



Implementation of the Role the Prosecution Regarding Confidentiality Assets of Corruption as an Efforts of Return Losses to the State (Kejaksaan Tinggi Dan Kejaksaan Negeri Parigi Moutong, Sulawesi Tengah)

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ABSTRACT

Confiscating the assets of those convicted of corruption is a proactive measure to prevent the transfer or loss of assets that are ultimately determined by the court to be confiscated as compensation for financial losses incurred by the state due to corruption. In practice, asset confiscation frequently encounters challenges, including the transfer or concealment of assets by convicted individuals. As a result, courts often find that the remaining assets of corruption convicts are insufficient to recover the full extent of state losses. This research focuses on two critical issues: (1) the mechanisms employed by the Central Sulawesi High Prosecutor's Office and the Parigi Moutong District Prosecutor's Office in implementing the confiscation of assets from corruption convicts as an effort to recover state losses, and (2) the significant barriers faced by the Central Sulawesi High Prosecutor's Office in carrying out asset confiscations. Using an empirical research method, this study aims to identify successful mechanisms, such as strategies for tracking and securing assets preemptively, and to highlight key barriers, including legal loopholes, lack of inter-agency coordination, and resource constraints. The findings are expected to provide actionable insights into improving asset confiscation processes and overcoming obstacles to maximize the recovery of state losses. The results of this study will be published in a nationally accredited journal to contribute to the broader discourse on effective corruption prevention and recovery efforts.

Keywords: Confiscation, Assets, Corruption Convicts.

INTRODUCTION

Corruption refers to any unlawful act committed to enrich oneself, another individual, or a corporate entity at the expense of state finances or the national economy. In Indonesia, corruption has evolved into a significant external threat, undermining the foundations of social, national, and state structures (Prabowo & Cooper, 2016). Addressing corruption has centered on three primary objectives: prevention, eradication, and the recovery of state assets lost due to corruption. However, existing approaches in Indonesia tend to focus more on punishing the perpetrators of corruption rather than prioritizing the recovery of misappropriated state assets. Consequently, the effectiveness of asset recovery remains below expectations, with a substantial portion of state assets still undetected by law enforcement authorities.

The prosecutor's office plays a pivotal and strategic role in combating corruption. As outlined in Article 30(1)(d) of the Prosecutor's Office Law of 2004, the office has the authority to conduct investigations into specific criminal acts, including corruption. Handling corruption cases has been a primary mission aligned with broader reforms in law enforcement within Indonesia. To enhance the handling of corruption cases, the prosecutor's office has introduced various policies and directives aimed at intensifying efforts across all levels of prosecution (Omelchuk et al., 2022a).

A significant innovation in addressing corruption is the mechanism of asset confiscation, which serves as a proactive measure to safeguard or prevent the transfer of assets held by corruption convicts. Asset confiscation begins with a robust asset-tracing process initiated during the investigation phase. Court decisions then facilitate the confiscation of these assets to compensate for state financial losses, particularly in cases where convicts cannot fulfill financial penalties or face additional sanctions involving the forfeiture of illicit gains. This approach introduces a notable shift by integrating asset recovery as a core component of corruption eradication, diverging from traditional models that emphasized punitive measures (Syahird & Ilyas, 2024).

However, challenges remain in implementing effective asset confiscation mechanisms. Corruption convicts often exploit systemic gaps to transfer or conceal assets, rendering recovery efforts more complex. The lengthy duration from investigation to confiscation provides opportunities for fraudulent practices, including asset laundering or illicit transfers, which can result in new criminal activities (Levi & Soudijn, 2020). Addressing these issues necessitates innovative strategies, such as advanced digital asset-tracking tools and international cooperation, to prevent asset dissipation and ensure timely recovery.

This research highlights the novelty of asset forfeiture mechanisms, including the emphasis on early detection, comprehensive tracking, and streamlined judicial processes to minimize delays (Fahed-Sreih, 2023). By focusing on asset recovery as a fundamental aspect of corruption eradication, this approach sets a precedent for reimagining the role of law enforcement agencies in addressing financial crimes. The study's findings contribute to the development of more effective and transparent asset management practices, ensuring the recovery of state resources and enhancing public trust in anti-corruption efforts.

RESEARCH METHODS

This research is empirical research with a qualitative approach. The research was conducted to understand the mechanism for implementing asset confiscation of corruption offenders as an effort to recover state losses at the Central Sulawesi High Prosecutor's Office and the Parigi Moutong District Attorney's Office. This research was conducted at these locations with a time period covering 2019 to 2023.

