

Optimizing the Recovery of Corrupt Assets from the Perspective of Economic Rights and Human Security in Indonesia

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ABSTRACT

This study aims to analyze the optimization of corrupt asset recovery in Indonesia through the revision of the replacement money policy. The current policy, which is regulated in Indonesia's anti-corruption criminal law, often faces implementation challenges, such as difficulties in tracing and confiscating assets and the minimal amount of assets recovered compared to the total state losses. These weaknesses reduce the effectiveness of asset recovery and weaken the deterrent effect on corruption perpetrators. The research uses a normative legal method with a statutory and comparative approach. Legal provisions related to the replacement money policy in Indonesia are reviewed and compared with best practices from other countries that have implemented more effective asset recovery mechanisms, and the analysis also involves legal interpretation and evaluation of policy implementation in corruption cases. The results show that revising the replacement money policy is urgently needed to enhance the legal framework and enforcement mechanism. Strengthening the execution process, improving the clarity of confiscation procedures, and encouraging the use of digital tracing technologies and institutional collaboration can significantly increase the effectiveness of asset recovery. This policy reform is expected to provide a stronger deterrent effect, support transparency and accountability in law enforcement, and contribute to sustainable anti-corruption efforts in Indonesia.

Keywords: Corrupt Asset Recovery, Replacement Money, Corruption, Criminal Law, Asset Confiscation.

ABSTRAK

Penelitian ini bertujuan untuk menganalisis optimalisasi pengembalian aset hasil tindak pidana korupsi di Indonesia melalui revisi kebijakan uang pengganti. Kebijakan saat ini yang diatur dalam hukum pidana antikorupsi Indonesia sering menghadapi tantangan implementasi, seperti kesulitan dalam pelacakan dan penyitaan aset serta jumlah aset yang dikembalikan yang minim dibandingkan dengan total kerugian negara. Kelemahan ini mengurangi efektivitas pengembalian aset dan melemahkan efek jera bagi pelaku tindak pidana korupsi. Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan perbandingan. Ketentuan hukum terkait kebijakan uang pengganti di Indonesia ditinjau dan dibandingkan dengan praktik terbaik dari negara lain yang telah menerapkan mekanisme pengembalian aset yang lebih efektif, dan analisis juga melibatkan interpretasi hukum dan evaluasi implementasi kebijakan dalam kasus korupsi. Hasil penelitian menunjukkan bahwa revisi kebijakan uang pengganti sangat dibutuhkan untuk meningkatkan kerangka hukum dan mekanisme penegakan hukum. Memperkuat proses eksekusi, meningkatkan kejelasan prosedur penyitaan, dan mendorong penggunaan teknologi pelacakan digital dan kolaborasi kelembagaan dapat secara signifikan meningkatkan efektivitas pengembalian aset. Reformasi kebijakan ini diharapkan dapat memberikan efek jera yang lebih kuat, mendukung transparansi dan akuntabilitas dalam penegakan hukum, serta berkontribusi pada upaya pemberantasan korupsi yang berkelanjutan di Indonesia.

Kata Kunci: Pemulihan Aset Korupsi, Uang Pengganti, Korupsi, Hukum Pidana, Penyitaan Aset.

INTRODUCTION

Corruption in Indonesia has long been a serious problem that hampers national development and damages the order of national and state life. This crime not only causes large losses to state finances, but also results in public trust in government institutions, disrupts political stability, and creates social inequality. Its widespread and systemic destructive impact, corruption is considered an extraordinary crime or extraordinary crime (Syarafi & Syahbandir, 2024). This status requires extraordinary handling, both in terms of law enforcement, preventive policies, and recovery of state losses, and eradicating corruption cannot be done with a conventional legal approach alone, but requires an integrated and sustainable strategy. One important aspect that is a concern in efforts to eradicate corruption is the recovery of assets resulting from crime, because the real impact of corruption is not only on the perpetrators who are punished, but also on the potential state finances that are lost and must be returned (Hjelmeng & Søreide, 2017; Wilson, 2015).

Corruption is an extraordinary crime that not only causes financial losses to the state, but also violates the economic and social rights of the people. Public funds that should be used to improve the quality of education, health, infrastructure, and social protection services are often misappropriated for the benefit of certain individuals or groups. This crime has a major impact on society—especially those in the lower economic strata—losing access to their basic rights. Corruption damages the governance system, widens social disparities, and weakens public trust in state institutions. Returning assets from corruption is not just an effort to restore state finances, but also a strategic step to restore the rights of the people that have been seized and to strengthen the state's function in fulfilling its constitutional obligations to the people. Data on this matter is presented in the processed data as follows figure 1:

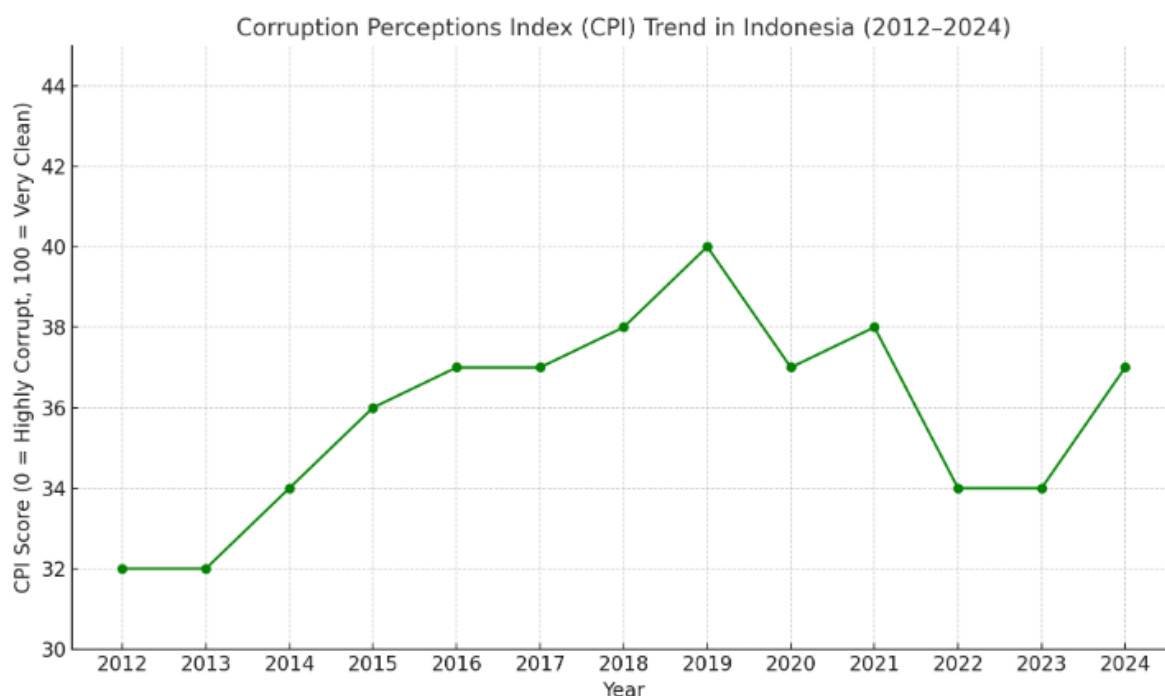


Figure 1. Corruption Perception Index Trend in Indonesia

Source: Transparency International (2025)

