

## Artikel 2

# Efforts of apparatus law enforcement in realizing restorative justice in asset recovery results of corruption

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## Efforts of apparatus law enforcement in realizing restorative justice in asset recovery results of corruption

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### KEYWORDS

Law Enforcement Officials  
Corruption Crime  
Asset Recovery  
Restorative Justice

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**ABSTRACT** One of the objectives of the enactment of Law Number 31 of 1999 concerning Eradication of Corruption in conjunction with Law Number 20 of 2001 is to return state losses. Therefore, criminal law enforcement prioritizes the return of state financial compensation from the perpetrators of criminal acts. This means that the return of state losses becomes the focus in eradicating criminal acts of corruption, with the hope of returning money to the state treasury, which is commonly known as asset recovery. Settlement of state losses in relation to Law of the Republic of Indonesia Number 31 of 1999 as amended by Law of the Republic of Indonesia Number 20 of 2001 has become an element of corruption, ex-Article 2 and Article 3 are strengthened by Article 4 so that it does not provide legal loopholes for settlement through restorative justice. The research method used is juridical normative with a statutory approach and a case approach. Asset return theory is a legal theory that explains the legal system of asset recovery based on the principles of social justice that provides the abilities, duties and responsibilities to state institutions and legal institutions to provide protection and opportunities for individuals in society to achieve prosperity.

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## 1. INTRODUCTION

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In the 1945 Constitution of the Republic of Indonesia, it is emphasized that the Indonesian state is based on law (rechtstaat), not based on mere power (machtstaat). This means that the Unitary State of the Republic of Indonesia is a constitutional state, which is democratically based on Pancasila and the 1945 Constitution of the Republic of Indonesia, upholds human rights, and guarantees that all citizens are equal before the law and the government with no exceptions. (Rustam, 2017). The crime of corruption is one of the threats to the principles of democracy, which prioritizes the principles of transparency, accountability, integrity, and is also related to the principles of national security and stability. The term corruption from several Latin first languages is called corruption. The second English is called corruption or corrupt, the French third is called corruption and the Dutch fourth is called corruptie. (Gumisiriza & Mukobi, 2019) Indonesian interprets corruption with the meaning of rotten, bad, bribery and so on whose main purpose is for self-interest. Seno (2019) Corruption is an extraordinary crime that cannot be solved through ordinary means. Various rules to overcome the problem of corruption have been established; however, the implementation of corruption problems consistently takes place every year and is increasingly complex in its realization. Corruption is not a new problem in Indonesia, and it has been happening in Indonesia since the 1950s. In fact, various groups consider that corruption has become half of the lives of offi-

cial in Indonesia, becoming a system and integrated with the administration of the state government (Anwar et al., 2009)

The culture of corruption if in a society has become commonplace and has become a culture every day, the result will be a chaotic society, eliminating the social system that can work well. So that individuals in society always think of their own interests (self-interest), even selfishness. (Daneva & Bitrakov, 2019) Efforts to eradicate corruption have long been attempted to establish various ways, sanctions are toughened on perpetrators of corruption, but almost everyday we still read or hear news about corruption. (Arsyad, 2018). Luthan and Syamsudin argued that judges' decisions that reflect substantive justice must at least be based on logical, impartial, honest and objective considerations (Mahmud & Syawali, 2021). In practice, judges' decisions are often found that contradict the facts revealed at trial. For example, the decisions of judges who examine, hear, and decide cases of criminal acts of corruption that are detrimental to state finances. Many people complain about the various problems of judges' decisions at the Corruption Court, which are not in accordance with the evidence that appears at the trial and lead to the neglect of the value of justice, especially with regard to demands for a refund of state losses (Mahmud, 2018).

Sanctions for handling corruption crimes are carried out by returning state assets resulting from corruption. This sanction is carried out through four stages, namely the asset tracking system, asset freezing system, asset manage-

25 ment system and returning or handing over assets. Taking assets (asset recovery) resulting from corruption can be done through criminal means in order to realize restorative justice. Returning assets resulting from corruption is a strategic way and can be one of the major breakthroughs in handling the proceeds of today's corruption.