This research aims to provide a comprehensive overview of the obstacles faced in the implementation of asset confiscation of corruption offenders and how these can be overcome to increase the efficiency and effectiveness of recovering state losses. In this research, the main focus

is on analyzing the factors that influence policy implementation and evaluating the legal measures that have been taken.

The research population includes all legal processes related to corruption cases in the study area. The research sample was purposively drawn by involving relevant parties such as investigating prosecutors, State and High Prosecutor's Office officials, and relevant legal documents. Data collection techniques involved in-depth interviews, direct observation, and document studies.

The main research instrument was a semi-structured interview guide designed to elicit information from key respondents. In addition, field notes and a voice recorder were used to support data collection. Document study involved analyzing relevant laws and regulations, annual reports, as well as corruption case files.

Data processing was conducted through thematic analysis techniques, where the data that had been collected was categorized based on key themes relevant to the research objectives. Data validity was ensured through triangulation of sources and methods, as well as double-checking by the researcher of the interpretation results (Awan et al., 2023).

RESULTS AND DISCUSSION

The mechanism for implementing the declaration of assets of those convicted of corruption in Central Sulawesi High Prosecutor's Office, and the Prosecutor's office Parigi Country

In enforcing the law to eradicate corruption crimes, one of the main objectives is to restore or restore state financial losses, and every prosecutor's unit is charged with case handling targets (Omelchuk et al., 2022b). The target number of cases of Corruption crimes that must be handled annually are set at 5 (five) cases for each high prosecutor's office, 3 (three) cases for each district attorney's office, and 1 (one) case for each branch state prosecutor's office. Setting targets, as mentioned above, according to the author, has a positive value in motivating the prosecutor's office to eradicate criminal acts of corruption that occur in the region of the law. However, setting targets also has negative value because it is not in accordance with the principle of due process of law.

Exposure participants were asked for their opinion on the results the investigation presented, whether they agreed or not with the speaker by stating the legal reasons (Canela et al., 2019). Besides that, If from the results of the presentation it is concluded that the investigation is escalated to the next stage investigation, the exposure participants also provided input in the form of questions that must be asked of witnesses and/or suspects at the later stages of the investigation, including suggestions for taking or take other legal actions to complete the investigation of the file.

Investigation files that have been "agreed upon" by the exposure participant can be obtained and upgraded to the investigation stage and handed over by KASI INTEL to KASI PIDSUS. The investigative action begins with issuing a letter Investigation Order appointing several prosecutors as a team investigator.

From the data obtained, it is known that the number of investigations of Corruption Crime

cases carried out at the District Attorney's Office Palu in 2019-2023 is 9 (nine) cases, and 8 (eight) of these cases have been able to be escalated to the stage investigation. Meanwhile, at the Parigi Moutong District Prosecutor's Office, the number there were 4 (four) investigations carried out during the 2019-2023 2024 Research Progress Report 17 cases, but only 1 (one) case can be escalated to stage investigation.

The investigation is a series of investigative activities through investigative actions in the form of efforts to prepare or provide all data and facts necessary for the prosecution stage (Geberth, 2020). In other words, the investigation is the preparation or basis for carrying out prosecution. Thus success in prosecution is largely determined by whether or not the investigation of a case is complete.

To optimize his duties as an investigator in criminal cases Corruption Crime, Fikri explained that the investigation activities carried out at the Palu District Prosecutor's Office is carried out by making efforts to Investigation efforts include:

a. Summoning/Calling

Summons made to witnesses and suspects aimed at ensuring legal certainty and for protect Human Rights (HAM). The calling is not. It can be done haphazardly, but it must be appropriate with the procedures stipulated in the statutory provisions applicable invitations, including provisions regarding no later than three days before the scheduled summons; the summons must be received by the person called.

b. Arrest and detention carried out by investigators constitute a temporary measure of restraint on the freedom or independence of the accused, basically protected by law because it is part of human rights. Therefore, every arrest and detention action by investigators must be carried out for inspection purposes. Investigations must also be based on laws by law and carried out with a written order. The purpose of the investigation in question here is to make it easier and faster to carry out investigations.

c. In essence, confiscation is an action investigator to take over control of something goods/objects, both movable and immovable, tangible or intangible, that has a direct or indirect relationship with the action criminal charges are alleged for evidentiary purposes.

