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Optimization of Asset Recovery In Corruption Criminal Acts Through The Reversal Approach of Burden of Proof and In Rem Asset Forfeiture In Indonesia

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Abstract: Asset recovery from corruption in Indonesia presents a significant challenge for the legal system. (Ariawan, IGK (2008). Stolen Asset Recovery Initiative: A Hope in Returning State Assets. Kertha Patrika Journal, 33(1). Corruption not only undermines national finances but also threatens social and economic stability. In this context, the implementation of the reversal of the burden of proof and in rem asset forfeiture models is crucial for optimizing asset recovery. The reversal of the burden of proof shifts the responsibility to the perpetrators to demonstrate that the assets they hold are not derived from criminal activities. Meanwhile, in rem asset forfeiture allows the state to seize assets suspected of being the result of a crime without having to wait for a final legal ruling against the perpetrator. This approach provides an opportunity for the state to recover lost assets, even if the perpetrator cannot be conventionally punished. Through normative legal research, it is essential to explore the application of these two approaches within the Indonesian legal system. By analyzing various mechanisms and case studies, ways to accelerate the recovery of state losses can be identified. The findings indicate that the integration of the reversal of the burden of proof and in rem asset forfeiture can serve as an effective solution. This approach not only enhances the legal capacity for asset seizure but also delivers the necessary deterrent effects to reduce corrupt practices. Therefore, implementing these two models is vital to strengthening anti-corruption efforts in Indonesia.

Keywords: Asset Recovery, Corruption Crimes, Reverse Burden of Proof, In Rem Asset Forfeiture, Legal System

INTRODUCTION

Corruption is a serious problem that has taken root in various aspects of people's and countries' lives, creating broad and detrimental impacts. Corruption not only threatens the stability and security of society, but also hinders sustainable development which should be the basis for people's welfare. In Indonesia, corrupt practices occur not only in executive institutions, but also involve individuals from legislative and judicial institutions. The impacts of corruption are very detrimental, eroding the foundations of democracy, and hindering the implementation of the principles of good governance.

In a micro perspective, corruption results in injustice in the public sector, where people often do not receive proper services. For example, corruption in the legislative election process can lead to unaccountable policies, while corruption in the courts eliminates legal certainty and justice for the people. In addition, corrupt practices also show a close relationship with abuse of power, especially in countries with low security stability and high educational disparities.

Corruption is not a problem that is only faced by Indonesia, but also other countries, both developing and developed, with various forms and models. Data from Transparency International shows that corruption is a serious transnational problem in ASEAN countries. There are only a few countries in the region, such as Singapore, Brunei Darussalam, and Malaysia, that have good scores in the Corruption Perception Index. Meanwhile, other countries are still struggling with high levels of corruption, which requires cooperation and commitment from all ASEAN countries to eradicate and prevent corrupt practices.

The importance of asset recovery from corruption is a major concern in efforts to eradicate corruption. Asset recovery not only serves as a legal step, but also as an important strategy to overcome state losses due to corrupt acts. Although Indonesia has ratified the United Nations Convention Against Corruption (UNCAC) and adopted various related regulations, challenges in asset recovery still exist, including the concealment of assets through money laundering. (Arifin, R. (2016). Analysis of International Law in the Division of Assets in the Southeast Asian Region based on the United Nations Convention Against Corruption (UNCAC) and ASEAN Mutual Legal Assistance Treaty (AMLAT).

In this context, the reversal of the burden of proof and in rem asset forfeiture approaches are particularly relevant. Reversal of the burden of proof shifts the responsibility to the perpetrator to prove the origin of the assets owned, while in rem asset forfeiture allows the state to seize assets suspected of being the proceeds of crime. By analyzing the effectiveness and constraints of these two approaches, this study aims to identify an optimal model for recovering assets resulting from corruption in Indonesia, thereby contributing to more effective and sustainable corruption eradication efforts.

