



Implementation of restitution of state losses from corruption crimes (Study at the Malang regency district Attorney's Office)

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Abstract

Asset recovery plays a crucial role in handling corruption cases. Asset recovery is a state-mandated process that confiscates the proceeds of corruption that have harmed the state to recover the incurred losses. This study examines the implementation of recovering state losses from corruption cases at the Malang Regency District Attorney's Office, as well as the obstacles encountered during this process. The research method used is empirical juridical. The results indicate that the recovery of state losses at the Malang Regency District Attorney's Office still utilizes penal law. The recovery of state losses by the Malang Regency District Attorney's Office extends beyond corruption cases. Consequently, the recovery of state losses at the Malang Regency District Attorney's Office has not been optimally successful due to several obstacles encountered. Obstacles encountered include a shortage of investigative prosecutors in the Special Crimes Division, inadequate transportation, and uncooperative witnesses or suspects (e.g., those who flee or provide false statements during witness interviews). Suggestions for the Malang Regency District Attorney's Office include occasionally using civil lawsuits if they are more effective in recovering state losses, and de-burdening prosecutors in the Special Crimes Division with general criminal cases, allowing them to focus more on resolving specific criminal cases.

Keywords: Corruption, state losses, asset recovery

Introduction

Corruption is a structured and systematic crime that falls under extraordinary crimes (Suryadinata *et al.*, 2022), while the World Bank defines corruption as the abuse of public power for private gain (Kenneth, 2024) ^[1]. Despite all the definitions of corruption, the threat of criminal sanctions that regulate it already exists and are in effect, but corruption cases still show a high increase (Syaifulloh, 2019). When discussing corruption, we find that it encompasses numerous deviations involving morals, economics, politics, and culture, such as buying and selling positions, abuse of office, and the use of official power to secure office or service for family or groups (Syamsuddin, 2020) ^[2].

Corruption has a wide range of impacts across all aspects, including economic, social, political, and cultural aspects. This can be seen in the unhealthy and unfavorable economic growth of the country, which leads to high prices for basic goods and hardship for the people, disrupted investment climates, social inequality, power grabs, public apathy due to declining trust in the government, and the proliferation of fraudulent practices (Lamijian & Tohari, 2022).

The cases that have attracted public attention from the thousands of cases being handled by the Attorney General's Office are Tin Commodity Corruption in the IUP area of PT Timah Tbk in 2015-2022, corruption in the Besitang-Langsa Medan Railway Construction project, Corruption in Abuse of Authority in Gold Sales by the Antam Surabaya Gold Boutique, Corruption and Money Laundering of palm oil plantations by PT Duta Palma Group in Indragiri Hulu Regency, Corruption in Sugar Imports of the Ministry of Trade, Corruption in PT Sritex Credit, Corruption in Pertamina Crude Oil, and Corruption in PT Jiwasraya (Persero) Insurance. Specifically in the PT Timah Tbk corruption case, the Attorney General's Office identified

three types of losses experienced by the Indonesian state, firstly losses due to cooperation activities in leasing equipment (processing) for tin metal makers that do not comply with regulations, losses due to payments for tin ore from illegal mines, and losses to the environment (Kejaksaan, 2024).

The process of recovering state losses can be carried out during the investigation stage. Based on the Attorney General's Law, "The Attorney General has the authority to handle criminal acts that cause state economic losses and can use peace fines in economic crimes based on statutory regulations." For example, the Ika Mandiri Hotel is located in Mulyoagung Village, Dau District, Malang Regency, and was built on former private land that became state land, specifically land belonging to the Malang Regency Government. The total state loss is approximately IDR 95 billion. The Malang Regency District Attorney's Special Crimes Team has secured regional assets, including the Ika Mandiri hotel and meeting hall, so that after being controlled by a third party for 28 years, they can be returned to the Malang Regency Government as regional assets.

The threat of criminal sanctions related to the return of assets obtained through corruption is regulated in the Corruption Eradication Law. Perpetrators of corruption are subject to imprisonment, fines, and restitution. Specifically, if the convict is unable to pay the restitution, the prosecutor, as the executor, will confiscate the assets and property that the convict owns. Therefore, the return of assets obtained through corruption through criminal instruments by the prosecutor can be achieved through the confiscation of the perpetrator's property (Mustari *et al.*, 2022).

