International Journal of Social Science Research and Review

http://ijssrr.com
editor@ijssrr.com
Volume 7, Issue 5
May, 2024
Pages: 203-213

Policy on Criminal Law Criminal Execution: The Executing Attorney's Additional Replacement Money for Convicted in Corruption Crime Cases

Galang Sisdya Ramadhan; Eko Soponyono

Master of Law Program, Faculty of Law, Diponegoro University, Indonesia

E-mail: galangsisdyaramadhan@gmail.com

http://dx.doi.org/10.47814/ijssrr.v7i5.2106

Abstract

Corruption crimes often occur in an organized manner in Indonesia. Implementing the eradication of criminal acts of corruption in Indonesia must include two main foundations, namely, creating a spirit of governance that is free of corruption and efforts to return state assets and finances. In the implementation of a criminal act of corruption that has been decided by a judge, there are usually conditions, namely additional punishment in the form of recovery money. Executing Attorney at the Corruption Eradication Commission (KPK). This journal uses normative juridical methods and additional interviews with related parties for clarification. In the writing specifications for this journal, analytical descriptive is used. The discussion in this journal concerns criminal law policies in the implementation of additional criminal executions for compensation (recovery) for convicts by the executing prosecutor in cases of criminal acts of corruption.

Keywords: *Criminal Law Policy, Execution Restitution Money, Executing Attorney, Corruption*

Introduction

Criminal corruption has been widely called the abuse of power for personal gain is essentially a social problem.[1] Corruption can be defined asa crime in the abuse of power in order to benefit personal interests. It is as if Lord acton's view that, corruption here has the power to do away with absolute power will lead to absolute crime.[2] Based on this basis, corrupt conduct conducted by rulers is never independent of the influence of power elite to commit criminal corruption.

[1] Rudy Hendra Pakpahan, *Pembaharuan Kebijakan Hukum Aset Recovery*: Antara *Ius Constitutum dan Ius Constituendum*, Jurnal Legislasi Indonesia, Fakultas Hukum Universitas Quality Sumatra Utara, Vol.16 No.3, 2019, hlm 370.

[2] Patardo Yosua Andreas Naibaho, Purwoto, Pujiyono*, "Kebijakan Hukum Pidana Dalam Upaya Meningkatkan Peran Serta Masyarakat Dalam Pencegahan Dan Pemberantasan Tindak Pidana Korupsi* "Diponegoro Law Journal, Vol.5, No.4,2016,hlm.3.

A crime of corruption is an extra ordinary crime because a crime of corruption is committed by an organized and systematic ruler to that crime. The crime of corruption is organized into what has been planned in detail and detail on the corruption of the object, starting with those involved whose sole roles are controlled by the intellectual brain of the perpetrator, helping to act on corruption and the amount of money, and the corrupt assets and to play the justice system so that the perpetrator can be caught at the lowest possible punishment. The corrupt crime was systemically based on the design of the criminals. So the pattern has been detailed on what the perpetrators will do and thus become a complete unit of corruption.

The problem of corruption crimes which have been deferred by judges usually contains additional criminal deductions in the form of surrogate money, where surrogate money is a mandatory obligation made by convicts in order to recover the state's losses from criminal corruption and from the verdict must be quickly attempted execution. The problem of corruption which has been deferred by judges usually contains additional criminal deductions in the form of surrogate money in which surrogate money is an obligation paid by the suspect in order to recover the state's losses due to criminal corruption.

The fight against corruption in Indonesia should basically include two main fundamentals, creating a corruption free government administration and the return of government's assets and finances. Therefore, the goal of the elimination of corruption would require legal reforms to address systematic and comprehensive criminal corruption. The fight to tackle corruption crimes in Indonesia today is based on the provision of the law number 31 in 1999 as it has been changed By the law number 20 in 2001 about The eradication of criminal corruption. In the law on the elimination of criminal corruption it can be known if one of the purposes for the elimination of corruption crimes in Indonesia is to maximize the financial losses made by the corrupt perpetrators using the principle of judicial justice. That is, a construct of norms built to address corruption legitimizes idling asa means of reprisal.