METHOD

This study uses a normative legal method that focuses on legal analysis based on applicable laws and regulations and legal doctrines relevant to asset recovery in corruption crimes in Indonesia. The data used in this study are secondary data consisting of primary legal materials (laws and regulations such as Law No. 31 of 1999 and Law No. 20 of 2001), secondary legal materials (literature and scientific articles), and tertiary legal materials (legal encyclopedias). Data collection was carried out through literature studies, and data analysis techniques were carried out descriptively-qualitatively by describing and evaluating the application of the reversal of the burden of proof and in rem asset forfeiture in the recovery of state assets lost due to corruption crimes. This study aims to provide recommendations that can optimize the Indonesian legal system in handling corruption asset recovery more effectively.

RESULT AND DISCUSSION

Corruption is an extraordinary crime involving individuals with positions of power, as well as interested parties, who operate systematically and in a structured manner. This action is carried out through neat cooperation with the aim of hiding the crime, so that the perpetrators can obtain money, pleasure, goods, or something that is promised in an unlawful manner for their personal and family interests. The complex and organized nature of corruption requires extraordinary handling, because the perpetrators have connections, influence, and facilities that allow them to divert, disguise, or change the form of the proceeds of the crime. Therefore, extraordinary efforts are needed from law enforcement officers to reach these corrupt practices effectively.

In this context, asset recovery becomes very important as part of the law enforcement system designed for countries that are victims of corruption. According to Purwaning M. Yanuar, the asset recovery process involves legal steps to revoke, seize, and eliminate rights to assets obtained from corruption. These steps include tracking, freezing, confiscating, and handing over assets to the state, both domestically and abroad. Through asset recovery, the state can not only overcome losses due to corruption, but also prevent perpetrators from using these assets as a tool to commit other crimes. Furthermore, asset recovery has the potential to provide a deterrent effect on perpetrators and potential perpetrators of corruption, thus contributing to efforts to eradicate corruption as a whole.

The reversal of the burden of proof approach and in rem asset forfeiture are particularly relevant in the context of asset recovery from corruption. Reversal of the burden of proof shifts the onus to the perpetrator to prove that the assets they own were not obtained illegally. This is an important step in addressing the challenges of complex asset recovery. By utilizing in rem asset forfeiture, the state can seize assets suspected of being obtained from criminal acts without having to rely entirely on criminal proceedings that may be slow.

The moral basis for the return of assets from corruption as put forward by Michael Levi highlights several important reasons. First, the prophylactic reason serves to prevent the perpetrator from gaining control over illegally obtained assets, which can be used in other actions in the future. Second, the property reason emphasizes that the perpetrator should not have rights to these assets. Third, the priority reason shows that the state has priority in prosecuting illegally obtained assets, given the nature of the crime. Finally, the property reason emphasizes that the state has an interest as the owner of illegally obtained assets.

Thus, the importance of returning assets resulting from corruption lies not only in recovering state losses, but also in efforts to prevent future corrupt practices. A comprehensive and integrated approach, including the implementation of reversal of the burden of proof and in rem asset forfeiture, is needed to effectively eradicate corruption and ensure that justice can be upheld for the people who are harmed. Implementation of Reversal of the Burden of Proof

The Reversal Burden of Proof system is a mechanism adopted from the legal systems of Anglo-Saxon countries, such as England, Singapore, and Malaysia. In Indonesia, this concept is relevant in the context of corruption because of the difficulty in proving the perpetrator's actions. In conventional evidence, the prosecutor is required to prove the accusation, but this system reverses the burden, where the defendant is required to prove that the assets or wealth he owns do not come from corruption.

However, the implementation of this system in Indonesia, as regulated in Law Number 31 of 1999, is limited. This system only applies in cases of "gratification" and "bribery", where if a government employee accepts a gratification, then the acceptance is considered a criminal act of corruption until the defendant is able to prove otherwise. Thus, this system is designed to speed up the law enforcement process in cases related to accepting bribes.

