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Optimizing Asset Recovery in Recovering State Losses from Money Laundering Crimes through the Deferred Prosecution Agreement (DPA)

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Abstract. *This study analyzes the optimization of asset recovery and the restitution of state losses in money laundering crimes by strengthening the authority of public prosecutors and implementing the Deferred Prosecution Agreement (DPA) procedure within the framework of national criminal law reform. The main problem lies in the low asset recovery ratio compared to the magnitude of state losses due to corruption and money laundering, indicating that law enforcement is still oriented towards punishing perpetrators, rather than asset recovery. The enactment of Law No. 1 of 2023 concerning the Criminal Code and Law No. 20 of 2025 concerning Criminal Procedure Law opens up space for strengthening prosecutorial discretion based on restorative justice. This study uses normative legal methods with a statutory and conceptual approach, and is supported by primary data through interviews with law enforcement officials. The results show that the dominus litis principle provides strategic bargaining power to public prosecutors to direct case resolution towards the recovery of state losses. The DPA procedure can be an effective instrument in accelerating asset recovery, especially in cases involving corporations and cross-jurisdictional transactions, including digital assets and cryptocurrencies. However, the implementation of the DPA must be accompanied by judicial oversight, clear operational standards, and proportionality testing to maintain a balance between effective law enforcement and human rights protection. Therefore, optimizing the authority of public prosecutors through the DPA has the potential to significantly increase the effectiveness of asset recovery in Indonesia's modern economic criminal justice system.*

Keywords: *Agreement; Asset; Deferred; Money; Prosecution.*

1. Introduction

Economic crimes, particularly corruption and money laundering, have become a chronic problem that undermines the foundations of state governance (Syachdin, 2018). Many public officials, who should be carrying out the people's mandate, are instead involved in abuses of authority for personal or group interests (Berutu, 2019). These actions not only result in financial losses for the state but also weaken the legal framework and public trust in government institutions. Money laundering and corruption have long been the main enemies of Indonesia's progress. Corruption has permeated nearly all government sectors, from procurement of goods and services and taxation to the energy and natural resources sectors (Putra, 2024).

The Indonesia Corruption Watch (ICW, 2022) monitoring report shows that throughout 2022, only 364 corruption cases were handled by law enforcement, with a total of 888 suspects. This number is the lowest in the last five years. Ironically, amidst this decline in enforcement intensity, estimated state losses due to corruption have actually surged, reaching approximately IDR 279.9 trillion. This figure has doubled compared to 2021, when state losses of approximately IDR 62.9 trillion were recorded, and reflects the increasingly massive impact of corruption on public finances and national development.

In terms of state loss recovery, the achievements are also far from proportional. By 2025, the Corruption Eradication Commission (KPK) reportedly succeeded in returning approximately IDR 1.53 trillion in assets from corruption to the state treasury, including fines, compensation, and auctions of confiscated assets (KPK, 2025). Although nominally, this figure is slightly higher than the recovery achievement in 2021, which was around IDR 1.4 trillion, when compared to the total state losses in 2024, the recovery rate remains very small, not even reaching a few percent of the actual losses.

The large gap between state losses and asset recovery results demonstrates the continued weakness of the *asset recovery system* in enforcing corruption laws in Indonesia (Arifin et al., 2017). Various factors are the main causes of this condition, including lengthy and complex legal processes, the suboptimal implementation of non-conviction-based asset forfeiture procedures, and weak coordination between law enforcement agencies in tracking and confiscating assets, particularly assets that have been transferred abroad (Imron, 2024). This condition emphasizes that corruption eradication cannot be measured solely by the number of cases or the size of the law enforcement budget, but must also be seen in terms of the extent to which these efforts are able to recover state losses effectively and fairly (Mulkan & Aprita, 2023).

The development of crypto assets and cryptocurrency trading through digital exchanges presents new challenges in the seizure of assets for money laundering

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(TPPU) crimes. Corruption proceeds converted into crypto assets can be easily moved across countries without going through the conventional banking system (Kholil & Alhadi, 2026). The pseudonymous nature of blockchain, the use of non-custodial wallets, and the existence of mixing and decentralized finance (DeFi) services make the process of identifying beneficial owners increasingly complex (Susanto et al., 2025). A study by Husein (2025) shows that crypto assets are increasingly used in the layering stage because they can disguise the origin of funds through a series of multi-layered transactions across jurisdictions. This situation requires law enforcement officials to have digital forensic capabilities and rapid access to exchange data to prevent asset disappearance.

Furthermore, the effectiveness of crypto asset confiscation depends heavily on the speed of account freezing and private key seizure before assets are transferred to wallets outside the control of authorities (Hermanto & Fitriyana, 2025). Recent research in Kaban & Kholiq (2025) confirms that countries implementing non-conviction-based asset forfeiture procedures for digital assets tend to have higher recovery rates than countries awaiting final criminal decisions. Another challenge is the differing regulations between countries, which often slow down mutual legal assistance in crypto-based money laundering cases. Without effective international cooperation and global compliance standards, such as the Financial Action Task Force (FATF) recommendations, digital assets resulting from crime are potentially difficult to confiscate. Therefore, strengthening coordination between the Financial Transaction Reports and Analysis Center (PPATK), law enforcement officials, and crypto asset trading supervisory authorities is an urgent need within the framework of a *follow-the-money approach* (Haris, 2024).

