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PROSECUTORS' AUTHORITY IN IMPLEMENTING ASSET CONFISCATION THROUGH THE CONVICTION-BASED ASSET FORFEITURE MECHANISM

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ABSTRACT

This study aims to analyze the construction of the prosecutor's authority as dominus litis in the implementation of conviction-based asset forfeiture, as well as reconstruct a prosecution system that is able to integrate the functions of punishment and recovery of state assets. This study is normative legal research. The results of the study indicate that the implementation of conviction-based asset forfeiture in the Indonesian legal system is still within the paradigm of conviction-centered prosecution that places asset recovery as a further consequence of the punishment of the perpetrator. Based on these findings, this study reconstructs the prosecution system through the Recovery Prosecution and Asset Control Model, a model that integrates the functions of prosecution, asset control, asset protection, asset confiscation, and asset recovery in one coordinated and sustainable system. The novelty of this study lies in the development of RPACM as a modern prosecution model that shifts the orientation of law enforcement from conviction-centered prosecution to recovery-oriented prosecution by placing asset recovery and state restoration as the main indicators of successful law enforcement.

1. INTRODUCTION

Criminal law essentially functions to protect legal interests from the harm caused by criminal acts. This protection is not only realized through punishment of the perpetrator, but also through reparation for the consequences of the criminal act. This orientation aligns with the objectives of criminal punishment as stipulated in Article 51 of Law Number 1 of 2023 concerning the Criminal Code, which emphasizes that criminal punishment is aimed at resolving conflicts, restoring balance, and creating a sense of security in society. Therefore, criminal law is not only oriented toward retaliation against the perpetrator, but also toward ending the unlawful situation arising from the crime.[1]

This characteristic is clearly evident in acts of corruption that are oriented towards economic gain. Corruption not only violates criminal law but also results in the control of assets obtained illegally.[2] As long as the proceeds of the crime are still in the possession of the perpetrator or another unauthorized party, the state's losses are essentially not fully recovered, so that the elimination of the benefits of the proceeds of crime becomes an important part of the corruption eradication system.[3]

Indonesian criminal law policy shows a shift in the orientation of law enforcement from merely punishing perpetrators to recovering state losses and confiscating the proceeds of crime. This is reflected in Article 18 of Law Number 20 of 2001 concerning amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes which regulates additional penalties in the form of payment of compensation money and confiscation of property obtained from criminal acts of corruption. This arrangement shows that action against the proceeds of crime is an integral part of the corruption eradication policy in Indonesia.[4]

Asset confiscation in Indonesia is generally carried out through the conviction-based asset forfeiture mechanism, namely confiscation of assets carried out after a court decision states that the defendant is proven guilty. This model places the legitimacy of action against assets on proving the perpetrator's criminal responsibility in the criminal justice process. Consequently, the effectiveness of recovering the proceeds of crime depends heavily on the success of the case's proof in court.[5][6]

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[1] Nefa Claudia Meliala., Pengaturan Model Perampasan Aset Tanpa Pemidanaan untuk Tindak Pidana Korupsi yang Merugikan Keuangan Negara, *Veritas et Justitia*, Vol.12, No.1 (2026), page.110–136, https://doi.org/10.25123/vej.v12i1.9691

[2] Rihantoro Bayuaji and Fikri Hadi., Asset Recovery in Corruption Cases in Indonesia: A Human Rights Perspective, *Fiat Justisia: Jurnal Ilmu Hukum*, Vol.19, No.1 (2025), page.93–112, https://doi.org/10.25041/fiatjustisia.v19no1.4024

[3] Hanifah Azizah et al., Guarding Property, Recovering Assets: A Constitutional Court Perspective on Non-Conviction-Based Asset Forfeiture in Indonesia, *Jurnal Konstitusi*, Vol.23, No.2 (2026), page.337–372, https://doi.org/10.31078/jk2326

[4] Annisa Ramadhani and Diandra Preludio., Model Yuridis Non-Conviction Based Asset Forfeiture Sebagai Instrumen Penegakan Hukum Tindak Pidana Korupsi di Indonesia, *IPMHI Law Journal*, Vol.5, No.3 (2026), page.275–302, https://doi.org/10.15294/ipmhi.v5i3.42686

[5] Anang Suhartono and Hulman Panjaitan., Normative Reconstruction of Asset Forfeiture: A Legal Pathway Following Demise of Corruption Suspects, *SIGn Jurnal Hukum*, Vol.7, No.2 (2025), page.682–707, https://doi.org/10.37276/sjh.v7i2.511

This construction is still evident in Law Number 20 of 2025 concerning the Criminal Procedure Code. Regulations regarding the seizure, security, and confiscation of assets remain within the framework of criminal evidence and are determined through court decisions. This structure indicates that action against the proceeds of criminal acts still follows the process of proving the perpetrator's criminal responsibility. Consequently, recovery of state losses often depends on the length of the criminal justice process.[7]

At this stage, the prosecutor has a central position as the executor of state power in the field of prosecution as stated in Article 2 paragraph (1) of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia as amended by Law Number 11 of 2021. In the doctrine of criminal procedural law, the prosecutor is known as dominus litis, namely the party who controls criminal cases through the preparation of indictments, evidence, and criminal charges in court.[8] This position places the prosecutor as the main actor in determining the direction of handling criminal cases, including in building a relationship between the perpetrator and the proceeds of the crime.

The development of the modern criminal justice system demonstrates the increasing involvement of prosecutors from the initial stages of case handling through the integrated criminal justice system mechanism. However, this expansion is still primarily oriented toward procedural control of prosecution and the establishment of evidence for crimes. Prosecutorial authority has not been fully directed as an instrument for recovering state losses and securing assets resulting from criminal acts. In practice, action against assets still depends on the resolution of criminal cases until a final and binding decision is obtained.[9]

This situation raises issues in handling corruption crimes. During the judicial process, assets related to the proceeds of crime have the potential to be diverted, hidden, disguised, or experience a decline in economic value. This situation means that the recovery of state losses cannot always be carried out optimally even if the perpetrator is successfully convicted. The issue of asset confiscation is therefore not only related to the existence of legal instruments, but also to how prosecutorial authority is implemented to

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[6] Orrisa Firsta Graviddita and Indung Wijayanto., Non-Conviction Based Asset Forfeiture as an Instrument for Recovering State Losses in Corruption Crimes in Indonesia, *Law Research Review Quarterly*, Vol.11, No.4 (2025), page. 1089–1117, https://doi.org/10.15294/llrq.v11i4.40783

[7] Geza Tristanti Wardani and Satya Graha Habibilah., Beyond Conviction-Based Forfeiture: Legal Politics and Legislative Directions of Non-Conviction-Based Asset Forfeiture in the Recovery of Corruption Assets in Indonesia, *Istinbath: Jurnal Hukum*, Vol.22, No.2 (2025), page.605–627, https://doi.org/10.32332/istinbath.v22i02.art08

[8] Lisa Dwi Fitriyanti and Agus Suwandono., Perampasan aset sebagai sanksi tambahan: Analisis pengembalian kerugian negara dalam penanganan tindak pidana korupsi di Indonesia, *JAKSA: Jurnal Kajian Ilmu Hukum dan Politik*, Vol.3, No.3 (2025), page. 13–27, https://doi.org/10.51903/n9vpm692

[9] Syana Mifta Salsabila and Bambang Waluyo., Optimizing the Enforcement of Asset Forfeiture as an Additional Penalty for Corruption Offenders to Recover State Losses: Optimalisasi Penerapan Pidana Tambahan Perampasan Aset terhadap Koruptor sebagai Upaya Pemulihan Kerugian Negara, *Rechtsidee*, Vol.13, No.2 (2025), page. 1–12, https://doi.org/10.21070/jihr.v13i2.1084

ensure the effectiveness of securing and returning the proceeds of crime.[10]