From a legal perspective, the mechanism for asset recovery or restitution of state losses resulting from corruption is divided into three. First, by law enforcement officials, carried out through legal proceedings and a final court

decision, so that the prosecutor can act as executor. Second, through a civil lawsuit, if there is insufficient evidence during the evidentiary process and the defendant has died, but in fact there is a state loss, the prosecutor, as the State Attorney, can file a civil lawsuit. Third, it is carried out administratively through taxes, excise, or customs. However, these three mechanisms are still less effective in their implementation because law enforcement officials must first prove that the state's financial loss actually occurred. This creates a loophole and opportunity for defendants to obscure or disguise assets resulting from corruption, thereby escaping the ongoing evidentiary process.

Asset recovery instruments play a crucial role in combating corruption. Asset recovery is a measure the state can take to confiscate the proceeds of corruption that have harmed the state in order to recoup the losses (Kurniawan, 2022) ^[13]. In carrying out asset recovery efforts, it must be understood that these efforts are carried out based on the principles of social justice and benefit, namely "Give the state what is its right" and "Give the people what their right is." (Mahmud *et al.*, 2021) ^[16]

In fact, in the context of law enforcement against criminal acts of corruption, it is not only about the deterrent effect for the perpetrators. However, it must also accommodate the interests of the wider community and the state, considering that the ideals of eradicating corruption contained in laws and regulations currently face at least three main issues: prevention, eradication, and the return of assets resulting from corruption (asset recovery) (Haswandi, 2017) ^[8]. The mandate of this law is that eradicating corruption lies not only in prevention efforts and punishing corruptors, but also encompasses measures to restore state financial losses resulting from corruption. However, if the return of assets obtained from corruption fails, it will discourage corruptors and lead to repeat offenses.

The issue of recovering state assets or losses is not as straightforward as it may seem (as outlined in law books); many aspects must be considered to support the implementation of asset recovery from corruption. The author's reason for conducting this research is that the implementation of state loss recovery at the Malang Regency District Attorney's Office still faces many obstacles. In 2025, the Malang Regency District Attorney's Office successfully recovered state losses amounting to 1.2 billion rupiah from three convicts in different cases who had already received final court decisions.

The Public Prosecutor in the case of Dody Kristanto demanded a prison sentence of 2 years and a fine of Rp. 1,021,916,772, in the case of Mochammad Ridho Yunianto, demanded a prison sentence of 13 years, a fine of Rp. 500,000,000 subsidiary to 3 months imprisonment and compensation of Rp. A fine of 4,508,536,472.17 was imposed as a subsidiary sentence to a replacement sentence of 4 years, while Ahmad Jainul was sentenced to a prison term of 3 years and a compensation of Rp. 253,952,400 subsidiary to 6 months imprisonment; After the verdict had permanent legal force, the Malang Regency District Attorney's Office succeeded in executing payments from the convicts, namely Dody Kristanto in the amount of Rp766,437,579, Mochammad Ridho Yunianto in the amount of Rp250,000,000, and Ahmad Jainul Arifin in the amount of Rp256,785,304, so that the total fines and replacement money deposited into the state treasury reached

Rp1,273,222,883. However, this amount was considered insufficient in comparison to the magnitude of the state losses incurred, thereby raising questions about the effectiveness of the Malang Regency District Attorney's Office in maximizing the return of state losses. Based on this background, the researcher is interested in studying the implementation of the return of state losses from corruption crimes at the Malang Regency District Attorney's Office in greater depth, as well as the obstacles faced when returning state losses.

Method

This study employs an empirical legal research method, also known as socio-legal research. The focus of this research study is the efforts to implement the recovery of state losses in corruption crimes handled by the Special Crimes Division of the Malang Regency District Attorney's Office, as well as the factors that become obstacles in its implementation. To address the legal issues examined, this study employs two primary approaches: the statutory approach and the case approach. The statutory approach is carried out by reviewing, examining, and analyzing relevant laws and regulations, particularly the Corruption Crime Law and other regulations related to the recovery of state losses. Meanwhile, the case approach is carried out by analyzing concrete examples of cases handled by the Malang Regency District Attorney's Office to obtain an empirical picture of law enforcement practices and the effectiveness of implementing the recovery of state losses.