Efforts to eradicate corruption and money laundering (TPPU) in Indonesia still face fundamental challenges, particularly in terms of recovering state losses and confiscating assets resulting from crime (Fitriyani & Suwandono, 2025). Law enforcement tends to focus on punishing individual perpetrators, while the economic dimension of crime—namely the flow of funds and profits obtained through cross-border money laundering procedures—has not been fully addressed. This situation indicates that the law enforcement approach has not fully internalized the principle of " *follow the money."* potentially failing to achieve the main objective of eradicating economic crime, namely returning state losses and preventing similar crimes in the future (Sutrisni, 2013).

In the context of Indonesia's economic criminal justice system, the concept of a Deferred Prosecution Agreement (DPA) is increasingly relevant as a more effective law enforcement alternative oriented toward recovering state losses. Although not explicitly regulated in the Criminal Procedure Code (KUHAP), its implementation opens up opportunities through strengthening the role of prosecutors as dominus litis and expanding discretion in accountable, restorative justice-based prosecutions (Sinaga, 2021). Furthermore, the National Criminal

Code (KUHP) has conceptually supported this by emphasizing the recovery of state losses, recognizing corporate criminal liability, and providing flexible sanctions, including asset confiscation, so that criminal law no longer focuses solely on imprisonment (Ferdian, 2021). The urgency of implementing a DPA is also reinforced by the overcrowding of correctional institutions, which encourages the use of alternative case resolutions, particularly for economic crimes with financial impacts. Thus, a DPA has the potential to provide strategic benefits in the form of accelerated asset recovery, reduced court burdens, and reduced prison inmates (Prameswari et al., 2021).

Thus, this research focuses on two main issues. First, analyzing the authority of the public prosecutor in asset recovery as dominus litis, including coordination patterns with relevant law enforcement agencies within the framework of national criminal procedure law, in order to strengthen the state's bargaining power in recovering state losses through the implementation of the Deferred Prosecution Agreement (DPA) procedure based on the provisions of the new Criminal Procedure Code. Second, formulating the ideal procedure for implementing the DPA and the mechanism for recovering assets from money laundering crimes that are integrated with the asset confiscation system in the National Criminal Code, so as to be able to realize asset recovery that is effective, efficient, and equitable, and in line with the principles of restorative justice, human rights protection, and the objectives of national criminal law.

2. Research Methods

This study uses a normative legal method, with the aim of analyzing the effectiveness of legal norms governing the return of state assets resulting from money laundering through the Deferred Prosecution Agreement (DPA) procedure and the authority of the public prosecutor. This approach emphasizes the study of laws and regulations, criminal law principles, and legal concepts related to asset recovery, corporate accountability, prosecutorial discretion, and restorative justice (Soekanto & Mamudji, 2020). The research data sources consist of primary and secondary data. Primary data were obtained through interviews with law enforcement officials at the Attorney General's Office, the Financial Transaction Reports and Analysis Center (PPATK), the Corruption Eradication Commission (KPK), and the Indonesian National Police (Polri) who are directly involved in handling money laundering crimes and the return of state assets (awaluddin, 2015). Secondary data include literature in the form of laws and regulations, legal textbooks, scientific journals, reports from state institutions, and previous research relevant to the concepts of FTM, DPA, and the economic criminal justice system. The analysis technique used is qualitative with a thematic approach. Data are classified by theme, compared between legal norms and their implementation practices, and analyzed institutional patterns and legal procedures that influence the effectiveness of asset recovery. The results of the analysis are used to formulate strategic recommendations and ideal procedures for implementing DPA in the Indonesian economic criminal justice system.

3. Results and Discussion

3.1 Optimizing the Authority and Position of Public Prosecutors in Strengthening Asset Recovery through Deferred Prosecution Agreement Procedures in Money Laundering Crimes

In the theoretical construction proposed by Nelson (2022), the Deferred Prosecution Agreement (DPA) is positioned as a legitimate negotiation procedure between public prosecutors and perpetrators, particularly corporations, with the condition of a confession, payment of a fine, and restitution of losses. This model demonstrates a shift from a retributive paradigm to a pragmatic approach oriented toward concrete results. In complex, cross-jurisdictional money laundering cases, conventional litigation approaches are often time-consuming and risk the loss of assets. The DPA provides prosecutors with the opportunity to prioritize asset recovery before the full judicial process is underway. Thus, optimizing prosecutors' authority through the DPA has the potential to significantly accelerate the recovery of state losses.

The strengthening of the position of prosecutors during the transition period of the national Criminal Code and Criminal Procedure Code underscores this strategic role. Internal guidelines from the Attorney General's Office state that prosecutors are no longer merely prosecutors but rather the primary navigators in the transformation of criminal law, who must ensure harmony between substantive and formal law. Within this framework, prosecutors are charged with mastering alternative settlement procedures, including the Deliberation for Settlement (DPA) and other forms of negotiation in economic cases. This concept demonstrates that strengthening prosecutors' authority is an institutional policy, not merely an individual preference. This provides a normative basis for optimizing the role of prosecutors in strengthening asset recovery in money laundering cases.

Normatively, the guilty plea procedure in the 2025 Criminal Procedure Code provides an important precedent for the development of the DPA. This provision stipulates that the public prosecutor may accept a guilty plea under certain conditions, including a willingness to pay restitution and a written agreement with judicial oversight. This procedural structure demonstrates that prosecutorial discretion can be institutionalized within an accountability framework. If a similar model were developed in the context of the DPA for money laundering, prosecutors could make the payment of restitution and the return of assets the primary prerequisites for postponing prosecution. Thus, optimizing prosecutorial authority would be directed toward achieving concrete recovery of state losses.

