

Reconstruction of Asset Deprivation in Returning State Financial Losses Due to Corruption

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Abstract: The state as the most disadvantaged party must seek a return assets that have been corrupted are in line with the theory of the purpose of punishment is to realize restorative justice, namely to restore the situation due to the occurrence of a criminal act such as before a crime occurred, and if it is associated with a criminal act of corruption, the return of assets is one way to recover state losses due to criminal acts corruption, bankruptcy application by AGO on the basis of harm the public interest is legitimate *state d n order to refund the proceeds of crime based on court decisions.*

Keywords: Deprivation of Assets, State Financial Losses, and Corruption Crimes.

Preliminary

Corruption [1] today has become a global problem belonging to transnational crime [2], can endanger the stability and security of society, endangering socio-economic development [3], and also politics [4], and can damage the values of democracy and morality because the slow years of this act seemed to be a culture [5] Corruption is a threat to ideals towards a just and prosperous society [6].

To eradicate corruption that has been ingrained in life community members, the participation of the whole community is very important, both in the form of delivery of evidence and information [7].

Without participation and support full of government efforts, law enforcement officials or commissions established by the government to eradicate corruption will fail miserably, especially in an effort to save state finances [8]. Recognizing the complexity of the problem of corruption in the midst of a multidimensional crisis and the real threat that must occur, namely the impact of this crime. So criminal acts of corruption can be categorized as national problems [9] which must be dealt with seriously through decisive and clear steps by involving all the potential that exists in society, especially the government and law enforcement officials.

In eradicating corruption, the seriousness of the Indonesian government can be seen from the issuance of various policies relating to the prevention of corruption in the form of legislation in the form of: MPR Decree Number XI / MPR / 1998 concerning Clean, Corruption, Collusion and Nepotism State Administration; Law Number 28 of 1999 concerning the Organization of a Clean, Corruption, Collusion and Nepotism State [10]; Law Number 31 Year 1999 Law Number 20 Year 2001 concerning Eradication of Corruption Crimes; Act Number 30 of 2002 concerning the Commission for the Eradication of the Criminal Act

of Corruption; Law Number 7 of 2006 concerning Ratification of the *United Nations Convention Against Corruption* 2003; Presidential Decree Number 11 of 2005 concerning the Establishment of the Coordination Team for the Eradication of Corruption Crimes (Tim Tastipikor); Presidential Instruction Number 5 of 2004 concerning Acceleration of Eradication of Corruption. In addition, regulations have been issued that are not directly but still in the context of eradicating corruption, such as: Law Number 15 of 2002 concerning Money Laundering Crimes as amended by Act Number 25 of 2003 concerning Amendments to the Law Number 15 of 2002 [11]; and the Reciprocal Assistance Act[12].

Indonesia's courageous attitude in combating corruption and returns to state losses must be consistent and realistic. Act No mor no. 31 of 1999 *jo* Law No. mor 20 of 2001 actually had the courage and bite to regulate eradication corruption and prosecution of perpetrators of corruption, even imposition two basic crimes are allowed at the same time [13]. With deep privileges criminal imposition of criminal acts of corruption means that punishment is expected become a very powerful thing in law enforcement and eradicating corruption. Departing from Article 4 of Law No 31 Year morale 1999 *jo* mor Act No. 20 of 2001 that:

Returns the state financial losses or the country's economy does not abolish the discipline of the perpetrators criminal.

The amount of state financial loss due to extreme corruption not comparable large state financial returns due to corruption. Reimbursement of state financial losses must be done in a way anything that can be justified according to the law so that it can be pursued optimally maybe. In principle, the right of the state must return to the country for welfare people.

The seriousness in eradicating criminal acts of corruption cannot be optimal if the mindset of the Indonesian people is just fixated on revenge alone on corruptors. Communities and law enforcement officials must instill patterns think forward by not stopping in retaliation for criminal acts, but also how is the next action to secure state assets that are corrupted and recover damage and losses due to criminal acts.

