

Normative Juridical Study on the Effectiveness of Law No. 31 of 1999 in Eradicating Corruption and Regulating Asset Confiscation

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Abstract

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This study examines the effectiveness of the Statute Number 31 of 1999 on the Eradication of Corruption Crimes in generating a genuine deterrent effect and analyzes its main weakness in regulating asset confiscation. Using a normative juridical approach, the research focuses on the substantive norms contained in the statute and their implementation by law enforcement institutions. The findings indicate that although the statute strengthens the legal framework through severe criminal penalties and the adoption of a reverse burden of proof, its overall effectiveness remains limited. The absence of a comprehensive mechanism for asset recovery allows offenders to retain economic benefits derived from corruption, even after conviction. This condition weakens the deterrent effect, undermines public trust in the justice system, and restricts the state's ability to restore financial losses. Therefore, strengthening asset confiscation regulations both through criminal and non-conviction-based mechanisms is urgently required to ensure that anti-corruption efforts are not only repressive but also restorative, ultimately promoting substantive justice for society.

1. Introduction

Corruption is a form of extraordinary crime that has widespread impacts on economic, social, and political stability in Indonesia. Corrupt practices not only harm the state's finances but also severely damage public trust in the legal and governmental system. To address this issue, Indonesia ratified Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption (Law No. 31/1999), which was later updated through Law No. 20 of 2001. This legislation became a crucial milestone in strengthening the legal system and providing a firmer juridical basis against perpetrators of corruption.¹

Law No. 31/1999 introduced several significant breakthroughs, such as the expansion of legal subjects, the application of the reverse burden of proof, and severe criminal penalties intended to create a deterrent effect for corruption perpetrators. This approach was expected to reduce corruption rates while simultaneously recovering state losses. However, in practice, the implementation of this law still faces many obstacles, especially concerning the aspect of asset forfeiture resulting from criminal acts of corruption. Research by Tantimin² indicates that although asset forfeiture has been regulated as an additional penalty, its implementation has not been optimal in comprehensively restoring state losses.

Another weakness appears in the aspect of coordination among law enforcement agencies such as the KPK (Corruption Eradication Commission), the

¹ Nurjaya Saleh, I. Nyoman; Suryokumoro, Herman; Noerdjasakti, Setiawan; Zerlina, Zana. "Asset Recovery Policy in the Draft of the Asset Forfeiture Bill in Corruption Cases." *J. Int'l Legal Comm'n* 9 (2023): 46

² Tantimin Tantimin. "Penyitaan hasil korupsi melalui non-conviction based asset forfeiture sebagai upaya pengembalian kerugian negara." *Jurnal Pembangunan Hukum Indonesia* 5, no. 1 (2023): 87

Prosecutor's Office, and the Police, which has not been fully effective in following up on the process of tracing and seizing corruption proceeds. Indra et al.³ affirm that bureaucratic hurdles and weak technical regulations are the main causes of the slow recovery of state assets. Consequently, many corruptors can still enjoy the proceeds of their crimes, preventing the full achievement of the deterrent effect.

From a normative perspective, several experts argue that Law No. 31/1999 has not provided a sufficiently comprehensive framework to support the asset forfeiture mechanism. Lengkong⁴ emphasize the urgency of establishing a specific law on asset forfeiture to strengthen the state's economic recovery and close legal loopholes exploited by corruptors. A similar point is raised by Soedirjo et al.⁵, who assess that the absence of *lex specialis* regulation regarding non-conviction based asset forfeiture (NCB) makes the asset seizure process highly dependent on conventional criminal evidence, which is often time-consuming and complex.