Corruption Perceptions Index (CPI) data released by Transparency International shows that perceptions of the level of corruption in Indonesia during the period 2012 to 2024 experienced quite striking fluctuations. At the beginning of the period, namely 2012 and 2013, Indonesia's CPI score was at 32, indicating a still high level of corruption. Over time, this score gradually increased until it peaked in 2019 with a score of 40, reflecting an increase in trust in efforts to eradicate corruption, especially with the strong role of the Corruption Eradication Commission (KPK) at that time. After 2019, Indonesia's CPI score decreased again—to 37 in 2020, 38 in 2021, then dropped drastically to 34 in 2022 and 2023, and this condition indicates a decrease in public trust in the effectiveness of anti-corruption institutions, which is likely influenced by changes in regulations and legal political dynamics. In 2024, there was even a slight increase to 37, which gives an early signal of improvement, although not yet significant. This trend confirms that corruption in Indonesia is still a serious problem and requires comprehensive policy reform, including optimizing asset recovery through a revision of the replacement money policy as an important instrument in eradicating corruption.

The return of assets resulting from corruption has a strategic meaning in efforts to restore public rights that are directly affected by criminal acts of corruption. Corrupted assets are basically public funds that should be used to ensure public welfare, fund public services, improve the quality of education, and expand access to health services. When these assets are lost due to corruption, society at large experiences double losses—not only from the state's economic side, but also from the social side and daily welfare. Optimizing the return of corrupt assets is an integral part of restoring the rights of the people that have been seized, and is an important foundation in restoring the state's function as a service provider and protector of public welfare.

Corruption is an extraordinary crime that has a wide impact on the life of the nation and state. Its impact is not only limited to state financial losses, but also damages the order of the government system and weakens public trust in state institutions. According to research by (Zahrulyani et al., 2024), corruption results in waste of the state budget and inefficient allocation of resources, which ultimately worsens social inequality and slows down national development. Research conducted by (Yustiarini & Soemardi, 2020) shows that corruption erodes government legitimacy because the public loses trust in state officials who are considered unaccountable and tend to abuse their power, and this is reinforced by a study by (Andre Yosua & Mulia, 2024) which noted that Indonesia's corruption perception index stagnated due to weak bureaucratic reform and low levels of recovery of corrupt assets. Several studies such as those put forward by (Wiratraman, 2019) emphasize that a repressive approach alone without systemic improvements is actually not effective enough in suppressing corruption, and a comprehensive approach is needed, including sharper policies in returning assets from corruption so that the negative impact on the state can be minimized in a real and sustainable manner.

The Replacement Money Policy in Indonesia, which generally refers to the replacement of state money lost or suffered losses due to certain actions (such as corruption), has several shortcomings or weaknesses in the context of returning corrupt assets through the revision of the replacement money policy, this means that the replacement money policy is often not effective enough in preventing corruption or other violations of the law (Sharafutdinova & Lokshin, 2021; Sharman, 2017). Although the perpetrators are required to return the losses incurred, this sanction is often considered light compared to the profits obtained from illegal actions. This does not provide an adequate deterrent effect for the perpetrators. One of the main obstacles to the implementation of this policy is the length of the legal process to determine the value of the replacement money that must be paid. Delays in resolving cases,

complicated bureaucracy, and uncertainty in the court process often cause the return of money to be ineffective and late.

The return is not balanced with the losses. In some cases, the replacement money that was successfully collected from the perpetrators was not comparable to the amount of losses experienced by the state, this is due to several factors, such as the perpetrators who have transferred assets abroad or have spent them, making it difficult for law enforcement to track and confiscate the assets (Rahman & Husnul, 2024; Rumahorbo et al., 2022). The replacement money policy tends to focus only on recovering material losses without considering the root causes of the crime that occurred, such as a weak bureaucratic system, lack of supervision, and a culture of corruption that still exists. There are cases where perpetrators with strong political or economic connections receive lighter treatment compared to perpetrators from ordinary people, and this creates the impression of injustice and weakens public trust in the legal system. Although the replacement money policy has been regulated, its supervision is often not strict. There are many cases where perpetrators can still avoid their obligations, either through legal manipulation or exploiting loopholes in regulations. This weak supervision adds to the problems in implementing this policy.

Recovery of assets resulting from corruption is one of the biggest challenges in efforts to eradicate corruption in Indonesia. Although there are various legal instruments and law enforcement agencies that handle corruption cases, the process of returning illegally obtained assets still faces various obstacles. One of the main obstacles arises when these assets have been moved abroad (Quah, 2015; Rahim, 2023). Corruptors often hide their wealth in countries with financial systems that are difficult to trace or that implement very strict privacy policies. Efforts to return cross-border assets require international cooperation which in practice is often slow and complex. At the national level, the asset recovery process involves various institutions such as the Corruption Eradication Commission (KPK), the Attorney General's Office, and the Ministry of Foreign Affairs. Coordination between these institutions is often hampered by complicated and inefficient bureaucracy, slowing down the process. The return of corrupt assets generally depends on a final legal decision (*inkracht*), which means that the entire judicial process must be completed first. The lengthy legal process, including appeals and cassation, is often used by corruptors to delay the return of assets through existing legal loopholes, assets that should have been immediately returned to the state are actually delayed for a long time.

Corruptors often hide their assets in forms that are difficult to trace, such as property in other people's names, investments in shell companies, or bank accounts in countries with secret banking regulations. This makes it difficult for law enforcement to identify and prove the connection between these assets and the proceeds of corruption (Oermann & Ziebarth, 2015; Olujobi, 2021). Law enforcement in Indonesia often experiences limitations in terms of human resources, technology, and expertise to track corrupt assets, especially those that have been moved abroad. In addition, the lack of training in asset investigation and financial forensics is also a factor that slows down the asset return process.