Deprivation of assets resulting from corruption itself has actually been adopted by Indonesia, but Indonesia is again not a country that can easily adjust a system change, especially those related to the field law enforcement. Returning losses due to criminal acts of corruption is indeed impossible replaced because the amount is very large starting from material losses and immaterial. Besides tracking and investigating assets are the biggest challenge in law enforcement corruption. The state as the party most disadvantaged by corruption must seek a return assets that have been corrupted. The state must promote the *profit mindset oriented* towards law enforcement corruption, namely the eradication of criminal acts that are oriented to confiscation of proceeds of crime obtained and controlled by the perpetrators criminal act. The pressure is no longer on the perpetrators, but on assets proceeds of crime.

Study of Restorative Justice and Criminal Justice Theory in Restoring State Financial Losses as a Result of Corruption

Penalties imposed by the court are a legitimate effort, which is based on the law for impose sorrow or suffering on someone who is proven guilty committing a crime. Criminal law itself is a social institution associated with, and always reflects, the values and structure of society, so that it is a symbolic reaffirmation of a violation of the heart joint or *collective conscience conscience* [14], borrowed Emile's terminology Durkheim [15].

Given the losses due to corruption, criminal law aiming to suffer and suffer is the right way to eradicate and prevent corrupt practices. Law Penal a rule criminal law. The word penal mean things criminalized, namely by the agency ruling delegated to a person as something that is not pleasant and also things that are not delegated daily [16]. Indonesia as a country developing very vulnerable to economic practices

because according to Fred W. Riggs, one of the characteristics of developing countries is the intensity of corruption, collusion and nepotism [17].

Prison crimes which are the most popular types of basic crimes other key crimes (based on Article 10 K UHP) are indeed effective in giving retribution to convicted persons for acts criminal corruption which is proven to do. However, imprisonment is not always solve problems, instead can cause problems such as *overcapacity*, the corruption of corruptors, and state losses have not been resolved. The concept of the purpose of prosecution that has developed so far is considered to have various weaknesses especially because they are considered not giving at all any benefit for victims and the community [18]. This is strengthened again by the existence of the development of people's thoughts on various criminal laws parts of the world. Roeslan Saleh stated that criminal law is glass juridical that is most sensitive to changes in culture, social conditions at generally in all circumstances where there are humans [19].

Development of thought about human rights bring big changes to society in looking at things related to life and life. Not with the exception of criminal and criminal views. Criminal and criminal prosecution which basically gives justification for the downfall of one suffering to someone due to a crime that he did at a glance wills contrary to existing concepts in human rights it provides protection for human rights [20].

The method that can be used to recover state losses is by giving additional criminal penalties in the form of replacement money. This effort has yielded results in the form of income to the state treasury from the payment of substitute money from several convicts who have been determined the amount of money to be replaced by the court. Replacement money as an additional criminal in corruption cases must be understood as part of the criminal efforts against those who break the law. In this case the law violated is a criminal act of corruption.

The purpose of substitute money is to punish as severely as possible the corruptors in order to provide a deterrent and deterrent effect so that the same actions are not repeated and in order to restore the State's finances which are harmed due to an act of corruption. Criminal payment of compensation or compensation is a consequence of the consequences of a criminal act of corruption that can harm the state's finances or the economy of the country, so that to recover the losses required juridical means, namely in the form of payment of compensation or compensation .

One idea that should be considered in enforcing returns assets resulting from corruption are these activities in line with one the goal of punishment is *restorative justice*. According to Welgrave, the theory

of retributive justice is every action that is oriented towards enforcement of justice by correcting losses resulting from acts criminal. This theory states that victims or their families can return to the original state as before the crime occurred [21]. In this case, countries as victims of corruption can suffer losses big from criminal acts of corruption.

Thus recovery of losses due to corruption by appropriation of assets in line with the theory of the purpose of punishment is to realize restorative justice, namely to restore the situation due to the occurrence of a criminal act such as before a crime occurred, and if it is associated with a criminal act of corruption, the return of assets is one way to recover state losses due to criminal acts corruption.