Although the reverse burden of proof system provides a strong legal basis for law enforcement to accelerate the process of recovering assets from corruption crimes, this system

still requires limitations. Article 37 of Law Number 31 of 1999 emphasizes that the reverse burden of proof does not apply to all corruption crimes, but only to certain cases such as gratification. In addition, the public prosecutor still has an obligation to prove criminal charges outside the context of gratification.

However, this system faces challenges in its implementation, such as potential violations of Human Rights (HAM), especially the principle of presumption of innocence and non-self-incrimination. The use of this system is also limited by the principle of *lex temporis*, so it cannot be applied retroactively to avoid potential violations of the law and the principle of legality. Therefore, the application of reverse burden of proof must be carried out carefully so as not to violate the rights of the accused.

Although the reversal burden of proof system is effective in accelerating the eradication of corruption, its limited application and potential conflicts with human rights require the government and law enforcers to be more careful in using this mechanism.

The reversal of the burden of proof, as stipulated in Law No. 31 of 1999, is indeed recognized as one of the powerful tools in accelerating the process of asset recovery from corruption crimes. This mechanism requires defendants to prove that the assets they own are not related to corruption crimes, which can help law enforcement in handling corruption cases with high complexity, especially when the perpetrators use sophisticated methods to hide assets.

The Reversal of Burden of Proof System in the context of corruption is applied to the confiscation of the defendant's property. This means that the defendant who is charged with violating Article 2 to Article 16 of Law Number 31 of 1999 concerning the Eradication of Corruption, is required to prove that the property he obtained after the crime did not come from a crime. The Public Prosecutor will file a demand for confiscation of the defendant's property when reading the charges in the main case.

This system is often misunderstood by the public as a new potential for corruption among law enforcement officers. However, the reversal of the burden of proof system only applies in cases of "gratification" and not in all corruption crimes. As for the confiscation of property related to other crimes in Articles 2 to 16, it still uses the ordinary proof system, where the burden of proof lies with the Public Prosecutor.

When the defendant is found guilty of violating one of these articles and is subject to confiscation of property, then the defendant is obliged to prove that the property is not the result of a criminal act of corruption. It is important to note that this reverse burden of proof only applies in court, not during investigations or prosecutions, which are conducted behind closed doors to avoid corruption by law enforcement officers.

The presumption of innocence or the principle of presumption of innocence remains respected, as regulated in Article 66 of the Criminal Procedure Code, which gives the accused the right not to answer questions or "remain silent." This protection is also in accordance with the principles of human rights stated in the Universal Declaration of Human Rights 1948.

However, although the reversal burden of proof system has been implemented in Indonesia, its effectiveness in preventing corruption is still questionable. There is a proposal to implement a pure reversal burden of proof system to be more effective in ensnaring perpetrators of corruption. However, the implementation of this system will conflict with the basic principles of universal law such as the presumption of innocence and the right not to inform oneself (non-self-incrimination). In addition, the pure reverse burden of proof system also has the potential to open up opportunities for new corruption among law enforcement officers and cause significant political impacts, such as bureaucratic instability.

However, research shows that the implementation of this mechanism has not been running optimally. One of the main obstacles is the lack of in-depth understanding among law enforcement officers, from investigators to judges. The lack of uniformity in understanding on

how to implement the reversal of the burden of proof has resulted in inconsistent application of the law in the field. In addition, coordination between law enforcement agencies such as the police, prosecutors, and courts is still weak, which often causes the asset recovery process to be slow and ineffective.

To maximize this approach, it is necessary to increase the competency and capacity of law enforcement through comprehensive training and improvement of more coordinated procedures between institutions.

Role In Rem Asset Forfeiture

In rem asset forfeiture gives states the power to seize assets derived from criminal activity, without having to rely on the conviction of the perpetrator. This mechanism focuses on the origin of the assets involved in the crime, rather than the legal status of the perpetrator, which makes it particularly useful in cases where the perpetrator has fled, died, or cannot be brought to justice. It is also relevant in dealing with cross-border assets that are often hidden by perpetrators of corruption.