From an economic criminal law perspective, Nelson (2022) emphasized that the DPA is effectively applied to corporate crimes with significant financial impact. Money laundering generally involves complex financial structures and the use of legal entities to disguise the proceeds of crime. Therefore, a negotiation-based approach that prioritizes disclosure of cash flows and internal system reform is relevant. Prosecutors can require governance improvements, independent audits, and reporting obligations as part of the DPA agreement. Thus, optimizing prosecutorial authority serves not only a repressive function but also a preventive one in preventing the recurrence of money laundering crimes.

From *the lex favor reo* principle , as affirmed in the transitional guidelines for the Criminal Code, prosecutors are required to apply the rules that are most favorable to the defendant when the law changes. This principle demonstrates that prosecutors have an active interpretive role in determining prosecution strategies. This interpretive flexibility can serve as a conceptual basis for developing a Debt Settlement Agreement (DPA) as a form of settlement that still guarantees the defendant's rights. In money laundering cases, the application of this flexibility allows prosecutors to avoid lengthy processes that actually hinder asset recovery. Thus, optimizing prosecutorial authority remains within the framework of human rights protection and effective law enforcement.

Nelson & Santoto (2021) also emphasize the importance of judicial oversight in the implementation of the DPA to maintain legitimacy and prevent abuse of discretion. In the Indonesian context, certain court procedures for guilty pleas indicate that agreements between prosecutors and defendants still require court approval. This oversight model can be integrated into the draft DPA for money laundering cases to ensure that the agreement truly reflects the public interest. With judicial oversight, the prosecutor's authority is not transformed into absolute power. Instead, this authority becomes part of a transparent and accountable system of checks and balances.

Modern evidentiary strategies that emphasize the quality of the evidentiary narrative and the continuity of the evidence also strengthen prosecutors' bargaining position in DPA negotiations. In money laundering cases, successful asset recovery depends heavily on the ability of prosecutors and investigators to conduct asset tracing and build a strong evidentiary framework. The more solid the evidence, the greater the prosecutor's chances of negotiating for maximum asset recovery. Therefore, optimizing prosecutors' authority must be accompanied by increased technical capacity in finance and digital investigations. Integrating discretionary authority and professional competence is key to successful asset recovery.

In the context of implementing a Deferred Prosecution Agreement (DPA) in crypto-based money laundering (ML) cases, digital asset restitution clauses must be specifically and proportionally designed. Obligations to unlock wallet access, hand over encryption keys, or transfer tokens to a state escrow account should not be imposed blanketly without distinguishing between assets suspected of being the proceeds of crime and other legitimate assets. The proportionality stricto sensu test requires prosecutors to consider the balance between the effectiveness of recovering state losses and protecting the perpetrator's economic rights before a final decision is made. Judicial oversight of the DPA agreement is a crucial procedure to ensure that negotiations do not degenerate into excessive pressure. With this approach, optimizing prosecutorial authority in crypto-based money laundering cases remains in line with the principles of due process and the rule of law.

Furthermore, the application of proportionality in the seizure of crypto assets also relates to the legitimacy of international cooperation. Requests for cross-jurisdictional freezes against foreign crypto exchanges must be based on clear justification and measurable restrictions to avoid violating the principle of necessity. Sweeping freezes of all digital accounts without accurate transaction mapping potentially violate the rule of law due to their overbroad nature. Therefore, proportionality analysis must be an integral part of technology-based asset tracing strategies, including in the formulation of DPA clauses and requests for mutual legal assistance. By placing proportionality as a normative framework, optimizing the authority of public prosecutors in crypto asset recovery can be effective without compromising the protection of constitutional rights.

In the international practice studied by Nelson, DPAs often result in significant fines and restitution payments compared to traditional court decisions. This suggests that a pragmatic approach can be more effective in recovering state losses. In the context of money laundering (TPPU) in Indonesia, where assets can be moved quickly through the global financial system, speed is crucial. DPAs allow for faster settlements, requiring the repayment of funds before the case drags on in court. Therefore, optimizing prosecutors' authority through DPAs has the potential to significantly increase the effectiveness of recovering state losses.

The restorative dimension of national criminal law policy can also be linked to the application of the Determination of Penalty (DPA) in money laundering cases. Although money laundering is not a minor crime, the essence of restorative justice in this context lies in the restoration of state losses and the stability of the financial system. The DPA can be positioned as a restoration procedure for the economic impacts caused by money laundering. By prioritizing asset recovery, the state gains immediate benefits without having to wait for a final and binding decision. Optimizing prosecutorial authority within this framework demonstrates an orientation toward substantive outcomes, not merely symbolic punishment.

Strengthening prosecutorial authority must also be balanced with clear operational guidelines and ethical standards. The guilty plea procedure establishes a hierarchical process, starting with a memorandum of opinion, through leadership approval, and through trial supervision. This structure can serve as a model for developing a written consent form (DPA) for money laundering cases, ensuring that discretion remains within institutional control. Clear governance minimizes the risk of misconduct. Optimizing prosecutorial authority in the context of asset recovery must always be accompanied by the principles of accountability and transparency.