Reconstruction of Asset Deprivation in State Financial Losses due to Corruption

Corruption as a crime that is gradual is in dire need more attention and seriousness in action because if no, the country's economic stability is threatened. As a preliminary measure, this seriousness is with the alertness of law enforcers responding reports or indications of criminal acts of corruption.

That can be done by freezing assets suspected of being the result of criminal acts as well regulated in Article 31 of UNCAC 2003. Police and The KPK agency authorized to receive reports from the public for indications the occurrence of criminal acts of corruption, is expected not to delay doing asset investigation and tracking related to the report.

Along with developing it globalization, act criminal corruption even growing increasingly complicated because the boundaries between countries are increasingly thinning and money laundering is even easier to do. To be able to access the results assets Corruption crimes that are abroad become cases that do not easy.

Often these assets are so large, so the return requires a procedure that is not easy. For the benefit of investigation and tracking of assets obtained from corruption, UNCAC 2003 requires state parties to take actions needed to be able to identify and track these assets with purpose of confiscation [22]. On the other hand, countries where assets are proceeds of crime Stored corruption must quickly respond to requests for legal assistance.

In the process of returning assets resulting from a crime corruption, the parties must be involved and work same fight and help victims' countries recover loss due to criminal acts of corruption. Indonesia must urge developed countries through international institutions to create international cooperation more pro with the limited ability of developing countries to technology,

access and international politics in the effort to restore corruption assets [23].

The seriousness in eradicating criminal acts of corruption cannot be optimal if the mindset of the Indonesian people is just fixated on revenge on corruptors. Communities and law enforcement officials must instill patterns think forward by not stopping in retaliation for criminal acts, but also how the next act secures the state assets that are corrupted and recover damage and losses due to criminal acts.

Education regarding the importance of returning state assets must be invested in Indonesian people, so that every class of Indonesian society, in particular legislator the legislator and law enforcement formulator Indonesia, understands the importance of law enforcement for the return of yield assets corruption.

The return on assets resulting from criminal acts of corruption cannot be taken for granted seized and returned to the country without proper processing and right [24]. Regarding the asset return stage, the asset return process must be carried out in addition to with the capability of good law enforcement; it must also be accompanied by its existence a special team that focuses on tracing assets from corruption [25].

Departing from the provisions in Article 27 of Law Number 31 of 1999 *jo* Law No. mor 20 of 2001 concerning Eradication of Crimes Corruption says that a joint team can be formed if found corruption which is difficult to prove. To be able to override the interest is in the asset tracking stage; it is necessary there is a special team [26] or in the Bill Asset Returns are called Task Units or *Task Force*. Task force this consists of a combination of several related agencies such as the Reporting Center and Financial Transaction Analysis (PPATK), Corruption Eradication Commission (KPK), Attorney General's Office of the Republic of Indonesia, Republic of Indonesia Police, academics, also advocate. In in addition, in the return program the assets are acted upon this criminal act of corruption is not only the law and law enforcement elements involved. The financial element is very strong here, the use of legal instruments only not enough, in the enforcement of financial service providers and providers must be involved. Banking services must also be actively involved because they do not start from tracing and confiscation of assets that are run by perpetrators of corruption nor can it be separated from the expertise of financial and banking service providers.

Regarding legislation, Indonesia itself has a legal instrument regarding *Mutual Legal Assistance*, namely Law 1 of 2006, Law No mor. 39 of 1999 *jo* Law Number 20 of 2001 concerning Eradicating Corruption, ratifying UNCAC, also has PPATK is an institution that is trusted to be authorized in tracking matters assets resulting from a crime that is washed. But the

instrument is not used optimally and harmoniously [27]. In addition, the *World Bank Group* (WBG) said that related to the difference between legal systems the country that deals with the issue of asset recovery does not need to be concerned.

P which is the main reason for the existence of a victim country that is asking for assistance can explain the relationship of the interests of the victim's state to its assets rushed to the destination country. Meanwhile, what experienced by Indonesia when looking at the Century Bank case was Switzerland, the destination country, did not feel any intention good at all for Indonesia as the requesting country for assistance because Indonesia does not show its maximum desire to cooperate in appropriation of assets resulting from criminal acts of corruption. Again again emphasized that Indonesia must have the seriousness of enforcing the return of these assets by increasing the *political will* of Indonesia itself and optimizing law enforcement for corruption.