These issues indicate that the prosecution system still tends to be oriented toward punishing the perpetrator (offender-oriented prosecution). Action against the proceeds of crime is still positioned as an additional consequence of punishment, rather than as an integral part of recovering state losses. As a result, the relationship between prosecutorial authority and the goal of asset recovery has not been fully established functionally within the criminal justice system.[11]

Recent studies on asset forfeiture in Indonesia have primarily addressed the legal limits of conviction-based confiscation, the proposed use of non-conviction-based forfeiture, and obstacles in recovering corruption proceeds. However, those studies do not yet explain in a unified prosecutorial framework how the prosecutor's dominus litis authority can link early asset identification, preservation during litigation, proof of the relationship between assets and offences, and post-judgment recovery while retaining the conviction-based mechanism. The unresolved issue is therefore not simply the availability of confiscation powers, but the continuity of prosecutorial responsibility over assets throughout the criminal process.[12]

Developments in law enforcement in various countries show a tendency to strengthen the function of securing and controlling assets from the initial stages of case handling. This approach demonstrates that the effectiveness of recovering the proceeds of crime is determined not only by the existence of norms regarding asset confiscation, but also by the ability of the law enforcement system to maintain the continuity of assets throughout the legal process. From a legal theory perspective, this situation indicates that the conviction-based asset forfeiture mechanism still places proof of guilt as the primary orientation of criminal law enforcement.[13] However, protecting state interests in corruption crimes is not solely achieved through punishing the perpetrator, but also through the state's ability to effectively recover the proceeds of crime. Therefore, a reconstruction of prosecutorial authority is necessary so that asset confiscation is not merely understood as a consequence of punishment, but rather as an integral part of protecting and restoring state interests.[14] Based on these conditions, this study examines the responsive legal

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[10] Y. Y. Wedha, M. H. Wijaya, and K. Apriliani., Analysis of Legal Confiscation of Corruption Assets from the Perspective of Justice and State Financial Recovery, *LITIGASI*, Vol.26, No.1 (2025), page.477–504, https://doi.org/10.23969/litigasi.v26i1.21484

[11] Hibnu Nugroho et al., Asset Seizure as an Effort to Recover State Assets Resulting from Criminal Corruption, *Journal of Law and Legal Reform*, Vol.7, No.1 (2026), page.161–202, https://doi.org/10.15294/jllr.v7i1.40778

[12] Ahmad Fauzi, Ariesta Wibisono Anditya, and Mohamad Noor Fajar Al Arif Fitriana., Recovering Justice Amid Restorative Approach: Finding the Silver Lining in Asset Recovery on Corruption Crimes, *Indonesian Journal of Criminal Law Studies*, Vol.10, No.1 (2025), page.217–238, https://doi.org/10.15294/ijcls.v10i1.5626

[13] Naser Al-Sherman., Crimes of the Breaches of Trust and Equity in Financial Securities Trading, *Pakistan Journal of Criminology*, Vol.16, No.2 (2024), page.501–514, https://doi.org/10.62271/pjc.16.2.501.514

[14] Dedy Chandra Sihombing et al., Penguatan Kewenangan Jaksa Selaku Dominus Litis Sebagai Upaya Optimalisasi Penegakan Hukum Pidana Berorientasi Keadilan Restoratif, *Locus: Jurnal Konsep Ilmu Hukum*, Vol.3, No.2 (2023), page.65-75, https://doi.org/10.56128/jkih.v3i2.42

model for prosecutors' authority in implementing asset confiscation through the conviction-based asset forfeiture mechanism in order to strengthen the effectiveness of returning the proceeds of crime and recovering state losses in the Indonesian criminal justice system.

Accordingly, this research has two objectives: first, to analyse the scope and limitations of prosecutors' authority as dominus litis in conviction-based asset forfeiture; and second, to reconstruct the coordination of prosecution and asset recovery through the Recovery Prosecution and Asset Control Model. Its contribution is a normative model that treats the criminal verdict as the legal basis for final forfeiture while integrating asset tracing, preservation, adjudication, execution, and state restoration into a continuous prosecutorial responsibility.[15]

2. RESEARCH METHODS

This research is normative legal research which places law as a system of norms to build legal arguments regarding how law should be formed, interpreted and applied (das sollen).[16] Normative legal research views law as norms, principles and doctrines that are constructed to find legal arguments, The statutory, conceptual and legal historical approaches are used to identify the basis and evolution of legislation in Indonesia in resolving a legal problem.[17] The focus of the research is directed at normative asynchrony,[18] especially between the prosecution system which is still oriented towards punishing the perpetrator (offender-oriented prosecution) and the need to protect state interests through controlling and returning assets resulting from criminal acts of corruption.

3. RESULTS AND DISCUSSION

3.1. The Authority of the Prosecutor as Dominus Litis in the Implementation of Asset Confiscation through the Conviction-Based Asset Forfeiture Mechanism

The regulation of prosecutorial authority in the Indonesian criminal justice system cannot be understood simply as an administrative regulation regarding who has the authority to bring a case to court. This authority is essentially a form of delegation of state power in the operationalization of criminal law. In a modern state of law, criminal law does not only work through the existence of prohibitive norms and criminal threats, but also through institutions that are given legitimacy to determine whether a criminal event is processed through the criminal justice mechanism, how the construction of criminal responsibility is built, and what goals are intended to be achieved through the use of criminal instruments

[15] Joko Setiyono et al., Enhancing Cross-Border Justice: Facilitating Asset Recovery from Corruption Between Indonesia and Australia Through Mutual Legal Assistance, *Journal of Indonesian Legal Studies*, Vol.9, No.2 (2024), page.537–570, https://doi.org/10.15294/jils.v9i2.877

[16] Peter Mahmud Marzuki., *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group, 2011, page. 55.

[17] Andri Winjaya Laksana, Hendro Widodo, Anton Rudiyanto and Ida Musofiana., From China to the Dutch East Indies: The Colonial Opium Control and Indonesian Narcotics Law System, *Sriwijaya Law Review*, Vol.10 Issue.2, (2026), page. 445-465 https://doi.org/10.28946/slrev.v10i2.5940

[18] Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Jakarta: Rajawali Pers, 2014, page. 13–14.

by the state.

The Prosecutor's Office occupies a central position in the criminal justice system. This position is constitutionally based in Article 24 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which stipulates that other bodies whose functions are related to judicial power are regulated by law. This provision is further elaborated in Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. Article 2 paragraph (1) of this law stipulates that the Prosecutor's Office is a government institution that exercises state power in the field of prosecution. Thus, prosecution is not only understood as a procedural function, but also as a manifestation of the state's authority in determining the operation of criminal law.[19]

The construction of this authority is emphasized in Article 30 paragraph (1) of the Prosecutor's Office Law which gives the prosecutor's office the authority to carry out prosecutions, implement court decisions that have permanent legal force, supervise the implementation of conditional sentences, conduct investigations into certain crimes based on the law, as well as complete certain case files and carry out additional examinations before the case is transferred to the court. This series of authorities shows that the prosecutor occupies a central position in controlling the criminal process from the pre-trial stage to the implementation of the decision. This position is further strengthened in Law Number 20 of 2025 concerning the Criminal Procedure Code, which maintains the public prosecutor's role in controlling the prosecution process through the authority to examine case files, prepare indictments, transfer cases, present evidence in court, and implement court decisions. It is at this point that dominus litis gains its normative legitimacy.[2021]

Theoretically, an integrated criminal justice system is built on the assumption that the legitimacy of the criminal justice system lies in the integrated function of the law enforcement subsystems in achieving criminal justice. Investigation, prosecution, court hearings, and the implementation of criminal decisions are constructed as a series of interrelated processes in determining the criminal responsibility of perpetrators of criminal acts.[22] Within this structure, prosecution occupies a crucial position as it serves as the link between the results of the investigation and the court proceedings.[23]

The development of the modern criminal justice system essentially demonstrates that the

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[19] Muhammad Djaelani Prasetya., Paradigm Shift in Corruption Punishment: From Imprisonment to State Loss Recovery in the Makassar District Court Decision, *Law Research Review Quarterly*, Vol.12, No.5 (2026), page. 2586–2598, https://doi.org/10.15294/lrrq.v12i5.49295

[20] Gede Putera Perbawa., Kebijakan Hukum Pidana terhadap Eksistensi Asas Dominus Litis dalam Perspektif Profesionalisme dan Proporsionalisme Jaksa Penuntut Umum, *Arena Hukum*, Vol.7, No.3 (2014), page. 325–342, https://doi.org/10.21776/ub.arenahukum.2014.00703.2

[21] Yulianus Mario Aprianto Weto., Legal Review of The Prosecutor's Role in Optimizing Asset Recovery in Corruption and Money Laundering Crimes, *Ratio Legis Journal*, Vol.5, No.3 (2026), page. 3516–3539, https://doi.org/10.30659/rlj.5.3.3516-3539

[22] Muladi., *Kapita Selekta Sistem Peradilan Pidana*, Semarang: Badan Penerbit Universitas Diponegoro, 1995, page. 15–17.