One of the efforts we can make in tackling criminal corruption is by using criminal law. Criminal law provides a system that regulates criminal offenses and criminal penalties that can be applied to perpetrators. In effective and efficient criminal law enforcement in the prosecutor's office it should be a deterrent to future criminals of corruption. Criminal corruption is a crime that harms the state and society. The role of the executor here who handles criminal corruption additional criminal pails requires a compatible legal regulation effort to address the region's criminal corruption in the event of this crime. It is set to reflect the role and function of the prosecutor as a pillar of law enforcement in Indonesia.

With the above problem in mind, the prosecutor should have a clear formulation policy, particularly in terms of formulating a criminal law policy on fundable execution of a surrogate money return, to optimize the role of the executor prosecutor to be more effective and efficient in prosecuting criminals in corruption crimes. An ecasector can impose a maximum penalty on a convicted felon on corruption crimes.

Based on the background of the above problem, the writer was interested in compiling the writing of the law by title Policy on Criminal Law Criminal Execution: The Executing Attorney's Additional Replacement Money for Convicted in Corruption Crime Cases.

Problem Formulation

Based on the background of the problem that has been described in the section above, there is a problem formulation that will be discussed in this writing, namely:

1) How Policy on Criminal Law Criminal Execution: The Executing Attorney's Additional Replacement Money for Convicted in Corruption Crime Cases in the prosecutor's?

2) How do formulations policies on asset recovery: recovery of additional criminal executioners of alleged criminal money in future corruption crimes?

Research Methods

In writing this law, the author USES a normatized juridical approach, in which it places the law asa building of a system of norms, that is, of the principles, of legislation, of judicial decisions, of covenants and doctrine (doctrine). Writing this law in solving a problem using secondary data, which this secondary data can go through literature studies like; Laws, books, papers, science or dictionaries. Writing specifications using analtic deformity. Analytical deformity is a type of study that is meant to describe, excrete, and report an object state of the study.[3] An object or problem taken is a criminal law formulation policy on asset recovery resulting from corruption crimes in Indonesia.

Next, in obtaining data collected from the literature study and then being refined and analyzed by qualitative methods of analysis, it was possible to draw conclusions that were ultimately prepared and presented in writing the law.

Discussion

1. Policy on Criminal Law Criminal Execution: The Executing Attorney's Additional Replacement Money for Convicted in Corruption Crime Cases In the Prosecutor's

In criminal cases, all forms of the judge's ruling are final and binding when made through (inkracht van gewijsde). The inclusion of execution in the ruling is required to ensure the certainty of the law and provide a basis for its jurisdiction. In order for the public prosecutor to conduct the final execution of the verdict ina criminal case and the clerk must give a copy of the verdict to the prosecutor.[4]

In the implementation of materiel's criminal law enforcement is the degree to which a ruling which has the power of law can be carried out quickly and precisely, it is essential given that a ruling as the end of the criminal law enforcement process at the disproportionate of the content of the judge's ruling and executed by the prosecutor as the executioner.

The judge's ruling basically included some aspects of juridical or formative jurisdiction. The judge's material ruling in the sense that everything done by the accused has been proved so that the person can be held accountable for his law. Whereas the judge who was formly in the sense of a duty to the district attorney, the executioner, was able to carry out the verdict that had been set forth by the judge (the court).

[3] Bambang Waluyo, *Penelitian Hukum dan Praktek* (Jakarta: Sinar Grafika, 1991),hlm 16.

[4] Lia Hartika, *"Urgensi Pelaksanaan Eksekusi Pidana Tambahan Uang Pengganti Oleh Jaksa Eksekutor Dalam Perkara Tindak Pidana Korupsi",* e-journal.hukumunkris: Binamulia Hukum Volume 11, No.2 (2022). hlm 129.