Furthermore, a study by Fajrin⁶ highlights the importance of a penal approach that not only punishes the perpetrator but also ensures that assets resulting from the crime are genuinely returned to the state. They argue that the deterrent effect will not materialize if perpetrators still have the opportunity to enjoy the proceeds of

³ Permana Indra, Hulman Panjaitan, and Armunanto Hutahaean. "Analisis Yuridis Penerapan Sanksi Bagi Pelaku Tindak Pidana Korupsi Berupa Perampasan Aset Sebagai Upaya Pengembalian Kerugian Negara." *Jurnal Cahaya Mandalika* ISSN 2721-4796 (online) 4, no. 3 (2023): 997

⁴ Lengkong. "Urgensi Penerapan Perampasan Aset Dalam Tindak Pidana Pencucian Uang." *Jurnal Hukum To-Ra: Hukum Untuk Mengatur Dan Melindungi Masyarakat* 9, no. 3 (2023): 359

⁵ Achmad Taufan Soedirjo, Faisal Santiago, and Surya Jaya. "Reform of corruption criminal law: a study of corruptor asset application law in indonesia." *Journal of Social Research* 2, no. 9 (2023): 2949

⁶ Yaris Adhial Fajrin. "Punishment Asset Forfeiture for Corruptor In Perspective of Indonesian Community Justice." *Fiat Justisia: Jurnal Ilmu Hukum* 13, no. 3 (2019): 227.

their corruption, even after serving their sentences. In this context, criminal punishment coupled with asset forfeiture is considered more just because it upholds not only retributive justice but also restorative justice, which focuses on the recovery of public losses.⁷

Several other studies reinforce this view. Susetyo and Supanto⁸ found that the asset forfeiture mechanism in Indonesia still faces structural problems, ranging from a weak tracing system to overlaps between agencies. Meanwhile, research by Saleh et al.⁹ shows that institutional strengthening and regulatory reform are absolute prerequisites for increasing the effectiveness of corruption eradication and asset recovery.

In summary, it can be concluded that although Law No. 31/1999 has provided a strong foundation for corruption eradication, its effectiveness remains limited as it has not been able to enforce an optimal asset forfeiture mechanism and provide an economic deterrent effect for perpetrators. Based on this background, this research poses two main questions: RQ1: How effective is Law Number 31 of 1999 in the prevention and eradication of criminal acts of corruption, in connection with asset forfeiture and the deterrent effect. RQ2: What are the main challenges in the implementation of Law No. 31 of 1999, particularly regarding the forfeiture of

⁷ Ade Mahmud, Husni Syawali, and Rizki Amrulloh. "Keadilan Substantif dalam Proses Asset Recovery Hasil Tindak Pidana Korupsi." *Jurnal Suara Hukum* 3, no. 2 (2021): 235

⁸ Mariano Adhyka Susetyo, and Supanto Supanto. "Perampasan Aset Tindak Pidana Pencucian Uang Hasil Korupsi." *Recidive* 12, no. 1 (2023): 86

⁹ Nurjaya Saleh, I. Nyoman; Suryokumoro, Herman; Noerdjasakti, Setiawan; Zerlina, Zana. "Asset Recovery Policy in the Draft of the Asset Forfeiture Bill in Corruption Cases." *J. Int'l Legal Comm'n* 9 (2023): 46

assets resulting from criminal acts of corruption, and why is the strengthening of asset forfeiture regulations so urgent.

2. Methods

This study uses a normative juridical approach, which is a legal research method that relies on written norms contained in relevant legislation and court decisions. This approach was chosen because the main objective of the research is to analyze the effectiveness of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, especially in the context of asset forfeiture and the deterrent effect, based on the applicable legal framework. Through the normative juridical approach, this research focuses on the study of positive legal rules, legal principles, and doctrines governing the prevention and eradication of corruption in Indonesia.

The main data sources in this research come from primary, secondary, and tertiary legal materials. Primary legal materials include the legislation underpinning the research, such as Law Number 31 of 1999 in conjunction with Law Number 20 of 2001, Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering, and implementing regulations related to asset forfeiture for criminal acts of corruption. Secondary legal materials include research results, scholarly articles, legal journals, and the opinions of legal experts relevant to the topic of discussion. Tertiary legal materials include legal dictionaries, legal encyclopedias, and other sources that provide additional understanding of the juridical terminology and concepts used.