[23] Purning Dahono Putro and Bambang Tri Bawono., The Urgency Of Implementing Non-Conviction Based Asset Forfeiture As A Mechanism For Asset Confiscation In Corruption Criminal Acts In Indonesia, *Ratio Legis Journal*, Vol.5, No.1 (2026), page. 372–389, https://doi.org/10.30659/rlj.5.1.372-389

primary orientation of law enforcement remains directed at establishing criminal responsibility through proving the defendant's guilt in court. Within this structure, the success of law enforcement is largely measured by the state's ability to punish perpetrators of criminal acts through legitimate legal procedures. As a result, prosecutorial authority developed primarily as a state instrument to ensure the effective operation of criminal adjudication mechanisms.[24]

The strategic position of prosecutors in the criminal justice system subsequently gave rise to the dominus litis construct, which places public prosecutors in control of the criminal prosecution process. Over time, prosecutorial authority in the Indonesian criminal law system has essentially evolved within the framework of controlling criminal adjudication, oriented toward establishing criminal responsibility for perpetrators of criminal acts. This construction serves as a crucial foundation for the development of the concept of dominus litis in the modern criminal prosecution system, which positions prosecutors as the primary controllers of the state's use of criminal authority.

The concept of dominus litis stems from the idea that the state must have an institution that centrally and responsibly controls the use of criminal authority. Within this framework, prosecutors are positioned as the controllers of prosecution, determining whether a criminal case is worthy of being brought to trial, how the scope of the charges is constructed, and how the state legitimizes the punishment of individuals suspected of committing a crime. Dominus litis is therefore not merely understood as an administrative concept regarding prosecutorial authority, but rather as a concept that demonstrates the centrality of prosecutors in determining the direction of the criminal justice system.[25]

The Indonesian criminal law system develops this concept through regulations that position the prosecutor's office as the institution exercising state prosecutorial power, as affirmed in Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. Prosecution in this system represents the state's authority to safeguard the public interest through criminal proceedings.

Law Number 20 of 2025 concerning the Criminal Procedure Code further strengthens the position of the public prosecutor as the controller of the prosecution process, from the stage of case file research, preparation of the indictment, transfer of the case, presentation of evidence in court, and implementation of the court's decision. Prosecution does not occur automatically after the investigation is completed, but rather depends on the legal construction established by the public prosecutor. It is at this point that dominus

[24] Andika Wahyu Pratama., Asset Seizure as an Effort to Recover State Financial Losses in Corruption Criminal Cases, *Ratio Legis Journal*, Vol.5, No.2 (2026), page.2978–2988, https://doi.org/10.30659/rlj.5.2.%25p

[25] Fathur Rozy and Jawade Hafidz., Fulfillment of Legal Objectives in Handling Corruption Cases Through Asset Recovery, *Ratio Legis Journal*, Vol.4, No.2 (2025), page.1889–1905, https://doi.org/10.30659/rlj.4.2.%25p

litis gains its normative legitimacy.[26]

Theoretically, dominus litis demonstrates that modern criminal law operates not only through prohibitive norms, but also through institutions that are given legitimacy to control the state's use of criminal authority. The prosecutorial discretion perspective positions prosecutors not merely as implementers of legal procedures, but as institutions that determine the direction of the state's use of punitive authority.[27] In this position, the prosecutor not only functions to bring cases to court, but also determines the orientation of the use of criminal instruments in the law enforcement system.[28]

This research finds that the construction of dominus litis in the Indonesian criminal prosecution system is still oriented towards controlling criminal adjudication rather than controlling asset recovery. Prosecutors' authority is strongly established to control the proof of the defendant's guilt and ensure successful conviction through the criminal adjudication process, but it has not yet developed equally as an authority to control the recovery of assets resulting from criminal acts. The offender-oriented prosecution paradigm still places the establishment of legal guilt as the central orientation of the prosecution. As a result, the success of a prosecution is measured more by the state's ability to obtain a conviction against the defendant than by its ability to safeguard and recover assets resulting from criminal acts.[29]

This situation demonstrates that dominus litis in practice develops primarily as a guilt control authority. Prosecutors have strong authority to control the scope of charges, the direction of evidence, the formulation of criminal charges, and the legitimacy of the state's use of criminal law. However, this control over cases has not yet developed sufficiently as a recovery control authority that allows the state to simultaneously control the tracking, security, preservation, and ongoing recovery of assets resulting from criminal acts throughout the legal process.[30]

This problem is increasingly apparent in corruption and money laundering cases. State losses in these crimes lie not only in the perpetrator's culpability but also in the continued existence of the assets obtained from the crime. However, in law enforcement practice, asset recovery is still viewed as a secondary consequence of punishment. As a result, the prosecution process focuses more on establishing the legitimacy of punishment than on

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[26] Pratama Hendrawan Mahardika., The Authority of the Prosecutor in Investigations of Criminal Acts of Corruption as an Effort to Recover State Financial Losses Justice Based, *Ratio Legis Journal*, Vol.5, No.2 (2026), page.2799–2814, https://doi.org/10.30659/rlj.5.2.%25p

[27] Angela J. Davis., *Arbitrary Justice: The Power of the American Prosecutor*, New York: Oxford University Press, 2009, page. 14.

[28] Ridwan Arifin, Sigit Riyanto, and Akbar Kurnia Putra., Collaborative efforts in ASEAN for global asset recovery frameworks to combat corruption in the digital era, *Legality: Jurnal Ilmiah Hukum*, Vol.31, No.2 (2023), page.329–343, https://doi.org/10.22219/ljih.v31i2.29381

[29] Andi Muhammad Yusuf Emilwan, Pujiyono, and Rahmi Dwi Sutanti., Pelaksanaan Pemulihan Aset Hasil Korupsi oleh Kejaksaan Agung Republik Indonesia Berdasarkan Perja Nomor 7 Tahun 2020, *Diponegoro Law Journal*, Vol.14, No.4 (2025), page.1–12, https://doi.org/10.14710/dlj.2025.53918

[30] R. Gismadiningrat, Eva Achjani Zulfa, and S. Nita., Challenges in the Implementation of Asset Recovery in the Corruption Eradication Commission, *International Journal of Social Science Research and Review*, Vol.6, No.7 (2023), page.480–491, https://doi.org/10.47814/ijssrr.v6i7.1530

maintaining the continued control of the state over the assets obtained from the crime.

