Scientific Research Publishing

Beijing Law Review, 2024, 15, 319-353
https://www.scirp.org/journal/blr
ISSN Online: 2159-4635
ISSN Print: 2159-4627

Key Factors to Increase the Role of the Prosecutor's Stolen Asset Recovery Agency in Indonesia: Opportunities and Challenges

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How to cite this paper: Wibisana, A. W., & Hasbullah, H. (2024). Key Factors to Increase the Role of the Prosecutor's Stolen Asset Recovery Agency in Indonesia: Opportunities and Challenges. *Beijing Law Review, 15,* 319-353.
https://doi.org/10.4236/blr.2024.151021

Received: January 31, 2024
Accepted: March 15, 2024
Published: March 18, 2024

Abstract

The seriousness of the problem of corruption and the need to combat the bad impacts of corruption and efforts to recover assets resulting from corruption is a very strategic and important issue in various countries in the world, and also in Indonesia. This research aims to explain the key factors in increasing the role of the Prosecutor's Stolen Asset Recovery Agency in Indonesia as opportunities and challenges. This research method uses a normative juridical approach, and the type of research carried out is a qualitative approach to produce descriptive data. Data collection techniques were carried out through literature studies, and primary, secondary and tertiary legal materials from scientific contributions published in academic databases. The results of this research found that judicial and administrative mechanisms are needed to improve the management of assets resulting from corruption by establishing a stolen asset recovery agency, the Prosecutor's Stolen Asset Recovery Agency in Indonesia. This body is a legal tool and institution needed to recover the results of corruption by referring to rules and legislation, the quality of governance, and the quality of internal control, including the existence of an independent supervisor as part of the internal control system. Thus, it is hoped that the results of this research can make a positive contribution to increasing the role of the Prosecutor's Stolen Asset Recovery Agency in Indonesia as a role model for other agencies.

Keywords

Corruption, Prosecutor's Stolen Recovery Agency, Regulations and Legislation, Quality of Good Governance, Quality of Internal Control, Indonesia

1. Introduction

Today, corruption cases in Indonesia have become a very important issue and

tend to lead to very worrying conditions. According to Divisi Hukum dan Monitoring Peradilan ICW (2023), corruption is like a chronic disease that is difficult to cure, the number of corruption cases often increases from year to year. The crime of corruption (*Tindak Pidana Korupsi* or Tipikor) which has been rampant in the country so far has not only harmed state finances or the state economy but has also constituted a violation of the social and economic rights of the community, hampering the growth and continuity of national development to create a just and prosperous society (Badan Litbang Diklat Hukum dan Peradilan Mahkamah Agung RI, 2017).

Corruption affects economic development, namely distorting the efficient allocation of resources, and is the cause of low income which can lead to a poverty trap (Blackburn et al., 2006). In line with this view, Mauleny (2023) states that empirical studies show that corruption affects investment levels and the business climate, distorts resource allocation, reduces the productivity of public spending, degrades the quality of development, and ultimately hinders economic growth. According to Mauro (1995), corruption is related to the negative impact on investment and economic development so that it hurts a country's economy, namely inhibiting economic growth due to the multiplier effect of low levels of investment (Mauleny, 2023).

According to Perrow (1986) & Schulman (1989) in Jávor & Jancsics (2016), corruption is not an individual event but is the systematic result of a complex combination of factors, including environmental forces, organizational structures and processes, and individual choices. The form and amounting of resources illegally exchanged by corrupt actors depends on the perpetrator's position of power in the organization and their relationships with other parties. This means that an organization that has not optimized a good organizational system will tend to see looseness as an opportunity to commit corruption.

Perrow (1986) & Schulman (1989) in Jávor & Jancsics (2016) state that perpetrators of corruption will attempt to create resources by putting pressure on the organization's formal operational structure, for example by lowering quality standards, and the existence of some slack in a complex system that can be used for illegal purposes. According to experts in Jávor & Jancsics (2016), organizations that have a lot of leeways have more alternatives for illegal behaviour because perpetrators of criminal acts of corruption will always find weaknesses in the system compared to other organizations with less leeway. According to Baker & Faulkner (1993) in Jávor & Jancsics (2016), corrupt behaviour may even be taken over by organizational goals and thus the organization, not the individual, is the main beneficiary of the illegal activity.

Wiranti & Arifin (2020) stated that the wide social and power gaps in the structure of society also influence the opening up of opportunities for corruption, which ultimately contributes greatly to the culture of corruption. In general, organizational culture is interpreted as habits that are repeated over and over again and become values and lifestyles by a group of individuals in the organiza-

tion which are followed by subsequent individuals. The role of organizational culture is also very determining, because organizational culture has been formed long ago, has been passed down from generation to generation and has become a habit within it (Luthans, 2017). According to (Luthans, 2017) culture is the norms and values that direct the behavior of organizational members. Every member of the organization will behave according to the prevailing culture to be accepted in their environment, and employee behavior is influenced by the environment in which they work which is formed through organizational culture (Luthans, 2017).