The return of corrupt assets that have been taken abroad requires cooperation with the countries where the assets are hidden. When someone involved in corruption moves the proceeds of their crime to another country, the assets become part of that country's economy. These assets can be money stored in foreign banks, property, or other investments (Negara, 2023; Nurferyanto & Takahashi, 2024). To return assets that have been moved abroad, the country of origin must cooperate with the country where the assets are stored. This cooperation is important because each country has different legal sovereignty and legal systems. However, these countries may not always be cooperative for legal, political, or economic reasons. For example, the destination country of the assets may have strict asset protection or bank

secrecy regulations, which make asset return very difficult, corruption also involves parties with political influence abroad, which can hinder the legal process (Kusuma, 2018; Nasution, 2023).

The legislation in Indonesia regarding the return of corrupt assets is not yet fully comprehensive. Indonesia already has a number of laws and regulations related to corruption eradication and asset recovery, including: 1) Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, which was updated by Law No. 20 of 2001; 2) Law Number 8 of 2010 concerning the Prevention and Eradication of Criminal Acts of Money Laundering; 3) Regulations regulated by the Corruption Eradication Commission (KPK) and cooperation between institutions such as PPATK (Financial Transaction Reports and Analysis Center). Despite the legal basis, Indonesia still faces several challenges in asset recovery, especially when corrupt assets are moved abroad or hidden in various complex forms. Existing regulations are often not effectively connected or do not cover all aspects of asset recovery, especially related to effective international cooperation. For example, regulations on cross-border cooperation still need to be refined to be faster and more efficient in tracking, freezing, and returning corrupt assets located abroad.

The process of asset recovery involves technical procedures, including the identification, confiscation, and confirmation of state ownership of assets. In Indonesia, however, the regulations surrounding this process are often insufficiently detailed, resulting in slow or complicated implementation. While institutions like the KPK play a crucial role, challenges such as inadequate coordination between law enforcement agencies and integrity issues at certain levels continue to undermine the enforcement of existing laws, legal loopholes enable corrupt individuals to evade sanctions or delay the legal process (Isra et al., 2017; Lazor et al., 2024). The mechanisms for asset return are often misaligned with international regulations, which hinders cross-border cooperation. Even when assets are successfully recovered, transparency issues regarding their use frequently arise. A lack of effective systems to ensure that returned assets are used for public benefit further undermines public trust in government institutions and law enforcement agencies.

Corruption within the legal system itself can impede the return of assets, as some law enforcement officers may be involved in corrupt activities, such as accepting bribes from corrupt individuals to protect assets or delay legal proceedings. In summary, the return of corrupt assets in Indonesia is hindered by a range of structural, legal, and international challenges. Addressing these issues requires comprehensive reform within Indonesia's legal system, enhanced international cooperation, and an increase in the capacity and transparency of law enforcement agencies. Overcoming these obstacles is essential for achieving the primary goals of asset recovery: reclaiming state losses and advancing social justice (Jacopo, 2024; Janský et al., 2022; Kofele-Kale, 2016).

The Supreme Court of the Republic of Indonesia (in 2011) granted the cassation appeal filed by the President Director of Bank Jawa Barat, Umar Sjarifuddin. In its decision, the panel of judges reduced Umar's sentence to five years in prison, a fine of Rp200 million, and an obligation to pay compensation of Rp8.8 billion. This cassation decision was handed down by a panel of judges chaired by Mansur Kartayasa, with panel members Krisna Harahap, Leo Hutagalung, Sopyan Martabaya, and Imam Harjadi, and previously the Corruption Court sentenced Umar to seven years in prison and an obligation to pay compensation of Rp19.8 billion. When filing an appeal, the prison sentence was reduced to six years, but the amount of compensation was maintained. The significant change in the amount of compensation at the cassation level raises questions about the consistency and effectiveness of law enforcement, especially in terms of recovering state losses due to corruption.

The Supreme Court's cassation decision in the Umar Sjarifuddin case was apparently not taken unanimously by all members of the panel of judges. Two member judges, namely Krisna Harahap and Leo

Hutagalung, expressed a dissenting opinion. Krisna Harahap who is an Ad Hoc Corruption Judge at the Supreme Court, emphasized that determining the amount of replacement money should not be the authority of the *judex juris* (Supreme Court), but rather the domain of the *judex facti*, namely the first-level and appeal courts (District Court and High Court) that examine and assess legal facts. According to him, the calculation of the replacement money value has been carried out based on an audit by the Audit Board of Indonesia (BPK) and strengthened by the presence of witnesses and experts from the BPK in the trial process at the *judex facti* level.

Krisna questioned the Supreme Court's basis for significantly reducing the amount of compensation, while the authority of the *judex juris* should be limited to the application of the law, not to the assessment of facts. He emphasized that unlike the reduction of prison sentences which can be justified if errors in the application of the law are found, the reduction of compensation does not have a similar basis because it has gone through a factual proof process. Krisna also revealed that the practice of reducing compensation at the cassation level often occurs, and according to him this shows the need for fundamental improvements in understanding the limits of authority between levels of justice. He hopes that in the future the *judex juris* judges will be more careful in carrying out their functions so that the process of recovering state assets from corruption crimes is not hampered by decisions that exceed the limits of authority.

In understanding the urgency of returning assets resulting from corruption, it is important to use a theoretical approach rooted in human rights, especially the right to social and economic welfare. Referring to the International Covenant on Economic, Social and Cultural Rights (ICESCR), which has been ratified by Indonesia through Law Number 11 of 2005, the state has an obligation to respect, protect, and fulfill the rights of the community to education, health, decent work, and an adequate standard of living. Corruption directly violates these principles because it seizes public resources that should be allocated to fulfill the basic rights of the community. Returning corrupt assets is not only a legal or administrative issue, but also the responsibility of the state in the context of restoring the social and economic rights of citizens.

The Human Security approach is also an important foundation in analyzing the impact of corruption on society, this concept emphasizes the importance of protecting individuals from economic, political, and social threats. Corruption creates economic insecurity, namely economic uncertainty and instability for society due to reduced access to public services, unequal distribution of resources, and weakened state capacity in ensuring welfare. Returning corrupt assets is a crucial step in strengthening the economic security of society and restoring public trust in the state.

