

Research Article

The Authority of Prosecutors to Seize Assets in Corruption Cases

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Abstract: Corruption is an extraordinary crime that not only causes massive state financial losses but also impedes national development. Efforts to eradicate corruption are insufficient if limited to the imprisonment of perpetrators; they must be accompanied by state asset recovery. The prosecutor, as the *dominus litis* in the criminal justice system, plays a central role in the process of seizing assets derived from corruption. This research aims to analyze the authority of prosecutors to seize assets in corruption cases, identify the obstacles encountered, and formulate solutions to optimize the exercise of this authority. The research method employed is normative juridical, utilizing a statutory approach and a case approach. The findings indicate that prosecutors have a strong legal basis for asset seizure, as stipulated in the Criminal Procedure Code (KUHAP), the Anti-Corruption Law, and other relevant regulations. However, in practice, prosecutors face various obstacles, both juridical, such as legal loopholes in the evidentiary process, and non-juridical, such as the complex *modus operandi* of perpetrators in concealing assets, slow inter-agency coordination, and challenges in tracing assets located abroad. Therefore, it is imperative to strengthen the regulatory framework through the enactment of the Asset Forfeiture Bill, enhance the capacity and integrity of prosecutors, and bolster international cooperation to maximize the recovery of state losses.

Keywords: Asset Recovery; Asset Seizure; Corruption Eradication; Corruption; Prosecutor's Authority

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1. Introduction

Corruption in Indonesia has evolved into a systemic issue and is widely recognized as an *extraordinary crime* whose ramifications extend far beyond the mere loss of state finances. It erodes public trust, undermines the rule of law, distorts governance, and ultimately impedes the realization of national development goals. The magnitude of economic and social losses caused by corruption positions it as a formidable threat to the stability and sustainability of the nation's economic and political systems (Hiariej, 2016). (Goldstein, 1982). Consequently, combating corruption requires a comprehensive and non-conventional approach one that not only emphasizes punitive measures against offenders but also prioritizes the restoration of state assets and the rectification of economic harm.

In the landscape of modern anti-corruption efforts, the paradigm has shifted from the traditional focus on corporeal punishment (*corpus delicti*) toward the confiscation and recovery of illicit gains, reflecting the fundamental principle that *crime must not pay*. Within this paradigm, asset recovery has emerged as an essential instrument in ensuring that perpetrators do not benefit from their crimes (Yunita, 2019). The recovery of assets derived from corruption

serves not only to restore financial losses to the state but also to function as a powerful deterrent, eliminating the economic incentives that motivate corrupt behavior. By targeting the proceeds of corruption, asset recovery reinforces the notion of accountability and strengthens public confidence in the justice system.

Within the architecture of Indonesia's criminal justice system, the Attorney General's Office of the Republic of Indonesia plays a pivotal role as the primary authority controlling the prosecution process (*dominus litis*). This authority positions public prosecutors at the forefront of efforts to trace, seize, and confiscate assets obtained through acts of corruption. The prosecutorial power to conduct asset seizure is explicitly mandated in multiple legal instruments, including the Indonesian Criminal Procedure Code (KUHAP) and Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on the Eradication of Corruption Crimes (Yunita, 2019). Through this legal mandate, prosecutors are expected to effectively immobilize and safeguard assets suspected of originating from corrupt practices beginning from the investigation phase and extending through to the execution of final court judgments.

Nevertheless, despite the robust legal framework that grants broad authority to prosecutors, the practical implementation of asset seizure continues to face multifaceted challenges. These obstacles range from increasingly sophisticated methods employed by perpetrators to conceal or launder illicit assets, to legal loopholes that complicate evidentiary processes, and to the formidable difficulties of tracing assets transferred or concealed abroad. The latter issue, known as stolen asset recovery, often necessitates complex cross-jurisdictional cooperation between states, which can be time-consuming and legally intricate (Pratama & Sari, 2021).