This will be clearly seen in the judge's ruling[5].In judicial decisions (judges) only contain or contain abstract things (in abstracto) though the verdict may contain idleness, but the judge's ruling process is bound to an ordinance governed by legislation.[6] Then, in the process of executing the verdict by the prosecutor [7] As executioner It basically does not matter what it was destined for in the questioning process. The charge was based on an instrument of evidence and legal facts revealed in the trial, but it was not uncommon for what the prosecutor had defaced[8]Execution was difficult, whether it involved execution of a criminal, execution of a goods item, and additional criminal execution of payment of a surrogate money in the case of a corruption crime.

From a few things that involve criminal executions, which can create a lot of problems is the execution of a paid-off which is a livable liability in the face of a corruption crime.

The paying of surrogate money in the case of criminal corruption is a further crime than the crimes themselves and criminal penalties. Additional criminal corruption can be a felony:[9]

a. Property grabbing of tangible or intrest or inanimate goods used for or obtained from criminal corruption, including the criminal property where criminal corruption was committed, as did the goods that replaced the goods;
b. Double payments of money derived from the wealth obtained from criminal corruption;
c. Closing the whole or part of the company for a maximum of 1 (one) years;
d. The elimination of all or some of certain rights or the removal of the whole or some of the certain benefits, which have been or can be provided by the convict government;
e. If a convict fails to pay the longest replacement money in 1 (one) months after a court ruling that has gained a steady power of law, his property can be confiscated by the prosecutor and auctioned off to cover the replacement;

The problem of convicts who do not have sufficient means to pay replacement money, are sentenced to prison sentences that are no longer beyond the maximum threat of any real criminal by law The law of number 31 in 1999 Jo the law number 20 in 2001 and the length of the criminal has been determined in court.

Criminal enforcement of surrogate payment money under the law Number 31 in 1999 on the elimination of criminal corruption was charged with a maximum amount of property obtained from the

[5] Gatot Supramono,1991 mengemukakan bahwa "Putusan Hakim (Pengadilan) adalah pernyataan hakim yang diucapkan dalam sidang pengadilan terbuka, yang dapat berupa pemidanaan, atau bebas atau lepas dari segala tuntutan tuntutan hukum dalam hal serta menurut cara yang diatur undang-undang. *Surat Dakwaan dan Putusan Hakim*, Jakarta : Djambatan, hlm 52
[6] Pasal 1 angka 11 KUHAP dinyatakan bahwa : Putusan Pengadilan adalah pernyataan hakim yang diucapkan dalam siding pengadilan terbuka, yang dapat berupa pemidanaan atau bebas atau lepas dari segala tuntutan hukum dalam hal serta menurut cara yang diatur dalam undang-undang ini.
[7] Pasal 1 angka 6 huruf a Kitab Undang-Undang Hukum Acara Pidana (KUHAP) dinyatakan bahwa: *"Jaksa adalah pejabat yang diberi wewenang oleh undang-undang ini untuk bertindak sebagai penuntut umum serta melaksanaan putusan pengadilan yang telah memperoleh kekuatan hukum tetap"*, sedangkan menurut pasal 1 angka 1 Undang-Undang Nomor 16 Tahun 2004 tentang Kejaksaan, Jaksa adalah pejabat fungsional yang diberi wewenang oleh undang-undang untuk bertindak sebagai penuntut umum dan pelaksana putusan pengadilan yang telah memperoleh kekuatan hukum tetap serta wewenang lain berdasarkan undang-undang. Sedangkan M. Yahya Harahap, SH, 2000 mengemukakan bahwa pengertian Jaksa dalam KUHAP apabila digabungkan rumusan-rumusan tadi maka berbunyi : Jaksa adalah pejabat yang diberi wewenang oleh undangundang sebagai penuntut umum serta melaksanakan penetapan dan putusan hakim yang telah memperoleh kekuatan hukum tetap.
[8] Pasal 1 angka 6 huruf b jo Pasal 13 KUHAP dinyatakan bahwa : *"Penuntut Umum adalah jaksa yang diberi wewenang oleh undang-undang ini untuk melakukan penuntutan dan melaksanakan penetapan hakim".*
[9] Liliik Mulyadi, *Tindak Pidana Korupsi di Indonesia, Normatif, Teoritis, Praktek dan Masalahnya*, PT. Alumni, Bandung:2011, hlm 314-315

corruption crime and the longest payment time of 1 (one) months after a ruling by the court was granted fixed power.[10]