31 Asset tracking is a complex matter because it is not easy to track down, let alone to recover the assets so that developing countries where grand corruption generally occurs are very aware of this reality as difficulty in recovering assets stolen and hidden in financial centres world (Yang et al., 2019).

10 Refund in the form of replacement money is one of the additional criminal penalties in cases of corruption that the convict must pay to the state in the maximum amount equal to the property obtained from the crime of corruption. Suppose there is an inability of the convict to pay the replacement money. In that case, it can be replaced with corporal punishment as a subsidiary punishment (Yuhelawan, 2019).

7 Returning state financial compensation for corruption is a system of law enforcement, which requires a process of eliminating rights to assets of perpetrators from the state as victims by confiscation, freezing, confiscation both in local, regional and international competencies so that wealth can be returned to the state. legitimate (victim). (Albanese et al., 2019) Restitution for state losses is an effort that must be carried out in the hope of restoring the country's economic due to corruption; the Corruption Eradication Act provides an opportunity for the convict to make a choice whether to pay a substitute sentence or choose to serve a sentence that has been determined in the judge's decision. (Desta, 2019) Returning assets for criminal acts of corruption still faces its own legal problems, both conceptually and operationally. Restorative justice as a legal system that "aims to restore welfare and prevent further violations or criminal acts (Soseco, 2012). This analysis is similar to the purpose of the enactment of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption in conjunction with Law Number 20 of 2001, which is to restore state losses.

26 When related to the return of assets in a criminal act of corruption, in a series of actions of tracing, freezing, confiscation, confiscation and finally the stage of returning the corrupted State assets is in line with the concept of restorative justice which prioritizes repair and recovery of losses caused by criminal acts. Wedha (2018) Laws related to corruption in Indonesia can be seen from 3 (three) dimensions, including the following: First, when viewed from the object, corruption is related and cannot be separated from state finances because the direct loss from corruption is the state, state money. Taken by the perpetrators of corruption in a way that is against the law. Thus, since corruption involves state finances, while state finances include the State Budget, Regional Budget, finances in Service Companies, Public Companies, Companies and so on, it is clear that corruption is closely related to State Administrative Law (Ho & Huang, 2016)

7 Second, if viewed from the sanctions, perpetrators of corruption (corrupt) can be sentenced to imprisonment as determined by law, thus the issue of corruption cannot be released by criminal law. And Third, if viewed from their responsibilities, the perpetrators of corruption must remain responsible by continuing to compensate to return the money from corruption to the state, in terms of com-

pensation means related to civil law against this corruption act. Based on this explanation, the focus of this research is How are Judges' Efforts in Realizing Restorative Justice in Asset Recovery resulting from Corruption Crimes and prescriptive analysis for law enforcement officers, especially judges in realizing Restorative Justice in Asset Recovery resulting from Corruption Crimes

## 2. METHOD

This research method uses the normative method. There are 3 (three) approaches to examine the three problems that are tried to be discussed with this normative research method, namely the statutory approach (statue approach), case approach (case approach) and conceptual approach (conceptual approach). A statutory approach is needed in order to trace the ratio legis and the ontological basis for the birth of statutory regulations. The case approach is used to find the ratio decidendi or reasoning, namely the court's considerations to arrive at a decision. Where is the legal breakthrough that aims to provide access to justice? The conceptual approach is used to understand precisely and accurately the various concepts used by legal principles in laws and the doctrines of legal experts (Akbar et al., 2020)

Some types of data. First, Primary data is the type of data such as written documents, files, recordings, information, opinions and others obtained from the main sources of information, namely case studies and library research. Second, secondary data consists of the Criminal Procedure Code, Law No. 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning the Crime of Corruption. and Law No. 31 of 1999 concerning the Crime of Corruption. Moreover, the three tertiary data consist of a legal dictionary, previous research results, relevant books, mass media/electronics.