The inability to effectively implement asset seizure mechanisms ultimately results in suboptimal recovery of state losses and weakens the overall impact of anti-corruption enforcement. Given these conditions, this paper seeks to provide an in-depth analysis of the implementation of prosecutorial authority in the seizure of assets derived from corruption, identify the key obstacles that impede its effectiveness, and propose strategic recommendations for strengthening the role of prosecutors in ensuring the successful recovery of state assets within Indonesia's anti-corruption framework.

2. Preliminaries

The Concept of Corruption as an Extraordinary Crime

Corruption in Indonesia and many other developing nations can no longer be regarded as an *ordinary crime* committed by isolated individuals for personal gain; rather, it must be understood as a deeply entrenched *extraordinary crime* that operates through networks of power and patronage, affecting multiple layers of governance and public administration. According to Atmasasmita (2011), corruption attains the status of an extraordinary crime because of its organized, systematic, and transnational characteristics, often executed through sophisticated methods that exploit institutional weaknesses, abuse public office, and manipulate legal or bureaucratic loopholes. The impact of corruption extends far beyond financial losses to the state; it fundamentally undermines the rule of law, destroys public trust in government institutions, distorts fair competition, and impedes both domestic and foreign investment climates. Over time, corruption creates structural inequality and perpetuates cycles of poverty, thereby eroding the moral foundations of society and weakening democratic governance.

Because of its exceptional gravity, corruption requires equally exceptional measures in response (*extraordinary measures*). These measures involve not only the enhancement of criminal sanctions but also the strengthening of institutional capacities for prevention, investigation, prosecution, and asset recovery. The extraordinary nature of corruption thus justifies the application of broader prosecutorial powers, the use of special investigative techniques, and the international cooperation necessary for cross-border asset tracing and

recovery. In this sense, the conceptualization of corruption as an extraordinary crime establishes the normative foundation for a comprehensive and coordinated legal strategy aimed at dismantling the economic, political, and social incentives that sustain corrupt behavior.

Prosecutorial Authority and the Principle of *Dominus Litis*

In the context of Indonesia's criminal justice system, the authority (*bevoegdheid*) of the public prosecutor is not merely administrative but constitutional in nature, reflecting a unique position as the central actor in criminal proceedings. This authority derives from the legal doctrine known as *dominus litis*, which literally translates as "the master of the case." Under this principle, the Attorney General's Office of the Republic of Indonesia holds the exclusive mandate to prosecute criminal cases, to determine whether a case should proceed to trial, and to represent the state's interest in seeking justice (Setiadi, 2018). This prosecutorial discretion encompasses a broad range of functions, including evaluating the sufficiency of evidence, providing guidance to investigators, ensuring procedural compliance, and safeguarding the rights of suspects and victims alike. As *dominus litis*, the prosecutor's role extends beyond the courtroom into the earlier phases of investigation and case preparation. In corruption cases, this proactive authority includes the power to oversee and direct asset tracing, freezing, and seizure processes. By exercising such authority, prosecutors ensure that evidentiary integrity is maintained and that potential assets derived from criminal activities are secured for eventual confiscation. The prosecutorial office thus functions not only as an executor of justice but also as a guardian of the public interest, tasked with ensuring that the proceeds of corruption do not escape recovery. In practice, this principle reinforces the prosecutor's strategic responsibility to balance due process with effectiveness, ensuring that legal actions contribute both to individual accountability and to the broader objective of restoring public confidence in the justice system.