Availability of a legal basis for international cooperation regarding the return of assets those obtained illegally has opened up opportunities for prevention efforts and eradication of crime, including criminal acts of corruption. The problem is, the provisions of the return mechanism regulated in UNCAC 2003 referring to the national law of each country [28], that generally different and can lead to legal competition between one party and another.

To legalize each stage in the process of returning the assets to the act criminal, Indonesia should immediately ratify the Bill Asset Deprivation, so that Indonesia has a legal instrument comprehensive system and mechanism regarding the return process assets resulting from criminal acts, especially corruption. In addition to, The Asset Deprivation Act that will later be legalized must be harmonious with provisions in UNCAC 2003 which have been ratified previously. With this harmonization it is expected that the provisions regarding the return of assets resulting from corruption that are outside the country becomes clear and can be applied immediately.

Other harmonizations that are needed in the enforcement of return on yield assets this corruption act is in the case of criminal justice in Indonesia. That the return on the assets to be acted upon corruption is not always related to legal aspects but also with other fields, but because of the consequences of criminal acts the corruption resulted misery for the people of Indonesia, then the process of returning the assets to the act corruption requires a set of legal rules. Harmonization the legislation in question is so as not to overlap overlap between the provisions of one law and another.

None convicted based forfeiture or braking in brakes [29] is one alternative in legalizing acts of

confiscation and confiscation of yielding assets corruption. This *in brake* institution is a *legal action* or legal remedies made by someone to claim ownership on an object, whether a moving object or immovable object (*an action determining the title to property and the rights of the parties, not only among themselves, but also against all persons at any time claiming an interest in that property*) [30].

In returning this type of asset, saving assets with a lawsuit against assets resulting from a criminal act of corruption can be given to perpetrators of corruption that have been decided free by the court the crime of corruption he committed, even though his actions resulted loss to the country. Due to criminal charges if the defendant died at the time of the trial, then the claim of property the result of a criminal act of corruption can also be given to the accused who died in the criminal trial process for the case of corruption, as it has been regulated in Article 33 of Law No. mor 31 of 1999 jo mor Act No. 20 of 2001, which says:

"In the event that the defendant dies at the time of the examination at court hearings, while in reality there have been financial losses state, the public prosecutor immediately submits a copy of the news file the session is to the State Attorney or submitted to agencies that have been harmed for civil lawsuits against his heirs."

Learn from law enforcement in the Britani Raya country for example who have applied NCB *Recovery* to recover state assets which was corrupted under the umbrella of POCA 2002. Returns of assets corruption is not an easy matter, there are many obstacles what law enforcement will face. However, losses country must permanent returned for the sake of restore balance from the country. Asset Returns by NCB can used in the event that the offender has been decided to be free from violation principal punishment due to lack of evidence that can be used or failure to meet the burden of proof.

Even if the return of assets by NCB is never allowed to be made as a substitute for criminal prosecution, in many ways (especially within official corruption), NCB Asset Returns may be one- only tools available to restore conditions resulting from criminal acts corruption and once again to get justice [31].

Influences corrupt officials and other practical realities can prevent investigators crime as a whole or after the relevant official has died world or run away. It often happens where a corrupt official has robbed his country of trying to gain immunity from prosecution. By therefore, the NCB asset return regime does not depend on a criminal punishment, it can proceed without regard to existence death, escape or any immunity that officials might enjoy corrupt [32].

NCB asset returns as one of the proposals for alternatives law enforcement for corruption crimes

ultimately leads to Indonesia's own criminal justice system. Indonesia should do it criminal justice reform by instilling a thought of restorative justice in aim punishment.