Results and Discussion

1. Implementation of Restitution of State Losses from Corruption Crimes at the Malang Regency District Attorney's Office

Asset recovery is a series of integrated legal procedures for handling assets resulting from crime, ensuring the value of stolen assets is maintained and returned to the victim, including the state, in full. Asset recovery can also be defined as any action taken to maintain the value of an asset and prevent its depreciation (Prakarsa *et al.*, 2017) ^[19]. In handling criminal acts of corruption and related to the recovery of state losses, the Prosecutor's Office has considerable authority. It can play a role at all stages, from examination and investigation to prosecution, inquiry, and execution of court decisions.

The confiscation of assets that will later be used as evidence is closely related to indicative evidence, meaning that assets legally confiscated from the suspect can later become indicative evidence during the evidentiary hearing process. The Investigating Prosecutor will confiscate all assets of the corruption suspect for evidentiary purposes. Even though the assets/property are in the name of the wife/husband/child, the Investigating Prosecutor will still confiscate them, thus this is done as an effort to save state losses "Assets/property will be easier to confiscate if they are still transferred to the name of the family, however, if they have been transferred to someone else who is not a family member, confiscation will be more difficult to carry out, so it is best to thoroughly map out the assets owned by the suspect during the investigation stage."

The seizure of the suspect's assets by the investigating prosecutor should not be interpreted as meaning that the state will confiscate all of the assets, but rather to prevent any transfer or attempt to transfer. At this stage, the suspect

is required to pay the amount of corruption he committed as restitution. The money returned by the suspect during the investigation phase will be deposited by the prosecutor with the bank as a deposit until the judge makes a final decision. If the suspect pays a certain amount of restitution during the investigation phase, this can later be considered by the prosecutor during the prosecution process and also by the judge in sentencing. One Indonesian legal expert, Andi Hamzah, stated that confiscation during the investigation phase is generally associated with confiscation or seizure for additional criminal penalties. Therefore, it is essential to consider Article 39 of the Criminal Procedure Code, which stipulates that only the defendant's property obtained through the crime and the property the defendant intentionally used to commit the crime can be confiscated. In an effort to recover state financial losses due to corruption, the investigating prosecutor or prosecutor handling the case, through the Head of the Special Crimes Investigation Section, typically requests assistance from the Intelligence Division to conduct asset tracing. Asset tracing continues even after the convict is in custody. This is an effort by the prosecutor's office to maximize the recovery of state financial losses or asset recovery (Rampadio *et al.*, 2022) [20]. State financial losses can be incurred at the prosecution stage, during the trial, and after the court decision is made. At the investigation stage, the return of state financial losses is done by the Investigating Prosecutor conveying to the suspect to pay a sum of replacement money in accordance with the alleged proceeds of corruption committed, the replacement money paid at this

stage has not been returned to the state treasury but is only deposited by the Prosecutor's Office in the bank as a deposit until waiting for the results of the court decision which has permanent legal force. Then, confiscation can be carried out because there are specific criminal instruments regulated in the Corruption Law, namely that during the trial the defendant is obliged to inform all of his assets, the assets of his wife/husband/child, or family, as well as the assets of other parties suspected of still having a relationship with the act of corruption committed by the defendant. If the defendant can prove that the assets owned do not correspond to the amount of their legitimate source of income, not derived from corruption (i.e., the defendant must prove that the assets were not obtained through corruption), then the assets are considered to have been obtained through corruption committed by the defendant. The judge has the authority to confiscate them. Until now, the Malang Regency District Attorney's Office has not implemented a mechanism for recovering state financial losses through a civil lawsuit, despite this being regulated in Article 32 of the Corruption Law. Because this research focuses on the implementation of state loss recovery at the Malang Regency District Attorney's Office, the author will provide data on convicts who sought state loss recovery in 2025. These include three convicts from the Bank Jatim corruption case, an illegal cigarette excise case, and a taxation case. It is worth noting that the recovery of state losses resulting from corruption, customs, and tax crimes has a specific mechanism.

Table 1: Data on Convicts (Decided in a Final Decision) Who Paid Fines or Replacement Money in 2025

Name of Convict	Case	Amount of Loss
Mochamad Ridho Yunianto, SE, MM.	Corruption at Bank Jatim Kepanjen	Rp. 21.850.000.000,00,-
Ahmad Jainul Arifin	Illegal Cigarette Tax	Rp. 253.952.400,00,-
Dody Kristanto, S.Kom.	Taxation	Rp. 1.021.916.772,00,-

Source: Special Crimes Division, Malang Regency District Attorney's Office

The Director of PT Noto Djoyo Sukses, a Taxable Entrepreneur, conducted construction services and collected VAT in 2021 by issuing 20 tax invoices worth Rp 5.38 billion. However, he failed to report and submit VAT returns for the tax periods of April, June, and October 2021, despite receiving warnings and clarifications from the tax office. As a result of these actions, the state suffered a loss of Rp1,021,916,772. During the trial, the defendant admitted to his actions and the use of company funds for personal gain.