In rem asset forfeiture in the context of criminal asset recovery in Indonesia has significant relevance to the regulations currently being developed, including in the Draft Law (RUU) on Asset Confiscation. This concept emphasizes that assets suspected of originating from criminal acts can be confiscated by the state, regardless of whether the owner of the asset has been convicted or not. This provides flexibility for the state in recovering lost assets, especially in cases where the perpetrator cannot be prosecuted for reasons such as absconding, dying, or being unreachable by law.

In international practice, as stipulated in Article 54(1)(c) UNCAC, in rem asset forfeiture does not require a conviction of the perpetrator, making it easier for the state to seize assets resulting from crime. (Deddy Candra, & Arifin, R. (2018). *Obstacles to Returning Assets from Transnational Corruption Crimes*. Journal of the Financial Education and Training Agency of the Ministry of Finance of the Republic of Indonesia, 11(1), 30). The Asset Forfeiture Bill in Indonesia aims to adopt this principle, although its implementation is still hampered by the ambiguity of existing regulations and the lack of a strong legal umbrella to protect such forfeiture. Supreme Court Regulation (Perma) No. 1 of 2013, which regulates asset forfeiture in money laundering crimes, is one example of the limited application of in rem asset forfeiture, but the scope of this regulation only covers unclaimed bank accounts, so it is not yet able to accommodate other, more diverse types of assets.

Therefore, the Asset Confiscation Bill needs to develop more comprehensive and universal regulations, covering various types of assets related to criminal acts, and providing legal clarity to strengthen the in rem confiscation mechanism in Indonesia.

The application of in rem asset forfeiture in Indonesia is still limited and has not been fully implemented effectively. One of the main obstacles is the lack of regulatory clarity and the lack of a legal umbrella that supports the implementation of this mechanism. Although widely recognized in many developed countries, Indonesia does not yet have a strong legal framework to make this mechanism effective. This results in asset confiscation efforts often being less than optimal, especially in corruption cases involving hidden assets abroad. Clearer and more integrated regulatory reforms are needed so that the in rem asset forfeiture mechanism can function optimally in recovering assets from corruption crimes in Indonesia.

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Limitations on Asset Confiscation in the Draft Asset Confiscation Law

The Draft Law (RUU) of asset grabbing regulates the scheme and procedure for depriving assets in a brake, which includes the object of seizure as a criminal offense. In this bill, several types of assets can be the subject of grabbing, as explained in Article 3 paragraph (1), including:

1. Assets obtained directly or indirectly from criminal acts.
2. Assets that have been donated or converted into personal, other party, or corporate wealth, including capital, income, or economic benefits generated from those assets.
3. Assets used to commit a crime.
4. Assets of a convict that are not used as replacement money, but are directly related to the convict's criminal status.
5. Assets found and strongly suspected to originate from criminal acts.
6. Corporate assets obtained from or used to commit a crime.
7. Assets belonging to suspects or defendants who have died, fled, are permanently ill, or whose whereabouts are unknown during the investigation or trial process, as well as assets obtained from or used for criminal acts.
8. The defendant's assets were exempted from prosecution, but there is evidence that the assets were used for crime.
9. Assets related to criminal cases that cannot be prosecuted, but there is evidence that the assets were used for criminal acts.
10. Assets from criminal acts that have been found guilty by the court and have permanent legal force, but it is later discovered that there are still assets related to the criminal act that have not been confiscated.
11. Assets belonging to public officials that are not in balance with their income or source of wealth, and whose origin cannot be proven in a legitimate manner.

Limitation on Quantity of Assets that Can Be Confiscated. This bill also regulates minimum limits for the quantity of assets that can be confiscated, as regulated in the following paragraph, namely:

1. Assets worth at least IDR 100,000,000.00 (one hundred million rupiah).
2. Assets originating from criminal acts with a prison sentence of 4 (four) years or more.

Thus, this bill provides a clearer and more detailed legal basis for the confiscation of assets resulting from criminal acts, both through ordinary judicial channels and in cases where the perpetrator cannot be punished, ensuring that assets obtained illegally can be returned to the state.