According to the foregoing, it would be consistent with the paying of money against the perpetrators of the corruption crime, which in the case of efforts to recover the crime. But in the case of 1999 1999 statute Jo act no. 20 years 2001 still has many drawbacks when it makes up for a dishonest, dishonest, alternative payment to be imposed by the judge on the verdict. According to adami chazwi, an additional criminal is not a necessity to shake hands. P.A.F. laminstates that recognizing the decision as to whether or not to be handed down any additional criminal, aside from handing a principal criminal to a defendant, it is entirely up to the discretion of the judge.

So in practice a judge can deliver a base criminal without dropping an additional criminal of payment of money on a convicted surrogate. If this is the case, the goal of the fight against corruption is to return the assets of the state stolen by the perpetrators of corruption by no doubt. Countries continue to suffer losses and corrupt people can still enjoy the results of corruption.

Based on the foregoing information, harmony must be involved The law of number 30 in 1999, Jo of law number 20 in 2001, which helped to recognise cases of criminal corruption perpetrated by irresponsible or unaccountable people with penal or penal policies known as "penal policy" for its purposes the corrupt have also felt his rights asan Indonesian citizen and the state's assets have been stolen by corrupt criminals.

Marc ancel says, that the penal policy of "penal policy" is a science and art that ultimately has a practical purpose in allowing positive legal regulations to be better defined and to give guidelines not only to the legislatgiver.[11]

Prof. Sudarto went on to say, that to implement "criminal law politics" means holding elections to achieve the best criminal legislation in the sense of qualifying utility justice.[12] On another occasion he stated that implementing "criminal law politics" efforts to implement criminal legislation that conforms to justice and situations ata time and time to come.

Hence the role of criminal law policies became the compliance of specific legislation regulations the law Number 31 in 1999 Jo the law of 20 in 2001 arranged to recognize corruption crimes of payoffs of surrogate money to be more effective and efficient in prosecuting prosecutors with additional criminal payments of fee of convicted and/or government and the council of public representatives that have a reorientation and reformulation in existing constitutional regulations. Whether it's a book of old criminal law and a new penal code that doesn't apply today as a general guide, as well as laws outside the book of criminal law that deal with the completion of crimes on the convict's head so that the executioner can exercise his authority to prosecute the convict on account of non-subjective considerations and should also be based on positive legal requirements to make a more effective and efficient process.

[10] Pasal 18 ayat (1) huruf b Undang-undang Nomor 31 Tahun 1999 tentang Pemberantasan TIndak Pidana Korupsi menyebutkan : *Pembayaran uang pengganti yang jumlahnya sebanyak-banyaknya sama dengan harta benda yang diperoleh dari tindak pidana korupsi.Sedangkan dalam* Pasal 18 ayat (2*) menyebutkan: Jika terpidana tidak membayar uang pengganti sebagaimana dimaksud dalam ayat (1) huruf b paling lama dalam waktu 1 (satu) bulan setelah putusan pengadilan memperoleh kekuatan hukum tetap, maka harta bendanya dapat disita oleh jaksa dan dapat dilelang untuk menutupi uang pengganti tersebut.*

[11] Marc Ancel, *Social Defence*, A Modern Approach to Criminal Problems,(London, Routledge & Kegan Paul, 1965), hlm 4-5.

[12] Sudarto, *Hukum dan Hukum Pidana*. (Bandung, Alumni, 1981), hlm.159.

2. Formulation Policy the Asset Recovery Legal Effort of Additional Criminal Executions of Fraudulent Money Results from Criminal Corruption by Future District Attorney

The many cases that have occurred in society have recognized criminal corruption, these crimes of corruption are committed not just a few people but public officials can be corrupted by one factor or another. As is explained by the regulations under the law number 31 in 1999 of Jo law number 20 in 2001, when a person who commits to corruption can be punished according to the established regulations of the law. However, not only do legislation here still exist as a weakness to recognize the default policy for the financial assets of the hasi state, where corruption has not yet been executed as a crime, while the defendant is committing a corruption crime in a substantial way and can seriously harm many state finances.