In every formulation Constitution the purpose of law making and sentencing should be imposed is based on an ideal, not just to deter the perpetrators of criminal acts, k the Back again with the thought stream of consequentialist where the consequences obtained from a criminal act must be worth it with what he did and punishments were dropped wise by considering the *deterrence* side, human rights, justice also a preventive side for later. In addition, the justice program restorative law enforcement is not only done by enforcers the law but the participation of the perpetrators of crime, victims, and the community that plays a role in the settlement the problem will bring the Indonesian justice system to be wiser, mature and achieve legal objectives namely justice and certainty law.

Whereas one form of reconstruction of the seizure of the proceeds of corruption is only with use *Itan kepail* law as stipulated in Law No. 37 of 2004 as an effort approach proceeds of crime confiscation of assets.

To draw a correlation between bankruptcy law and return assets in criminal acts of corruption, criminals are categorized as debtor, while the country is categorized as a creditor.

As for the definition of Bankruptcy itself is *k epailitan* is a process by which a debtor have financial difficulties to pay the stated debt bankruptcy by the court, in this case the commercial court, because the debtor does not can pay the debt. Debtor assets can be distributed to the party's creditors in accordance with government regulations. Bankruptcy institution at basically is an institution that provides solutions to the people party if the debtor is stopped paying / unable pay [33].

Bankruptcy institutions basically have two functions at once, namely: [34].

- Bankruptcy as a guarantee institution to creditors that the debtor does not will cheat and remain responsible for all of its debts.
- Bankruptcy as an institution that also provides protection to the debtor against the possibility of mass execution by his creditors.

In bankruptcy law, the requirement to be met is a *d ebitur* [35] having two or more *k reditor* and do not pay in full at least one debt that has matured and can be billed [36]. In a broad sense, the debtor is defined by parties who have an obligation to pay the amount of money that arises for any reason, either because of the

debt agreements and other agreements or arising from the law.

With the freedom of this legal subject can make bankruptcy institutions used in ensnaring perpetrators of corruption for return assets to the state. A *doer* acts criminal (convicted) who has been convicted by a judge with required to return some money to return loss, thus the money becomes an obligation for the perpetrator to return. If the money must be returned has not been returned, it will be a debt for the convicted person this, so that the convict can be categorized as a person debtor.

Associated with the return on yield assets corruption, with a court ruling that *inkracht* mandates the seizure of assets that have been confiscated in stages previously, the asset was classified as debt born from the law [37]. Judge's decision which mandates that Corruption convicts must return all assets that have been corrupted or with a replacement payment. Next, it is necessary look for one more debtor whose debt has matured and not yet paid by the offender to be able to file bankruptcy request to the Commercial Court.

Related to the return of assets resulting from corruption involving crime all the Indonesian people as victims, which is represented by *n egara*, and then the public interest is a problem here. For application bankruptcy which is where the debt is by the creditor (i.e. assets that are corrupted by perpetrators), the Prosecutor's Office can be the institution authorized to file bankruptcy application. This is mandated in Article 2 paragraph (2) of Law Law Number 37 of 2004 which states that bankruptcy applications can submitted by the Public Prosecution Service. Further mentioned in the explanation of this article concerning elements of general importance, namely, the interests of the nation and state and /or the interests of the wider community, for example:

- Debtor runs away;
- Debtor embezzles part of property;
- Debtors have debts to State-Owned Enterprises or entities other businesses that raise funds from the community;
- Debtors have debt which comes from raising funds from the wider community;
- Debtor does not have good intentions or are not cooperative in resolving debt debt problems which has fallen due; or
- In other cases according to the prosecutor's office public interest.

The bankruptcy application submitted by the Prosecutor's Office is no different bankruptcy applications by individuals or legal entities, namely based on Article 6 of Law Number 37 of 2004, namely the application for bankruptcy statements submitted to

the Chairperson of the Commercial Court by completing the requirements regulated in law.

Consider assets that are corrupted perpetrators of corruption in a great big t dross devastating consequences for people's welfare and national development, bankruptcy application by Attorney on the basis of harming the public interest is legitimate. Therefore, bankruptcy institutions should be considered as one of the actions to ensnare perpetrators of corruption to restore losses the country they cause.