Within the national criminal law framework, the expansion of prosecutors' authority through the DPA must also be understood as a response to the limitations of conventional procedures for recovering assets from crime. Lengthy litigation processes often result in assets being depleted or changing hands before they can be executed. Nelson points out that the flexibility of the DPA actually incentivizes perpetrators to voluntarily return funds. In money laundering cases, this incentive can be an effective tool for uncovering hidden financial networks. Therefore, optimizing prosecutors' authority is an integral strategy in strengthening the effectiveness of asset recovery.

Furthermore, the integration of the DPA and public interest-based prosecution policies emphasizes that prosecutors must consider the socio-economic impact of each case. In money laundering crimes involving large corporations, criminalization without considering economic stability can have a domino effect on the workforce and the market. The DPA allows for a resolution that maintains accountability without completely destroying the business entity. With this approach, restitution of state losses can be achieved without creating broader social harm. Optimizing prosecutorial authority within this framework reflects a balance between justice, effectiveness, and the public interest.

Optimizing the authority of public prosecutors in money laundering (TPPU) cases must be understood as part of an effectiveness-based prosecution policy reform. Nelson explains that the DPA is an instrument that allows prosecutors to prioritize the recovery of state losses through structured negotiations with perpetrators. This approach aligns with the findings of Rahmawati & Bulqis (2026) who stated that the negotiated justice model can increase the ratio of state loss recovery compared to conventional litigation processes. In the context of national criminal procedural law, the prosecutor's role as dominus litis strengthens the legitimacy of the use of this discretion. Thus, optimizing prosecutorial authority becomes a strategic instrument in strengthening asset recovery in money laundering (TPPU) cases.

A study by Kameo & Prasetyo (2020) emphasized that the main obstacles to asset recovery in money laundering (TPPU) cases are the complexity of the evidence and the lengthy trial process. A DPA can mitigate these obstacles by requiring an acknowledgment and restitution of funds before the case is fully examined in court. Nelson emphasized that the effectiveness of a DPA lies in the prosecutor's ability to create legal incentives for the perpetrator to cooperate. These incentives typically take the form of reduced charges or conditional termination of prosecution. Therefore, optimizing prosecutors' authority within the DPA framework can expedite the asset tracing and recovery process.

From the perspective of the modern criminal justice system, restitution of state losses focuses not only on punishing perpetrators but also on recovering assets obtained from criminal acts. Febby Mutiara Nelson (2019) explains that in combating corruption, the criminal justice system must be able to balance law enforcement against perpetrators and restitution of state losses incurred as a result of the crime. However, in practice, the process of restitution of state losses often faces structural and procedural obstacles, making the goal of simple, fast, and low-cost justice difficult to achieve.

Within the international framework, the asset recovery process generally encompasses several key stages: asset identification, tracing, freezing, confiscation, forfeiture, and the return of assets to the affected country. This procedure is also recognized in the United Nations Convention Against Corruption (UNCAC), which emphasizes that asset recovery is a fundamental principle in eradicating corruption, particularly to ensure that the proceeds of crime are not enjoyed by the perpetrators. Therefore, the effectiveness of asset tracing and asset recovery depends heavily on coordination between law enforcement agencies, financial investigation capacity, and international cooperation in tracing and returning assets hidden in various jurisdictions.

In the context of a Deferred Prosecution Agreement (DPA), the asset tracing and recovery processes can be more effective due to the incentives for perpetrators to reveal the location of assets and voluntarily return state losses. This mechanism provides strategic space for prosecutors to encourage the disclosure of hidden assets, so that state financial recovery can be carried out more quickly than through conventional criminal justice processes. The effectiveness of the DPA in money laundering crimes depends heavily on the breadth of the prosecutor's authority and discretion. However, this expansion of authority must remain within the framework of a state based on the rule of law that upholds accountability, transparency, and oversight. Therefore, strengthening the role of prosecutors as the main actors in asset recovery negotiations needs to be balanced with a mechanism of checks and balances, including judicial oversight, to prevent abuse of authority.

From an international perspective, a negotiation-based approach has proven effective in encouraging perpetrators to disclose financial flows and expedite asset recovery, particularly in cross-border cases. Without incentives like a DPA, perpetrators tend to opt for lengthy litigation processes that actually hinder the recovery of state losses. Thus, a DPA can be a pragmatic instrument that strengthens the state's bargaining position in recovering assets obtained from crime. Furthermore, a DPA also reflects a shift in the paradigm of criminal law, which no longer focuses on imprisonment but rather on the recovery of state losses and the benefit of the law. Its successful implementation is largely determined by the capacity of prosecutors, particularly in asset tracing and financial investigations, as well as strong evidence-based negotiation skills.

The DPA also has a preventive dimension, as it can require internal reforms and strengthening of compliance systems, such as anti-money laundering mechanisms, to prevent the recurrence of crimes. However, its implementation must still guarantee the protection of the suspect's rights through voluntary consent, legal representation, and the principle of due process of law. To be effective and reliable, the implementation of the DPA needs to be supported by strong institutional governance, including a monitoring system, internal audits, and procedural transparency. Thus, optimizing prosecutors' authority within the DPA framework can accelerate asset recovery and reflect the transformation of Indonesian criminal law toward a more pragmatic, accountable, and results-oriented approach.