This study aims to examine and formulate strategies to optimize the return of corruption crime assets through revision of replacement money policy. This is based on the fact that the implementation of an inappropriate and multi-interpretable replacement money policy has the potential to harm the law enforcement process and distance the main objective of returning state losses due to corruption, this policy can even provide benefits to corruption defendants in some cases. This study seeks to evaluate the weaknesses in the implementation of the current replacement money policy and offers more effective, accountable, and optimally oriented policy reform steps. The framework of this research is presented in the following figure 2:

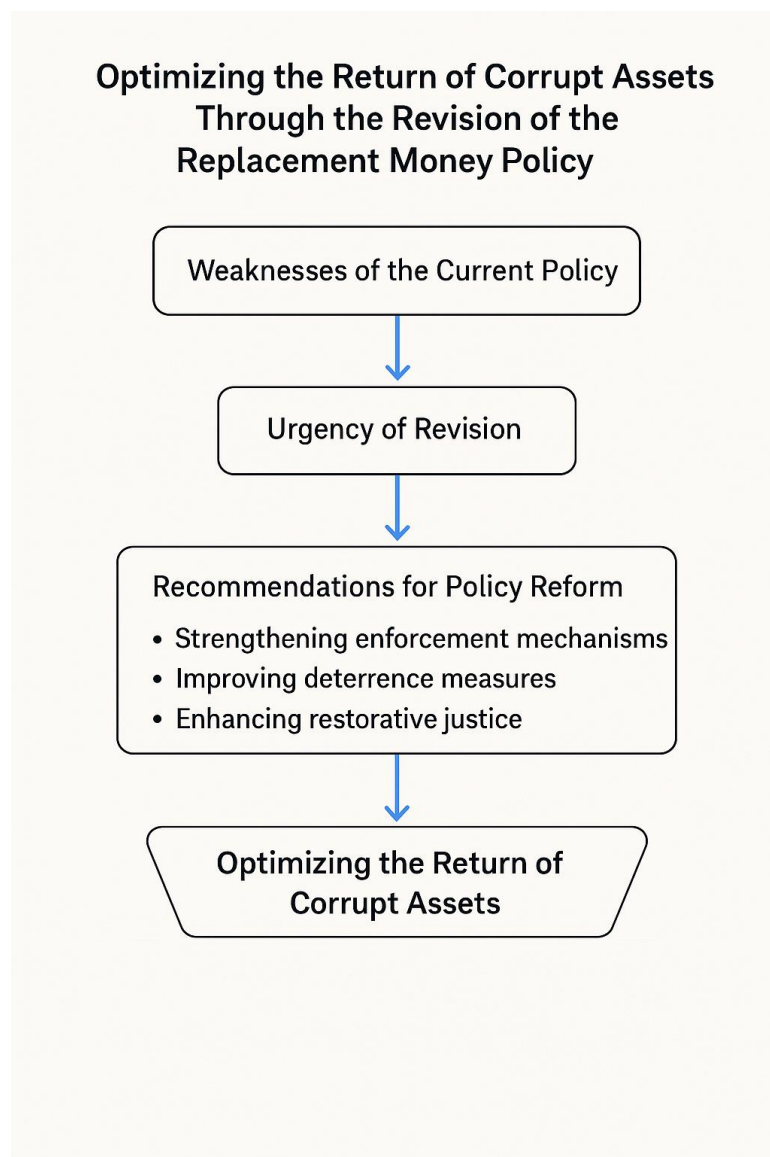


Figure 2. Research Framework

RESEARCH METHOD

This study uses a normative legal research method, namely an approach that relies on the study of legal documents such as laws and regulations, court decisions, and relevant legal literature. In this approach, law is understood as a norm that regulates people's lives, so the main objective is to understand, analyze, and interpret applicable legal norms. The focus of this study is on the replacement money policy in corruption crimes in Indonesia, which is regulated in the Corruption Crime Law and other related regulations, it will be examined how effective the current replacement money policy is in returning state losses due to corruption, as well as the obstacles faced in its implementation. Data analysis in this study focuses on primary legal materials such as laws, government regulations, and court decisions that have permanent legal force (*inkracht*), especially those containing orders for payment of replacement money. This study also examines how judges apply legal provisions in these cases, and whether there are obstacles

in their implementation—for example in tracking hidden assets from corruption. In addition, an interpretation of related legal concepts and principles is carried out to identify deficiencies in applicable regulations and offer recommendations for revising the replacement money policy so that the return of state assets can take place more optimally and accountably.

RESULTS AND DISCUSSION

Analysis of Weaknesses of Replacement Money Policy (Normative and Implementative Aspects)

The policy regarding replacement money is regulated primarily in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, as well as the Criminal Procedure Code (KUHP). Based on Article 18 paragraph (1) letter b of the Corruption Law, the court can impose additional penalties in the form of payment of replacement money in the amount of property obtained from the proceeds of the crime of corruption. If the defendant does not pay the replacement money within the specified time, then his property can be confiscated and auctioned to cover the shortfall. If the auction proceeds are insufficient, then the defendant can be sentenced to prison as a substitute. This provision is reinforced by the Supreme Court Regulation (Perma) which regulates the technical implementation of additional penalties, although it does not yet answer in detail the issue of implementation in the field.

There are a number of normative loopholes that reduce the effectiveness of state asset recovery in its implementation. One significant weakness is the absence of a clear time limit for payment of replacement money, which opens up space for convicts to delay or even avoid payment. There is no monitoring mechanism or guarantee of measurable and firm execution after the verdict has become final (Barth et al., 2004; Cooley & Sharman, 2017; Efendi, 2024). There is a dualism problem between substitute imprisonment and the concept of asset recovery as a form of restitution. For example, there are also many cases where convicts prefer to serve substitute imprisonment rather than pay substitute money or hand over assets resulting from corruption. In fact, the main purpose of this additional punishment is to recover state losses, not just to provide a deterrent effect through corporal punishment. The substitute money mechanism which should function as an instrument of recovery has actually lost its essence and functions more as a form of alternative punishment. This phenomenon shows that normatively, the substitute money policy does not fully support the principle of restorative justice in eradicating corruption in Indonesia.

The implementation aspect must also be highlighted, namely the implementation of the execution of substitute money crimes facing a number of technical and bureaucratic challenges that are quite complex. One of the main challenges lies in the limited capacity of law enforcement agencies, such as the Prosecutor's Office and the Corruption Eradication Commission (KPK), in tracing, confiscating, and auctioning off assets belonging to convicts that are spread across various locations, and are often hidden with complex ownership structures. When the court has imposed a substitute money crime, its implementation is not automatically followed by a systematic asset collection mechanism. This aspect is exacerbated by limited data, coordination between institutions, and the less than optimal integration of information technology to support tracking the wealth and financial transactions of corruption perpetrators.

Long and complicated bureaucratic procedures also often hamper the execution process. For example, the process of confiscation and auction of assets often takes a long time because it must go

through administrative stages, inter-agency approvals, and additional court decisions. It is not uncommon for obstacles to arise in terms of the legal status of asset ownership disputed by third parties, which then delays the execution process. The lack of trained human resources in the field of asset recovery, as well as the absence of uniform standard operating procedures (SOPs) across all law enforcement work units, adds to the layers of implementation problems that cause the execution of replacement money not to run optimally.