3. Results and Discussion

3.1. The Effectiveness of Law No. 31 of 1999 in Corruption Eradication and Asset Forfeiture

Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption is the main pillar in building a firm legal system oriented towards the prevention and eradication of corruption in Indonesia.¹⁰ This law introduced various juridical innovations previously unknown in the national legal system, including the expansion of the definition of corruption, broader regulation of legal subjects, and severe criminal penalties aimed at creating a deterrent effect for perpetrators. The increase in criminal penalties, including life imprisonment, reflects the state's resolve to reduce corruption rates that harm public finances and morality.¹¹ Thus, normatively, Law No. 31/1999 provides a strong framework for strengthening corruption eradication law, especially in the repressive aspect through criminal sanctions that create psychological and social effects for perpetrators.

However, the effectiveness of this law in creating a deterrent effect has not been fully achieved due to fundamental weaknesses related to the mechanism for forfeiting assets derived from corruption. Although perpetrators are sentenced to heavy penalties, the assets obtained from corrupt acts often fail to be returned to the state. Consequently, the sentence imposed does not provide an economic deterrent

¹⁰ Siregar, Hulman. "Juridical Analysis of the Amendment of Law of the Corruption Eradication Commission in Eradicating Corruption from Legal and Economic Perspective." *Journal of Morality and Legal Culture* 1, no. 2 (2020): 89

¹¹ Nurjaya Saleh, I. Nyoman; Suryokumoro, Herman; Noerdjasakti, Setiawan; Zerlina, Zana. "Asset Recovery Policy in the Draft of the Asset Forfeiture Bill in Corruption Cases." *J. Int'l Legal Comm'n* 9 (2023): 46

effect for the perpetrator because part of the crime proceeds can still be enjoyed, either directly or through a third party.¹² This situation prevents the full recovery of state losses and weakens substantive justice. In this context, the weakness in regulating asset forfeiture becomes a loophole that hinders the achievement of the law's main objective: recovering state losses and upholding justice for the public.

From an institutional perspective, Law No. 31/1999 plays a vital role in strengthening the capacity of law enforcement agencies such as the Corruption Eradication Commission (KPK), the Attorney General's Office, and the Police. These institutions are given broad authority to carry out investigations, inquiries, and prosecutions against corruptors. The application of the reverse burden of proof principle is a critical breakthrough that accelerates the legal process and increases pressure on perpetrators to disclose the source of their wealth. According to Indra et al.¹³, the existence of the KPK as an independent institution strengthens the effectiveness of law enforcement and encourages bureaucratic transparency, although its effectiveness still depends on strong political support and regulations regarding asset management.

Despite the structural strengthening of corruption eradication efforts, the results are not yet optimal. Major corruption cases continue to emerge every year, indicating that the threat of severe criminal penalties has not fully served as a

¹² Tantimin Tantimin. "Penyitaan hasil korupsi melalui non-conviction based asset forfeiture sebagai upaya pengembalian kerugian negara." *Jurnal Pembangunan Hukum Indonesia* 5, no. 1 (2023): 97

¹³ Permana Indra, Hulman Panjaitan, and Armunanto Hutahaeen. "Analisis Yuridis Penerapan Sanksi Bagi Pelaku Tindak Pidana Korupsi Berupa Perampasan Aset Sebagai Upaya Pengembalian Kerugian Negara." *Jurnal Cabaya Mandalika* ISSN 2721-4796 (online) 4, no. 3 (2023): 995

deterrent. Fajrin¹⁴ emphasize that the deterrent effect must not only be built through imprisonment but also through the elimination of economic gain from criminal proceeds. As long as perpetrators can maintain or conceal assets resulting from corruption, criminal penalties do not have a real impact on future corrupt behavior. Therefore, a combination of criminal punishment and an asset forfeiture mechanism is needed to achieve a comprehensive deterrent effect.