Asset Confiscation Process In the Draft Asset Confiscation Law, there are several stages that must be followed to carry out asset confiscation legally and systematically. The following is the process that must be followed:

a) Search

The first stage is tracing, which consists of two main steps. First, the investigator or public prosecutor identifies any irregularities in the assets regulated in the Asset Confiscation Bill. After the irregularities are found, the application file is submitted to the Attorney General. After the Attorney General examines the file and accepts it, he will appoint the State Attorney to conduct an asset tracing together with the investigator or public prosecutor. In this process, documents and evidence related to the assets are collected to determine their origin.

b) Confiscation and/or Blocking

After data and evidence have been collected and strengthen the suspicion that the assets are related to a crime, the authorized agency will block the assets. This blocking can be followed by confiscation. Parties who object to the confiscation or blocking can file an objection to the court. If the objection is accepted, the action will be revoked. However, if the court rejects the objection, the party can still file a civil lawsuit regarding the assets.

c) Application for Asset Confiscation

Once the files are complete with supporting evidence, the State Attorney will submit an application for asset seizure to the Head of the District Court for examination. The court will examine their competence to handle the application. If declared competent, the application is accepted and will be continued for further examination. After the application is received by the Head of the District Court, an announcement regarding the application will be displayed on the court's notice board and delivered to the parties related to the assets.

d) Examination Event

Once the application file is received, the court will set a trial date and appoint a judge to preside over the case. During the trial, the State Attorney will present evidence to support the asset seizure application. The objecting party also has the opportunity to present evidence to support the claim that the assets are not derived from a criminal act.

e) Evidence and Decision

The evidentiary process in this trial uses the principle of reverse proof, where the party filing the objection must prove that the seized assets do not originate from a criminal act. If the objecting party cannot prove this, the assets will be confiscated for the state. Conversely, if the objecting party succeeds in proving that the assets are not related to a criminal act, the assets will be returned to the entitled party.

This asset confiscation procedure is designed to ensure that assets derived from criminal acts of corruption can be seized and returned to the state through a structured and fair legal mechanism.

In Rem Asset Forfeiture in the Pendulum of Property Rights and Asset Recovery In Rem Asset Forfeiture plays an important role in relation to property rights and asset recovery, especially when the government seeks to seize assets resulting from criminal acts without requiring criminal penalties against the asset owner. Property rights provide individuals with ownership rights over their assets, which are legally protected based on the principle that property rights should not be taken arbitrarily. On the other hand, asset recovery aims to return illegally obtained assets to the state through legitimate mechanisms, such as the seizure of

assets resulting from criminal acts.(Transparency International. (2021). Corruption Perceptions Index. Retrieved from <https://www.transparency.org/en/cpi/2021/index/cod>).

1. Property Rights

According to Harold Demsetz, property rights give individuals control over the use and transfer of their resources. The government and the courts play a role in ensuring legal certainty regarding asset ownership, while protecting those rights through state power. In the context of in rem asset seizure, property rights are still recognized, but there are limitations that allow the government to seize assets obtained illegally. Article 28H paragraph (4) of the 1945 Constitution of the Republic of Indonesia emphasizes that private property rights may not be taken arbitrarily, but Article 28J paragraph (1) provides room for restrictions on human rights through laws to guarantee the common interest.

2. In Rem Asset Forfeiture and Property Rights

In rem asset forfeiture allows for the seizure of assets regardless of the criminal status of the asset owner, focusing on the origin of assets suspected of being obtained through criminal acts. Although property rights are recognized as basic rights, the state has the authority to take action against assets obtained illegally. Article 36 of TAP MPR XVII/MPR/1998 on Human Rights states that property rights must be obtained legally and the state is responsible for protecting these rights, but property rights also have a social function. In the case of illegally obtained assets, law enforcement is needed to maintain a balance between individual rights and social interests.

3. Asset Recovery and Balance of Rights

Asset recovery through in rem asset forfeiture reflects the principle of derogable rights, where an individual's property rights can be limited if the asset is related to a crime. This balance is important to ensure that asset recovery is carried out while respecting the legitimate rights of individuals, but also meeting the just social demands of returning assets that have harmed society.