The Nature of Asset Seizure in Criminal Procedure Law

In criminal procedural law, asset seizure (*penyitaan*) represents one of the state's most powerful coercive instruments (*dwangmiddelen*), enabling law enforcement to temporarily deprive individuals of control over property suspected to be connected to a crime. Pursuant to Article 1 Paragraph 16 of the Indonesian Criminal Procedure Code (*KUHAP*), seizure is defined as a series of investigative actions undertaken to take possession of or place under official custody any movable or immovable, tangible or intangible objects, for evidentiary purposes throughout the stages of investigation, prosecution, and adjudication (Prakoso, 2017). Conceptually, the purpose of seizure is preventive rather than punitive; it does not imply a transfer of ownership, but rather a protective measure designed to prevent evidence from being lost, destroyed, or illegally transferred. In corruption cases, however, the meaning and function of seizure have evolved significantly. It now serves not only as a means of preserving evidence but also as an integral part of the state's strategy to recover illicitly obtained assets. Seizure functions as a *gateway mechanism* to asset recovery, ensuring that the proceeds of corruption can be identified, immobilized, and ultimately confiscated once a conviction is secured. Moreover, the modern practice of asset seizure increasingly involves coordination between domestic and international institutions, reflecting the growing complexity of transnational financial crimes. Effective implementation requires not only legal authority but also technical expertise in financial forensics, interagency cooperation, and compliance with international standards such as those articulated in the *United Nations Convention against Corruption (UNCAC)*. Hence, asset seizure embodies the intersection of criminal justice and economic governance, serving both evidentiary and restorative functions in the fight against corruption.

Theoretical Framework of Asset Recovery

The asset recovery theory provides a structured and interdisciplinary framework for the identification, freezing, seizure, confiscation, and repatriation of assets derived from criminal conduct. It is grounded in the moral and legal principle that *crime must not pay*, and that offenders must be deprived of the economic benefits obtained through unlawful activities. As articulated by Marzuki (2015) and further reinforced by international bodies such as the United Nations Office on Drugs and Crime (UNODC) and the World Bank's Stolen Asset Recovery Initiative (StAR), asset recovery constitutes a cornerstone of modern anti-corruption enforcement. The framework recognizes that the financial dimensions of corruption bribery, embezzlement, money laundering, and illicit enrichment require financial remedies that go beyond imprisonment or fines. Asset recovery encompasses several interrelated stages: (1) tracing, the identification of assets derived from or connected to criminal acts; (2) freezing, the temporary immobilization of such assets to prevent dissipation; (3) seizure, the legal act of taking control of the property pending judicial determination; and (4) confiscation or forfeiture, the final transfer of ownership to the state upon conviction. Each stage requires a combination of legal precision, procedural safeguards, and intergovernmental cooperation, especially when assets are hidden across multiple jurisdictions. The prosecutorial power to conduct seizure represents the foundational phase of this process, serving as the bridge between criminal investigation and the ultimate goal of restitution. By operationalizing asset recovery, states not only reclaim public funds but also send a strong deterrent message that corruption offers no safe haven. In this regard, asset recovery theory reflects the convergence of criminal law, international cooperation, and moral accountability as instruments for restoring both justice and public trust.

3. Materials and Method

This study employs a normative juridical research method, often referred to as doctrinal legal research, which focuses on examining and analyzing the laws as written (*das sollen*), rather than as practiced. The normative juridical approach is considered appropriate because this research aims to study and interpret legal norms governing the authority of prosecutors in asset seizure, as well as to relate these norms to fundamental legal principles, legal doctrines, and relevant judicial decisions.

The research is descriptive-prescriptive in nature. It is descriptive in that it systematically and factually portrays the scope of prosecutorial authority, the procedures of asset seizure, and the obstacles encountered in practice, based on existing legal provisions. It is prescriptive because, beyond merely describing the law, the research seeks to provide reasoned legal arguments and recommendations (*das sollen*) regarding the ideal steps that should be taken to optimize the prosecutor's authority in recovering state assets.