Based on the verdict that has permanent legal force against the convict Dody Kristanto, the Panel of Judges imposed an additional penalty in the form of a fine of Rp2,043,833,544 which was offset by the tax owed of Rp1,021,916,772 so that the remaining fine that must be paid is Rp1,021,916,772, with the provision that if not paid it can be replaced by confiscation of assets or imprisonment of 6 months. In the verdict, one plot of land belonging to the convict was confiscated by the state and calculated as payment of the fine. The convict had served a subsidiary prison sentence instead of the fine, but subsequently paid the fine through a PNPB deposit of Rp766,437,579. Based on the calculation by the Malang Regency District Attorney, this payment has compensated for the entire substitute prison sentence, so the convict no longer has any remaining substitute sentence to serve.

The case of Dody Kristanto was handled jointly by the Ministry of Finance's PPNS investigators and the Prosecutor's Office, with the confiscation of assets in the form of a 402 m² plot of land in Malang City. The convict served the principal sentence until September 2025. Because he had not paid the fine, he had also served a subsidiary sentence. However, after paying a fine of Rp766,437,579 on September 30, 2025, the Prosecutor's Office determined that there was no remaining substitute prison sentence. Letter from the Head of the Class I, Malang Correctional Institution, number: WP15.PAS2.PK.01.02-4764 regarding the Implementation of the Criminal Procedure Code in the name of DODY KRISTANTO, S.Kom, which stated that since August 17, 2025, until now, he has been serving a subsidiary sentence instead of a fine. From August 17, 2025, to September 30, 2025, he served a 45-day substitute prison sentence.

According to the author, the explanation above aligns with what was conveyed by Kuntadi, Head of the East Java High Prosecutor's Office, during the Briefing event. "The Head of the District Prosecutor's Office must coordinate with the Head of the Prison or Head of the Detention Center so that the convict continues to serve a substitute sentence if the confiscated property has not been sold or is not yet in the form of money. Moreover, specifically in tax cases, if one month after the verdict the convict cannot pay the fine, the

executor is obliged to confiscate his property." Suppose the confiscated item is not in the form of money but in the form of other assets, such as land. Then, the land assets must be sold, and the proceeds used to pay the substitute money or fine. If the convict has served the main sentence up to the time and will continue to serve a substitute sentence, but the land assets are not sold at auction, then the land assets must be returned to the convict. However, this does not eliminate the convict's obligation to continue paying the fine or substitute money to recover the state's financial losses incurred. Based on interviews conducted by the author, the Executing Prosecutor's team will continue to conduct asset tracing until the convict is able to pay the fine/replacement money. The results of the asset tracing will be included in the case file.

In addition to the Dody Kristanto case, the Malang Regency District Attorney's Office in 2025 also successfully executed the payment of fines from corruption convict Mochamad Ridho Yuniarto, former Head of Bank Jatim Kepanjen Branch, who was previously sentenced to 10 years in prison, a fine of Rp250,000,000, and replacement money of Rp1,022,066,472.17. The convict had deposited replacement money of Rp 1 billion in 2022 and subsequently paid the fine of Rp 250,000,000 on April 17, 2025, after the verdict became legally binding. In another case, Ahmad Jainul Arifin, a convicted excise criminal, was sentenced to one year in prison and ordered to pay Rp 253,952,400 in restitution, with the possibility of a subsidiary prison sentence if the amount is not paid. Based on a final and binding Supreme Court decision, the convict paid a total of Rp256,785,304 in full on March 18, 2025.

Thus, the total fines successfully deposited into the state treasury through the Malang Regency District Attorney's Office amounted to Rp 1,273,222,883 (one billion two hundred seventy-three million two hundred twenty-two thousand eight hundred eighty-three rupiah). The payment of fines by convicts is part of the implementation of the court's decision, which has permanent legal force, and is a manifestation of the commitment of the Malang Regency District Attorney's Office, especially the Special Crimes Division, to enforcing the law and restoring state finances.