Indonesia's commitment to the implementation of rules of law relating to the prevention, eradication, and recovery of assets from criminal corruption has been implemented on April 18, 2006 by ratifying UNCAC 2003 with the provision of the United Nations convention againts incentives, the 2003 ratification of the ratification of the United Nations convention againts incentives, the elimination and return of assets from criminal corruption. One of the key provisions related to the convention is the recovery of such assets listed in section 54 of verse (1) letter c, which provides an mandate that participating countries consider taking measures deemed necessary to allow deductions to be made of corruption without a criminal punishment or NCB asset detainiture. Indonesia has attempted to carry out the 2003 article 54 clause (1) letter c UNCAC, by creating an academic draft law (bill) since 2012, thereby issuing a bill for the seizure of criminal assets that has so far not been approved by the house of legislature.[13]

The above law enforcement is categorized asa social policy embodied in cultural institutions, legal institutions, political institutions, decentralized asset returns from corruption in a society that aims to promote public welfare by optimizing the use of state rights in pursuing and regaining assets based on principles of solidarity and mutual support.[14] The process of asset recovery based on a criminal law approach is one of those that are idling, especially in crimes relating to state finances or the aim of material gain. According to chapter 18 (2) the gaming act of corruption deprivation of assets based on the defendant's guilt (infebased assets for assets) is dependent largely on the success of inspection and prosecution of the criminal case.[15]

The asset recovery policy formulates a new criminal execution of payout money in a later period Mr. Aan as attorney general of the republic of Indonesia, this order could be made possible by the draft act for asset seizure without idling. Whereas according to Sir Argandy [16] Could be developed based on the Dutch concept although the mechanism is slightly different from the country of Indonesia, the Dutch concept is commonly called criminal investigative investigation (CEI)/ recovery of assets after a court ruling or a sustained post - law asset recovery, which applies after an indecision of advanced investigative processes involving asset tracking, confiscation and seizure possible, CEI proved to be actively improving the performance of openbaar ministerie (Dutch prosecutor) in making the return of assets from criminal

[13] Kusnadi, "Kebijakan Formulasi Ketentuan Pengembalian Aset Hasil Tindak Pidana Korupsi, " Jurnal Ilmu Hukum Universitas Negeri Lampung, Vol. 01 Issue 2. (2020).

[14] Ayu Puspita Sari Situmeang, Dewa Gede Sudika Mangku & Ni Putu Rai Yuliartini. "Pengembalian Aset Negara Yang Dicuri Sebagai Hasil Tindak Pidana Indonesia Ditinjau Dari Hukum Pidana Indonesia." *e- Journal Komunitas Yustitia Universitas Pendidikan Ganesha Program Studi Ilmu Hukum*. Vol. 3 No 1. (2020).

[15] Teuku Herizal, Dahlan Ali & Mujibussalim, "Analisis Yuridis Pengembalian Aset Hasil Korupsi Melalui Gugatan Perdata Terhadap Ahli Waris." Jurnal Ilmu Hukum Pascasarjana Universitas Syiah Kuala. Vol. 2 No. 3. (2014).

[16] Wawancara dengan Bapak Argandy W.,S.H.,M.H. Selaku Anggota Satuan Tugas Khusus Penanganan dan Penyelesaian Perkara Tindak Pidana Korupsi Pada Tanggal 15 Maret 2024 di Kejaksaan Agung Republik Indonesia.

ACTS in the international community. Another concept for future formulations is the appropriation of assets to the profits derived from the vices/profits of the composite/wints van het positive eve asa model to spend his corruption money to plant stocks in the convenience mart franchise's minimalist network and alfamart's profits can be undermined.