Library Study Data Collection Technique collects data by reading or studying decision documents, books, laws and regulations, scientific works/previous research, news from the mass media/internet, and other sources related to the object of research. This method is used to collect secondary data regarding the existing problems in accordance with the object under study. Analysis of Legal Materials The final stage of writing this law is to analyze legal materials and data. Methodological, systematic, and consistent analysis of legal materials is the main method used to compile and manage the materials obtained so that the materials can produce a conclusion that can be accounted for, then analyzed using descriptive analysis

## 3. RESULTS AND DISCUSSION

Corruption has a very bad impact on the survival of the nation and state because there is dishonesty and tarnishes the value of justice for the community. Budget irregularities due to corruption greatly reduce the quality of service to the community. At the macro level, the diversion of public budgets into private pockets has reduced the ability of the state to provide useful actions such as education, environmental protection, research, and development. At the micro-level, corruption has increased the uncertainty of the existence of maximum services from the government to the community.

Corruption is a behaviour deviation from the official duties of his position, which is mandated by the state, actions

to obtain status or money gains related to the personal interests of individuals, close families, own groups, or violating implementing rules concerning personal behaviour.

Judges' Efforts in Realizing Restorative Justice in Asset Recovery resulting from Corruption Crimes. Based on the provisions of the legislation, it is clear that the return of financial losses is a very emphasized factor to be carried out in order to restore the country's economy due to corruption. Restorative justice is a process involving all parties who have an interest in a particular violation problem to collectively resolve how to respond and resolve the consequences of the violation and its implications for the future. "Return of assets" in its term contains the understanding that the control of assets by perpetrators of criminal acts is not based on legal rights. Because it is considered the result of a crime. Then it must be returned to the party that has legal rights to the asset, namely the state. Thus, the act of returning State assets to take back or return assets that are their rights from perpetrators of criminal acts of corruption who have illegally controlled these assets.

Many legal experts have debated legal obstacles in the provisions for the return of assets for criminal corruption both conceptually and operationally, not explicitly contained in Law Number 17 of 2003 concerning State Finance so that it has obstacles, namely: first, there are no provisions governing asset returns and provisions mechanism for returning assets resulting from corruption placed abroad. Secondly, the return of assets resulting from corruption is not connected with cooperation accompanied by the establishment of an international commission. Third, the regulation to eradicate corruption has not shown that corruption is a special concern. Fourth, the provisions regarding the return of assets resulting from corruption based on these laws and regulations are not sufficient. In general, the substance of the legal system for returning assets through criminal law consists of provisions related to the process of returning assets through 4 stages consisting of asset tracking, preventive actions as an effort to stop the transfer of assets by means of freezing mechanisms, confiscation and delivery of assets from the recipient country to the victim country where the assets are located and obtained illegally. The act of returning assets resulting from corruption as an effort to minimize state losses is an effort that is no less important than eradicating criminal acts of corruption by punishing perpetrators with severe or life-long sentences.

The stages of the process of efforts to recover assets from criminal acts of corruption are the first stage of asset tracking. At this stage, all information related to the corrupted assets and evidence is recapitulated. The second is the asset freezing stage. This is done in an effort to track down illegally obtained assets.

The third stage is the confiscation of assets. Confiscation is an order from a court or an authorized body to revoke the rights of the perpetrators of corruption on assets resulting from criminal acts of corruption. This confiscation order is issued by a court or competent authority of the state. Every alleged corruption that is being examined in court must have its assets confiscated first, this is a security measure so that the assets resulting from corruption are not taken away or hidden by the perpetrators. The proceeds of corruption must be confiscated first so that after the verdict of guilty by the judge has permanent legal force, the assets that have not been confiscated can be returned

to the state. The confiscation stage is the most important stage in the series of returning assets resulting from corruption.