To achieve its objectives, this research utilizes several interrelated approaches. The statutory approach involves the examination and interpretation of all relevant legislative instruments, including the Criminal Procedure Code (Law No. 8 of 1981), the Law on the Eradication of Corruption Crimes (Law No. 31 of 1999 as amended by Law No. 20 of 2001), the Law on the Prosecutor's Office of the Republic of Indonesia (Law No. 16 of 2004 as amended by Law No. 11 of 2021), and the Law on the Prevention and Eradication of Money Laundering (Law No. 8 of 2010). Complementing this, the conceptual approach is used to explore and analyze key legal concepts such as *authority*, *asset seizure*, *proceeds of crime*, and *asset recovery*, based on theoretical foundations and legal doctrines developed by scholars. Furthermore, the case approach is adopted to observe the practical implementation of these norms through the analysis of final and binding court decisions (*inkracht van gewijsde*) in

corruption and money laundering cases. This allows the study to identify how prosecutorial powers are applied in practice and what challenges arise during judicial proceedings.

The sources of legal materials used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials are authoritative and binding sources, including the 1945 Constitution of the Republic of Indonesia, the Criminal Procedure Code, the Anti-Corruption Law, the Prosecutor's Office Law, the Anti-Money Laundering Law, and relevant court rulings. Secondary legal materials comprise scholarly writings that provide interpretation and critical analysis of primary materials, such as textbooks, journal articles, legal commentaries, and previous research. Tertiary legal materials function as supporting references that help identify or clarify the primary and secondary materials, such as legal dictionaries, encyclopedias, and bibliographies.

Data collection in this research is conducted through library research or documentary study, involving the identification, classification, and compilation of all relevant legal materials related to the research topic. The analysis of the collected materials is performed qualitatively. This qualitative legal analysis involves interpreting legal norms both systematically and teleologically examining not only their textual meaning but also their intended purpose while correlating them with secondary legal sources to construct coherent and logical legal reasoning. The analytical process is directed toward answering the research problems by delineating the scope of the prosecutor's authority, identifying legal and practical obstacles in asset seizure, and ultimately formulating a conceptual model for strengthening prosecutorial authority in the context of state asset recovery.

4. Results and Discussion

The Prosecutor's Authority in the Seizure of Assets Derived from Corruption Crimes under Indonesian Legislation

The findings of this study indicate that prosecutors in Indonesia possess a strong and multi-layered authority in conducting the seizure of assets derived from corruption crimes. This authority is characterized as *lex specialis*, meaning that it constitutes a special legal regime which, due to the nature and gravity of corruption as an *extraordinary crime*, may derogate from or override the general provisions of the Criminal Procedure Code (*KUHAP*). Such special treatment is justified to ensure the achievement of the broader objectives of corruption eradication, namely deterrence, recovery of state losses, and restoration of public trust in the legal system (Maulana, 2020).

The primary legal foundation for asset seizure lies within the *KUHAP*, which grants prosecutors a central role as the controller of criminal cases (*dominus litis*). Within this procedural framework, prosecutors are not only responsible for the prosecution phase but also for supervising and managing the evidentiary materials, including assets confiscated by investigators during the preliminary stages. However, beyond this general authority, the Law on the Eradication of Corruption Crimes (*Undang-Undang Tindak Pidana Korupsi* or *UU Tipikor*) provides prosecutors with broader and more specialized powers. One of its most significant legal mechanisms is the reversal of the burden of proof, as regulated under Articles 37, 37A, and 38B. Through this provision, prosecutors are empowered to require defendants to demonstrate the lawful origin of their assets when such assets are deemed disproportionate to their legitimate income. In cases where the defendant fails to provide a satisfactory explanation, those assets may be seized and forfeited to the state. This legal instrument substantially eases the evidentiary burden on prosecutors in complex corruption cases, where tracing illicit assets is often challenging due to the sophisticated concealment strategies employed by offenders (Butarbutar, 2018).