The monitoring system for the payment of replacement money is not carried out intensively. Law enforcement officers often do not have a continuous control mechanism after the court decision, so they cannot ensure that payments are made in accordance with the provisions. In some cases, convicts who should have paid replacement money were actually able to retain most of their wealth or even escape, while the state had difficulty in collecting back the losses incurred due to the corruption. These facts show that in terms of implementation, the replacement money policy is still far from effective and requires comprehensive institutional improvements so that it can function as a real instrument in recovering state assets.

Administrative obstacles and weak coordination between institutions are significant factors that also hamper the effectiveness of the implementation of substitute monetary punishment in efforts to return assets resulting from corruption. In practice, the process of tracking and confiscating assets requires cross-sectoral cooperation between law enforcement officers such as the Prosecutor's Office, the Corruption Eradication Committee (KPK), the Police, the Financial Transaction Reports and Analysis Center (PPATK), the Directorate General of Taxes, and the National Land Agency. However, coordination between institutions often does not run synergistically due to differences in authority, sectoral egos, and the absence of an integrated information system that supports the process of verification and tracking assets efficiently. The absence of a database that is interconnected between institutions causes delays in the process of identifying the assets of convicts, which leads to slow processes of confiscation and auction of assets.

The procedures in place to confiscate and execute assets from corruption often encounter legal-formal issues, such as proving the origin of the assets, ownership status disguised through third parties, and obstacles in determining the value of assets to be auctioned. This procedure is not only time-consuming, but also requires technical expertise that is often not possessed by the implementing officers in the field. For example, there are assets in the form of shares, property, or accounts abroad that require a very technical cross-jurisdictional approach and require international cooperation, which unfortunately has not been maximized strategically by the Indonesian government.

Available data from the Attorney General's Annual Report and the results of a study by Indonesia Corruption Watch (ICW) show that in 2022, of the total 1,061 corruption cases that have been decided by the court, only around 29.7% were accompanied by the execution of the payment of replacement money in full. This means that more than 70% of those convicted of corruption cases did not pay replacement money or the payment had not been executed effectively. An ICW report also shows that of the total potential state loss of IDR 39 trillion in corruption cases during the 2017-2021 period, the value of assets that were successfully recovered was only around IDR 10.8 trillion or less than a third. This condition indicates an imbalance between the goal of asset recovery and realization in the field. Administrative obstacles and minimal strategic collaboration between agencies are the main causes of the low effectiveness of the replacement money policy, which should function as the main mechanism to restore state financial losses due to corruption (Agustanti et al., 2023; Ali et al., 2022; Arifin et al., 2023).

The Impact of Ineffectiveness of Replacement Money on Asset Recovery

The ineffectiveness of the replacement money policy in the practice of enforcing corruption crimes directly weakens the function of state restitution as part of the asset recovery mechanism. Restitution in this context refers to the state's efforts to restore financial losses due to corruption crimes through available legal instruments, one of which is additional punishment in the form of replacement money. When this policy cannot be implemented optimally, either due to normative weaknesses or implementation obstacles, then the state losses that should have been recovered become permanent. One concrete impact of the ineffective implementation of replacement money is the emergence of a perception of impunity for perpetrators of corruption. Corruption convicts often choose to serve replacement prison sentences rather than return assets obtained illegally. The state loses the opportunity to return the wealth that has been seized, while the perpetrators can still enjoy the proceeds of their corruption after serving their sentence. This condition is not only financially detrimental, but also creates social injustice because it fails to restore the public's rights to state resources that have been misused.

The ineffectiveness of the replacement money policy also weakens public trust in the state's commitment to eradicating corruption. When the public witnesses that the asset recovery process is not commensurate with the losses incurred, the credibility of law enforcement agencies and the justice system is at stake, and asset recovery is a key indicator of the success of law enforcement that does not only focus on corporal punishment, but also on the real recovery of state losses. The failure of the replacement money policy also has an impact on the limited fiscal capacity of the state. Corruption that is not accompanied by an effective asset recovery mechanism contributes to the loss of potential state revenue that can be used to finance public sectors such as education, health, and infrastructure, the ineffectiveness of the replacement money policy is not only a legal problem, but also a structural obstacle to national development and long-term economic recovery (Agustanti et al., 2023; Arifin et al., 2023).

The ineffectiveness of the compensation policy in corruption cases has serious implications for the state's ability to recover financial losses to the maximum. In many cases, even though the court has imposed a compensation sentence, the assets resulting from corruption have not been returned to the state treasury due to various legal and implementation obstacles, this causes state losses to become permanent and contributes to the loss of public resources that should be used for the benefit of the community. One real example is the corruption case of PT Asuransi Jiwasraya which caused state losses of IDR 16.8 trillion. Although several defendants have been sentenced to replacement money, the Attorney General's Office report shows that by the end of 2022, asset recovery from the case had only reached around IDR 3.1 trillion. This means that more than 80% of state losses have not been recovered, indicating the weak effectiveness of the replacement money mechanism as a restitution instrument, in other major cases such as corruption in the procurement of e-KTP and BLBI, the assets returned to the state are far from the amount of losses recorded in the audit of the Supreme Audit Agency (BPK) or the KPK investigative report.

The failure to recover these assets has a direct impact on weakening public trust in the law enforcement system. The public tends to think that punishment for corruptors does not have a deterrent effect because they can still retain most of the proceeds of their crimes. When corruptors can serve their sentences without losing all of their illegally obtained assets, the moral and justice messages that should be upheld become unclear. This ineffectiveness even has the potential to encourage other perpetrators to commit similar acts because they see the risk of punishment as not comparable to the potential benefits of corruption crimes.

This ineffectiveness also creates a double burden for the state. In addition to having to bear the losses due to corruption, the state must also allocate additional budget to finance legal processes, investigations, and asset recovery that may not be successful. The accumulation of these losses affects fiscal stability, reduces fiscal space for social programs, and ultimately hinders development. Improvements to the replacement money policy are not only important within the legal framework, but also as a strategic step to maintain the credibility of the state, public justice, and the sustainability of national finances.

Indonesia's policy of restitution in the recovery of corrupt assets focuses more on the legal process leading to the confiscation and return of illegally obtained assets. Although this step is important to restore state losses, the policy often ignores the social and economic impacts caused to the community, especially those directly affected by corruption, this can be seen in neglected public services or inequalities that arise as a result of the seizure of state assets, which unfortunately are often not taken into account in existing recovery policies.