3.2 The Ideal and Contextual *Deferred Prosecution Agreement (DPA)* Procedure in the Integration of *Asset Recovery Policies* for Money Laundering Crimes

The Deferred Prosecution Agreement (DPA) procedure in the Indonesian criminal law system needs to be positioned as a prosecutorial policy instrument oriented towards the effectiveness of recovering state losses and rationalizing the judicial process. Nelson (2025) explains that the DPA is a form of conditional postponement of prosecution that requires a confession, payment of a fine, restitution, and a commitment to improve governance, especially in the context of corporate crime. In money laundering (TPPU) cases, this approach is highly relevant because the essence of the TPPU crime lies in the control and disguise of the proceeds of crime, not solely in the original act. Therefore, the integration of the DPA into asset recovery policies must make asset recovery a primary prerequisite for the agreement. This orientation is consistent with national criminal law reforms that emphasize the benefit, effectiveness, and recovery of state losses as the primary objectives of punishment.

The Deferred Prosecution Agreement (DPA) procedure described above illustrates the systematic stages that begin with the identification of the case by the public prosecutor and end with the termination of prosecution or the continuation of the judicial process. This procedure emphasizes that the implementation of the DPA is not merely conceptual, but has a clear, structured operational flow, and is based on the principles of prosecutorial discretion, restorative justice, and the effectiveness of restitution of state losses. With the evaluation and monitoring stages, this procedure also ensures control over the implementation of the agreement to prevent abuse of authority. Supervision of public prosecutors in the implementation of the Deferred Prosecution Agreement is carried out in layers, namely through internal supervision by the prosecutor's office, judicial supervision by the court as a form of checks and balances, and external supervision by state and public institutions. Of these three forms, judicial oversight is the most important to ensure that the use of prosecutorial discretion remains within the corridors of justice, proportionality, and the public interest.

The stages of the DPA procedure can be explained in detail. The first stage is initiation by the prosecutor, where the public prosecutor assesses the suitability of a case for resolution through a DPA, including the complexity of the case, the amount of state losses, and the perpetrator's role in the crime. For example, in a digital asset-based money laundering case, the prosecutor will assess whether the perpetrator has a traceable digital wallet or account and whether the relevant parties are willing to cooperate in uncovering the flow of funds. The second stage is negotiation, which involves discussions between the prosecutor and the perpetrator to establish obligations that must be fulfilled, including payment of fines, restitution, disclosure of assets, and implementation of preventive measures to prevent similar crimes from recurring (Surahman et al., 2025). For example, a company conducting illegal fund transfers may be required to disclose its entire cross-border transaction network and improve its internal anti-money laundering system.

The next stage is approval, where the court assesses and grants judicial approval to ensure voluntariness, proportionality of obligations, and protection of the rights of related parties. The monitoring stage aims to ensure the implementation of the agreement is running according to plan through independent audits, regular reporting, and monitoring of perpetrator compliance, such as reporting suspicious transactions and periodic internal audits. The final stage is evaluation, which assesses the success of the DPA in terms of asset recovery, perpetrator compliance, and prevention of recurrence of crimes, by comparing the targets set in the agreement with actual results.

In international practice, the implementation of a DPA relies not only on the authority of the public prosecutor but is also supported by strict oversight procedures to prevent abuse of discretion. This oversight model is evident in the legal systems of the United Kingdom and the United States, which both adopt DPAs, but differ in terms of judicial control and transparency. In the United Kingdom, the DPA is regulated by the Crime and Courts Act 2013, which gives the court a central role in every stage of the DPA. The court not only serves as the ratifying party but also conducts substantive testing of the agreement's suitability through preliminary and final hearings, where the judge assesses whether the DPA meets the principles of fairness (in the interests of justice) and proportionality (fair, reasonable, and proportionate). Conversely, in the United States, the implementation of the DPA emphasizes the prosecutor's authority (prosecutorial discretion), with the judge having a limited role, as emphasized in United States v. Fokker Services BV. This difference demonstrates the UK's emphasis on strong judicial oversight, while the US relies on the professionalism of the public prosecutor. In the Indonesian context, the British model is more relevant to prevent abuse of authority and strengthen public trust in out-of-court case resolution procedures.

The process of recovering state losses in money laundering cases cannot be separated from a series of systematic asset recovery stages. Febby Mutiara Nelson explained that the strategy to eradicate corruption and money laundering in the modern criminal justice system is no longer solely oriented towards punishing the perpetrators, but also focuses on the state's ability to trace, secure, and return the proceeds of crime to the state or the injured party. Within this framework, asset recovery is understood as a process that includes identifying assets resulting from criminal activity, tracing the flow of funds, freezing and confiscating them, and finally confiscating and returning assets to the state. This approach emphasizes that the effectiveness of law enforcement against economic crimes is measured not only by the length of prison sentences imposed, but also by the success of recovering state financial losses.

The first stage in the process is asset tracing. Asset tracing is a financial investigation process that aims to identify, map, and track the whereabouts of assets suspected of originating from criminal acts. In practice, asset tracing is carried out through financial transaction analysis, bank account audits, tracking ownership of movable and immovable assets, and utilizing financial intelligence data obtained from institutions such as the Financial Transaction Reports and Analysis Center (PPATK). This process is very important in money laundering cases because perpetrators generally attempt to disguise the origin of funds through various money laundering techniques such as placement, layering, and integration, making the link between the assets and the predicate crime difficult to prove.