The application of asset recovery theory in corruption crimes in Indonesia is reflected through the follow-the-money approach, which involves tracing the flow of funds and assets resulting from the crime from the investigation stage to the execution of the verdict, as implemented by the Prosecutor's Office (Kaban *et al.*, 2025) ^[10]. At the Malang Regency District Attorney's Office, this theory was applied from the outset by identifying and gathering information regarding the assets of potential suspects through the examination of witnesses and related parties, so that assets could be immediately secured after a suspect was named. Furthermore, asset tracing was carried out through coordination between the Special Crimes and Intelligence Division and various agencies, such as the Civil Registration Agency (Dukcapil), the ATR/BPN, the Court, and the Police, as well as gathering field information. The results of this tracing were then followed up with the freezing and confiscation of assets, as in the case of Dody Kristanto, in the form of land measuring approximately 400 square meters, which was secured until the decision became legally binding. In some cases, the investigation can be stopped if the state losses have been fully recovered. The Public Prosecutor charged Dody Kristanto with 2 years'

imprisonment and a fine of Rp1,021,916,772, subsidiary to 6 months' imprisonment. After the decision became final, the confiscated land assets were not sold at auction; instead, they were returned to the convict. Dody subsequently paid a fine of approximately Rp776 million, which was deposited into the state treasury as restitution for state losses.

In corruption cases, the principal penalty and the fine are inseparable. Failure to pay results in a substitute prison sentence, while the convict must still pay the substitute as a form of restitution for state losses. Restitution of state losses in corruption cases is achieved through the confiscation of assets and the payment of substitute funds. In contrast, in tax and excise cases, it is achieved through the payment of a fine (Mahmud, 2018) ^[15]. Based on this practice, the implementation of the Asset Recovery Theory by the Malang Regency District Attorney's Office has been running effectively. It reflects the principle of justice because the return of state losses is a concrete manifestation of justice that must be upheld.

Until now, the focus of criminal punishment has been on retribution, but this often falls short of the desired sense of justice. Therefore, the asset recovery theory was implemented to shift the paradigm from merely "punishing the perpetrator" to "restoring the situation or condition" to what it was before the crime. Therefore, law enforcement involves not only imposing corporal punishment but also restoring the rights that have been unlawfully seized from the victim (individual or state) by the convict. The principle of justice demands that all wealth be legally and accountably obtained, so that wealth derived from criminal acts, including corruption, cannot continue to be enjoyed by the perpetrator. Punishment without restitution of the proceeds of crime has the potential to create injustice because the perpetrator continues to obtain economic benefits illegally.

In this context, asset recovery theory serves as a corrective mechanism to restore the imbalance created by criminal acts. This theory posits that the confiscation and restitution of criminally obtained assets serve as the primary instrument of law enforcement oriented toward substantive justice. Through the criminal confiscation of assets, the state can ensure that the perpetrator no longer enjoys the proceeds of their crime. Meanwhile, through civil mechanisms, the state still has the opportunity to recover assets under certain circumstances, such as when criminal evidence is hindered. Thus, the application of asset recovery theory serves not only as a means of law enforcement but also as a tool to uphold the principle of justice and prevent illicit enrichment. From the perspective of corrective justice, the restitution of state losses by Dody Kristanto and two other convicts plays a crucial role in restoring the economic and social balance disrupted by criminal activity. Corrective justice requires that perpetrators not profit from their actions, so the repossession of criminally obtained assets is a prerequisite for achieving justice and aligns with the principle of *nullus commodum capere potest de injuria*.

2. Obstacles faced by the Malang Regency District Attorney's Office in Recovering State Losses

According to interviews with Ari Kuswadi and Yandi Primanandra, several technical and non-technical obstacles are encountered in handling corruption cases. These include suspects fleeing and becoming fugitives, lengthy calculations of state losses by expert auditors, uncooperative

witnesses providing misleading statements, and non-technical issues, such as missing paper documents, as the Prosecutor's Office's archiving system has only been in place since 2020.