This tendency is evident in the provisions regarding additional penalties in the form of compensation payments and asset confiscation in Article 18 of Law Number 31 of 1999 concerning the Eradication of Corruption, as amended by Law Number 20 of 2001. While this provision provides the basis for the confiscation of assets obtained from crime, systematically asset recovery remains a consequence of proving the defendant's guilt through a legally binding criminal verdict.[31]

A responsive legal perspective demonstrates that a prosecution orientation that relies too heavily on the procedural validity of punishment has the potential to neglect substantive protection of the public interest. In the context of modern corruption, protection of the public interest is not only achieved through punishment of the perpetrator, but also through the state's ability to halt the continuation of assets obtained from crime and maintain the continuity of assets obtained from crime.[32]

3.2. Reconstruction of Modern Prosecution System Based on the Recovery Prosecution and Asset Control Model

The reconstruction of the modern prosecution system in this study is realized through the development of the Recovery Prosecution and Asset Control Model, a prosecution model that integrates the punishment and asset recovery functions into a unified, coordinated, effective, and sustainable criminal law enforcement system. The Recovery Prosecution and Asset Control Model is based on the premise that in corruption crimes, the goal of law enforcement can no longer be limited to establishing criminal responsibility for the perpetrator alone, but must also ensure the continued protection of public assets affected by the crime.[33]

The success of the conventional criminal justice system is generally measured by the state's ability to obtain a guilty verdict against the perpetrator through the criminal adjudication mechanism. This orientation has resulted in a prosecution system that is very strong in establishing legal guilt, but has not fully integrated the protection of state assets as an inherent part of the law enforcement process. As a result, asset recovery is often positioned as a secondary consequence of punishment, rather than as a goal that runs concurrently with the prosecution process.[34]

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[31] Yoserwan Yoserwan and Fausto Soares Dias., Implementing the Anti-Money Laundering Law: Optimizing Asset Recovery in Corruption Cases in Indonesia, *Jurnal Hukum dan Peradilan*, Vol.13, No.2 (2024), page.227–250,https://doi.org/10.25216/jhp.13.2.2024.227-250

[32] Puti Priyana and Tanumihardja Jopie Gunawan., Reformulation of Asset Recovery Strategy Resulting from Corruption Crimes as an Effort to Recover State Losses, *Jurnal Cita Hukum*, Vol.12, No.2 (2024), page.421–454, https://doi.org/10.15408/jch.v12i2.39768

[33] Josephine Rachelle Parulina, Nuswantoro Dwiwarno, and Darminto Hartono Paulus., Upaya Pemulihan Aset (Asset Recovery) Lintas Batas Negara di Wilayah Asia Tenggara, *Diponegoro Law Journal*, Vol.12, No.1 (2023), page.1–17, https://doi.org/10.14710/dlj.2023.35447

[34] Novalin Noya, Elsa Rina Maya Toule, and Deassy Jacomina Anthoneta Hehanussa., Penyitaan Aset Tindak Pidana Korupsi pada Tahap Penyidikan sebagai Upaya Pertama dalam Pengembalian Kerugian Negara, *PAMALI: Pattimura Magister Law Review*, Vol.3, No.1 (2023), page.12–38, https://doi.org/10.47268/pamali.v3i1.1052

The Recovery Prosecution and Asset Control Model was developed to reorient this concept. In this model, prosecution is no longer understood solely as a mechanism for proving the perpetrator's guilt, but also as a mechanism for protecting and controlling state assets derived from or related to criminal acts. Therefore, the prosecution process operates in two concurrent orientations: establishing criminal accountability and protecting asset continuity. These two orientations are placed within a single, integrated framework, so that punishment and asset recovery no longer operate as separate processes.[35]

Conceptually, the Recovery Prosecution and Asset Control Model is built on four main pillars. The first pillar is Recovery Prosecution, a prosecution orientation that places asset recovery as an integral part of the prosecution's objectives. The second pillar is Asset Control, an asset control system that encompasses the identification, tracking, securing, preserving, and monitoring of assets from the beginning of the law enforcement process. The third pillar is Continuity of Asset Protection, a principle that ensures the continuity of asset protection from the investigation stage to the implementation of the court's decision. The fourth pillar is Sustainable Asset Recovery, which is the effective, integrated, and sustainable recovery of state assets as a form of protection for public interests and state finances.

These four pillars form a systemic relationship. Recovery Prosecution serves as the central driving force of the system, linking the criminal evidence process with asset control. Asset Control serves to ensure that assets related to criminal acts remain within the control of the state throughout the legal process. Continuity of Asset Protection ensures that asset protection is uninterrupted at every stage of the criminal justice process. Furthermore, Sustainable Asset Recovery is the ultimate goal to be achieved through the integration of all these components: the real and sustainable recovery of state assets.

Based on this construction, Recovery Prosecution and Asset Control Model is essentially a reconstruction of the basic orientation of the modern prosecution system. While the conventional prosecution system is built on the paradigm of conviction-centered prosecution, Recovery Prosecution and Asset Control Model is built on the paradigm of recovery-oriented prosecution. This paradigm shift does not eliminate the function of punishment as an instrument of criminal accountability, but rather places it in a balanced relationship with the function of recovering state assets. Thus, the success of prosecution is not only measured based on the state's ability to obtain a guilty verdict against the perpetrator, but also based on the state's ability to effectively maintain, control and recover assets resulting from criminal acts.[36]

Through this approach, the Recovery Prosecution and Asset Control Model builds a

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[35] Anna Maria Salamor., Penegakan Hukum Terhadap Asset Recovery Tindak Pidana Korupsi di Indonesia, *MATAKAO Corruption Law Review*, Vol.1, No.2 (2023), page.116–122, https://doi.org/10.47268/matakao.v1i2.11309

[36] Hufron Hufron and Sultoni Fikri., The Urgency of Regulating Forfeiture of Assets Gained from Corruption in Indonesia, *Legality: Jurnal Ilmiah Hukum*, Vol.32, No.2 (2024), page.292–310, https://doi.org/10.22219/ljih.v32i2.35243

prosecution system that not only legitimizes punishment but also legitimizes asset recovery as part of protecting the public interest. In the context of modern corruption and economic crimes, this model provides a conceptual basis for establishing a prosecution system capable of simultaneously and sustainably integrating criminal law enforcement with state financial protection.

The Recovery Prosecution and Asset Control Model is not only intended as a normative shift in the criminal prosecution system, but also as a reconstruction of the overall functioning of the corruption criminal justice system. Therefore, the Recovery Prosecution and Asset Control Model's effectiveness is determined not by conceptual changes alone but by its ability to build functional integration between investigation, prosecution, asset control, court hearings, and decision implementation within a single, simultaneous mechanism.[37]

This reconstruction is important because research findings indicate that the primary problem with the conviction-based asset forfeiture mechanism in Indonesia lies not in the lack of legal instruments for asset confiscation, but rather in the lack of integration of the criminal evidence process with the state asset protection process. The law enforcement system has succeeded in building the legitimacy of punishment through the establishment of legal guilt, but has not yet built equivalent legitimacy to maintain the continuity of state control over assets resulting from criminal acts during the legal process.[38]

Integration between law enforcement subsystems in the perspective of an integrated criminal justice system should not stop at establishing criminal responsibility, but should be directed towards achieving the substantive objectives that criminal law seeks to protect. To date, the integration that has been built has primarily been focused on punitive procedural integration, namely the interconnectedness between law enforcement agencies focused on establishing and proving the perpetrator's guilt. As a result, investigations, prosecutions, court hearings, and the implementation of decisions have been effective in producing punishments, but have not yet worked in an integrated manner to maintain the sustainability of state assets impacted by criminal acts.[39]

Recovery Prosecution and Asset Control Model reconstructs this pattern into a recovery-integrated criminal justice system, a system that integrates the establishment of criminal accountability and the protection of state assets into a single, continuous process from the initial investigation to the asset recovery stage.