Furthermore, the absence of a specific law on asset forfeiture weakens the efficacy of the existing legal system¹⁵ assert that Indonesia needs *lex specialis* regulation on asset forfeiture to implement the non-conviction based asset forfeiture (NCB) model, which is the seizure of assets without waiting for a final criminal court decision. This model is considered effective in breaking the chain of corruption and preventing asset diversion during the legal process. Soedirjo et al.¹⁶ also emphasize that the existence of such specific regulation would strengthen the utility of Law No. 31/1999, as it accelerates the asset recovery process and minimizes the perpetrator's opportunities to avoid economic responsibility.

Mahmud et al.¹⁷ research supports this view by stressing the importance of balancing retributive justice and restorative justice in corruption cases. Justice not only means punishing the perpetrator but also ensuring that the community gets its

¹⁴ Yaris Adhial Fajrin. "Punishment Asset Forfeiture for Corruptor In Perspective of Indonesian Community Justice." *Fiat Justisia: Jurnal Ilmu Hukum* 13, no. 3 (2019): 211.

¹⁵ Lonna Yohanes Lengkong. "Urgensi Penerapan Perampasan Aset Dalam Tindak Pidana Pencucian Uang." *Jurnal Hukum To-Ra: Hukum Untuk Mengatur Dan Melindungi Masyarakat* 9, no. 3 (2023): 355

¹⁶ Achmad Taufan Soedirjo, Faisal Santiago, and Surya Jaya. "Reform of corruption criminal law: a study of corruptor asset application law in indonesia." *Journal of Social Research* 2, no. 9 (2023): 2946

¹⁷ Ade Mahmud, Husni Syawali, and Rizki Amrulloh. "Keadilan Substantif dalam Proses Asset Recovery Hasil Tindak Pidana Korupsi." *Jurnal Suara Hukum* 3, no. 2 (2021): 240

rights back through the recovery of state assets. This approach adds value to the law's effectiveness by making asset forfeiture an integral part of sentencing, not just an administrative action.

In practice, the execution of asset forfeiture still faces many obstacles, especially in terms of tracing assets that have been diverted, enforcing coordination between agencies, and managing seized assets. Susetyo and Supanto¹⁸ found that these structural obstacles cause the asset recovery process to be slow, thereby weakening the deterrent effect on perpetrators. A similar condition is revealed by Tantimin¹⁹, who assess that without regulatory reform, the current law is only effective at the normative level but not in implementation that yields economic justice.

Considering these various findings, the effectiveness of Law No. 31 of 1999 can be said to be still limited to the repressive dimension and has not touched the aspect of full state loss recovery. Asset forfeiture not explicitly regulated is the main weak point in creating a comprehensive deterrent effect. Moving forward, strengthening regulation and institutions is needed so that corruption eradication focuses not only on prosecuting perpetrators but also on ensuring that the proceeds of crime are truly returned to the state. Only then can the legal objectives of creating a deterrent effect and substantive justice for the public be effectively realized under the framework of Law No. 31 of 1999.

¹⁸ Mariano Adhyka Susetyo, and Supanto Supanto. "Perampasan Aset Tindak Pidana Pencucian Uang Hasil Korupsi." *Recidive* 12, no. 1 (2023): 86

¹⁹ Tantimin Tantimin. "Penyitaan hasil korupsi melalui non-conviction based asset forfeiture sebagai upaya pengembalian kerugian negara." *Jurnal Pembangunan Hukum Indonesia* 5, no. 1 (2023): 86

3.2. Challenges in the Implementation of Law No. 31 of 1999 and the Urgency of Strengthening Asset Forfeiture Regulations

The implementation of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption has become an important foundation in the state's efforts to combat corruption. However, the effectiveness of this law in the context of state loss recovery still faces various challenges, particularly concerning the mechanism for forfeiting assets resulting from criminal acts of corruption. Although normatively it provides severe criminal penalties for perpetrators, the implementation of this rule has not been accompanied by a comprehensive asset recovery system. Consequently, the deterrent effect expected from criminal punishment is not fully achieved because perpetrators can still retain some economic gain from their crimes.²⁰