Thus, in rem asset forfeiture sits between private property rights and the need to recover assets resulting from criminal activity. While property rights are protected, this mechanism provides the government with a tool to recover unlawful assets without violating legitimate rights.

Balances Property Rights and Asset Recovery in In Rem Asset Forfeiture In Asset Forfeiture is an important instrument in balancing the property rights (property rights) and asset recovery in criminal cases.

a) Asset Confiscation and Double Jeopardy

One of the concerns in the implementation of in rem asset forfeiture is the potential for double jeopardy, where assets can be seized twice, either in rem or through criminal channels. However, the Asset Forfeiture Bill has addressed this concern by regulating that if an asset has been seized in rem, it can no longer be seized through criminal proceedings. In addition, if there is a similarity in the object in the criminal case and the forfeiture application, the forfeiture examination will be postponed until there is a final decision in the criminal case.(Pohan, S. (2020). Normative Review of Money Laundering Crimes Originating from Corruption. *Justitia: Journal of Law and Humanities*, 7(2), 275-289). Thus, this bill provides protection so that there is no double forfeiture of the same asset.

b) "Allegedly" Clause and Legal Uncertainty

Another concern is related to the legal uncertainty of the "alleged" clause in the bill, where assets can be seized based on strong suspicions that they originate from criminal

acts.(Prasetyo, H. (2021). Legal Reform in Eradicating Corruption. Journal of Law and Society).

However, existing legal procedures require tracing, blocking, and confiscation only if there is strong suspicion supported by evidence. The court will then verify through an open hearing, ensuring that each claim is based on sufficient evidence, thereby reducing legal uncertainty in the application of this clause.

c) Private Property Rights vs. Return of State Assets

There is a view that in rem asset confiscation is contrary to the presumption of innocence and the property rights of the suspect, especially if the perpetrator is not punished but the assets are still confiscated. However, the Asset Confiscation Bill provides a transparent and open mechanism, whereby aggrieved parties can submit objections, additional evidence, or reject the confiscation through legitimate legal channels. In this case, property rights are still respected, but in the context where the assets originate from criminal acts, these rights can be limited for the sake of social interests and the return of state assets.(Lestari, R. (2022). Comparative Legal Analysis of Corruption. Journal of Law and Society).

d) Losses from Wrongful Expropriation

If an error occurs in the seizure of assets, the Asset Confiscation Bill also gives the asset owner the right to file for damages or compensation. This is a form of state responsibility in ensuring that the asset seizure process is carried out fairly and transparently. With this compensation mechanism, the balance between the recovery of state assets and the protection of individual property rights can be better maintained.(Kusnadi, K. (2020). Policy Formulation of Provisions for Returning Assets from Corruption Crimes. *Corruptio*, 1(2), 105-116).

Overall, in rem asset forfeiture plays an important role in balancing private property rights and state asset recovery, especially in the context of criminal acts. While private property rights are recognized, there are limitations that can be imposed to ensure that assets resulting from crime can be returned to the state, as long as the legal process is conducted fairly and transparently.

3. Optimization of Both Approaches

Optimizing the reversal of the burden of proof and in rem asset forfeiture has been proven to accelerate the recovery of assets from corruption crimes and provide a stronger deterrent effect for the perpetrators.(Fauzi, M. (2022). The Need for Community Involvement in Eradicating Corruption. Journal of Economic Law). Reversal of the burden of proof requires the accused to prove that the assets they own do not originate from a crime, thus accelerating the legal process in asset recovery. This approach makes it easier for law enforcement to handle complex cases, where perpetrators often hide or obscure the source of assets obtained through crime.

On the other hand, in rem asset forfeiture allows for the seizure of assets related to a crime, even if the perpetrator has not been convicted in a conventional manner. This is especially important in cases where the perpetrator has fled, died, or the assets are located abroad. This approach focuses on the assets themselves, so the state can still seize illegally obtained assets without requiring the perpetrator to be convicted.