There are more holistic approaches in other countries in linking asset recovery to the protection of people's economic rights. For example, in the United States, the Racketeer Influenced and Corrupt Organizations (RICO) law allows for the seizure of assets obtained through corrupt activities and organized crime. In addition to recovering state assets, this policy also ensures that a portion of the recovery proceeds are used to fund social programs that benefit affected communities, such as health and education services, which in turn helps protect people's economic rights.

In the European Union and some countries such as Italy and Spain, asset recovery policies are implemented that focus not only on the recovery of state losses, but also on the use of seized assets to fund community development projects. For example, these assets are used for public housing programs and other public welfare initiatives, with an approach that seeks to minimize the negative impact on innocent communities. Singapore is also known for its stringent asset recovery policy, which focuses on returning illegal assets to the state. However, this policy also ensures that the economic rights of people who are not involved in corruption are protected. For example, Singapore uses a portion of the seized assets to fund assistance programs that support critical sectors such as education and health, helping individuals and families directly affected by corruption. This approach illustrates how asset recovery focuses not only on the interests of the state, but also on efforts to protect and improve the welfare of society as a whole.

Administrative Barriers and Inter-Agency Coordination

Replacement money is a legal mechanism aimed at recovering state losses resulting from corruption. Under this policy, individuals convicted of corruption are obligated to return an amount equivalent to the wealth acquired through unlawful means, and this measure functions not only as a punitive tool but also as a means of financial restitution for the state. Through judicial proceedings, the government can demand the return of assets obtained from corrupt practices, the process entails assessing the value of benefits or assets gained by the perpetrator. Importantly, the recovery effort is not limited to property still in the perpetrator's possession. It also extends to assets transferred to third parties, provided those recipients were not complicit in the crime.

In many corruption cases, perpetrators attempt to obscure their illicit gains by transferring assets to third parties. To prevent this, Article 18 grants the state the authority to pursue the recovery of assets even after they have changed hands, provided the recipients were not complicit in or did not knowingly assist with the corruption. This legal provision serves as a safeguard to ensure that ill-gotten gains cannot be shielded through indirect ownership. When a perpetrator is unable to pay the designated replacement

money, the law provides for a substitute sanction in the form of imprisonment. The enforcement of this substitute penalty must reflect the principle of proportionality—aligning the severity of the prison sentence with the financial benefit acquired through corruption or the replacement amount set by the court. Disproportionate sentencing, whether excessively lenient or unduly harsh, undermines both justice and the intended restitution to the state. Ensuring proportionality is key to preserving fairness in the application of this policy. If the value of the replacement money does not correspond to the actual gains from the corrupt act, it creates potential inequity for both the state and the convicted individual.

There are differing legal interpretations regarding when replacement money should be imposed. One view holds that it should only apply when state finances have been directly harmed. Another perspective supports applying replacement money in cases involving bribery or gratuities, regardless of state loss, which has led to conceptual divergence among legal scholars and practitioners. A relevant example is the case of Merry Purba, an ad hoc judge at the Medan Corruption Court. Prosecutors sought a replacement penalty of S\$150,000—the same amount he was found to have received as a bribe from Tamin Sukardi (tried separately) in an attempt to influence a verdict. The court, however, denied the request, reasoning that because the funds came from a private bribe and not from state resources, applying a replacement penalty was inappropriate.

On the other hand, in the case of the former Minister of Maritime Affairs and Fisheries Edhy Prabowo, the Panel of Judges chaired by Muhammad Damis granted payment of compensation of Rp9.6 billion and US\$77 thousand or Rp1.1 billion. The same thing was also decided by the Panel of Judges of the Central Jakarta Corruption Court (Tindak Pidana Korupsi, Tipikor) which imposed an additional penalty of paying compensation of Rp2,322,577,000 against the former Corruption Eradication Commission (KPK) Investigator Stepanus Robin Pattuju. At the Palembang District Court, the Panel of Judges decided to impose a replacement fee of IDR 1.1 billion on the former Acting Head of the Muara Enim PUPR Service, Ramlan Suryadi based on the Decision of the Corruption Crime Court (Tipikor) at the Palembang District Court (PN) Number: 18/Pid.Sus-TPK/2020/PN.Plg dated January 19, 2021.

The Panel of Judges at the Palembang Corruption Crime Court (Tipikor) sentenced the inactive Muara Enim Regent Juarsah to a replacement fee of IDR 3 billion. Former Member of the Indonesian House of Representatives Eni Maulani Saragih was sentenced to 6 (six) years in prison and a fine of IDR 200 million, subsidiary to 2 (two) months in prison because she was found guilty of accepting bribes of IDR 4.75 billion from businessman Johannes Budisutrisno Kotjo. In its verdict, the Panel of Judges sentenced the Convict to pay compensation of IDR 5 billion and SGD 40,000 and if the Convict does not have sufficient assets to pay compensation, then he will be sentenced to 6 months in prison. In the Makassar District Court, in addition to sentencing the Governor of South Sulawesi Nurdin Abdullah to 5 (five) years in prison, the Panel of Judges also imposed an additional penalty in the form of an obligation to pay compensation of IDR 2.187 billion and 350,000 Singapore dollars or equivalent to IDR 3.667 billion, which if added up in total, Nurdin Abdullah must pay approximately IDR 5.8 billion. The inventory of the verdicts above at least represents the group of judges who impose compensation on perpetrators of corruption crimes categorized as bribery and gratification.

he author recalls a statement by Indriyanto Seno Adji in 2016, criticizing the Corruption Eradication Commission (KPK) for its handling of the Anas Urbaningrum case, which he believed was misguided. He pointed out that the bribery allegations against Anas at the time were not directly related to the obligation to pay replacement money. The concept of replacement money as a criminal sanction was first introduced through Government Regulation in Lieu of Law (Perppu) No. 24 of 1960 on the Investigation, Prosecution,

and Trial of Corruption Crimes. It is considered an additional penalty in corruption cases, and judges are not legally or doctrinally required to impose it consistently.

In corruption trials, aside from the principal sentence—such as imprisonment or fines—judges may also impose supplementary penalties, including the obligation to pay compensation. Article 18 of Law No. 31 of 1999 on the Eradication of Corruption, as amended by Law No. 20 of 2001, regulates this provision. The primary aim of compensation is to restore financial losses suffered by the state due to corruption and to recover misappropriated assets. However, Indonesian law grants judges discretion in deciding whether to impose this penalty, depending on the specifics of each case.

Several factors influence this judicial discretion. These include the clarity and measurability of state losses; if such losses can be accurately quantified, compensation is more likely to be applied. The amount already repaid by the perpetrator before sentencing can also affect the decision—judges may opt out of imposing replacement money if significant repayment has occurred. Another important factor is the financial condition of the perpetrator. If they lack sufficient means to pay, enforcing this penalty might be deemed impractical or unjust.