Thus in relation to the per ampasan asset in the return of state financial losses due to corruption, it is necessary to:

- Formulating the Asset Deprivation Act.
- Reconstruction of Article 2 explains the authority of the Prosecutor to file bankruptcy based on public interest, namely the expansion of the scope of public interest, namely:
 - Debtor runs away;
 - Debtor embezzles part of property;
 - Debtors have debts to State-Owned Enterprises or entities other businesses that raise funds from the community;
 - Debtors have debt which comes from raising funds from the wider community;
 - Debtor does not have good intentions or are not cooperative in resolving debt debt problems which has fallen due; or
 - In the context of returning the country resulting from a criminal act based on a court decision.
 - In other cases according to the prosecutor's office public interest.

CONCLUSION

The state as the most disadvantaged party must seek a return assets that have been corrupted are in line with the theory of the purpose of punishment is to realize restorative justice, namely to restore the situation due to the occurrence of a criminal act such as before a crime occurred, and if it is associated with a criminal act of corruption, the return of assets is one way to recover state losses due to criminal acts corruption, bankruptcy application by AGO on the basis of harm the public interest is legitimate state and order to refund the proceeds of crime based on court decisions.

REFERENCES

1. Corruption is a word that is not familiar. All levels of society are eloquent to say that an act is a criminal act of corruption. A person who hides money not his property can be said to be corruption. Even though they did not know clearly the meaning and meaning of the word corruption according to legal views. Corruption is deeply embedded in people's lives. For in Indonesia, as long as it is said to be from Dutch, namely

corruptie (korruptie). Andi Hamzah, *Eradicating Corruption through National and International Criminal Law* Raja Grafindo Persada, Jakarta, 2005, page 4. Corruption as: Abusing public power and trust for personal gain. J. Pope, *Corruption Eradication Strategy*, Indonesian Torch Foundation, Jakarta, 2003, safe matter 6. By basing on this personal or group profit motive, it can be understood if corruption is everywhere and happens at any time because the problem of corruption is always related to the motives that exist in every human being to obtain personal or class benefits, I. GM Nurdjana, *Criminal Law System and Latent Dangers of Corruption: Perspectives on Upright Justice Against Legal Mafia*, Student Literature, Yogyakarta. 2010, page 31.

2. In Resolution *corruption in Government* (Results of the Congress of the United Nations 8 T ear 1990) dinyatakan that corruption is not only associated with the various activities of *the Economic Crime*, but also with *Organized Crime, illicit drug trafficking, money laundering, political crime, a top hat crime*, and even *transnational crime*.
3. In general, people relate to the flourishing of corruption because the easiest to connect is for example the lack of salaries of officials, the bad economy, and the bad mentality of officials, chaotic administration and management which results in tortuous procedures and so on. Andi Hamzah, *Op, Cit*, page 12.
4. Corruption in the country of Indonesia is already at the level of crime of political corruption. Political corruption is carried out by people or institutions that have political power or by conglomerates who conduct collusive transactional relationships with power holders. Evi Hartanti, *Corruption Act Second Edition*, Sinar Grafika, Jakarta. 2009, it is safe 1
5. Crime will continue to grow in different ways even with equipment that is increasingly sophisticated and modern so that crime will increasingly disturb the public.
6. Corruption acts get more attention than other crimes in various countries because they can have a negative impact on various aspects of life. Corruption is a threat to ideals towards a just and prosperous society. Evi Hartanti, *Op, Cit*, page 3.
7. Teguh Sulistia and Aria Zurnetti, *Criminal Law, New Horizon Post Refrmasi*, King Grafindo Press a day, Jakarta, in. 2011, things safe 210.
8. Teguh Sulistia, *Law Enforcement Against Corruption, Collusion and Nepotism (A Concept of Effective In Combating corruption in Indonesia)*, Journal Delicty Vol ume I july, F akultas H ukum Un iversitas A nd pedestal, Padang, in. 2003, things safe 71.
9. Corruption in Indonesia continues to increase from time to time which enters the entire life of the community, causing losses to state finances because it has been systematic and organized. . For

the multidimensional bad implications of large economic and financial losses, corruption can be classified as *an extraordinary crime* so it must be eradicated. Eradication of corruption must always be a priority of the government agenda to be seriously and urgently addressed and as part of a program to restore the trust of the people and the international community in order to improve the economic growth of a country concerned, Indonesia is no exception