The prosecutor's authority is further reinforced by the Law on the Prevention and Eradication of Money Laundering (*UU TPPU*). Within this framework, prosecutors are legally

entitled to seize assets suspected of being proceeds of money laundering derived from corruption offenses. The *UU TPPU* also empowers prosecutors to apply the “follow the money” principle, allowing for the tracing of complex financial flows and the seizure of assets that have been transformed, converted, or transferred to third parties. Taken together, the cumulative normative strength of the *KUHAP*, *UU Tipikor*, and *UU TPPU* provides a robust and comprehensive legal foundation for prosecutors to perform asset seizures in corruption cases, ensuring that no illicit gain remains beyond the reach of justice.

Obstacles in the Implementation of Prosecutorial Authority over Asset Seizure

Despite having such a solid legal foundation, the implementation of prosecutorial authority in asset seizure faces numerous challenges in practice, encompassing both juridical and non-juridical dimensions. These obstacles often hinder the effectiveness of law enforcement efforts, thereby weakening the state’s capacity to recover assets derived from corruption.

From a juridical perspective, one of the most fundamental barriers is the absence of a specific Law on Asset Forfeiture (*Undang-Undang Perampasan Aset*). The lack of this legislative instrument means that Indonesia still adheres to a *conviction-based system*, in which asset forfeiture can only occur after a final criminal conviction. Consequently, in situations where the accused has died, absconded, or cannot be prosecuted for other reasons, the state is unable to confiscate illicit assets, even when there is clear evidence of criminal origin. This legal gap significantly undermines the state’s ability to achieve asset recovery as a central goal of anti-corruption efforts (Syamsuddin, 2019).

Another juridical challenge concerns the complexity of evidentiary requirements, particularly the need to establish a direct causal nexus between the seized assets and the underlying corruption offense. Prosecutors often struggle to prove this link, especially when offenders employ layered transactions and third-party intermediaries. Furthermore, the protection of bona fide third parties poses an additional difficulty. Assets that have been transferred to good-faith purchasers or third parties without knowledge of their illicit origin are often shielded from seizure, leading to further complications in recovering state losses.

From a non-juridical or practical perspective, several factors exacerbate the challenges faced by prosecutors. The increasingly sophisticated modus operandi of corruption offenders, who exploit advanced technology and complex financial instruments such as cryptocurrency and transnational electronic transfers, makes asset tracing exceptionally difficult. In addition, the limited institutional capacity of the prosecutorial body particularly the shortage of personnel trained in forensic accounting, financial intelligence, and international asset tracing further constrains the effectiveness of asset seizure operations. The challenge is compounded by the difficulty of tracing and repatriating assets located abroad, which requires extensive cooperation under Mutual Legal Assistance (MLA) frameworks. Such processes are often time-consuming, bureaucratic, and impeded by disparities in legal systems or political reluctance on the part of the foreign jurisdictions involved (Nasution, 2017).

Policy Reconstruction for Optimizing Prosecutorial Authority in Asset Seizure

In light of the multifaceted challenges identified, a comprehensive and urgent policy reconstruction is required to enhance and optimize prosecutorial authority in the seizure of assets derived from corruption crimes. This reconstruction must simultaneously encompass regulatory, institutional, and international dimensions, each of which is critical to ensuring a more effective and sustainable asset recovery regime.

At the regulatory level, the most immediate and strategic measure is the enactment of the long-pending Bill on Asset Forfeiture (*Rancangan Undang-Undang Perampasan Aset*). This law would represent a groundbreaking legal innovation by introducing a non-conviction-based asset forfeiture (NCBAF) mechanism, allowing the state to confiscate illicit assets

without a prior criminal conviction (Hiariej, 2020). This mechanism is a vital solution for scenarios where the defendant has become a fugitive, is deceased, or is otherwise unable to stand trial (Susanti & Wibowo, 2021). The adoption of NCBAF aligns Indonesia with global best practices advocated by the United Nations Convention Against Corruption (UNCAC) and has the potential to close significant legal loopholes currently exploited by corruption offenders. This reform should also be complemented by targeted revisions to the Criminal Procedure Code to more aggressively implement the principle of *shifting the burden of proof*, particularly for cases involving the *unexplained wealth* of public officials.