This flexible approach aligns with the principle of substantive justice, emphasizing that punishment should not merely be punitive but also restorative. It reflects the broader philosophy of individualized sentencing, where penalties are tailored to the offender's circumstances and the specific context of the offense. As such, judges are not obligated to impose replacement money when doing so would contradict the principles of fairness and proportionality in the justice system.

Replacement money is an additional penalty that courts can impose on corruption perpetrators, requiring them to pay an amount equivalent to the state's losses due to their actions. However, the implementation of this policy faces several challenges. It is not always mandatory for judges to impose replacement money, especially when state losses are hard to calculate or when the judge prioritizes the main penalties like imprisonment and fines over asset recovery. The failure to fully enforce the replacement money policy worsens public perception of the government's efforts to tackle corruption. When corrupt assets aren't returned, people may feel that the state is not serious about eradicating corruption, and this undermines trust in the justice system. Without effective asset recovery, corrupt individuals may see little risk in their actions, knowing that the financial benefits often outweigh the consequences. This can encourage continued corruption and further erode public trust.

Unrecovered assets leave the state with persistent financial losses, which negatively impact public services and development. Corruption that goes unaddressed and assets that remain with perpetrators weaken public confidence in both the government and its institutions, potentially leading to social and political instability. If corrupt individuals are not forced to return their ill-gotten gains, corruption will likely thrive, reinforcing the perception that it is both profitable and consequence-free. Modern technology, international cooperation, and stronger law enforcement can help track and freeze assets hidden by corrupt individuals. The revised policy should enhance cooperation with other countries through Mutual Legal Assistance (MLA) to facilitate the return of cross-border assets. Additionally, there should be stricter sanctions for those unable to pay replacement money. If a perpetrator claims financial inability, alternative penalties like asset confiscation or extended prison sentences should be applied.

The stagnation of Indonesia's corruption perception index (CPI) highlights ongoing issues in asset recovery. The current replacement money policy is one factor contributing to the public's perception that the state has not effectively recovered corruption losses. A more robust revision of this policy could improve the country's efforts to combat corruption and enhance public and international trust in Indonesia's legal system, Indonesia's CPI ranking may remain stagnant or decline without significant

reform. Public trust is also weakened by concerns over law enforcement effectiveness and inconsistencies in legal enforcement. Weaknesses within institutions like the Corruption Eradication Commission (KPK), due to policy changes undermining their independence, further limit the impact of corruption eradication efforts.

Return of Corrupt Assets through Revision of Replacement Money Policy

The regulation of replacement money payments as an additional penalty, as stated in Article 18 of the Law on the Eradication of Corruption, marks a shift in the approach to tackling corruption. The focus is no longer solely on prison sentences for corrupt individuals, but also on recovering state finances lost due to corruption. Article 18 sets the amount of replacement money equal to the assets gained from corruption. This penalty applies not only to corruption crimes outlined in Articles 2 and 3 of the law, which involve "enriching or benefiting" and "causing losses to state finances," but also to crimes under Articles 5 to 14, provided they involve state finances or lead to losses in state finances.

Supreme Court Regulation Number 5 of 2014 concerning Additional Penalties for Replacement Money in Corruption Crimes was introduced by the Supreme Court of Indonesia to address the need for additional penalties, specifically the replacement payment. Articles d and e of the regulation provide guidelines for determining the amount of substitute imprisonment in cases where the replacement money is not paid, aiming to avoid inconsistencies in sentencing. Only Articles 8 and 10 specifically address substitute imprisonment, while the rest focus on the replacement money itself. Article 8 defines the upper limit of substitute imprisonment, which cannot exceed the original sentence. It's important to note that the replacement money penalty is not always equivalent to the state's financial losses from the corruption. For example, if the state suffers losses of Rp10,000,000, but the perpetrator only acquires Rp5,000,000, the replacement money will be set at Rp5,000,000.

KPK Demands 11 Years behind Bars for Ex-Minister Juliari Batubara

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Figure 3. Juliari Batubara
Source: datatempo.co (2021)

As shown in Figure 3, Juliari was also sentenced to pay Rp 14.5 billion in replacement money and had his political rights revoked, highlighting the severity of the legal consequences he faced. The legal proceedings against Juliari Batubara concluded with significant penalties that underscored the government's stance on corruption. The court not only sentenced him to a lengthy prison term but also imposed a financial penalty amounting to Rp14.5 billion in replacement money. His political rights were revoked for a period following his incarceration, these sanctions reflect both punitive and preventative measures, aiming to deter future abuses of public office and reinforce public accountability among high-ranking officials.

The author refers to the verdict of former Minister of Social Affairs, Juliari Batubara, who was ordered to pay Rp14,597,450,000 (around fourteen billion) as compensation in a corruption case related to the procurement of social assistance (Bansos). If the compensation is not paid within a month of the final verdict, the property will be confiscated, and if insufficient, replaced with 2 years of imprisonment. Many see this verdict as a legal breakthrough because the case involved bribery, not directly harming state finances. Article 5 of Supreme Court Regulation No. 5 of 2014 expands on this. If the assets from a corruption crime have been transferred to another party who has not been prosecuted for criminal acts (such as money laundering), the original perpetrator can be required to pay compensation for those transferred assets as well. The compensation is not limited to the assets obtained but also includes what has been transferred to others, this compensation burden can only be placed on the perpetrator if the other party is not involved in criminal acts themselves. If the other party is considered to have assisted in the crime (as outlined in Articles 55 and 56 of the Criminal Code), they too may bear the responsibility for the compensation.

The phrase as long as no prosecution is carried out against the other party cannot be interpreted as meaning that the other party is not being prosecuted, even though no prosecution is being carried out but in the process of examining the perpetrator (defendant) in the trial it is found that there is a legal fact that the other party has committed an unlawful act (*wederrechtelijk*) either by participating in or assisting the perpetrator of the crime of corruption, then the burden of compensation is imposed on the other party in the amount of the assets obtained, thus the burden of compensation on the perpetrator (defendant) for assets that have been transferred to another party can be carried out as long as the other party has not committed an unlawful act (*wederrechtelijk*) together with the perpetrator (defendant) either by participating in or assisting in committing the crime of corruption.

Those who purposefully incite others to conduct activities by offering something or promising something while misusing authority or dignity, using violence, threats, or deceit, or by supplying opportunity, means, or knowledge. If the amount of state losses is not enjoyed, obtained, or transferred by the perpetrators to other parties, then the imposition of replacement money as an effort to return state financial losses cannot be imposed on the perpetrators, law enforcement must be carried out to those who receive the flow of state financial losses with the requirement that there is an unlawful act (*wederrechtelijk*) and the fulfillment of the provisions of Article 55 or Article 65 of the Criminal Code with the main perpetrators of corruption.