According to Mr. Aan as the district attorney for the attorney general of the republic of Indonesia [17], The formulation for an asset recovery policy resulting from future corruption crimes Not in spite of the recovery of the country's financial losses It can be embodied in: demolish The financial loss factor is there In the 2003 UNCAC, the 2003 UNCAC will not be a single state loss, the future formulations are developed to the economic losses of all people; As well as efforts to maximize repayment on the state's financial losses must not be taken into account at the time of completion, it should take into account all losses to the state's corruption by the perpetrators.

As a result of the 2003 UNCAC convention in section 51 of section v, the provision of public policy recovery of corruption assets has been explained, there should be wide cooperation and assistance to each other. The 2010 law on the prevention and elimination of criminal money laundering has been in harmony with the 2003 UNCAC decision in determining an asset return or an asset recovery must require a firm firm basis in order to ensure legal certainty, the effectiveness of law enforcement, and the restoration of criminal wealth.

The seizure of assets resulting from criminal corruption depends largely on the ability of the prosecution to prove the defendant's guilt in front of the trial and to prove that the crime resulted from the criminal prosecution. Such a concept is called the seizure of assets based on the guilt of the accused (inequality), contained in chapters 39 and chapter 46 verses (2) the legal statute of criminal events that has imposed restrictions on any assets that can be confiscated. The recovery of assets from the criminal prosecution path is carried out through a process of trial in which judges in addition to bringing down felons can also lead to further crimes, could be: assessments of tangible or immaterial moving objects or of nonmoving objects used for or obtained from corruption crimes, including the criminal enterprise where criminal crimes are committed, as well as property and property replaces the goods. The terms are set in chapter 18 of the verse (1) a letter of the renewal of corruption crimes.[18]

According to Mr. Aandnd as the district attorney for the attorney general of the republic of Indonesia. Future asset return formulations. Governments and people's representatives can authorize the draft of the asset seizure act, where the bill will fill a legal void on the corruption crimes of recovery assets that cannot be tried for false causes including the false death, flight, permanent illness or lack of evidence items that cannot be prosecuted. Whereas the formulation of the forthcoming asset return policy By Mr Argandy it is embodied By reviving the laws against criminal corruption and adding relevant nomenklatur With asset returns For example, people must be quick to read: "people must be quick to read.[19]

On the issue, enforcement of the legislation has been shown to have been implementing penal policies through (criminal law) when no effort has been made to use penal policies has had to have the support of non-penal policy (non-penal), according to the law's been devised and consistent with legal norms. It affects a system of laws that have both the efficiency and efficacy of time and success.

[17] *Ibid*
[18] Kusnadi, "Kebijakan Formulasi Ketentuan Pengembalian Asset Hasil Tindak Pidana Korupsi " *Jurnal FH Unila* Vol. 1 Issue 2 (2020), hlm 91.
[19] Bapak Argandy W.,S.H.,M.H. Selaku Anggota Satuan Tugas Khusus Penanganan dan Penyelesaian Perkara Tindak Pidana Korupsi Biasa Kejaksaan Agung Republik Indonesia, Wawancara, Pada Tanggal 15 Maret 2024 Pukul 14.00.

Civil forfeiture becomes an excellent alternative if the criminal passage fails, even in practice, it is found that the civil reform procedure is judged more effectively in taking back stolen assets, though this procedure does not escape such weaknesses as slow and high costs.[20]

According to Anthony kennedey, expectation Civil forfeiture Different parts of the country. Civil forfeiture Initially applied on a domestic scale, which was to file a civil suit for confiscating or seizing or taking assets of domestic crime. When crime generated assets are overseas, some countries that use civil unrest domestically by adding extra territory.[21]

The *civil forfeiture* model is a model that USES proof load reversal. This model is one that focuses the suit on the asset, not the target. Seizure using models *civil forfeiture* It is faster after alleged asset connections with criminal actions so that national assets can be rescued even if the suspect has fled or died. In principle *civil forfeiture*. Is "the right of the state to return to the country for the welfare of the people.

Such attempts at legal effort need to be made today by law enforcement. Surely it would do so on more rational terms and conditions as to what the action would do. Alternative legal efforts are smooth roads when properly applied. Policy ruling out criminal sanctions is now highly effective, because the purpose of the law is to create a balance, in other words sanctions are not only viewed as punishment, but can and can implement outside of sanctions by granting a civil suit for optimizing criminal sanctions corruption crimes.

