

ANALISIS HUKUM PERAMPASAN ASET DALAM TINDAK PIDANA KORUPSI UNTUK PENGEMBALIAN KERUGIAN NEGARA SEBAGAI BENTUK PEMIDANAAN

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ABSTRAK

Korupsi merupakan kejahatan yang bersifat luar biasa karena dampaknya tidak hanya merugikan keuangan negara, tetapi juga merusak tatanan sosial, ekonomi, serta kepercayaan publik terhadap institusi negara. Praktik pemidanaan konvensional yang selama ini lebih menitikberatkan pada pidana penjara dinilai belum efektif dalam mencapai tujuan pemulihan kerugian keuangan negara, sehingga perampasan aset hasil tindak pidana korupsi menjadi instrumen penting dalam sistem peradilan pidana modern. Permasalahan yang dikaji dalam penelitian ini meliputi bagaimana pengaturan hukum perampasan aset dalam tindak pidana korupsi di Indonesia, sejauh mana efektivitas penerapannya dalam pengembalian kerugian keuangan negara, serta apa saja tantangan yuridis dan praktis dalam penerapan perampasan aset tanpa pemidanaan. Penelitian ini bertujuan untuk menganalisis kerangka yuridis perampasan aset dalam hukum positif Indonesia, mengevaluasi efektivitas implementasinya, serta merumuskan urgensi pembaruan regulasi perampasan aset sebagai bagian dari paradigma baru pemidanaan. Metode penelitian yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan, pendekatan konseptual, dan pendekatan literatur. Hasil penelitian menunjukkan bahwa perampasan aset tindak pidana korupsi telah diatur dalam berbagai peraturan perundang-undangan, namun penerapannya belum optimal karena keterbatasan norma, fragmentasi pengaturan, perbedaan penafsiran aparat penegak hukum, serta ketiadaan undang-undang khusus tentang perampasan aset. Selain itu, mekanisme *non-conviction-based asset forfeiture* belum memiliki dasar hukum yang kuat sehingga sulit diterapkan secara efektif. Kesimpulan penelitian ini menegaskan bahwa optimalisasi perampasan aset, termasuk melalui penguatan kerangka hukum *non-conviction-based asset forfeiture*, merupakan kebutuhan mendesak guna meningkatkan efektivitas pengembalian kerugian negara dan memperkuat upaya pemberantasan korupsi yang berorientasi pada keadilan substantif, bukan semata-mata pemidanaan formal.

Kata kunci: Perampasan Aset, Tindak Pidana Korupsi, *Non-Conviction Based Asset Forfeiture*.

LEGAL ANALYSIS OF ASSET FORFEITURE IN CORRUPTION CRIMES FOR THE RECOVERY OF STATE LOSSES AS A FORM OF PUNISHMENT

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ABSTRACT

Corruption constitutes an extraordinary crime due to its far-reaching impact, not only causing losses to state finances but also undermining social order, economic stability, and public trust in state institutions. Conventional penal practices that predominantly emphasize imprisonment have proven insufficient in achieving the objective of recovering state financial losses. Consequently, asset forfeiture derived from corruption offenses has emerged as a crucial instrument within the modern criminal justice system. This study examines several key issues, namely the legal regulation of asset forfeiture in corruption cases in Indonesia, the extent to which its implementation is effective in restoring state financial losses, and the juridical as well as practical challenges associated with the application of non-conviction-based asset forfeiture. The purpose of this research is to analyze the juridical framework governing asset forfeiture within Indonesia's positive law, to evaluate the effectiveness of its implementation, and to formulate the urgency of regulatory reform on asset forfeiture as part of a new penal paradigm. This study employs a normative legal research method, utilizing statutory, conceptual, and literature-based approaches. The findings reveal that asset forfeiture in corruption cases has been regulated through various statutory instruments; however, its implementation remains suboptimal. This condition is attributable to normative limitations, fragmented regulatory arrangements, divergent interpretations among law enforcement authorities, and the absence of a comprehensive and specific asset forfeiture law. Furthermore, the mechanism of non-conviction-based asset forfeiture lacks a solid legal foundation, rendering its application ineffective and legally uncertain. This study concludes that the optimization of asset forfeiture, including the strengthening of the legal framework for non-conviction-based asset forfeiture, constitutes an urgent necessity to enhance the effectiveness of state financial recovery and to reinforce anti-corruption efforts that are oriented toward substantive justice rather than merely formal punitive measures..

Keywords: *Asset Forfeiture, Corruption Crime, Non-Conviction Based Asset Forfeiture.*