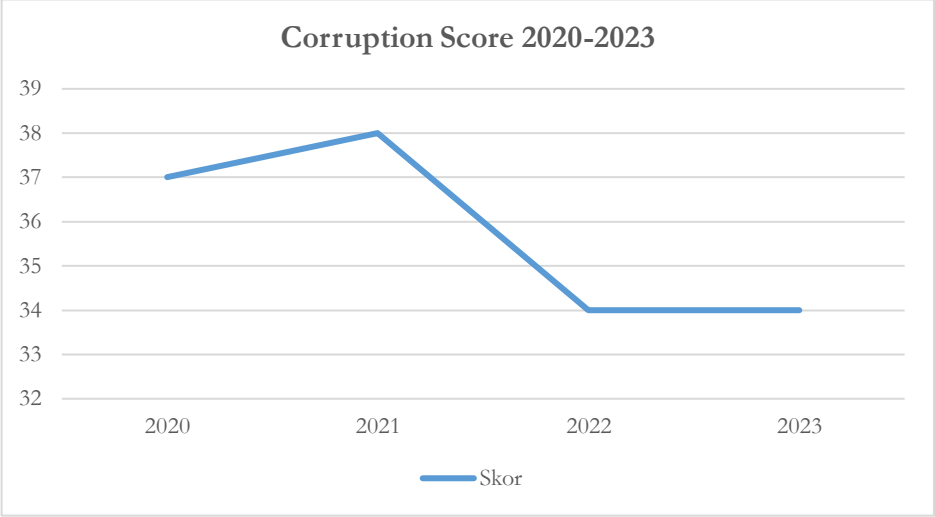

Figure 1. Corruption Trends 2023, ICW

The legal provisions for combating corruption are clearly outlined in 13 articles in Law No. 31 of 1999, amended by Law No. 20 of 2001, concerning the Eradication of Corruption Crimes. These articles detail the acts that can be subject to criminal sanctions for corruption. The forms/types of corruption offenses can essentially be grouped into seven categories as follows:

1. State financial losses
2. Bribery
3. Embezzlement in office
4. Extortion
5. Fraudulent acts
6. Conflicts of interest in procurement
7. Gratuities

Comprehensive legal regulations are critically needed to address the very complex corruption issue. The impact of corruption crimes not only threatens the stability and economic growth of the country but also systematically undermines the moral values of the nation (Mahmud, 2020) Therefore, corruption crimes are categorized as extraordinary crimes in Indonesia. To date, the significant state losses due to corruption and the compensation received by the state are far from being proportionate to the actual losses.

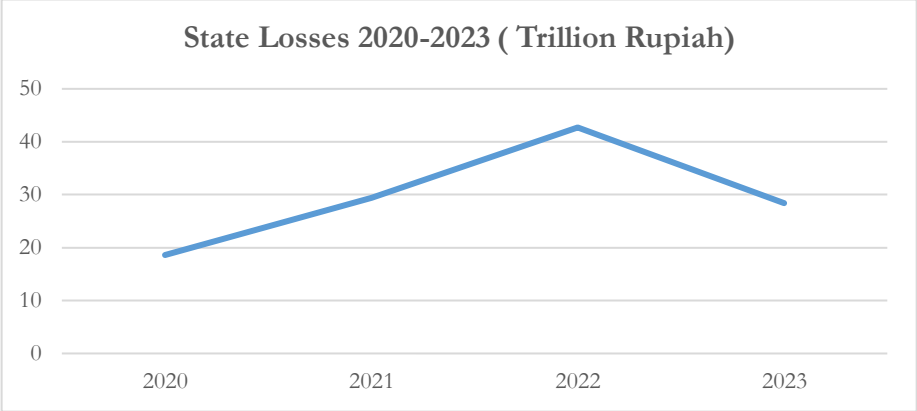

Figure 2. State Losses from 2020 – 2023, ICW

Although there has been a decline in financial losses and corruption index scores in Indonesia, these losses still represent substantial amounts for the state's finances. State finances are essential for implementing programs that support the needs and interests of all Indonesian people. Regardless of the size of potential state losses, all must be uncovered and followed by legal actions, both criminal and civil, aimed at recovering assets derived from corruption. The investigation, seizure, and forfeiture of corrupt assets are intended to restore state financial losses.