The prosecutor's office is worried that meeting the set targets will "search" and maybe even "force" a case to become a Corruption Crime case. Besides that, if the target number of case handling has been achieved, It is also feared that the prosecutor's office will no longer be enthusiastic to handle other Corruption Crime cases. In an effort to recover state financial losses resulting from the act of Corruption Crimes, research prosecutors always provide instructions to investigators to do as much as possible to search for the suspect's assets foreclosure. However, due to the difficulty of the procedures that must be followed, the limited ability of investigators to track and find treasure in the suspect's wealth, then the suspect's assets/property will be confiscated. This is so rarely done that investigators only carry out confiscations focused on letters and related written documents with suspected Corruption Crimes (Zulyadi, 2020).

The essence of paying replacement money is that it is a debt that must be repaid by those

convicted of Corruption Crimes to the state (Uli, 2022). If the debt is not paid or repaid by the convict then it is the convict's debt at any time they can still be charged by the state as victims of a crime Corruption through civil lawsuits in court.

Factors Inhibiting Asset Confiscation of Corruption Convicts as an Effort State Financial Returns

The level of success in eradicating Corruption Crimes by the prosecutor's office, especially in efforts to recover state financial losses, is largely determined by factors that influence law enforcement, as stated by Soeijono Soekanto (Yanto et al., 2019). To carry out its role in enforcing corruption laws, especially in efforts to recover the country's financial losses, the prosecutor's office faces the following obstacles:

a) Legal factors (legislation)

The Corruption Law of 1999, in conjunction with Law Number 20 of 2001, does not regulate this specifically regarding the issue of recovering state financial losses (return of state assets) as a result of Corruption Crimes. According to the rules, efforts are only being made to recover the country's financial losses through the imposition of additional crimes in the form of confiscation and payment of compensation money to the convict (Trinchera, 2020).

As stated previously, the philosophy of corruption is that people who commit corruption have all their assets/property confiscated wealth, which not only comes from the proceeds of corruption but also includes other assets/wealth that are not the result of corruption. That matter was carried out to prevent the suspect's actions from diverting or hiding his possessions.

b) Law Enforcement Factors (Investigating Prosecutors) and Facilities Factors or facility

Low levels of confiscation of suspects' property/assets in investigations into corruption cases are carried out by investigating prosecutors as well. This is due to the mindset of the investigating prosecutors, which generally prioritize how to ensure that the investigation carried out is satisfactory elements of the Corruption Crime article that the suspect is accused of who can prove the suspect's guilt and the investigation file declared complete by the public prosecutor.

Besides that, knowing the whereabouts of the suspect's property/assets requires serious effort from investigators, including collaborating with various competent parties to reveal the origin or source assets owned by the suspect (Šrempa, 2021). To do this, of course. Of course, it takes a lot of time and money, while funds and The facilities available to investigate prosecutors are very limited, if not impossible, said to be very lacking (Heumann, 2020). Even though the investigating prosecutors knew and realized the importance of confiscating the property/assets of the suspect during the investigation as an initial effort to return state financial losses due to Corruption Crimes, this is not an easy case. Circumstances like those mentioned above create Investigating prosecutors who are not very motivated to trace and find the suspect's assets/property for confiscation preparation of payment of replacement money to recover losses in state finances.

From the research results it is known that the prosecutor's office cannot legally maximally carry out additional criminal decisions in the form of payment of money The compensation given to the convict is only a small amount it was the state money that was saved.

CONCLUSION

The current practice shows that the prosecutor's role in recovering state financial losses resulting from criminal acts of corruption is not yet optimal. This is due to technical, juridical, and other obstacles, such as difficulties in tracing and identifying the assets or properties of suspects, accused individuals, or convicts for confiscation as part of investigative actions or court decision implementation. Investigating and executing prosecutors often face uncertainties regarding which objects belonging to suspects, accused persons, or convicts can be fully confiscated, leading to inefficiencies and delays in the recovery process. To address these issues, it is essential to strengthen policies by establishing clear guidelines on asset tracing, verification, and confiscation, supported by comprehensive databases for financial transactions and property ownership.

Moreover, the law enforcement process, particularly in eradicating corruption, requires significant financial resources. Therefore, increasing the budget allocation for the prosecutor's office is crucial to enable its ideal role as investigator, public prosecutor, and executor in corruption cases. Alongside this, regular training programs should be implemented to enhance prosecutors' technical capabilities in asset recovery and strengthen inter-agency collaboration mechanisms, including partnerships with financial institutions and international bodies, to facilitate cross-border asset tracking. These measures will ensure more effective and efficient law enforcement efforts in combating corruption.

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