One of the main challenges lies in the absence of adequate legal instruments for asset forfeiture. Law No. 31 of 1999 does not provide a clear legal basis regarding the procedure, stages, and execution mechanism for forfeiting corruption proceeds. This condition results in law enforcement officials facing difficulties in seizing the perpetrators' wealth, especially when assets have been transferred to third parties. In the case of the COVID-19 social aid fund corruption, for example, most of the corruption proceeds could not be traced or seized because they were hidden using other identities and transferred in the form of intangible assets such as third-party accounts. This shows that even though the perpetrator has been criminally punished,

²⁰ Tantimin Tantimin. "Penyitaan hasil korupsi melalui non-conviction based asset forfeiture sebagai upaya pengembalian kerugian negara." *Jurnal Pembangunan Hukum Indonesia* 5, no. 1 (2023): 89

public rights are not fully restored due to the lack of regulation ensuring the state's economic recovery.²¹

The second challenge is the weak coordination between law enforcement agencies in executing asset forfeiture. The process of recovering corruption proceeds involves various institutions such as the KPK, the Attorney General's Office, the Police, and the Financial Transaction Reports and Analysis Center (PPATK). However, unsynchronized coordination often leads to delays in asset seizure and tracing, allowing most of the perpetrator's wealth to be diverted before the legal process is completed. Money Laundering Crime (TPPU) cases are a clear example of how weak coordination causes several important assets in the form of land, houses, and luxury vehicles to disappear before being seized. As a result, the state does not recover the economic value of the crime and the public continues to bear the loss.²²

The absence of firm asset forfeiture regulations also means that Law No. 31 of 1999 is only a formal prosecution measure without an economic recovery dimension. Criminal penalties in the form of imprisonment or fines do sanction the perpetrator but do not touch the restitutive aspect of restoring state losses. According to Soedirjo et al.²³, the ideal criminal legal system should not only be oriented towards retributive justice but must also include restorative justice that

²¹ Nurjaya Saleh, I. Nyoman; Suryokumoro, Herman; Noerdjasakti, Setiawan; Zerlina, Zana. "Asset Recovery Policy in the Draft of the Asset Forfeiture Bill in Corruption Cases." *J. Int'l Legal Comm'n* 9 (2023): 46

²² Permana Indra, Hulman Panjaitan, and Armunanto Hutahaeen. "Analisis Yuridis Penerapan Sanksi Bagi Pelaku Tindak Pidana Korupsi Berupa Perampasan Aset Sebagai Upaya Pengembalian Kerugian Negara." *Jurnal Cabaya Mandalika* ISSN 2721-4796 (online) 4, no. 3 (2023): 999

²³ Achmad Taufan Soedirjo, Faisal Santiago, and Surya Jaya. "Reform of corruption criminal law: a study of corruptor asset application law in indonesia." *Journal of Social Research* 2, no. 9 (2023): 2951

focuses on the recovery of public rights. When assets resulting from the crime cannot be forfeited and returned to the state, the legal objective of creating a balance between punishment and recovery fails to be achieved.

The next problem relates to the possibility of perpetrators still enjoying the proceeds of their crimes. In many cases, corruptors exploit legal loopholes to hide assets through family intermediaries or fictitious companies. This creates injustice because even though the perpetrator has served the sentence, their economic gain remains intact. Fajrin²⁴ emphasize that asset forfeiture plays a strategic role in eliminating the economic benefit from corruption crimes. Without a strong mechanism, criminal punishment loses its deterrent power and may even lead to a public perception that corruptors can still enjoy the proceeds of their crimes after leaving prison.