3.2.1 Integration of Investigations through Asset Identification and Asset Tracing

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[37] Umi Rozah and Nashriana., Analisa Kebijakan Kriminal dan Filsafat Pemidanaan Non-Conviction Based Forfeiture of Stolen Assets dalam Tindak Pidana Korupsi, *Jurnal Pembangunan Hukum Indonesia*, Vol.5, No.3 (2023), page.411–432, https://doi.org/10.14710/jphi.v5i3.411-432

[38] Tantimin., Penyitaan Hasil Korupsi Melalui Non-Conviction Based Asset Forfeiture sebagai Upaya Pengembalian Kerugian Negara, *Jurnal Pembangunan Hukum Indonesia*, Vol.5, No.1 (2023), page.85–102, https://doi.org/10.14710/jphi.v5i1.85-102

[39] Nani Mulyati and Aria Zurnetti., Asset Recovery as a Fundamental Principal in Law Enforcement of Corruption by Corporations, *Andalas International Journal of Socio-Humanities*, Vol.4, No.1 (2022), page.51–60, https://doi.org/10.25077/aijosh.v4i1.33

The first stage of Recovery Prosecution and Asset Control Model begins in the investigation phase through the integration of criminal investigation and asset investigation. In a conventional prosecution system, investigations are primarily directed at identifying the perpetrator, proving the crime, and establishing the evidence necessary for the prosecution process. Consequently, asset identification is often conducted after the criminal case has been established. This pattern results in the state being late in obtaining information regarding the existence, form, and movement of assets resulting from criminal activity, which have a high potential for being transferred, disguised, or transformed before the state can establish effective control over them.[40]

This condition, from the perspective of the integrated criminal justice system theory, shows that integration between subsystems has so far only been directed at forming criminal intelligence and has not yet developed into an intelligence asset. The system is capable of generating sufficient information regarding the perpetrators and how the crime was committed, but it does not simultaneously generate information regarding how the assets obtained from the crime are moved and how they should be protected. As a result, the law enforcement system loses its ability from the outset to establish sustainable control over the assets that will eventually become the object of recovery.[41]

Recovery Prosecution and Asset Control Model reconstructs the investigative function through a dual investigation approach, namely an investigation that simultaneously identifies the crime and identifies assets. Every process of searching for evidence related to a criminal act in this model is always accompanied by the identification of assets originating from, related to, or benefiting from the crime. Thus, the investigation no longer merely produces a profile of the perpetrator and the construction of a criminal case, but also produces an asset profile that serves as the basis for the asset control process in the next stage.[42]

This reconstruction has a strong basis of legitimacy from a preventive justice perspective. According to this theory, the function of law lies not only in responding to violations that have already occurred, but also in preventing the ongoing risks posed by those violations. In corruption and money laundering cases, the primary risk to be prevented is no longer the perpetrator's actions, but rather the continued existence of the assets derived from the crime, which remain attached to the assets. Therefore, allowing assets to remain in the perpetrator's possession during the legal process actually creates a new form of loss for the state. It is at this stage that asset identification and asset tracing gain preventive legitimacy as instruments to halt the ongoing risk of state loss from the outset of the law

[40] Muhammad Ghulam Reza., Kebijakan Hukum Pidana Perampasan Aset Non-Conviction Based Asset Forfeiture dalam Tindak Pidana Pencucian Uang, *Wacana Paramarta: Jurnal Ilmu Hukum*, Vol.23, No.1 (2024), page.57–71, https://doi.org/10.32816/paramarta.v23i1.556

[41] I. R. Ayuningsih and Febby Mutiara Nelson., Perampasan Aset Tanpa Pemidanaan dalam Perspektif Hukum Responsif, *Jurnal Ius Constituendum*, Vol.7, No.2 (2022), page.246–261, https://doi.org/10.26623/jic.v7i2.5142

[42] Yanuar Ramadhana Fadhila., Perlindungan Pihak Ketiga Beriktikad Baik dalam Non-Conviction Based Asset Forfeiture, *Jurnal USM Law Review*, Vol.8, No.3 (2025), page.2075–2105, https://doi.org/10.26623/julr.v8i3.12263

enforcement process.[43]

Through this approach, Recovery Prosecution and Asset Control Model eliminates the temporal gap between the formation of a criminal case and the generation of asset information. The state not only knows who the perpetrator is and how the crime was committed, but also knows where the assets are located, how they move, and what actions must be taken to keep them within the state's control. Therefore, Recovery Prosecution and Asset Control Model investigations serve as the starting point for establishing continuity of asset control that will continue throughout the law enforcement process.

3.2.2 Integration of Prosecution through Recovery Prosecution

After the investigation process has established a criminal case and a profile of assets related to the crime, the Recovery Prosecution and Asset Control Model enters the second stage through the integration of recovery-based prosecution. This stage is the core of the reconstruction proposed in this research because it is at this point that a fundamental transformation occurs in the function of dominus litis within the criminal prosecution system. While in the conventional system, prosecution is primarily directed at establishing and proving the defendant's guilt through the criminal adjudication process, in the Recovery Prosecution and Asset Control Model, prosecution is reconstructed as a mechanism that simultaneously controls the establishment of criminal responsibility and the ongoing recovery of state assets.[44]

The success of the current prosecution system is generally measured by the prosecutor's ability to obtain a guilty verdict against the defendant. This construction places the establishment of legal guilt as the primary orientation of the dominus litis authority. As a result, the prosecutor's authority develops primarily as an instrument of guilt control authority. All prosecution strategies are directed at ensuring that the elements of the crime can be legally proven, thereby gaining the state's legitimacy to impose penalties on the perpetrator. Asset recovery also tends to be positioned as a secondary consequence of successful conviction, rather than as a goal simultaneously driven by the prosecution process.

This condition shows that the authority of dominus litis in the modern prosecution system still works within the paradigm of offender-oriented prosecution. Prosecution focuses on the perpetrator, while assets resulting from criminal activity are positioned as collateral objects that follow the development of the criminal case. As a result, prosecution strategies often succeed in establishing the legitimacy of punishing perpetrators, but do not always guarantee the successful recovery of state assets. In corruption and money

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[43] Dionysius Yasmin Pongkor., Non-conviction-based (NCB) Asset Forfeiture Concept From A Legal And Human Rights Perspective, *International Journal of Politics and Sociology Research*, Vol.13, No.3 (2025), page.62–70, https://doi.org/10.35335/ijopsor.v13i3.311

[44] Alfina Nailul Maghfiroh, Irma Cahyaningtyas, and Aju Putrijanti., Urgensi Pembaharuan Hukum Perampasan Aset Tindak Pidana Pencucian Uang di Indonesia, *Diponegoro Law Journal*, Vol.14, No.2 (2025), page.1–12, https://doi.org/10.14710/dlj.2025.49972

laundering cases, this situation becomes problematic because state losses lie not only in the individual culpability of the perpetrator, but also in the continued illegal control of public assets that continue to generate economic benefits during the legal process.

The theory of prosecutorial discretion emphasizes that prosecutors are essentially the institution that determines the direction of the state's use of criminal power. Prosecutorial discretion is not only related to the decision to bring a case to court, but also related to determining the orientation and objectives to be achieved through the prosecution process itself. However, in the conventional dominus litis construction, the scope of discretion is mostly used to determine the strategy for proving the defendant's guilt and the scope of punishment that will be requested by the state. In other words, prosecutorial discretion has developed mainly in the area of guilt adjudication and has not developed sufficiently in the area of state asset protection.

Based on these conditions, Recovery Prosecution and Asset Control Model reconstructs the function of dominus litis through the concept of recovery prosecution. In this model, prosecutors no longer only act as controllers of legal guilt formation, but also as controllers of state asset recovery strategies. The prosecutor's authority is expanded from simply controlling the prosecution strategy to controlling the prosecution strategy and recovery strategy simultaneously. Therefore, every prosecution decision not only considers how the defendant's guilt can be proven in court, but also how assets related to the crime can remain in the orbit of state control until the recovery process can be carried out effectively.[45]

The reconstruction resulted in fundamental changes to the function of the dominus litis. If in the conventional paradigm dominus litis functions as an instrument of punitive control, then in Recovery Prosecution and Asset Control Model dominus litis develops into an instrument for controlling asset recovery (recovery control authority). This change does not eliminate the function of punishment as the aim of prosecution, but expands the scope of the prosecutor's authority so that the protection of state assets becomes an inherent part of the prosecution process itself. Thus, the prosecution orientation shifts from a model that centers on punishing the perpetrator to a model that integrates punishment and asset recovery in one complete framework.