10. Understanding corruption is often confused with the notions of collusion and nepotism which are grammatically into Corruption, Collusion and Nepotism (KKN). Collusion (*collusion*) is an agreement or agreements with the goal of which is against the law; and Nepotism (*nepotism*) means: prioritizing or prioritizing families / groups / groups to be appointed and given the path to becoming state officials or the like. I. G. M. Nurdjana, *Corruption and Illegal Logging*, Student Library, Yogyakarta, 2005, page 25. The criminal act of corruption is a fraudulent act, namely by misappropriating or embezzling state finance intended to enrich a person who can harm the state. Generally, criminal acts of corruption are carried out in secret, involving mutual liability and profit elements. These obligations and profits are not always money. Aziz Syamsuddin, *Special Crimes*, Sinar Grafika, Jakarta, 2001, safe matter 15.
11. Money Laundering is a *follow-up crime* from a previous crime committed (as a *core crime*), which produces illicit money. The crime as a *core crime* is regulated in Article 2 of the Law on Money Laundering and corruption as one of them.
12. The Reciprocal Assistance Act does not only address transnational corruption, but also against *illegal logging, illegal fishing, illegal maning*
13. Article 3, Article 5, Article 6, Article 7, Article 8, Article 9, Article 10, Article 11, Article 12 and Article 13 Undang-Undang No mor 20 2001 jo Undang-Undang No mor 31 In 1999 the criminal threat was written and / or between the two principal crimes regulated so that the accused corruptor could be sentenced to two principal crimes at once. This is one feature of the Undang-Undang Eradication of Corruption due to the exclusion of the principle of criminal law that can only drop one course of the five principal crimes stipulated in Article 10 of the Criminal Code.
14. http://en.wikipedia.org/wiki/Collective_consciousness, *Collective Conscience: Durkheim argued that in traditional / primitive societies (those based around clans, family or tribal relationships) totemic religion played an important role in uniting members through the creation of a common consciousness (conscience collective in the original French). In societies of this type, the contents of an individual 's consciousness are largely shared in common with all other members of their society, creating a mechanical solidarity through mutual likeness* Durkheim argues that in primitive customs / societies (based around clans, families or tribal relations) religious totems play an important role in uniting members through the creation of general awareness (*collective conscience* in original French). In this type of society, the contents of individual consciousness which are mostly together with all other members of their society, create mechanical solidarity through a shared form).
15. Harkristuti Harkrisnowo, *Reconstruction Concept of Punishment: A lawsuit against the process of litigation and Punishment in Indonesia*, Delivered in the oration On Ceremony Inaugural Remain in Legal Studies Code F akultas Hukum U niversitas I ndonesia in the Central Assembly niversitas I ndonesia , Depok. 2003.
16. Stahn C. Accommodating individual criminal responsibility and national reconciliation: the UN Truth Commission for East Timor. *American Journal of International Law*. 2001 Oct;95(4):952-66.
17. Tri Hayati, *Administrative Development: An Approach of Law and The plan*, the Agency Publisher Faculty of Law U niversitas I ndonesia, Depok, 1997, things safe 19. In this book explained Fred W. Riggs is the founder of *the Comparative Study Administration Group* after doing a comparative study states that the characteristics of developing countries one of which is the appointment, dismissal of employees occurs with a bureaucracy that is thick with corruption, collusion and nepotism.
18. Eva Achjani Zulfa, *Shift in the Criminal Law Paradigm in Indonesia*, Citra Aditya Bakti, Bandung. 2005, page 74.
19. *Ibid*, m engutip of Ruslan Saleh, *Criminal Law as a confrontation of Man and Man*, Ghalia Indonesia, Jakarta. 1983, p safe 23.
20. *Ibid*.
21. Purwaning M. Yanuar, *Return of Corruption Assets: Based on the 2003 UN Convention against Corruption in the Indonesian Legal System*, Alumni, Bandung, 2007, it is safe 90. Quoted in L. Welgrave, *Met het Oog op Herstel: Bakens voor en Constructief Jeugsantierecht* , Universitaire Pers Leuven, Leuven. 1993, safe matter 34.
22. United Nations Convention against Corruption (UNCAC). 2003, Article 31 paragraph (2).
23. Saldi Isra, *Asset Recovery for Corruption through Cooperation* , <http://www.saldiisra.web.id/index.php?option=com>
24. William R. Schoeder said that the success of tracking criminal acts of corruption in the public sector is very dependent on the ability of investigators to find traces of ownership of money and assets acquired illegally or to search for perpetrators. Purwaning M. Yanuar, *Op, Cit*, and safe matter 209, As in William R. Schoeder, *A Review Article: How To Do Financial Asset Investigations: A Practical Guide for Practice*