During investigations, prosecutors often encounter obstacles, particularly in proving corruption cases, which is a challenging task. This forces prosecutors to work extra hard to gather evidence, exceeding the burden of other common criminal cases. These obstacles can include uncooperative witnesses or suspects during questioning, convoluted statements, and the need to find professional and competent expert witnesses. This is crucial, given that corruptors are generally wealthy or influential individuals who will naturally hire and pay the best experts to disprove the prosecutor's charges or allegations. Furthermore, prosecutors typically conduct on-the-spot (OTS) investigations to question witnesses, suspects, or confirm field data. Consequently, the prosecutors' teams must travel outside of town, which requires adequate transportation and incurs considerable expenses.

Furthermore, regarding the constraints on confiscation, which fundamentally contradict human rights principles, the Corruption Eradication Law does not contain specific provisions regarding the mechanism for recovering state financial losses resulting from corruption (Hafid, 2021) ^[7]. Under the Corruption Law, efforts to recover financial losses are only regulated through the imposition of additional penalties, including fines, confiscation, and payment of compensation by the convict.

Based on Article 26 of the Corruption Eradication Law, the procedures for confiscation during the investigation process of corruption cases must refer to the regulations in Article 39 paragraph (1) of the Criminal Procedure Code (Tantimin, 2023) ^[23]. So that confiscation may be carried out on objects or bills which are suspected in part or in whole to have been obtained from a crime, objects which are directly used to commit a crime, objects which hinder investigations, objects which are explicitly made to commit a crime, or other objects which are related to the commission of a crime.

Corruption handling is now more focused on maximizing state financial losses. This means that at the investigative level, prosecutors must make a concerted effort to recover state financial losses. However, confiscation is not easy under existing regulations. Therefore, the biggest obstacle faced by prosecutors at the Malang Regency District Attorney's Office during the investigation process is the inadequate collection of data on assets belonging to corruption suspects that investigators can seize to recover state financial losses.

Another difficulty during the investigation process is the considerable time required to write to other agencies regarding asset tracing activities. For example, when tracing movable assets, the Prosecutor's Office will write to the Samsat (State Property Agency) to determine the ownership status of the movable assets. The Prosecutor's Office will then write to the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency regarding the tracing of immovable assets suspected of belonging to or being related to the suspect. The Prosecutor's Office will also write to the court and the Population and Civil Registration Office regarding the suspect's identity and family details.

Based on interviews, writing to the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency is an important preventive measure for investigating prosecutors

to secure assets by freezing them so they cannot be transferred to another party. It must be acknowledged that perpetrators of corruption generally have a high level of education and generally hold strategic positions in their jobs. Therefore, suspects may use various methods to conceal, divert, transfer, or obscure their assets. Generally, suspects transfer assets obtained from corruption through money laundering methods. In the jurisdiction of the Malang Regency District Attorney's Office, suspects generally use these assets to enrich themselves.

Writing to the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency is an important preventive measure for investigating prosecutors to secure assets by freezing them so they cannot be transferred to another party. It must be acknowledged that perpetrators of corruption generally have a high level of education and generally hold strategic positions in their jobs. Therefore, suspects may use various methods to conceal, divert, transfer, or obscure their assets. Generally, suspects transfer assets obtained from corruption through money laundering methods. In the jurisdiction of the Malang Regency District Attorney's Office, suspects generally use these assets to enrich themselves.

Aside from the aforementioned obstacles, there are no significant obstacles at the prosecution stage. However, the public prosecutor must present and synthesize data and facts obtained during the investigation to prove the elements of the articles charged against the defendant. The public prosecutor must also prove the actual state losses, not just the potential losses. An auditor or accountant from the Supreme Audit Agency or the Financial and Development Supervisory Agency carries out the calculation of state financial losses resulting from corruption.

In addition, the natural obstacle that is usually faced is when the Executing Prosecutor is confronted with the situation of a convicted corrupt individual who has lost all their wealth and assets. This creates so many arrears in the process of paying compensation to recover the state's financial losses. The frequent arrears in the payment of compensation, the Deputy Attorney General for Special Crimes issued technical instructions intended for all District Attorneys with letter number B-779/F/Fjp/Ft/10/2005 dated October 11, 2005 concerning the Execution of Compensation Payments which contains the need for periodic data updates on corruption cases that have permanent legal force, especially regarding the payment of compensation, with the separation of the legal basis of the decision between Article 34C of Law No. 3 of 1971 and Article 18 of Law No. 31 of 1999. Convicts who are proven legally incapacitated based on the provisions of the Regulation of the Minister of Finance of the Republic of Indonesia No. 31/PMK.07/2025 may be proposed for the write-off of state receivables. In a decision based on Article 18 of the Corruption Law, if the replacement money is not paid within the specified time period, the prosecutor is obliged to confiscate and auction the convict's assets in accordance with applicable law. If the convict does not have sufficient assets, then corporal punishment is applied to prevent the occurrence of payment arrears. If the convict escapes, the confiscated assets will be immediately auctioned, and the proceeds will be deposited into the state treasury in accordance with applicable procedures.