The fourth stage is the return of assets resulting from corruption by handing over assets resulting from criminal acts of corruption to the victim or the victim country. In order to be able to return assets, both the recipient country and the victim country need to take legislative and other actions according to the national legal principles of each country so that the competent body can return the assets.

Article 18 paragraph (1) of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended and supplemented by Law Number 20 of 2001 states that additional punishment is the payment of replacement money in the amount of the property obtained from the criminal act of corruption. (Nugraha, 2013) After the court's decision has permanent legal force, the prosecutor's efforts in collecting the replacement money for the convict include the following administrative steps:

- A. Make a bill regarding the collection of compensation money to the convict to appear before the Executing Prosecutor at the local Prosecutor's Office.
- B. The convict is summoned and must appear before the prosecutor to explain his ability to pay compensation for state money that has been determined by a court that has permanent legal force. At this stage, a statement letter is made containing whether or not to pay compensation for state money. However, if the convict cannot pay, it must be proven by a statement from the competent authority.
- C. At the time of payment of compensation, a receipt for payment of money that has been received from the convict must be given and signed by the Head of the local District Attorney.
- D. At the time of receipt of compensation money from the convict, the head of the local Prosecutor's Office instructs the executor prosecutor to deposit the convict's replacement money with evidence of the form of deposit form for non-tax state recipients through the bank. (Prasetyo, 2014)

Efforts to recover state financial losses for the occurrence of criminal acts of corruption in a juridical manner can start from the investigation stage, prosecution stage and the stage of execution or implementation of court decisions. (Hartono, 2010) The explanation is as follows:

The investigation stage is related to the investigation process if the investigator finds and believes that there is one or more elements of a criminal act of corruption, but there is not enough evidence, but in fact there is a loss of state finances, the investigator can submit the case file of the results of the investigation to the Prosecutor, State Attorney so that a civil lawsuit is filed or submitted to the aggrieved agency to file a lawsuit. Investigators may request assistance and or involve the Supreme Audit Agency (BPK) or the Financial and Development Supervisory Agency (BPKP) as agencies that have the competence to calculate the amount of state losses incurred as a result of the suspect's actions (Zainudin, 2009)

In addition to summoning and examining witnesses as well as arresting and detaining suspects, investigators can also confiscate property belonging to a suspect that is related to a criminal act of corruption, including property owned by a suspect which is allegedly used or obtained

from the proceeds of a criminal act of corruption. The confiscation is intended so that the suspect does not sell or transfer his ownership to another person, in addition to the confiscation it can facilitate the executor prosecutor to conduct an auction to restore state financial losses if in the trial process the suspect is proven to have committed a criminal act of corruption. (Wahab, 2017)

Prosecution Stage. Optimizing the authority of the Public Prosecutor in the judiciary can be applied by asking the judge through a criminal indictment to impose additional penalties in the form of punishing the defendant to return compensation for state money for the corruption crime he did based on the provisions of Article 18 paragraph (1) letter b of the law. Eradication of Criminal Acts of Corruption. (Hartanti, 2016)

In addition, the Public Prosecutor may also ask the judge to stipulate that the goods that have been confiscated during the investigation process are seized so that an auction can be carried out in order to cover the state losses incurred. The proven state financial loss with the amount demanded by the Public Prosecutor is used as the basis for punishing the defendant for paying compensation in the amount of the value of the state loss incurred.

The stage of execution or implementation of court decisions Article 270 of the Criminal Procedure Code determines that the implementation of court decisions that have permanent legal force is carried out by the prosecutor. The execution of court decisions can only be carried out based on the substance contained in the decision, relating to the return of state financial losses through the payment of compensation for state money. The confiscation process no longer requires a permit or court order because it has become an integral part of the main decision of the case.

Because if it is based on the trial, it is proven that the confiscated property is property resulting from a criminal act of corruption then the provisions of Article 18 paragraph (1) letter a of the law on the Eradication of Corruption Crimes shall apply so that the prosecutor does not need to confiscate and auction it on the basis of Article 18 paragraph (2) Law on the Eradication of Corruption Crimes. Confiscation and confiscation of assets must be based on court decisions contained in the verdict with additional criminal stipulations for payment of replacement money and confiscation of property belonging to the defendant if the defendant does not pay the replacement money.