Optimizing these two approaches requires clear and targeted legal reform. It is necessary to increase the capacity of law enforcement officers to better understand and be effective in implementing both approaches. In addition, stronger international collaboration is also needed. (Gita, R. (2023). International Cooperation Model in Eradicating Corruption. Journal of Environmental Law).specially in handling cross-border cases, where assets are often hidden in

other jurisdictions. (With synergy between national law and international cooperation, the recovery of state assets lost due to corruption can be more effective and efficient.

4. Obstacles and Challenges in the Implementation of In Rem Asset Forfeiture in Indonesia

The implementation of in rem asset forfeiture is an important step in the effort to recover state assets obtained through criminal acts, especially corruption. However, in Indonesia, the implementation of this mechanism still faces a number of obstacles and challenges that need to be overcome so that its effectiveness can be realized. In this essay, we will discuss four main obstacles in the implementation of in rem asset forfeiture and possible solutions to overcome them.

First Obstacle: Lack of Specific Regulations

One of the main obstacles in implementing in rem asset forfeiture in Indonesia is the lack of regulations that explicitly regulate this mechanism. Although Indonesia has adopted various international legal bases, such as the United Nations Convention Against Corruption (UNCAC), domestic regulations that support the implementation of in rem asset forfeiture are still not fully in place. As a result, law enforcement officers often experience confusion in implementing this concept effectively. Without clear regulations, it is difficult for law enforcers to carry out their duties consistently and efficiently.

Second Obstacle: Understanding the Reversal of the Burden of Proof

In addition, legal officials' understanding of the mechanism for reversing the burden of proof is also still limited. Reversing the burden of proof is a legal principle in which the accused party must prove that the assets they own were not obtained from illegal activities. However, many law enforcement officials do not have sufficient capacity to apply this mechanism consistently at various levels. This lack of uniformity in the application of the law causes the asset recovery process to be slower and ineffective, which ultimately harms the state.

The Third Obstacle: Complicated Bureaucracy

The complicated bureaucratic problem is also a significant challenge in recovering assets from corruption crimes. The lack of synergy between law enforcement agencies, such as the police, prosecutors, and courts, often results in overlapping responsibilities that create confusion and delays in the legal process. The long and complicated judicial process hampers the effectiveness of state asset recovery, making the recovery time very long. This not only disrupts the speed of law enforcement, but also reduces public trust in legal institutions.

Solution: Regulatory Reform and Capacity Building

To overcome these obstacles, clear and comprehensive regulatory reform is needed. Better regulation will provide clear guidance for law enforcement officers in implementing in rem asset forfeiture. In addition, increasing human resource capacity is essential to ensure that law enforcement officers have a deep understanding of this mechanism. Systematic and ongoing training can improve their ability to apply the law consistently.

In addition, improving coordination between legal institutions is a crucial step to accelerate the asset recovery process and reduce bureaucratic obstacles. Good synergy between institutions can accelerate the legal process and reduce overlapping responsibilities, thereby accelerating the recovery of assets obtained from criminal acts.

In the recovery of assets in the context of corruption in Indonesia revealed several significant gaps and challenges, especially in the application of legal mechanisms such as in the forfeiture asset brakes and the reversal of the burden of proof.

In this issue the author has a view with *Theoria Iustitiae* culturalist (theory of cultural justice).

The Cultural Justice Theory proposes that to effectively combat corruption and recover lost assets, legal approaches must reflect the social and cultural realities of society. This means that law enforcement officers need to understand and respect the cultural context in carrying

out their duties, especially in applying mechanisms such as reversal of the burden of proof and in rem asset forfeiture.

CONCLUSION

The findings of this study raise awareness of the need for a more comprehensive approach to addressing corruption in Indonesia. By integrating cultural justice theory into legal practice, it is hoped that a legal system that is more responsive to social and cultural needs can be created, so that asset recovery from corruption can be carried out more effectively and efficiently.

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