The next stage is the seizure of frozen assets. Seizure is a legal action to temporarily seize control of assets suspected of being linked to a crime for the purpose of providing evidence and recovering state losses. In the context of money laundering, seizure can encompass various types of assets, from cash, bank accounts, property, vehicles, to financial instruments and digital assets. This seizure must be based on sufficient evidence of the asset's connection to the crime, thus upholding the principles of property rights protection and due process of law.

The final stage of the entire process is the return of assets to the state or the injured party. In corruption and money laundering cases, asset return is usually achieved through the payment of compensation, restitution, or the deposit of proceeds from the auction of seized assets into the state treasury. The success of this stage is a key indicator of the effectiveness of asset recovery policies, as the primary goal of law enforcement against economic crimes is to recover state financial losses and restore the economic balance disrupted by the crime.

In practice, the series of asset recovery stages often encounters various obstacles, such as the complexity of cross-jurisdictional financial transactions, the use of third-party identities, and the increasingly sophisticated use of financial technology. These conditions often result in lengthy asset tracking and recovery processes through conventional litigation procedures. Therefore, integrating Deferred Prosecution Agreement procedures into prosecution policy is relevant as an instrument that can expedite asset disclosure and encourage more effective recovery of state losses.

In the context of the development of technology-based economic crimes, the DPA procedure must also be able to address the challenges of money laundering through crypto-assets and digital financial systems. Crypto-assets traded through domestic and international exchanges present unique complexities due to their pseudonymous nature, borderlessness, and the rapid transfer through non-custodial digital wallets. Therefore, the DPA clause in crypto-based money laundering cases must include obligations to disclose wallets, transfer the proceeds of crime, and provide access to comprehensive digital transaction information. However, these obligations cannot be applied indefinitely but must be tested through the principle of proportionality within the rule of law framework. This principle requires that any freezing, seizure, or transfer of crypto-assets must meet the elements of a legitimate purpose, urgent need, and a balance between the public interest and the protection of digital property rights.

The application of the proportionality principle is crucial to ensuring that the optimization of public prosecutorial authority through the DPA does not develop into excessive action. The suitability test requires a rational relationship between the seizure of crypto assets and the goal of recovering state losses. The necessity test requires that no less stringent alternatives be available to restrict the perpetrator's economic rights. Meanwhile, the proportionality test (stricto sensu) requires that the benefits of asset recovery outweigh the resulting restrictions on individual rights. With this framework, the DPA in crypto-based money laundering cases remains within the framework of a state based on law, which upholds due process and the protection of constitutional rights.

The application of the DPA in money laundering cases must also consider the characteristics of the predicate offense underlying the money laundering. In practice, not all predicate crimes have the same level of complexity and social impact. Therefore, the selective application of the DPA is crucial to prevent this procedure from being used in cases that require a strong deterrent effect through open trials. Objective parameters such as the magnitude of state losses, the perpetrator's position within the criminal structure, and the degree of active participation in the money laundering scheme must be used as benchmarks. This approach maintains consistency between prosecution policy and the public's sense of justice.

In cases involving crypto-assets, the evaluation of the feasibility of a DPA must also consider the volatility of the digital asset's value. Fluctuations in the price of crypto tokens or coins can affect the actual value of the assets to be recovered by the state. Therefore, the DPA agreement must include a clear and time-bound value conversion procedure to avoid speculation or additional losses. The determination of this value should be based on the results of an independent audit or the assessment of a digital finance expert. This step strengthens legal certainty while maintaining the integrity of the asset recovery process.

From a proportionality theory perspective, the obligations imposed on perpetrators under the DPA should not exceed the level of culpability and the benefits derived from the crime. If the perpetrator plays a minor role or is merely a technical facilitator in the transfer of crypto assets, the obligations imposed should reflect that position. Conversely, a principal perpetrator who controls the wallet and the flow of digital transactions may be subject to broader obligations, including disclosure of cross-border networks. This differentiation aligns with the principle of individualized criminal liability. A proportional obligation structure reflects the consistency between pragmatic policies and the principles of justice.

The introduction of the DPA also implies a shift in the evidentiary paradigm in technology-based money laundering (TPPU) cases. Prosecutors are still required to have sufficient preliminary evidence before offering a settlement, including blockchain analysis and digital transaction tracking. A settlement cannot be used as a substitute for evidentiary weaknesses. A strong evidentiary standard actually strengthens the state's bargaining position in asset recovery negotiations. This emphasizes that the DPA is a continuation of a legitimate legal process, not a procedural shortcut.

The protection of digital property rights also requires special attention in drafting the DPA clause. Crypto-assets, as a form of modern property, remain subject to the constitutionally guaranteed property rights protection regime. State intervention through asset seizure or transfer must be based on evidence of a direct link to a criminal offense. A blanket freeze on an entire digital portfolio without clear separation could be deemed to exceed the principle of necessity. A selective approach based on forensic analysis would strengthen the legitimacy of such action.

Corporate involvement in crypto-based money laundering (TPPU) cases also requires attention to potential systemic impacts. The application of DPA to business entities must consider the sustainability of company operations and the protection of workers and good-faith third parties. Financial sanctions and compliance obligations can be formulated in such a way that they do not have a domino effect on economic stability. These considerations align with a criminal policy approach that prioritizes a balance between law enforcement and broader social interests. A measured policy will maintain stability without compromising accountability.