Conclusion

In the recovery of additional criminal executions of corruption crimes, there are some aspects to consider. Following are the conclusions to recognize criminal law policies in execution of additional criminal charges of surrogate money by the executor prosecutor:

a. the verdict of the judge and the execution:
   - the judge's ruling is final and binding after going through the inkrah (inkracht van gewijsde)
   - executed in court to ensure legal certainty and provide a base of jurisdiction
   - the executor's attorney should execute the verdict quickly and precisely.

b. juridical aspect of his verdict:
   - The judge's ruling contained an aspect of both material (evidence of action) and religious action (execution duty)
   - the judge plays a role in setting the verdict, and the executive prosecutor is charged with carrying it out.

c. Execute replacement money
   - replacement money is a further criminal than the convict and criminal penalties.
   - the execution of surrogate money can be property grabbing, property payment payment, company closure, seizing rights and or profit removal
   - if a convict doesn't pay replacement money, his property can be confiscated and auctioned.

[20] *Fourth United Nations Congress (1971). On the Prevention of Crime and the Treatment of Offenders, New York: Departement of Economic and Social Affairs, UN,hlm.9.*

[21] Anthony Kennedy, *An Evaluation of the Recovery of Criminal Proceeds in the United Kingdom, Journal of Money Laundering Control*, Vol.10, No.1, Tahun 2007,hlm.144.

d. difficulties in execution:
   - sometimes prosecutors have trouble executing, especially when it comes to surrogate payments.
   - the problem arises when a convict doesn't have enough resources to pay a replacement.

e. disparity long prison prisons:
   - convicts who don't have enough wealth would be sentenced to prison sentences
   - the duration of the penal code of surrogates should be equal to the value of replacement money.

Formulation policies recognize assets resulting from corruption are a very complex issue and require a progressive legal approach. In formulation laws Number 31 in 1999 was just as weak and unexecuted as mestiya had been regarding the state monetary asset recovery rule that led to the specific corruption crime section in chapter 18 (2) the letter a law on the elimination of criminal corruption. The commitment of the state to improve legal rules relating to prevention, eradication, and recovery of assets from corruption, was made possible by April 18, 2006, by ratifying UNCAC 2003 under the law The number 7 in 2006 on the ratification of the United Nations convention againts threshold, 2003 ratifying the ratification of the United Nations convention again, the ratification of the ratification of the mind set forth in terms of prevention, both the eradication and the restoration of assets resulting from criminal corruption. One of the key provisions related to the convention is the recovery of such assets listed in section 54 of verse (1) letter c, which provides an mandate that participating countries consider taking measures deemed necessary to allow deductions to be made of corruption without a criminal punishment or NCB asset detainiture. Indonesia has attempted to carry out the 2003 article 54 clause (1) letter c UNCAC, by creating an academic draft law (bill) since 2012, which led to a draft law on the appropriation of ti assets.

The law arrangement in return for assets produced by criminal corruption is categorized asa social policy embodied in cultural institutions, legal institutions, political institutions, asset returns from corruption in societies that aim to promote public welfare by leveraging state rights in the pursuit of and regaining assets based on principles of solidarity and mutual support.

The Law number 31 of 1999 Jo law number 20 in 2001 on the elimination of corruption act should immediately amend the law against corruption using criminal law policies by adding criminal law measures to the restructuality of corruption, since rules or regulations are contained only in article 18 (2) the eradication of criminal corruption related to prevention, eradication, And asset recovery from corruption crimes despite discussion or ratification of the 2003 UNCAC by law The number 7 in 2006 on ratifying the United Nations convention againts consumption so birth a bill of disappropriation of assets. Which, until recently, has not been ratified by the house of representatives. When reformulating the policy, it is wise to use criminal law policy, for in looking at the context of "criminal crime" there are aspects and qualifications.