Article 18 paragraph (3) of the law on the Eradication of Criminal Acts of Corruption states that "in the event that the convict does not have sufficient assets to pay the replacement money as referred to in paragraph (1) letter b, then he is sentenced to imprisonment for a term that does not exceed the maximum penalty of imprisonment of the principal crime in accordance with the provisions of this law and therefore the punishment has been determined in a court decision. It should be understood that an acquittal in a corruption case does not nullify the right to require compensation for state finances.

It is clear that the punishment of the perpetrators of corruption is no longer possible by relying on a retributive approach. A systematic and comprehensive effort is needed to recover the consequences of corruption. The failure of the retributive theory which is oriented to revenge, and the neoclassical theory, which is oriented to the equality of criminal sanctions and action sanctions to fulfil a sense of justice in society, triggers a reaction to the emer-

gence of thoughts to apply restorative justice in the concept of punishment in general, especially the punishment of perpetrators of corruption (Piadi & Sitepa, 2019).

The existing practice is that many convicts prefer to carry out substitute prison sentences rather than replace or return the money from their corruption to the state because they have managed to hide the assets resulting from corruption while the state needs funds for development and for the welfare of the community as a manifestation of the state's goals contained in paragraph IV, Preamble to the 1945 Constitution of the Republic of Indonesia.

Efforts to enforce the law through the concept of restorative justice, on the other hand, the problem arises what if the convict only pays part of the penalty for paying the replacement money, but the length of the replacement prison sentence has been determined in the judge's decision. Juridically, whether the replacement prison sentence can be automatically adjusted in percentage with the amount of compensation money that the convict has paid or whether the payment is based on the percentage, it must be stated in advance in the judge's decision on this matter, the law has not regulated it.

Developments in society in various sectors of life are so rapid that the laws and regulations are always slower than the development of society. In the last few decades, on the one hand, there has been a change in an attitude towards legislation which shows a balance between the desire to carry out a renewal through legislation and the awareness that in carrying out reforms, it is necessary to pay attention to the values and realities that live in society. Under these circumstances, the court's function covers the judicial field and its role as a lawmaker can also be a source of positive criminal law formation in Indonesia (Najoan & Roeroe, 2021).

The answer to these law enforcement efforts is firstly the process and handling of asset returns within the scope of criminal law and within the scope of civil law that can realize restorative justice. Second, the constraints on asset return in the Indonesian legal system. Third, the future legal concept of returning the assets of the perpetrators and their heirs in realizing restorative justice.

Based on the provisions of the legislation, it is clear that the return of financial losses is something that is very emphasized to be done in order to restore the country's economy due to corruption. This is also confirmed in Law no. 1 of 2004 concerning the State Treasury Article 59 is the basis for law enforcement stipulating that: Every state/regional loss caused by unlawful acts or someone's negligence must be resolved immediately in accordance with the applicable laws and regulations. The treasurer, non-treasurer civil servant, or other officials who, because of his actions violates the law or neglects the obligations imposed on him directly harms the state's finances, is obliged to compensate for the loss.

According to the regulations for criminal acts of corruption, the return of state financial losses can be done through two legal instruments, namely criminal law instruments and civil law instruments. The criminal law instrument is carried out by investigators through the confiscation of the perpetrator's property which is then decided by the court with an additional criminal decision in the form of money to replace state financial losses after the public prosecutor demands that the property belonging to the perpetrator be confiscated by the judge. Meanwhile, civil instru-

9 ments (through Articles 32,33, 34) are carried out by the State Attorney (JPN) or the agency that has been harmed.