The scope of asset recovery can be expanded by targeting not only the main perpetrators of corruption but also the parties who receive the illicit funds. This approach ensures that not just the assets directly controlled by the primary offenders, but also those that have changed hands to other individuals, are brought back into state custody. Comprehensive law enforcement that holds all parties involved accountable will significantly enhance the deterrent effect. Parties who may consider accepting illicit funds will be deterred by the awareness of legal consequences they may face. By focusing on tracking assets that

have been passed to other individuals, the ability to hide the proceeds of corruption will be substantially weakened. This will make it increasingly difficult for corrupt individuals to enjoy the fruits of their crimes, as the state tightens its grip on hidden assets.

It is essential that not only the main perpetrators but also those who receive the proceeds of corruption be made liable for replacement money payments. A more effective asset tracing mechanism is needed, one that spans both domestic and international jurisdictions. Procedures for confiscating and auctioning assets should be accelerated and simplified, enabling a faster return of stolen assets to the state. Law enforcement actions targeting those who receive illicit funds are crucial in optimizing the recovery of corrupt assets. Expanding the pool of legal subjects who can be penalized, along with strengthening asset tracing capabilities, will make anti-corruption efforts more robust and effective. This strategy will create a more thorough and efficient means of dealing with the proceeds of corruption, ultimately improving the state's ability to restore stolen wealth and reinforce the fight against corruption.

The replacement money policy is one of the legal instruments in an effort to recover state losses due to corruption. In the framework of Indonesian national law, provisions regarding replacement money are regulated in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption. This instrument gives judges the authority to order corruption convicts to pay an amount of money equivalent to the state's losses due to their actions. This approach is often understood narrowly as merely financial compensation for the state, without comprehensively considering the dimensions of restoring the rights of people affected by corruption.

Based on the principles stipulated in the International Covenant on Economic, Social and Cultural Rights (ICESCR), the state has an obligation to guarantee the fulfillment of the rights to welfare, education, health, and public services. Corruption directly and indirectly erodes the fulfillment of these rights, because public funds that should be allocated for social programs are instead corrupted and enjoyed by a handful of individuals. Thus, every effort to return assets resulting from corruption, including through the replacement money mechanism, should be positioned as a form of restitution for the collective losses of society. However, the implementation of the replacement money policy in Indonesia still faces various obstacles that reduce its effectiveness. These obstacles include a long legal process, the large number of assets resulting from corruption that are hidden or transferred abroad, and weak coordination between law enforcement agencies. In several cases, as explained previously, court decisions actually show a significant reduction in the value of the replacement money, which ultimately harms asset recovery efforts and signals impunity for perpetrators of corruption.

The replacement money mechanism has also not been systematically linked to the reparative justice process—namely, efforts to restore the rights and conditions of victims. In the context of corruption, the victims are the wider community who experience a decline in welfare due to the misuse of public funds. Therefore, the revision of the replacement money policy needs to include a human rights-based approach that places the community as the subject of recovery, not just the object of legal policy. This policy revision can be directed at strengthening the provisions governing asset tracing and confiscation, the use of wealth tracking technology, and protection of supervisory institutions so that the asset recovery process is more transparent and accountable. Moreover, funds from asset recovery through replacement money should be dedicated proportionally to finance public sectors directly impacted by corruption, such as education, health services, and social assistance. Thus, the return of assets is not only symbolic, but also makes a real contribution to restoring the economic and social rights of the community.

Revisions to the compensation policy in the recovery of corrupt assets need to be carried out by prioritizing the restoration of community rights, not just punishment of the perpetrators. This policy must

be more focused on efforts to mitigate the social and economic impacts caused by corruption, by integrating the principle of social justice into the asset recovery process. This policy needs to create a mechanism that ensures that the proceeds of asset recovery are not only used to reimburse state losses, but also to restore the rights of affected communities. This improvement includes the allocation of confiscated funds for projects that provide direct benefits to the community, such as the development of basic infrastructure, public services, and social programs that can improve the quality of life.

It is important to emphasize the need for a clear transparency mechanism in the asset recovery process. Public trust in this policy will be strengthened if the process of confiscation and use of returned assets is carried out openly and accountably. This transparency mechanism must include supervision involving the public, so that the public can monitor how the confiscated assets are used and ensure that the funds are truly used for the public interest. Good supervision will help prevent misuse of funds and ensure that the recovery proceeds do not fall into the wrong hands.

Proceeds from asset recovery should be used appropriately to fund public services that have a direct positive impact on communities, such as education, health and social protection. Using confiscated assets in these sectors can help redress the social inequalities that often arise from corruption, by ensuring that the most vulnerable benefit from asset recovery. A restitution policy that is more oriented towards restoring community rights and accompanied by strong transparency mechanisms will have a greater and more sustainable impact on social welfare.

As a direction for future policy development, corruption asset recovery reform needs to consider the integration of digital technology to strengthen the effectiveness and accountability of the asset tracking and return process. The use of artificial intelligence (AI) in financial mapping can help authorities identify suspicious transaction patterns more quickly and accurately, as well as uncover complex cross-border financial networks. Strengthening international cooperation through the Mutual Legal Assistance (MLA) instrument is becoming increasingly important in dealing with the transnational characteristics of corruption. More solid cross-border legal collaboration will facilitate the tracking and recovery of assets spread across various jurisdictions. With a technology-based approach and strengthening global cooperation, asset recovery policies are not only a response to past crimes, but also a strategic tool for building adaptive and sustainable legal governance in the future.

CONCLUSION

The recovery of assets resulting from corruption constitutes a fundamental aspect of fulfilling the economic rights of the community, as it seeks to restore public resources misappropriated through abuse of power and ensure their redistribution for collective welfare. The replacement money policy must be revisited through a rigorous, participatory, and evidence-based legal reform process that involves scholars, practitioners, and civil society actors to ensure both normative clarity and operational effectiveness. The success of such reforms depends on the strengthening of institutional supervision and inter-agency coordination, thereby closing potential legal loopholes and preventing the misuse of policy instruments by corrupt actors. Asset recovery is inherently linked to the broader framework of human rights protection and social security reinforcement, as it enables the state to fulfill its obligations in safeguarding citizens from the socio-economic harms caused by corruption. The replacement money policy has the potential to become a pivotal mechanism in advancing anti-corruption efforts, restoring public trust in the rule of law, and supporting the realization of inclusive and sustainable development in Indonesia with comprehensive and well-targeted reforms.

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