Therefore, it is not only law enforcement officers who need to enhance their competence. The substance of legislation also needs to be strengthened to uphold progressive law enforcement in Indonesia. Despite a decrease compared to the previous two years, the potential state losses in 2023 remain significant. As crimes are categorized as extraordinary crimes with economic motives, the large potential state losses will undoubtedly have a substantial impact on the disruption of social order and economic stability essential for achieving justice and welfare (Indonesia Corruption Watch, 2023b).

This indicates that the financial management system or the financial and economic operations of the state by institutions, including government, ministries/agencies at the central and regional levels, or even at the village government level, are still very poor. Considering this, concrete steps are necessary to strengthen the oversight of all government activities to enhance transparency and accountability in state financial management (Akhmaddhian, 2018). Improvements can begin by refining and maximizing the financial management system, which benefits all Indonesians, oriented towards the General Principles of Good Governance (AAUPB). Indonesia adheres to some mechanisms for the forfeiture of assets of corruption perpetrators, comprising Law Number 20 of 2001 concerning the Amendment to the Corruption Crime, Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, and Law Number 46 of 2009 concerning the Corruption Court. The element of asset forfeiture conducted without a specific criminal mechanism is set out in the provisions of Article

38, paragraphs (5) and (6) of Law Number 20 of 2001, and in Article 38B, paragraph (2) of Law Number 31 of 1999 jo. Law Number 20 of 2001 (Khalila, 2023).

Although the legal provisions for asset forfeiture without a criminal conviction exist in the Corruption Eradication Law, there are still legal loopholes in asset forfeiture issues that have not been accommodated or adopted by the law. These include mechanisms for asset forfeiture in cases where the suspect dies, escapes, becomes insane during the proof process, or where there are no heirs found to be responsible when a civil lawsuit is filed (Tuahuns, 2021). Article 54 paragraph (1) letter c of UNCAC 2003 explicitly urges all countries (both common and civil law) to consider and establish comprehensive legal provisions as anticipatory and preventive measures. This is so that asset forfeiture from corruption crimes can be executed without a criminal mechanism (NCB asset forfeiture) in cases where the suspect cannot be prosecuted due to escape, death, or even when the suspect cannot be found. This issue is crucial for the Draft Law concerning Asset Forfeiture to address and mitigate state financial losses due to corruption crimes.

The formulation of the Draft Law concerning Asset Forfeiture has been prepared for over a decade, with Academic Manuscripts and Draft Laws produced in 2012, 2015, and 2022. Asset Forfeiture for Criminal Acts is a coercive measure by the state to take over control and/or ownership of Criminal Assets based on a court decision with permanent legal force without relying on the conviction of the perpetrator.

However, the Asset Confiscation Bill needs to pay attention to the rights of suspects or defendants in corruption crimes. In relation to the rights of suspects and defendants in corruption crimes, they are subject to the provisions of Articles 50 to 68, and Article 77 of Law Number 8 of 1981 concerning Criminal Procedure Law (abbreviated: KUHAP) which include the following rights:

a. the right to be examined immediately;
b. the right to be immediately brought to court and tried;
c. the right to know clearly and in an understandable language about what is suspected or charged;
d. the right to provide information freely to investigators or judges;
e. the right to obtain an interpreter for suspects/defendants of foreign nationality;
f. the right to contact and speak with representatives of their country;
g. the right to contact a doctor for suspects/defendants who are detained;
h. the right of the suspect/defendant to present witnesses to support him/her;
i. the right of the suspect or defendant to demand compensation and rehabilitation;
j. the right to obtain legal assistance, and
k. the defendant's right to object to the judge who tried him.

l. the right to file a pretrial motion regarding the legality of the arrest, detention, termination of investigation and prosecution, and determination of a suspect.

In Law Number 31 of 1999 concerning the Eradication of Corruption, the rights of defendants who commit corruption are regulated in Article 37 paragraph (1) and (2) which states that, "The defendant has the right to prove that he did not commit a crime of corruption" and "In the event that the defendant can prove that he did not commit a crime of corruption, then the information is used as something that is beneficial to him."

There are several substantive differences in the Academic Manuscripts and Draft Law concerning Asset Forfeiture from their initial creation.