Judicial oversight of the DPA is a crucial tool in maintaining transparency and preventing potential abuse of discretion. Judges need to assess whether the agreement meets the requirements of voluntariness, sufficiency of evidence, and proportionality of agreed obligations. In crypto-asset cases, judges also need to ensure that asset transfer and safeguarding procedures are clearly formulated. This review is not merely a formality but part of the constitutional oversight function of prosecutorial power. This procedure strengthens the institutional legitimacy of the DPA.

International coordination is another crucial aspect, particularly when crypto assets are held on foreign exchanges. The implementation of the DPA can be linked to mutual legal assistance procedures to ensure asset recovery across jurisdictions. Agreements that include actors' commitments to assist in the international process will expedite fund recovery. At the same time, such actions must still consider jurisdictional boundaries and the principle of sovereignty over the laws of other countries. Cross-border synergy enhances the effectiveness of asset recovery policies.

Post-agreement reporting and monitoring requirements are also crucial elements for the success of a DPA. In cases involving crypto-assets, perpetrators can be required to undergo regular compliance audits and report digital transaction activity within a specified period. This procedure serves not only as a control measure but also as a means of preventing recurrence of criminal acts. Continuous monitoring demonstrates that the DPA has a real corrective dimension. This approach strengthens the preventive function of the criminal justice system.

Conceptually, the integration of the DPA into the ML/TPPU asset recovery policy reflects the adaptation of criminal law to the dynamics of the digital economy. The complexity of money laundering through crypto-assets cannot be fully addressed through conventional, lengthy litigation procedures. The proportionality framework provides a normative basis for assessing the limits of state authority in this policy innovation. Dr. Surahman's considerations regarding the balance between public interest and individual rights provide ethical legitimacy to this approach. The combination of effectiveness and substantive justice is a prerequisite for this policy to remain consistent with the principles of a modern rule of law.

4. Conclusion

The analysis shows that the authority and strategic position of public prosecutors within the framework of criminal procedure and national criminal law play a central role in strengthening the effectiveness of asset recovery and the restitution of state losses, including through the implementation of the Deferred Prosecution Agreement (DPA) procedure. The public prosecutor, as dominus litis, has the ability to control the direction of the prosecution, formulate the construction of evidence, and prioritize asset recovery before the trial process takes place. Optimizing this authority is possible through the DPA procedure, which provides space for negotiation between the public prosecutor and the perpetrator, determines restitution obligations, and provides legal incentives to encourage the disclosure of hidden assets. While the flexibility of prosecutorial discretion allows public prosecutors to adapt strategies to the public interest, strengthening internal and judicial oversight procedures remains essential to maintain accountability, proportionality, and protect the rights of legal subjects. Current practice in Indonesia, which tends to rely on internal oversight by the Attorney General's Office, demonstrates the need for the integration of active judicial oversight to enhance the effectiveness of the asset recovery process and the institutional legitimacy of the DPA. The findings also confirm that the ideal DPA procedure must be operationally structured and relevant to the characteristics of the Indonesian civil law system. The stages of the DPA procedure, including initiation, negotiation, approval, monitoring, and evaluation, must be complemented by clear success parameters, such as asset recovery ratio, completion time, cost efficiency, and prevention of recurrence of the crime. Based on the analysis of the ML and corruption case matrix for the 2023–2025 period, despite the confiscation of assets and the payment of compensation, the actual recovery of state losses remains far from the total losses officially calculated. This indicates that the effectiveness of the follow-the-money procedure through ML is not optimal. Therefore, integrating the DPA with judicial control, external oversight, and adaptation to the characteristics of digital assets, including crypto-assets, is crucial to ensure transparency, accountability, and the effectiveness of the rapid and proportional recovery of state losses. This procedure allows the DPA to function as a pragmatic instrument within the context of modern national criminal law, balancing legal certainty, protection of constitutional rights, and restorative objectives in eradicating money laundering.

5. References

Journals:

Ali Geno Berutu. (2019). Tindak pidana kejahatan pencucian uang (money laundering) dalam pandangan KUHP dan hukum pidana Islam. *Tawazun: Journal of Sharia Economic Law*, 2(1), 1–15.

Anastasya Arsa Prameswari, dkk. (2021). Deferred prosecution agreement: Prosedur pertanggungjawaban tindak pidana korporasi terhadap perusakan lingkungan melalui paradigma restorative justice. *Jurnal Hukum Lex Generalis, 2*(3), 1204–1220.

Ardi Ferdian. (2021). Konsep deferred prosecution agreement dalam pertanggungjawaban pidana korporasi sebagai bentuk alternatif penyelesaian sengketa. *Arena Hukum*, 14(3), 527–545

Arifin, R., Utari, I. S., & Subondo, H. (2017). Upaya Pengembalian Aset Korupsi Yang Berada Di Luar Negeri (Asset Recovery) Dalam Penegakan Hukum Pemberantasan Korupsi Di Indonesia. *IJCLS (Indonesian Journal of Criminal Law Studies)*, *1*(1), 105-137.

Awaluddin. (2015). Perbandingan Hukum Kepolisian Negara Anglo saxon Dengan Eropa Kontimental. *Jurnal Lentora Justice, 2*(1).