At the institutional level, the Attorney General's Office should strengthen its organizational structure by establishing specialized units or task forces dedicated to asset recovery. Institutional specialization has been proven in various jurisdictions to be a key factor in combating complex and transnational crimes effectively (Simanjuntak, 2022).

. Prosecutors assigned to these specialized units must receive comprehensive, sustained training in forensic accounting, international financial law, *asset tracing* methodologies, and professional asset management to prevent the depreciation of seized assets (Rahardjo, 2019). Moreover, data integration and inter-agency synergy must be enhanced. This requires moving beyond simple coordination to create a unified digital platform connecting the Attorney General's Office, the Corruption Eradication Commission (KPK), the National Police, and the Financial Transaction Reports and Analysis Center (PPATK). Such integration would facilitate rapid information exchange, break down bureaucratic silos, and support coordinated decision-making.

On the international front, the government must adopt a more proactive and strategic approach in leveraging Mutual Legal Assistance (MLA) agreements to facilitate asset tracing, freezing, and repatriation, particularly from tax haven jurisdictions (Nasution & Azhari, 2022). Beyond formal treaties, Indonesia should also strengthen informal cooperation networks. This includes active participation in forums like the Camden Asset Recovery Inter-Agency Network (CARIN) and the Stolen Asset Recovery (StAR) Initiative, as well as fostering direct prosecutor-to-prosecutor channels (Sihombing, 2021). Participation in these networks would enable prosecutors to access real-time intelligence, improve cross-border coordination, and expedite the process of identifying and freezing illicit assets held abroad.

5. Conclusion

This study concludes that, from a normative perspective, prosecutors in Indonesia possess strong and comprehensive authority to conduct asset seizures in corruption cases. This authority originates from the Indonesian Criminal Procedure Code (KUHAP), is further reinforced through the Law on the Eradication of Corruption Crimes as a *lex specialis* particularly through mechanisms such as the reversal of the burden of proof and is expanded by the Anti-Money Laundering Law (TPPU Law) to encompass proceeds of crime that have been laundered or transferred.

Despite the existence of a robust legal foundation, the implementation of prosecutorial authority in asset seizure encounters significant challenges in practice. These challenges are multidimensional in nature, comprising juridical barriers such as the absence of a dedicated Asset Forfeiture Law that would allow for *non-conviction-based forfeiture*, as well as non-juridical obstacles including increasingly sophisticated criminal modus operandi, limited technical capacity of law enforcement officers, suboptimal inter-agency coordination, and complex issues related to cross-border asset tracing.

There remains a notable gap between the *de jure* authority (the normative ideal, *das sollen*) and the *de facto* execution (*das sein*), resulting in less-than-optimal recovery of state assets. Bridging this gap requires a comprehensive policy reconstruction built upon three main pillars: strengthening the regulatory framework through the enactment of the Asset Forfeiture

Bill, enhancing institutional capacity through specialization and professional development of prosecutors, and reinforcing international cooperation in asset recovery processes.

In light of these conclusions, several recommendations can be drawn. The Government and the House of Representatives (DPR) should prioritize the Asset Forfeiture Bill in the national legislative agenda, as it constitutes a critical legal instrument to address obstacles in confiscating assets when perpetrators abscond or pass away. The Office of the Attorney General should focus on institutional strengthening by establishing a specialized *asset recovery unit* composed of prosecutors trained in forensic accounting and international law, alongside continuous professional development programs. Finally, future researchers are encouraged to conduct comparative studies on non-conviction-based asset forfeiture models implemented in other jurisdictions to identify best practices adaptable to Indonesia's legal system, as well as empirical research on the practical effectiveness of Mutual Legal Assistance (MLA) agreements in supporting cross-border asset recovery.

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