Table 3. Substantive Differences Between the Academic Paper and the Bill on Asset Forfeiture

Substance	Academic Draft 2012	Academic Draft 2015	Academic Draft 2022
Forfeitable Assets	5 types	11 types	6 types
Asset value limit	>100 million	>100 million	>100 million
Punishment Threshold	>4 years	>4 years	> 4 years
Disproportionate Assets	Unexplained Wealth	Illicit enrichment	Unexplained Wealth
Investigation	Enquirers, General Prosecutors	State's Attorneys and General Prosecutors, enquirers	Enquirers
Temporary transaction halt	Not regulation	Not regulated	By PPATK
Blocking period	30 days	45 days	30 days
State representatives	General Prosecutors	State's attorneys	State's Attorneys
Filing	Enquirers to General Prosecutors	Enquirers to State's attorneys	Inquiries, General Prosecutors, Goods and Service Auction Division (RUPBASN) to State's attorneys
Party requesting asset forfeiture	Enquirers, General Prosecutors, to	State's Attorneys to District Court Chief	State's Attorneys to District Court Chief

	District Court Chief		
Asset management	Asset Management Agency (LPA) responsible to the finance minister	Asset Management Agency (LPA)	Attorney General's Office
International cooperation	Agreement	Agreement	Agreement

The concept of the Draft Law concerning Asset Forfeiture includes criteria for asset forfeiture as outlined in Article 7, Paragraphs (1) and (2). According to these paragraphs, asset forfeiture can be executed in cases where the suspect or defendant has died, escaped, is permanently ill, or is unknown, or if the defendant is acquitted of all legal charges. Asset forfeiture also applies to assets related to cases that cannot be prosecuted, assets discovered post-conviction of the defendant with a final and binding court decision, and assets not previously declared forfeited. Furthermore, the criteria for assets that can be processed are detailed in Article 6 Paragraph (1) of the Draft Law concerning Asset Forfeiture, specifying that only assets valued at a minimum of Rp100,000,000.00 (one hundred million rupiah) and assets associated with crimes punishable by imprisonment of four years or more can be forfeited (Draf Rancangan Undang-Undang Tentang Perampasan Aset Terkait Tindak Pidana Korupsi, n.d.-b).

The Draft Law concerning Asset Forfeiture for Criminal Acts is critically important for enhancing law enforcement's effectiveness against corruption and economic crimes in Indonesia. As discussed in the introduction, the background to the enactment of the Asset Forfeiture Law highlights the need to strengthen the existing system and mechanisms concerning asset forfeiture in criminal cases. Therefore, the Draft Law concerning Asset Forfeiture must provide specific, clear, and comprehensive regulations for managing seized assets and facilitate the achievement of professional, transparent, and accountable law enforcement.

Thus, it is necessary to establish a law concerning the forfeiture of assets resulting from corruption crimes. The purpose of asset forfeiture law is to pursue the proceeds of crime (follow the money), not always focusing on the perpetrators (follow the suspect) (Kadir, 2019; Saputro & Chandra, 2021; Siagian et al., 2023). Here are some reasons why the Draft Law concerning Asset Forfeiture for Criminal Acts is urgently needed and should be discussed, passed, and enacted by the DPR (Mashyar, 2009):

1. Enhancing the Effectiveness of Law Enforcement

   The Draft Law concerning Asset Forfeiture for Criminal Acts enables the state to confiscate assets suspected of being proceeds from corruption and economic crimes without prosecuting the perpetrators. This allows the state to

recover losses resulting from these crimes and halt activities associated with these assets.

2. Stopping Economic Crimes

The Draft Law concerning Asset Forfeiture for Criminal Acts can help stop economic crimes such as corruption, drug trafficking, human trafficking, environmental damage, and gambling. By seizing assets suspected of being derived from these crimes, the state can halt these activities and recover the resulting losses.

3. Increasing Transparency and Accountability

The Draft Law concerning Asset Forfeiture for Criminal Acts can enhance transparency and accountability in law enforcement. This ensures that the public can have greater confidence that law enforcement is carried out fairly and transparently.

4. Curbing Corruption

The Draft Law concerning Asset Forfeiture for Criminal Acts can help curb corruption, which greatly harms the state. By seizing assets suspected of being proceeds from corruption, the state can recover the resulting losses and stop corrupt activities.

5. Improving the Quality of Life

The Draft Law concerning Asset Forfeiture for Criminal Acts can improve the quality of life for the public. By stopping economic crimes and corruption, the state can enhance the quality of life for its citizens and reduce social inequality.

6. Enhancing National Security

The Draft Law concerning Asset Forfeiture for Criminal Acts can also enhance national security. The state can improve national security and reduce threats to the country's safety by stopping economic crimes and corruption.

7. Increasing Government Effectiveness

The Draft Law concerning Asset Forfeiture for Criminal Acts can increase government effectiveness. By stopping economic crimes and corruption, the state can enhance the effectiveness of governance and reduce the costs arising from these crimes.