From a responsive law perspective, this reconstruction has strong legitimacy because it positions the prosecution system as an instrument for substantive protection of public interests. According to Nonet and Selznick, law is not simply measured by its ability to produce procedurally valid decisions, but also by its ability to answer the social needs that the law itself seeks to protect. In cases of corruption and money laundering, the social need is not merely punishment of the perpetrators, but also the restoration of state assets which are the source of financing for public interests, The success of the prosecution

[45] Nanda Sahputra Umara and Bagus Pujo Priambodo., Pembebanan Uang Pengganti oleh Terdakwa atas Aset Hasil Tindak Pidana Korupsi dalam Penguasaan Pihak Ketiga yang Tidak Dapat Dirampas, *Journal of Social and Economics Research*, Vol.6, No.2 (2024), page.416–435, https://doi.org/10.54783/jser.v6i2.619

system is no longer solely measured by the validity of convictions, but also by its ability to maintain the sustainability of state assets impacted by criminal acts.

Through the recovery prosecution approach, the Recovery Prosecution and Asset Control Model builds a closer relationship between the punishment and asset recovery functions. Prosecution is no longer a stage solely serving to connect investigations and trials, but rather a coordinating center that integrates criminal evidence, asset control, and state recovery strategies into a single, interconnected mechanism. Prosecution is positioned as the meeting point between the need to establish criminal accountability and the need to simultaneously maintain the sustainability of state assets.[46]

Thus, the integration of prosecution through recovery prosecution is a mechanism that connects the asset identification process during the investigation stage with the asset control process at the subsequent stage. Through this mechanism, the Recovery Prosecution and Asset Control Model not only reconstructs the prosecutor's function as dominus litis but also reconstructs the basic orientation of prosecution from conviction-oriented prosecution to recovery-oriented prosecution, making asset recovery an integral part of the modern criminal law enforcement system.

3.2.3 Asset Control Integration through Continuity of Asset Control

The key difference between Recovery Prosecution and Asset Control Model and conventional prosecution systems lies in establishing continuity of asset control. Previous research findings indicate that the fundamental weakness of the conviction-based asset forfeiture mechanism lies not in the state's lack of authority to confiscate assets, but rather in the disconnect between the criminal evidence process and the asset control process.[47] Under the current system, the state only gains full legitimacy to recover assets after a legally binding court decision is issued. Meanwhile, assets resulting from criminal acts continue to move according to economic logic and not the procedural rhythm of the criminal justice system. As a result, the phenomena of delayed recovery, asset dissipation, and adjudication-dependent recovery have emerged, meaning that successful convictions do not always translate into successful recovery of state assets.

This situation demonstrates a gap between legal legitimacy and economic reality. The criminal justice system is able to establish legal truth by proving the defendant's guilt, but at the same time, it often loses its ability to maintain control over the assets subject to recovery. This problem in corruption and money laundering cases becomes even more complex because assets can be moved, transferred to other parties, laundered through the financial system, transformed, or even transferred to other jurisdictions before the state obtains formal legitimacy to recover. As a result, punishment of perpetrators often does not go hand in hand with the recovery of the state's lost assets.

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[46] Salwa Fathin Setiadi and Indung Wijayanto., Analisis Yuridis Mengenai Pidana Tambahan Berupa Uang Pengganti dalam Perkara Tindak Pidana Korupsi, *IPMHI Law Journal*, Vol.5, No.3 (2026), page.256–274, https://doi.org/10.15294/ipmhi.v5i3.42311

[47] Stefan D. Cassella., *Asset Forfeiture Law in the United States*, New York: Juris Publishing, 2013, page. 21.

From a preventive justice perspective, this problem demonstrates the limitations of a law enforcement paradigm that relies too heavily on responding to violations that have already occurred. Preventive justice theory is based on the premise that the function of law is not only to react after a violation occurs but also to prevent the ongoing risks posed by that violation. In corruption and economic crime cases, the risk that must be prevented is not solely the perpetrator's completed actions, but rather the continued existence of the proceeds of crime, which remain attached to the assets. As long as these assets remain in the possession of the perpetrator or another unauthorized party, state losses essentially continue even after the crime has been committed.

Based on this logic, Recovery Prosecution and Asset Control Model establishes continuity of asset control as a preventive instrument designed to halt the continued existence of proceeds of crime from the beginning of the law enforcement process. This model emphasizes that asset control does not wait for a legally binding court decision, but begins as soon as the assets are successfully identified and traced during the investigation stage. Thus, the state is no longer in a reactive position, acting only after assets have lost their economic identity, but rather in a proactive position to maintain assets within state control throughout the legal process.

Operationally, continuity of asset control is built through four main instruments: asset tracing, asset preservation, asset monitoring, and asset protection. Asset tracing serves to ensure that the state is aware of the whereabouts and movement of assets on an ongoing basis. Asset preservation aims to safeguard the economic value of assets to prevent depreciation or loss of utility during the legal process. Asset monitoring is conducted to monitor any changes in the status, form, or ownership of assets that could disrupt the recovery process. Asset protection, on the other hand, ensures that assets remain within the orbit of state control and do not deviate from the reach of recovery through various forms of disguise or transfer.[48]

These four instruments do not operate in isolation, but rather form a continuous control system, from the investigation, prosecution, and court hearing stages to the implementation of the verdict. Thus, Recovery Prosecution and Asset Control Model transforms assets from passive objects awaiting the outcome of the adjudication process to objects actively under state supervision and control. This change is crucial because in modern economic crimes, the success of asset recovery is determined more by the state's ability to maintain continued control of the assets than solely by its ability to obtain a criminal conviction.[49]

This reconstruction also gains strong legitimacy from the perspective of responsive

[48] Agus Prasetia Wiranto and Eti Mul Erowati., The Strengthening Institutional Capacity in Implementing Corruption Asset Return based on International Standards in Indonesia, *Jurnal Daulat Hukum*, Vol.8, No.4 (2025), page.1033–1042, https://doi.org/10.30659/jdh.v8i4.50771

[49] Erika Emilia Putri, Ninne Zahara Silviani, and Tantimin., Mutual Legal Assistance in Corruption Offenses' Asset Recovery: A Comparative Study between Indonesia and Singapore, *Uti Possidetis: Journal of International Law*, Vol.6, No.2 (2025), page.260–277, https://doi.org/10.22437/up.v6i2.40835

law. Nonet and Selznick, in their work on responsive law, demand that legal institutions not only comply with formal procedures but also address the social needs the law seeks to protect.[50] In corruption cases, the social needs to be protected are not simply the punishment of perpetrators, but also the recovery of state assets that serve as a source of funding for public interests. A law enforcement system cannot be considered successful simply because it produces procedurally valid punishments if it simultaneously fails to preserve state assets that should be recovered.

From this perspective, continuity of asset control represents a concrete form of legal transformation that responds to the need to protect the public interest. Asset control is no longer understood as an administrative measure supplementary to the criminal process, but as an instrument for substantive protection of state assets. The state not only establishes the legitimacy of punishment through the criminal adjudication process but also establishes the legitimacy of asset protection through ongoing control mechanisms. Thus, the success of the system is no longer measured solely by the number of perpetrators successfully punished, but also by the state's ability to retain assets to be recovered for the public interest.

Through this construction, Recovery Prosecution and Asset Control Model essentially reconstructs the relationship between punishment and asset recovery. While in conventional systems, asset recovery is positioned as a consequence following punishment, in Recovery Prosecution and Asset Control Model, asset control becomes a process that occurs simultaneously with the establishment of criminal accountability. As a result, asset recovery is no longer solely dependent on the conclusion of the adjudication process, but is prepared for and maintained from the outset of the law enforcement process.

Thus, continuity of asset control becomes a central mechanism connecting the investigation, prosecution, and asset recovery processes within the Recovery Prosecution and Asset Control Model. Through this mechanism, the Recovery Prosecution and Asset Control Model addresses the problems of delayed recovery, asset dissipation, and adjudication-dependent recovery, which have historically been structural weaknesses of the conviction-based asset forfeiture mechanism. At the same time, this mechanism forms the basis for the integration of criminal evidence and asset linkage evidence, which will be implemented during the court examination and asset forfeiture stages.