12 Efforts to recover state financial losses using civil instruments are fully subject to material and formal civil law disciplines, even though they are related to criminal acts of corruption. The return of criminal assets through civil acts stems from the development of criminal law enforcement practices in the UK and the United States, facing obstacles where assets are used as a means to commit criminal acts or as a support for the continuity of the activities of criminal organizations. The rationale comes from the concept of common law legal system thinking, namely the notion of forfeiture itself contains meaning: "a piece of property guilty of wrongdoing" and its consequences,

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24 In the form of restorative justice, the criminal process uses a material proof system, then the civil process adheres to a formal proof system which in practice can be more complicated than material evidence. criminal acts of corruption, especially in addition to the public prosecutor, the defendant is also given the opportunity to provide the burden of proof, in which the defendant is obliged to prove that his property was obtained not because of corruption. The burden of proof on the defendant is referred to as the principle of Reversal of the Burden of Proof.

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25 This form of restorative justice contains that the suspect or defendant is considered guilty of committing a criminal act of corruption (Presumption of Guilt) unless he is able to prove that he has not committed a crime of corruption and has not caused state financial losses. The current problem is that the law enforcement system in Indonesia, especially the laws and regulations relating to material law and procedural law, has not been able to maximize the efforts to return these assets.

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1 However, the facts show the existence of Law no. 20 of 2001 as a regulation to eradicate corruption is not complete and perfect. Considering that the statutory regulations do not regulate the confiscation and or confiscation of property belonging to the defendant or convict so as to cause a non-optimal return of state losses. Confiscation of property belonging to the defendant or convict as one of the elements of the article in the corruption eradication law so that the return of state losses can be maximized (Sofyan & Amirudin, 2020).

35 Taking assets in a civil, technical process, in the rules, there are several obstacles that will be faced by the state attorney or agency that is disadvantaged in proposing a civil lawsuit. Among other things, the civil procedural law used is still subject to the colonial era civil procedural law which still adheres to the principle of formal proof. The burden of proof lies with the party arguing. the state attorney or agency that is harmed must prove the equality of the parties, the obligation of the judge to reconcile the parties, and so on.

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6 Meanwhile, the state attorney general (JPN) or the agency that was harmed as the plaintiff is required to provide concrete evidence that there is state loss, namely state financial losses due to or related to unlawful acts committed by the suspect, defendant, or convict, the existence of property belonging to the suspect, defendant, or convicts in the form of proceeds of criminal acts of corruption that can be used to recover state financial losses, besides that, as in general civil case handling, it takes a relatively long time until there is a legal decision with permanent legal force even after that there are extraordinary legal reme-

dies such as reconsideration. Not to mention the obstacle because at the time of execution, there will be a lawsuit against or rebuttal from a third party (derden verzet) against the assets to be executed.

Handling this problem will complicate the civil law enforcement process because the state as the plaintiff must have strong evidence to prove the defendant, namely the perpetrator of a criminal act of corruption and proof of how much state loss due to corruption has occurred after the legal process within the scope of criminal law as implied in the provisions of Article 32, Article 33, Article 34, Article 18 paragraph (1) letter b of Law no. 31 of 1999 and Article 38 C of Law no. 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption.

Every head of a state ministry/institution/head of a regional work unit can immediately file a claim for compensation after knowing that

the relevant state ministry/institution/regional work unit has a loss due to the actions of any party. The regulation has explained that the return of state financial losses is an obligation that must be carried out by the perpetrator as stipulated in the law and if it is not returned, it will be subject to both administrative and criminal sanctions.

Comprehensive plans and strategies are urgently needed in disclosing cases of criminal acts of corruption, considering that proving the existence of a criminal act of corruption is not easy, due to the complexity of the modus operandi and the sophistication of the transaction model, and is generally carried out by professionals in the field. One of the elements that must be proven in disclosures that often lead to polemics is the element of state losses.

Consequently, eradicating corruption is not solely aimed at getting corruptors to be sentenced to a deterrent prison sentence, but must also be able to restore the state's losses that have been corrupted. Calculation of state financial losses in corruption can only be carried out after determining the elements against the law as the cause of state financial losses.