Progressive law enforcement in Indonesia is an effort to move away from the long-established legal practices that focus on formal rules and shift towards a human-centered approach. According to Satjipto Rahardjo, progressive law has a modern character that encourages a paradigm shift from a regime of legal certainty to a regime of social justice. Addressing corruption crimes through law enforcement can be achieved using a progressive legal approach. The presence of progressive law is not a coincidence, nor is it something that emerged without reason. Progressive law is part of an ongoing search for truth. It is viewed as a concept in search of its identity, stemming from the empirical realities of how law operates in society, characterized by

dissatisfaction and concern over the performance and quality of law enforcement in Indonesia (Rahardjo, 2007).

The idea of progressive law originates from the basic principle that law exists for humans and is always in a state of becoming. Therefore, providing a comprehensive explanation of legal issues requires the involvement of other legal theories. Enforcing progressive law requires a strong commitment from the legal structures within the system. Lawrence M. Friedman, as quoted by Satjipto Rahardjo, states that the legal subsystem consists of three essential elements: legal substance (laws and regulations), legal structure (legal institutions), and legal culture. Soerjono Soekanto details five factors influencing law enforcement (Soekanto, 1983).

1. Legislation

   The legislation factor is the first and foremost determinant of the face of criminal law enforcement at all levels (investigation, prosecution, and trial). Good legislation will create effective law enforcement and vice versa. However, in practice, the implementation of laws often encounters various issues, such as:

   a. Law enforcement not applying the principles established in the law
   b. Lack of supporting implementing regulations
   c. Ambiguity of norms

2. Law Enforcement

   Law enforcers are the second crucial line that determines the success of the criminal justice system. Without law enforcers, it is impossible to effectively implement good laws. Several factors influencing law enforcers include:

   a. The ability to interact while performing duties
   b. The ability to accommodate the aspirations of the parties involved in case handling;
   c. The ability to project case-handling processes;
   d. The ability to delay the satisfaction of material needs;
   e. The ability to innovate

3. Infrastructure or Facilities

   Infrastructure or facilities include well-educated and skilled human resources, other supportive organizations, adequate equipment, sufficient financial resources, and more.

4. Community

   Law enforcement originates from the community and aims to achieve peace. Therefore, from a particular perspective, the community can influence law enforcement. Legal competence cannot exist if the community:

   a. Is unaware or does not realize that their rights have been violated;
   b. Is unaware of the legal measures available to protect their interests;
   c. Is unable to utilize legal measures due to financial, psychological, social, and political factors;

d. Has had negative experiences in interactions with various elements of the formal legal community;

As mentioned earlier, the Draft Law concerning Asset Forfeiture for Criminal Acts is of critical importance in enhancing the effectiveness of law enforcement, stopping economic crimes, increasing transparency and accountability, curbing corruption, improving the quality of life for the public, enhancing national security, and increasing government effectiveness. Therefore, this draft law must be discussed and enacted into law promptly to allow for implementation and provision of benefits to society and the state. The enactment of this draft law is not merely a concrete step to address the disparity between state losses due to corruption and the recovery received by the state. Instead, it strongly indicates the government's and the DPR's commitment to maximizing efforts to eradicate corruption.

CONCLUSION

The high incidence of corruption in Indonesia indicates that the country must take more serious measures to address this issue. Criminal sanctions in the form of asset forfeiture to recover state losses due to corruption need to be established as a complete and comprehensive norm, not merely as an additional penalty that supplements the main sentence. Like common law countries that implement asset forfeiture for corruption crimes without a criminal process (NCB asset forfeiture), although not all aspects of this system are intended to be directly applied in Indonesia, it remains relevant to adopt it with necessary adjustments according to the current legal needs of the Indonesian nation.

The urgency of the Draft Law concerning Asset Forfeiture is crucial due to the significant state financial losses caused by corruption crimes, with an imbalanced recovery rate through compensation fines compared to the total state financial losses experienced by Indonesia. These substantial financial losses are reflected in the increase of Indonesia's Corruption Perception Index (CPI) at the beginning of 2023. Thus, the Draft Law concerning Asset Forfeiture for Criminal Acts is urgently needed to enhance the effectiveness of progressive law enforcement against corruption and economic crimes in Indonesia. The primary goal of asset forfeiture law is to pursue criminal assets (follow the money), rather than solely focusing on the perpetrators (follow the suspect). Therefore, it is necessary to establish a Law concerning the Forfeiture of Assets Resulting from Criminal Acts, providing specific, clear, and comprehensive regulations for the management, forfeiture, and facilitation of progressive law enforcement.

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