3.2.4 Integration of Trial and Asset Forfeiture through the Formation of Criminal Liability and Asset Liability

The next stage in the Recovery Prosecution and Asset Control Model mechanism is the integration of trial proceedings and asset forfeiture proceedings. At this stage, the reconstruction is not aimed at changing the basic principle of conviction-based asset forfeiture, which requires proof of the crime and the defendant's guilt. Rather, it is aimed at shifting the orientation of the court proceedings so that they focus not solely on

[50] Philippe Nonet, Philip Selznick, and Robert A. Kagan., *Law and Society in Transition: Toward Responsive Law*, New York: Routledge, 2001, page. 213.

establishing the perpetrator's criminal responsibility but also on establishing the legitimacy of recovering state assets.[51]

The primary focus of the conventional prosecution system has been on proving the elements of the crime and the defendant's criminal responsibility in court. The entire evidentiary process is directed at answering the question of whether the defendant committed the crime as charged and whether the defendant can be held criminally responsible for their actions. Consequently, the issue of assets is often positioned as a secondary issue following the successful criminal proof. This success, resulting in the state obtaining a guilty verdict against the defendant, is not always followed by the state successfully recovering the assets that have been the object of state losses.[52]

This situation demonstrates that the modern prosecution system still relies on a paradigm that places punishment as the center of the legitimacy of law enforcement. Injustice is considered resolved when the state successfully sentences the perpetrator. In corruption and money laundering cases, injustice arises not only from violations of criminal law norms, but also from the unlawful transfer of public wealth into private ownership. As long as this transfer remains unredressed, the injustice caused by the crime essentially persists, even though the perpetrator has been convicted.[53]

The essence of justice, from a corrective justice perspective, lies not only in punishing the perpetrator who committed the crime, but also in restoring the balance disturbed by the unlawful act.[54] Injustice arises when someone gains an unlawful advantage or when another party loses a right that should be in his control. Therefore, punishing the perpetrator only addresses the personal dimension of injustice, namely accountability for the wrongdoing. However, the economic dimension of injustice persists as long as the unlawfully obtained profits remain in the possession of the perpetrator or another unauthorized party.

In cases of corruption and economic crimes, the state suffers the loss of public assets that should be used to finance public interests. Therefore, asset recovery is not merely an additional consequence of punishment, but rather part of the process of correcting the imbalance created by the crime. Based on this logic of corrective justice, the Recovery Prosecution and Asset Control Model places the process of proving assets as an equal part of the process of proving the perpetrator's guilt.

Based on this, the Recovery Prosecution and Asset Control Model develops an integrated

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[51] Yusnita Mawarni and Fifink Praiseda Alviolita., Eksekusi Pidana Tambahan Berupa Pembayaran Uang Pengganti pada Tindak Pidana Korupsi, *Jurnal Hukum Sasana*, Vol.11, No.2 (2025), page.63–84, https://doi.org/10.31599/sasana.v11i2.1557

[52] Irda Nur Khumaeroh and M. Rizal Bagaskoro., Asset Recovery as an Effort to Restore State Losses Resulting from Corruption Cases, *Journal of Law, Politic and Humanities*, Vol.6, No.1 (2025), page.650–657, https://doi.org/10.38035/jlph.v6i1.2564

[53] Robbyansyah Hutasoit and Arpangi., The Ideal Concept of Asset Recovery in Corruption Criminal Acts Based on Progressive Law, *Ratio Legis Journal*, Vol.4, No.4 (2025), page.4256–4272, https://doi.org/10.30659/rlj.4.4.%25p

[54] Ernest J. Weinrib., *The Idea of Private Law*, New York: Oxford University Press, 2012, page. 56.

adjudication model that integrates the formation of criminal liability and asset liability within a single trial structure. Criminal liability is aimed at determining the defendant's criminal responsibility for the crime, while asset liability is aimed at determining the legal relationship between assets and the crime, which forms the basis for confiscation and asset recovery. The trial not only legitimizes the punishment of the perpetrator but also legitimizes the recovery of assets derived from or related to the crime.[55]

This reconstruction has important implications for the orientation of evidence in court. Evidence is no longer solely directed at the elements of the crime and the defendant's guilt, but also focuses on the origin of the assets, their relationship to the crime, patterns of asset ownership, and the economic benefits derived from those assets. Consequently, the adjudication process simultaneously generates two forms of legitimacy: the legitimacy to punish the perpetrator and the legitimacy to recover state assets.[56]

This approach, from a responsive legal perspective, demonstrates that the trial no longer functions merely as an instrument for procedural validation of punishment but also as an instrument for substantive protection of the public interest. The state not only seeks to prove that the defendant committed a crime but also ensures that assets derived from the crime are returned to state control. Thus, the trial becomes a space that connects the punitive and restitutionary functions in a single, complementary mechanism.

Through this construction, conviction and asset forfeiture are no longer understood as two separate legal consequences. Both arise from a single, integrated and mutually reinforcing evidentiary process. Proving the defendant's guilt provides the legitimate basis for punishment, while proving the link between the assets and the crime provides the legitimate basis for the recovery of state assets. Consequently, the state's success in obtaining a criminal conviction does not stop at establishing legal guilt but continues to establish strong legitimacy to return state assets that have been unlawfully seized. Thus, the integration of the trial and asset forfeiture within the Recovery Prosecution and Asset Control Model serves as a mechanism that bridges the process of asset control with the process of asset recovery. The Recovery Prosecution and Asset Control Model not only addresses the personal dimension of injustice through punishment of the perpetrator but also addresses the economic dimension of injustice through the recovery of state assets. Therefore, the trial in Recovery Prosecution and Asset Control Model is no longer merely a forum for establishing criminal responsibility, but becomes a forum for establishing comprehensive legitimacy for punishment and asset recovery as a unified process of law enforcement.

3.2.5 Integration of Execution and Asset Recovery towards State Restoration

[55] Luthfi Kalbu Adi., Pengelolaan Benda Sitaan Hasil Tindak Pidana Korupsi oleh Kejaksaan Negeri Purwokerto, *Soedirman Law Review*, Vol.7, No.4 (2025), page.284–304, https://doi.org/10.20884/1.slr.2025.7.4.16127

[56] Habibul Rakhman, A Legal Review of Criminal Procedural Law Regarding the Complexity of Proving the Element of Ecological Loss in Court Proceedings, *Journal Critical Legal System*, Vol.1, No.2 (2026), page.124–140, https://doi.org/10.68113/ngfbk826

The final stage in the Recovery Prosecution and Asset Control Model mechanism is the integration of decision implementation and the recovery of state assets, aimed at achieving state restoration. This stage is crucial because it marks the point where the entire process of investigation, prosecution, asset control, and evidence in court is tested for its effectiveness in producing tangible restitution for state losses. Essentially, a legally binding court decision in the conventional system is often viewed as the end of the law enforcement process. The system's success is measured by the state's ability to obtain a conviction against the perpetrator through legitimate judicial procedures. As a result, the system's primary focus shifts to establishing the legitimacy of punishment, while asset recovery is often positioned as an administrative consequence following a criminal conviction.[57]

This construction demonstrates that the modern prosecution system still places punishment as the ultimate goal of law enforcement. Yet, in corruption and money laundering cases, punishment of the perpetrator does not automatically recoup the state's losses incurred by the crime. The state may obtain a guilty verdict against the perpetrator, but still fail to recover assets that have been moved, disguised, or lost their economic identity during the legal process. In such circumstances, procedural success does not always directly correlate with the substantive success the law enforcement system aims to achieve.[58]

Referring to the corrective justice perspective, this condition shows that punishing the perpetrator only resolves part of the injustice caused by the crimePersonal injustices have indeed been corrected through the imposition of criminal penalties on the perpetrators. However, economic injustices persist as long as the assets derived from the crime have not been returned to the rightful party or the state, as the holder of the public interest. Therefore, the correction process cannot be considered complete simply because the perpetrator has been punished. Correction only reaches its full form when state assets that have been unlawfully transferred are successfully recovered and returned to the state.