Based on interviews with Prosecutors Ari Kuswadi and Faizal Aditya Wicaksana, in carrying out asset recovery

through tracing immovable property assets suspected of being proceeds of crime, the administrative efforts undertaken by the Malang Regency Prosecutor's Office, namely writing to the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, are hampered by time and bureaucracy. The inefficiency of procedures and the implications of time utilization for bureaucratic constraints such as the requirement to write to various agencies (One-Stop Integrated Administration System, Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, Population and Civil Registration Service, Court) for asset tracing, as well as the requirement to manually take a trial queue number at the Surabaya Corruption Court indicate system inefficiencies that hinder the achievement of legal benefits.

Due to the limited mechanism for recovering state losses, the Corruption Eradication Law primarily regulates efforts to recover state losses through additional penalties, including fines, confiscation of assets, and payment of compensation (Febriani *et al.*, 2021) ^[6]. There is no specific mechanism or alternative that is more flexible for recovering state losses outside of criminal proceedings. This limitation suggests that the principle of expediency has not been fully incorporated into existing regulations. Ideally, restitution of state losses could be achieved through various mechanisms, such as plea bargaining, restorative justice, or civil proceedings, which can be implemented in parallel with criminal proceedings (Antari *et al.*, 2023) ^[1]. With more varied mechanisms, the state has a greater opportunity to recover its losses to the maximum, which ultimately benefits the wider community.

The imbalance between legal certainty and practical benefits also has implications for hampering the Malang District Attorney's Office in implementing the return of state losses due to the limitations of the general confiscation rules in the Criminal Procedure Code, even though corruption is a special crime that requires specific handling. Article 26 of the Corruption Law, which refers to Article 39 paragraph (1) of the Criminal Procedure Code, limits confiscation only to objects or bills suspected of originating from crimes or used to commit crimes (Mariana *et al.*, 2022) ^[18]. This provision creates a paradox between legal certainty (which demands strict procedures) and practical benefits (which require flexibility in confiscating corruptors' assets), thereby reducing the variables of "accuracy" and "intensity" of legal benefits. Although the existing rules provide procedural certainty, this certainty actually hinders the achievement of the substantive goal, namely, the maximum return of state losses. As a result, the happiness that should be enjoyed by the wider community (through the recovery of state finances) is reduced due to the limitations of the available legal mechanisms.

Furthermore, the Malang District Attorney's Office is hindered by the issue of compensatory payments, as many convicts are unable to make them, highlighting the system's inability to secure legal benefits. Although Article 18 of the Corruption Law stipulates a subsidiary prison sentence if the compensation cannot be paid, this subsidiary prison sentence does not actually recoup the state's losses. The public receives no financial benefit from the punishment of corruptors with subsidiary sentences.

This situation reflects that the benefits of the law have not been fully met. The punishments imposed may have a deterrent effect (preventive benefits), but they fail to provide

restorative benefits in the form of restitution of state losses. However, from Bentham's perspective of benefits, financial restitution of state losses would have a broader positive impact on society than simply imprisoning corruptors without returning state funds.

These obstacles ultimately diminish the law's effectiveness in achieving its objectives, which include retribution, deterrence, and restoration. The most disadvantaged are the wider community, who lose the benefits of state finances that should be recovered for development and welfare. Therefore, comprehensive reforms are necessary that include regulatory improvements, strengthening institutional capacity, modernizing systems and procedures, and enhancing inter-agency coordination to achieve the goal of recovering state losses more optimally and providing greater benefits to the broader community in accordance with the principles of the theory of legal benefit.