Referring to the law on the State Audit Board and Presidential Decree Number 103 of 2001 concerning the Position, Duties, Functions, Authorities, Organizational Structure and Work Procedures of Non-Departmental Government Institutions, it is determined that the one who assesses/determines the existence of state financial losses is the State Audit Board and Financial and Development Supervisory Agency. The calculation of state financial losses itself is seen on a case by case basis.

In accordance with the main purpose of enforcing the criminal law of corruption is to restore state losses. So it is almost certain that in every legal settlement of corruption cases (which can harm legal interests regarding state finances or the economy), prosecutors and judges always prove the value (number) of real state losses. At this stage of proving real losses, the role of the auditor becomes very important. Determining the existence and magnitude of state losses has always been a debate between various parties, for example, between the defendant and his defence and the public prosecutor.

Prosecutors have been assisted by many experts from the Financial and Development Supervisory Agency. The authority of the Supreme Audit Agency (BPK) to calculate state financial losses in cases of corruption based on Article

10 of Law no. 15 of 2006 concerning the Supreme Audit Agency, namely:

- A. BPK assesses and/or determines the amount of state losses caused by unlawful acts, whether intentionally or negligently committed by treasurers, BUMN/BUMD managers, and other institutions or bodies that manage state financial management.
- B. The assessment of state financial losses and/or the determination of the party who is obliged to pay compensation as mentioned above shall be determined by a decision of the BPK.
- C. To guarantee the implementation of compensation payments, BPK has the authority to monitor: Settlement of state or regional compensation determined by the government for non-treasury civil servants and other officials; Implementation of the imposition of state or regional compensation to treasurers, managers of BUMN/BUMD, and other institutions or bodies that manage state finances that the BPK has determined, and implementation of the imposition of state or regional compensation determined based on court decisions that have permanent legal force.

The authority of the Supreme Audit Agency (BPK) to provide expert information regarding state or regional losses based on Article 11 letter c of Law no. 15 of 2006 concerning the Supreme Audit Agency (BPK), namely: BPK can provide: Expert testimony in the judicial process regarding state or regional losses.

Every judge's decision in a formal juridical manner still cannot ignore the procedural aspects, but the most important thing is the birth of a decision that can lead the judges to arrive at the real legal objectives, namely fairness, benefit, and legal certainty. Confiscation of assets originating from criminal acts of corruption through criminal channels (in-person forfeiture/convicted based asset forfeiture) as described previously is an additional crime.

#### 4. CONCLUSIONS

Judges' Efforts to Realize Restorative Justice in Asset Recovery from Corruption Crimes Based on the provisions of the law, it is emphasized that the return of financial losses is carried out in order to restore the country's economy. Article 18 paragraph (1) states that additional punishment is the payment of replacement money in the amount of the property obtained from the criminal act of corruption." paragraph (2) "if the convict does not pay the replacement money after the court's decision, his property can be confiscated by the prosecutor and auctioned off for cover the replacement money.

Law No. 1 of 2004 concerning the State Treasury, Article 59 confirms that: the provisions of the legislation on the settlement of state/regional losses, the obligation for employees and officials who violate the law or harm state finances, to compensate for losses. the head of the state ministry/institution/head of regional apparatus may immediately file a claim for compensation, after knowing that a loss has occurred due to the actions of any party. Based on these rules, the return of state financial losses is an obligation that must be carried out by the perpetrator as stipulated in the law, and if it is not returned, it will be subject to both administrative and criminal sanctions. The purpose of law enforcement against corruption is to restore state

losses. So every legal settlement of corruption cases, prosecutors and judges always proves the value of real state losses. Prosecutors have been assisted by many experts from the Financial and Development Supervisory Agency. The judge's decision in a formal juridical manner still cannot ignore the procedural aspects, but the most important of all is the birth of a decision that can lead judges to arrive at the real legal goals, namely fairness, benefit, and legal certainty.

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