The Recovery Prosecution and Asset Control Model does not position execution as the final stage of punishment, but rather as the initial stage of state restoration. A court decision that has obtained permanent legal force in the Recovery Prosecution and Asset Control Model is not viewed as the end point of the system's operation, but as the legitimate basis for implementing effective asset recovery. The orientation of execution is no longer solely focused on the implementation of the criminal offense, but also on the realization of asset recovery that has been prepared during the investigation stage, controlled during the

[57] Rintis Eka A'isyatul Wahab and Aprilliani Kusumawati., The Principles of Legal Certainty for Asset Recovery in the Corruption Law in Indonesia, *Jurnal Pembaharuan Hukum*, Vol.13, No.1 (2026), page.237–258, https://doi.org/10.26532/jph.v13i1.48748

[58] Hadi Purnomo, Baharudin, and Mohammad Nasr Khater., The Return of State Finances: Effectiveness of The New Paradigm in Enforcing of Law on Corruption Crimes Cases, *Jurnal Hukum*, Vol.41, No.4 (2025), page. 1078–1092, https://doi.org/10.26532/jh.v41i4.47218

prosecution stage, and legitimized through the adjudication process.[59]

This reconstruction is based on a strong theoretical foundation within the responsive law perspective, where law does not stop at compliance with formal procedures but must be able to produce real protection for the social interests it seeks to protect. In corruption cases, the social interest is not only in the form of punishment for the perpetrator, but also the restoration of state assets which are a source of financing for development, public services and community welfare. The success of a law enforcement system cannot be measured solely by the number of perpetrators successfully convicted, but also by the state's ability to return assets seized for public benefit.

A comparison with the United Kingdom shows a distinction between the final authority to confiscate criminal proceeds and the earlier authority to preserve assets. Under the Proceeds of Crime Act 2002, confiscation after conviction is complemented by restraint orders, financial investigations, and the management of restrained property before the final determination. The Crown Prosecution Service participates in advice, restraint applications, confiscation proceedings, and enforcement. Its prosecution guidance also recognizes civil recovery as a separate route. For the present study, the relevant lesson is not the replacement of conviction-based forfeiture, but the continuity of asset preservation and prosecutorial participation from investigation to enforcement.[60][61]

Singapore provides a further point of comparison through the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992. The Act regulates confiscation of benefits from serious criminal conduct alongside restraint and charging orders, asset realization, and safeguards for third-party interests. Its provisions concerning absconded persons also address circumstances in which ordinary confiscation proceedings encounter procedural difficulties. Compared with Indonesia's focus on proving the crime before forfeiture, these arrangements clarify the importance of securing relevant property during proceedings, subject to judicial authorization and protections for lawful owners.[62][63]

The comparison identifies a limited but important implication for Recovery Prosecution and Asset Control Model: asset preservation, evidence of the link between property and crime, and enforcement planning should be coordinated without treating provisional asset control as a final determination of ownership. The British and Singaporean arrangements demonstrate that a conviction-based system can organize these stages in advance of the final decision. Recovery Prosecution and Asset Control Model remains distinct because it

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[59] Bastian Lubis, Burhan Alsyouf, and Hendro Widodo., The Rescue of State Financial Losses: A New Paradigm of Law Enforcement, *Jurnal Hukum*, Vol.42, No.2 (2026), page.401–416, https://doi.org/10.26532/jh.v42i2.49275

[60] Reza Prasetyo Handono and Gunarto., Implications of the Effectiveness of Legal Efforts for Asset Recovery in Corruption Criminal Cases with State Financial Losses, *Jurnal Hukum Khaira Ummah*, Vol.20, No.2 (2025), page.1402–1426, https://doi.org/10.30659/jhku.v20i2.46200

[61] Crown Prosecution Service, Proceeds of Crime, prosecution guidance, accessed on January 27, 2025, https://www.cps.gov.uk/

[62] Ahmad Bagir and Gunarto., Legal Review of the Role of Prosecutors in the Implementation of Judges' Decisions in the Form of Confiscation of Assets in Money Laundering Cases, *Ratio Legis Journal*, Vol.4, No.2 (2025), page.933–952, DOI: https://doi.org/10.30659/rlj.4.2.%25p

[63] Singapore., *Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992*, Parts 2–4, https://sso.agc.gov.sg/Act/65A

reconstructs the coordinating function of the Indonesian prosecutor as dominus litis, rather than importing either country's entire asset forfeiture regime.[64]

In this context, the Recovery Prosecution and Asset Control Model seeks to establish a close relationship between asset recovery and state restoration. Asset recovery is not understood as a standalone goal, but rather as a means to restore the state's capacity to carry out its public functions. Successfully recovered assets are no longer viewed simply as confiscated goods or objects of confiscation, but as public resources that must be returned to the state's financial system to support the implementation of public interests. Thus, asset recovery acquires a broader meaning than simply the return of economic value, but rather as the process of restoring the social and public functions of state assets previously unlawfully seized. The Recovery Prosecution and Asset Control Model redefines the measure of success of the modern prosecution system. While in the conviction-centered prosecution paradigm, success is measured by the state's ability to obtain punishment for perpetrators, in the Recovery Prosecution and Asset Control Model, success is measured by three interrelated outcomes: the establishment of criminal accountability (conviction), the implementation of asset recovery (asset recovery), and the restoration of state interests (state restoration). These three achievements are not positioned as separate goals, but as a series that shapes the success of the law enforcement system as a whole.

The novelty of this research is the Recovery Prosecution and Asset Control Model construction within the existing conviction-based asset forfeiture mechanism. Unlike studies that focus on creating a non-conviction-based confiscation route or on a single stage of asset seizure, Recovery Prosecution and Asset Control Model connects five functions—parallel criminal and asset investigation, recovery-oriented prosecution, uninterrupted asset preservation, integrated proof of criminal liability and asset linkage, and enforcement directed toward state restoration. Its distinct contribution is to recast dominus litis from control of the criminal accusation alone into responsibility for coordinating the lawful protection and recovery of assets, while keeping the court's conviction and forfeiture orders as the basis for final deprivation of property.

Through this construction, Recovery Prosecution and Asset Control Model builds a prosecution model that does not stop at establishing legal guilt, but moves toward achieving real state restoration. Each stage in this model is interconnected and mutually supportive. Investigations result in asset identification, prosecutions integrate punishment and recovery strategies, asset control maintains the continuity of state control over assets, trials establish the legitimacy of punishment and the legitimacy of recovery, and executions realize asset recovery in the form of state restoration. Thus, the entire law enforcement process works as a single system aimed at restoring the state from the impacts of criminal acts.

[64] Andhika Yuli Rimbawan., Harmonization of Judicial Decisions: Analysis of Compliance With Jurisprudence and Application of The Principle of Legality in Special Criminal Cases, *Journal Critical Legal System*, Vol.1, No.1 (2026), page.19–37, https://doi.org/10.68113/4577ep97

4. CONCLUSION

The regulation of the prosecutor's authority as dominus litis in the implementation of asset confiscation through the conviction-based asset forfeiture mechanism is still oriented towards controlling the punishment of perpetrators, not controlling asset recovery. Reconstruction of the modern prosecution system is necessary through the establishment of the Recovery Prosecution and Asset Control Model as a new paradigm for the prosecution system oriented towards the recovery of state assets. In this model, dominus litis is reconstructed from merely a guilt control authority to a recovery control authority that integrates the prosecution function with the control, protection, security, and recovery of assets resulting from criminal acts. The Recovery Prosecution and Asset Control Model places the success of a prosecution not only on the punishment of the perpetrator, but also on the state's ability to maintain, control, and recover assets derived from criminal acts. Through this reconstruction, the prosecution system is directed towards becoming an instrument of state recovery-oriented prosecution capable of realizing the recovery of state assets in an effective, integrated, and sustainable manner, while simultaneously strengthening protection of the state's economic sovereignty from the impact of corruption and other economic crimes.

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