Furthermore, the weak asset recovery system directly impacts legal legitimacy and public trust. When the public sees that corruption proceeds cannot be returned, the perception arises that law enforcement is merely symbolic. Lengkong²⁵ state that the state's failure to recover public losses weakens legal legitimacy because the public assesses that justice has not been fully upheld. This impacts the decline in trust in judicial institutions and weakens the anti-corruption spirit in society.

²⁴ Yaris Adhial Fajrin. "Punishment Asset Forfeiture for Corruptor In Perspective of Indonesian Community Justice." *Fiat Justisia: Jurnal Ilmu Hukum* 13, no. 3 (2019): 221.

²⁵ Lonna Yohanes Lengkong. "Urgensi Penerapan Perampasan Aset Dalam Tindak Pidana Pencucian Uang." *Jurnal Hukum To-Ra: Hukum Untuk Mengatur Dan Melindungi Masyarakat* 9, no. 3 (2023): 359

Mahmud et al.²⁶ research also shows that the lack of asset forfeiture regulation creates an imbalance between the goal of sentencing and the recovery of victims' rights. He emphasizes that the legal system must be able to ensure that punishment is both criminal and restitutive, where in addition to punishing the perpetrator, the state also has effective instruments to return the assets resulting from the crime. Thus, substantive justice can be achieved because public losses can be recovered.

This condition affirms that the strengthening of asset forfeiture regulations is an urgent necessity. Susetyo and Supanto²⁷ revealed that the main obstacles to asset recovery in Indonesia stem from a weak legal basis and inter-agency coordination mechanisms. Without specific rules such as *lex specialis* regarding non-conviction based asset forfeiture, tracing and seizure efforts will continue to be constrained by long and bureaucratic legal procedures. Therefore, regulatory strengthening is needed so that the asset forfeiture process can be carried out faster, more effectively, and without being fully dependent on time-consuming criminal evidence.

From the various challenges above, it can be concluded that the implementation of Law No. 31 of 1999 still faces fundamental constraints from both normative and institutional aspects. The absence of a comprehensive asset forfeiture legal instrument causes state loss recovery to be minimal, while weak inter-agency coordination hinders the seizure process.²⁸ Consequently, the sentences imposed do

²⁶ Ade Mahmud, Husni Syawali, and Rizki Amrulloh. "Keadilan Substantif dalam Proses Asset Recovery Hasil Tindak Pidana Korupsi." *Jurnal Suara Hukum* 3, no. 2 (2021): 241

²⁷ Mariano Adhyka Susetyo, and Supanto Supanto. "Perampasan Aset Tindak Pidana Pencucian Uang Hasil Korupsi." *Recidive* 12, no. 1 (2023): 87

²⁸ Jean-Pierre Brun, Anastasia Sotiropoulou, Larissa Gray, Clive Scott, and Kevin M. Stephenson. *Asset recovery handbook: A guide for practitioners*. World Bank Publications, 2021

not create an economic deterrent effect and substantive justice for the public. Therefore, legal reform through the formation of specific asset forfeiture regulations is an urgent step to ensure that corruption eradication not only punishes the perpetrator but also truly recovers the public rights that have been harmed by criminal acts of corruption.

4. Conclusion

Law Number 31 of 1999 has become an important basis for corruption eradication efforts in Indonesia, particularly through the regulation of severe sanctions and the empowerment of law enforcement agencies. However, its effectiveness is not yet optimal because it does not explicitly regulate the mechanism for forfeiting assets resulting from criminal acts of corruption. Consequently, although perpetrators are sentenced, the assets resulting from the crime often fail to be returned to the state. This situation results in the deterrent effect not being achieved and public losses remaining significant.

Furthermore, weak coordination among law enforcement agencies and the absence of specific asset forfeiture regulations add to the complexity of the problem. Corruptors can even still enjoy their economic gains after serving their sentences, which impacts the decline in legal legitimacy and public trust in the justice system. Therefore, strengthening asset forfeiture regulations is very urgent so that law enforcement functions not only to punish perpetrators but also to recover public rights and ensure substantive justice for the community.

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