The formulation on future future assets return, governments and congress will legally pass a bill for asset seizure bill, where the bill will fill a legal void on the corruption of fraudulent assets untrialed for legitimate causes including a death, escape, permanent illness or a lack of evidence to warrant prosecution. In the draft of the asset seizure act when it has been ratified by the government and/or congress has become a bright spot for law enforcement in eliminating the most specialized criminal corruption in running confiscations and additional criminal protection money by the attorney as executioner and/or public prosecutor.

Reference

Ancel, Marc. *Social defence: A modern approach to criminal problems*. Vol. 199. Psychology Press, 1998.

Gatot Supramono, *Mengemukakan bahwa „ 'putusan Hakim (Pengadilan) adalah pernyataan hakim yang diucapkan dalam siding pengadilan terbuka, yang dapat berupa pemidanaan,atau bebas atau lepas dari segala tuntutan tuntutan hukum dalam halserta menurut cara yang diatur dalam undang undang. Surat dakwaan dan putusan hakim*,Jakarta:djamban,1991

Hartika, Lia, Indri Dithisari, and Syarifah Lisa Andriati. "Urgensi Pelaksanaan Eksekusi Pidana Tambahan Uang Pengganti Oleh Jaksa Eksekutor Dalam Perkara Tindak Pidana Korupsi." *Binamulia Hukum* 11.2 (2022): 127-137.

Herizal, Teuku, and Dahlan Ali. "Analisis Yuridis Pengembalian Aset Hasil Korupsi Melalui Gugatan Perdata Terhadap Ahli Waris." *Jurnal Ilmu Hukum* 2.3 (2014).

Kusnadi, Kusnadi. "Kebijakan Formulasi Ketentuan Pengembalian Aset Hasil Tindak Pidana Korupsi." *Corruptio* 1.2 (2020): 105-116.

Kennedy, Anthony. "An evaluation of the recovery of criminal proceeds in the United Kingdom." *Journal of Money Laundering Control* 10.1 (2007): 33-46.

Mulyadi, Lilik. "*Tindak pidana korupsi di Indonesia: normatif, teoretis, praktik dan masalahnya*, Bandung: PT Alumni, 2011.

Naibaho, Patardo Yosua Andreas, and Pujiyono Purwoto. "Kebijakan Hukum Pidana Dalam Upaya Meningkatkan Peran Serta Masyarakat Dalam Pencegahan Dan Pemberantasan Tindak Pidana Korupsi." *Diponegoro Law Journal* 5.4 (2016): 1-15.

Pakpahan, Rudi Hendra, and Aras Firdaus. "Pembaharuan Kebijakan Hukum Asset Recovery: Antara Ius Constitutum dan Ius Constituendum." *Jurnal Legislasi Indonesia* 16.3 (2019): 369-378.

Situmeang, Ayu Puspita Sari. *Pengembalian Aset Negara Yang Dicuri Sebagai Hasil Tindak Pidana Korupsi Ditinjau Dari Hukum Pidana Indonesia*. Diss. Universitas Pendidikan Ganesha, 2020.

Sudarto, *Hukum dan Hukum Pidana*. Bandung: Alumni, 1981

United Nations. Secretariat. *Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders: Kyoto, Japan, 17-26 August 1970: Report*. UN, 1971.

Waluyo, Bambang. *Penyelesaian Perkara Pidana*.Jakarta: Sinar Grafika, 2020.

Kitab Undang-Undang Hukum Acara Pidana (KUHAP)

Kitab Undang-Undang Hukum Pidana (KUHP)

Undang-undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi

Wawancara dengan Bapak Argandy W.,S.H.,M.H. Selaku Anggota Satuan Tugas Khusus Penanganan dan Penyelesaian Perkara Tindak Pidana Korupsi Pada Tanggal 15 Maret 2024 di Kejaksaan Agung Republik Indonesia.

Bapak Argandy W.,S.H.,M.H. Selaku Anggota Satuan Tugas Khusus Penanganan dan Penyelesaian Perkara Tindak Pidana Korupsi Biasa Kejaksaan Agung Republik Indonesia, Wawancara, Pada Tanggal 15 Maret 2024 Pukul 14.00