- Investigators, Personnel Collections, and Asset Recovery Specialists*, The FBI Law Enforcement Bulletin, July. 2001.
25. The search for assets resulting from corruption, both in Indonesia and in other countries, is the core point of the series of asset recovery processes resulting from this corruption. Corruption as a white-collar crime that sometimes pockets the interests of government officials makes the process of tracing assets more difficult. Many once political and personal interests are nested in this process.
 26. A special team is needed in terms of tracking assets resulting from corruption crimes that are carried out by the perpetrators. Why is a special team needed because this team was formed specifically to carry out this function with full concentration and focus on asset tracking?
 27. This is in line with what was conveyed by Ms. Chairijah, Director of International Law of the Ministry of Law and Human Rights, who said that there had never been an instrument decision to be used in the *Round Table Discussion on Asset Return Issues*, organized by UNODC, Four Seasons Hotel Jakarta, May 28, 2011.
 28. The effectiveness of the implementation of UNCAC 2003 is not solely dependent on the signing and ratification of the 2003 UNCAC by States parties, but also very much depends on the national legal system of each country that can synergize with the provisions of UNCAC. 2003.
 29. A return on assets in the absence of a criminal verdict on the case of first advance is also called as the return on assets in civil or *civil forfeiture* or confiscation *in rem*.
 30. Yenti Garnasih, *Asset Recovery Act as a Strategy in Returning Corruption Assets*, Indonesian Legislation Journal. 2010, 7(4): 629.
 31. Greenberg TS, Samuel L, Grant W, Gray L. *Stolen Asset Recovery: A Good Practices Guide for Non-Conviction Based Asset Forfeiture*. The World Bank; 2009 Apr 8.
 32. *Ibid*.
 33. Adrian Sutedi, *Bankruptcy Law*, Ghalia Indonesia, Jakarta, 2009, safe matter 28. As quoted from D. Djohansyah, *Commercial Court*, in Rudy Lontoh, *Debt Settlement through Bankruptcy or Delay in Obligations to Pay Debt*, Alumni, Bandung, 2001, it is safe 23.
 34. Adrian Sutedi, *Op, Cit*, page 10.
 35. Debtors in Act Number 37 of 2004 are defined as people who have debts due to agreements or laws whose repayment can be billed in court. Article 1 number 11 of Act Number 37 of 2004 states that every person is an individual or corporation, including corporations in the form of legal entities or non-legal entities in this liquidation, interpreting the debtor as a legal subject.
 36. Do not pay in full at least one debt that has matured and can be billed. The most important thing in this first element is debt. Article 1 point 6 of Law Number 37 Year 2004 states: obligations that are stated or can be stated in the amount of money both in Indonesian currency and foreign currency, either directly or will arise later or contingent, arising from the agreement or U ndang- U ndang and which must be fulfilled by the debtor and, if not met entitles creditors to receive their fulfillment of the assets ebitor. d
 37. This debt is debt that is interpreted in a broad sense, in which every person or legal entity obligation to pay sejumlah money, although this obligation does not arise from pe r njanjian utan g - piutang can be classified as debt according to the law und ang.