In examining the obstacles faced by the Malang District Attorney's Office in recovering state losses, a holistic approach is required that not only focuses on the formal legal aspects and the theory of legal benefits, but also on the philosophical aspects and social impacts of the return of state finances on society, and must also pay attention to the aspect of legal effectiveness. According to Soerjono Soekanto, legal effectiveness is influenced by at least five factors, namely: legal rules/statutory regulations, law enforcement, facilities, public awareness, and legal culture (Kuasa & Jaya, 2022) ^[12]. Therefore, it is necessary to describe further the five indicators of the theory of legal effectiveness proposed by Soerjono Soekanto to identify factors that hinder the effectiveness of implementing the return of state losses due to corruption-related criminal acts by the Malang Regency District Attorney's Office.

Legal/Legal Regulation Factors: From a legal perspective, the effectiveness of recovering state losses at the Malang Regency District Attorney's Office is still hindered by several fundamental problems. First, reliance on the provisions of the Criminal Procedure Code in confiscating corruption cases limits the scope of confiscation, as the Criminal Procedure Code is designed for general crimes, not specific crimes such as corruption, which require broader asset confiscation. Second, there is a gap between legal certainty and legal utility, where strict confiscation regulations make it difficult for prosecutors to maximize the recovery of state losses, and the application of subsidiary penalties instead of monetary compensation does not provide the state with tangible economic benefits. Third, the absence of specific provisions in the Corruption Law regarding the confiscation of assets related to corruption, whether directly or indirectly, makes it difficult for prosecutors to carry out early confiscation and ensure the recovery of state financial losses.

Law Enforcement Factors: Law enforcement factors pose a significant obstacle to recovering state losses at the Malang Regency District Attorney's Office. Limited human resources, particularly the number of prosecutors specializing in special crimes, create a high workload, as prosecutors in special crimes also handle general criminal cases. This situation hinders in-depth examination of witnesses and documents, comprehensive asset tracing, and field investigations. Furthermore, at the execution stage, prosecutors face challenges when convicts no longer have

assets to pay compensation, resulting in arrears and hindering optimal recovery of state financial losses.

Facilities and Infrastructure Factors, Limited facilities and infrastructure also hamper the effectiveness of state loss recovery efforts at the Malang Regency District Attorney's Office. Limited transportation, particularly for specialized criminal vehicles, complicates prosecutors' ability to transport witnesses, conduct out-of-town examinations, on-the-spot inspections, and asset tracing in various locations, thereby impacting the efficiency and optimization of evidence collection. Furthermore, limited information systems and supporting technology, which still rely on manual correspondence with various agencies, slow down the process of tracing and securing assets, making it less effective in supporting the recovery of state financial losses. Public Awareness Factor and Community Factors also hinder the recovery of state losses at the Malang Regency District Attorney's Office. Prosecutors often encounter uncooperative witnesses and suspects, either due to a lack of legal awareness, fear, or a lack of understanding of the impact of corruption on the public interest. In some cases, suspects even flee during the legal status determination process, complicating investigations despite cross-agency coordination. Furthermore, low public understanding of the importance of recovering state losses as part of the public interest and development also hinders public participation in supporting effective law enforcement against corruption.

Legal Culture Factors: Legal culture factors also influence the effectiveness of state loss recovery. From the perspective of law enforcement officials, although the Malang Regency District Attorney's Office has demonstrated serious efforts in handling corruption cases, a more proactive work culture is still needed, particularly in asset tracing from the early stages of investigation, improved coordination between law enforcement agencies, and innovation in addressing limited resources. The complexity of corruption cases involving highly educated perpetrators who hold strategic positions and possess the ability to present professional defenses demands specialized competencies and a heavier burden of proof for prosecutors. On the other hand, the persistently entrenched culture of corruption among elites reflects a weak internalization of integrity values, allowing abuse of authority to persist even though perpetrators should be role models in law enforcement and public ethics.

Conclusion

The Malang Regency District Attorney's Office continues to recover state losses through a penal mechanism that includes asset tracing, confiscation based on court decisions, asset management, and restitution or auction, emphasizing the principles of transparency and cross-agency cooperation. In general, these efforts have been running smoothly, but have not achieved optimal results due to several obstacles. The main obstacles include limited human resources, including investigators and public prosecutors, as well as a lack of supporting facilities and infrastructure, such as transportation. Furthermore, the Corruption Eradication Law's lack of specific regulations regarding the mechanism for recovering state losses, which still relies on the general provisions of the Criminal Procedure Code, also hampers the optimization of asset confiscation. Procedural and administrative obstacles, such as the still-manual system of

correspondence and court administration, as well as the complexity of asset tracing, also slow down the process of recovering state losses.

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