Feby Mutiara Nelson. (2022). Diskresi penuntutan dan kebijakan penegakan hukum. *Jurnal Hukum dan Pembangunan*, 52(3), 1–20

Fitriyanti, L. D., & Suwandono, A. (2025). Perampasan aset sebagai sanksi tambahan: Analisis pengembalian kerugian negara dalam penanganan tindak pidana korupsi di Indonesia. *JAKSA: Jurnal Kajian Ilmu Hukum dan Politik*, *3*(3), 13-27.

Haris, B. S. (2024). Nilai Tambah Dan Tantangan Pendekatan Follow the Money Pada Tindak Pidana Bidang Lingkungan Hidup. *AML/CFT Journal*, *2*, 111-125.

Hermanto, H., & Fitriyana, L. (2025). Pengaturan Penyitaan Aset Kripto sebagai Hasil Tindak Pidana Pencucian Uang di Indonesia. *Jurnal Hukum Lex Generalis*, *6*(7).

Husein, R. (2025). Analisis Yuridis Terhadap Tindak Pidana Pencucian Uang Dengan Mata Uang Kripto. *Sultra Law Review*, 3794-3804.

Imron, A. (2024). Stolen Asset Recovery Tindak Pidana Korupsi (Pendekatan Sistem Pembalikan Beban Pembuktian Terhadap Aset Hasil Kejahatan Tindak Pidana Korupsi): Recovery of Assets Stolen by Criminal Acts of Corruption. *Res Nullius Law Journal*, *6*(2), 111-126.

Kaban, K. S., & Kholiq, A. (2025). Optimalisasi Regulasi Pidana Terkait Perampasan Aset Tindak Pidana Kejahatan Ekonomi Berlandaskan Perspektif Hukum Progresif Berkeadilan. *Jurnal Locus Penelitian Dan Pengabdian*, *4*(5), 1811-1823.

Kameo, J., & Prasetyo, T. (2020). Hakikat Hukum Ekonomi (Internasional) Dalam Perspektif Teori Keadilan Bermartabat. *Jurnal Hukum Ius Quia Iustum*, *27*(2), 308-327.

Kholil, M., & Alhadi, M. N. (2026). Tantangan Penegakan Hukum Tppu Dalam Kasus Korupsi Melalui Aset Kripto di Indonesia. *Journal Of Golden Generation Legal Science*, *2*(1), 112-122.

Muhammad Ridho Sinaga. (2021). Konsep *Deferred Prosecution Agreement (DPA)* dalam upaya pemberantasan korupsi oleh korporasi di Indonesia. *USU Law Journal*, 6(23), 97–110.

Mulkan, H., & Aprita, S. (2023). Asset recovery dalam tindak pidana korupsi sebagai upaya pengembalian kerugian keuangan negara. *The Juris*, *7*(1), 174-180.

Nelson, F. M. (2019). Pengembalian Kerugian Keuangan Negara: Dapatkah Menggunakan Deferred Prosecution Agreement. *Simbur Cahaya*, 230-253.

Nelson, F. M. (2025). In search of a deferred prosecution agreement model for effective anti-corruption framework in Indonesia. *Hasanuddin Law Review*, *8*(2), 122-138.

Nelson, F. M., & Santoso, T. (2021). Principle of simple, speedy, and low-cost trial and the problem of asset recovery in Indonesia. *Indonesia Law Review*, *11*(2), 4.

Ni Komang Sutrisni. (2013). Pendekatan follow the money dalam penelusuran tindak pidana pencucian uang. *Kertha Semaya: Journal Ilmu Hukum*, 1(2), 1–10.

Putra, Y. B. T. (2024). Kewenangan Komisi Pemberantasan Korupsi Dalam Penuntutan Tindak Pidana Pencucian Uang. *Jurnal Rechtens*, *13*(2), 181-198.

Rahmawati, R., & Bulqis, B. (2026). Mediasi Hukum Dan Keadilan Restoratif: Sebuah Pendekatanterpadu Dalam Penyelesaian Sengketa Perjanjian. *Governance: Jurnal Ilmiah Kajian Politik Lokal dan Pembangunan*, *13*(1), 193-201.

Surahman, S., Abdurrahim, A., Anandy, W., Hamdani, F., & Nnawulezi, U. (2025). Administrative Justice in the Perspective of Islamic Legal Philosophy: A Comparative Study of Ethical Legitimacy and Bureaucratic Rationality. *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan*, *12*(2), 751-769.

Syachdin, S. (2018). The Implementation of Inclusion in Corruption Case Handling. *Fiat Justisia: Jurnal Ilmu Hukum*, *12*(1), 14-31.

Books:

Soekanto, S., & Mamudji, S. (2020). *Penelitian hukum normatif: Suatu tinjauan singkat*. RajaGrafindo Persada.

Susanto, A. S., Jhonson, E., Widjaja, J. D., Lovina, A., Susanto, N. N. P., Christanto, T., ... & Putri, N. S. (2025). *Cryptocurrency Era 5.0: Revolusi Keuangan Digital*. SIEGA Publisher.

Internet:

Indonesia Corruption Watch. (2022, May 22). ICW sebut hanya 2,2 persen kerugian negara berhasil dikembalikan. *Kompas.id*. https://www.kompas.id

KPK. (2025). Rekor Baru KPK 2025: Pulihkan Aset Negara Rp1,5 Triliun Hingga Implementasi KUHP-KUHAP. https://www.kpk.go.id/id/ruang-informasi/berita/rekor-baru-kpk-2025-pulihkan-aset-negara-rp15-triliun-hingga-implementasi-kuhp-kuhap