Organizational culture is the basis for leaders, staff and members of the organization in making plans or strategies and tactics in developing a vision and mission to achieve organizational goals (Ramadhan et al., 2019). Culture influences corruption starting from the habit of accepting gratification, gradually it can influence attitudes and actions to justify any means which in the end can spread to other types of corruption, so gratification is called the root of corruption (Sulistyawati et al., 2022). Gratification is widely interpreted as a form of gratitude, which can be in the form of money, goods, discounts/rebates, fees/commissions, interest-free loans, travel tickets, lodging facilities, tourist trips, free medical treatment, and other facilities (Sugiarto, 2023). Campbell (2015) states that a corrupt organizational culture that has been hereditary influences employee behaviour in carrying out corrupt practices and makes them participate in it.

According to Rose-Ackerman & Palifka (2016), corruption undermines economic and political development so efforts are needed to change norms, especially through transforming elite attitudes. Experts in Jávor & Jancsics (2016) state that organizational structural features such as division of labour, geographic dispersion, and the presence of specialized units ensure structural secrecy, and provide opportunities to carry out corrupt practices without being seen. According to Zahra (2023), problems in handling corruption, Indonesia has a bad record where Transparency International has released that Indonesia's Corruption Perception Index is ranked 96th out of 180 countries in 2021.

Based on the Corruption Eradication Commission (*Komisi Pemberantasan Korupsi* or KPK) statistics for 2004-2022 in Zahra (2023), noted that the number of corruption cases continues to increase every year, there are 1310 corruption cases in Indonesia, and there are the 10 largest corruption cases in Indonesia, including:

1) Jiwasraya—Indonesia lost IDR 16.8 trillion from the Jiwasraya Saving Plan Investment in October 2018;

2) Century Bank—From the Century Bank case which occurred in November 2008, Indonesia lost IDR 7 trillion and another IDR 689.39 billion from Short Term Funding Facility (FPJP) Bank Century;

3) PT.ASABRI—PT Asuransi Armed Forces Indonesia (Asabri) corruption case worth IDR 23.7 trillion;

4) Hambalang—Hambalang National Sports Achievement Development Cen-

ter Project known as the Hambalang Project with an estimated loss of IDR 706 billion;

5) e-KTP—According to the Supreme Audit Agency (BPK), the estimated loss in the e-KTP corruption case that occurred around mid-2014 was IDR 2.3 trillion;

6) Bank Indonesia Liquidity Assistance (BLBI)—This case occurred more than 20 years ago with an estimated loss of IDR 110.4 trillion;

7) Pelindo II—The PT Pelindo II corruption case occurred in 2015 and the estimated loss in this case was IDR 7 trillion;

8) Surya Darmadi—This case occurred as a result of the oil palm plantation business from 2004 to 2022 with an estimated loss of IDR 87 trillion;

9) PT. Trans-Pasifik Petrokimia Indotama (TPPI) was a corruption case in 2009-2010 with an estimated loss of IDR 42.4 trillion; and

10) Social assistance funds (Bansos) for COVID-19—This is one of the latest corruption cases during the 2020 COVID-19 pandemic, with estimated state losses of IDR 14.59 billion.

Referring to the increasing number of corruption cases in Indonesia is a challenge and opportunity for the country to optimize the return of assets resulting from corruption crimes by increasing the role of the prosecutor's office in recovering stolen assets in Indonesia. Problems related to the return of assets resulting from corruption crimes in Indonesia during 2021 are considered not yet optimal, only Rp. 1.4 trillion of Rp. 62 trillion or 2.2% has just returned to the country (Divisi Hukum dan Monitoring Peradilan ICW, 2023). According to Divisi Hukum dan Monitoring Peradilan ICW (2023), the cumulative figure is the figure for all criminal acts handled by law enforcement officers (*Aparat Penegak Hukum* or APH), namely the prosecutor's office, the police and the Corruption Eradication Commission (KPK).

According to Mahmud (2021), the return of assets resulting from criminal acts of corruption or theft of recovered assets is a law enforcement system carried out by the corruption victim state to revoke, confiscate, and eliminate the rights to assets resulting from corruption perpetrators through a series of processes and mechanisms both criminal and civil. Corruption-generated assets, both within and outside the country, are tracked, frozen, confiscated, confiscated, handed over and returned to the state due to corruption and to prevent Corruption perpetrators from using the assets resulting from corruption.

Corruption is a tool or means of other criminal acts and provides a deterrent effect for perpetrators/potential perpetrators (Mahmud, 2021; Badan Litbang Diklat Hukum dan Peradilan Mahkamah Agung RI, 2017). The urgency to increase the role of the Prosecutor's Stolen Asset Recovery Agency in Indonesia requires a juridical basis, the quality of good governance, and the quality of internal control are key factors so that this agency can work optimally according to its objectives. According to Duguit (1917), a juridical basis is very necessary to determine the extent to which the state can intervene, with effective methods to

guarantee the existence of several of its departments about legal obligations that bind the State. In this case, the juridical basis is very important to ensure the existence of the Prosecutor's Stolen Asset Recovery Agency in Indonesia. The Prosecutor's Office is an institution whose existence is very important. The Prosecutor's Agency is an institution that exists in every constitutional system of the Republic of Indonesia, and is regulated in legal products under the 1945 Constitution, since the beginning of Independence, the Old Order period, the New Order period, and the era of Reform (Fauzan, 2023).

The role and status of the prosecutor's office varies greatly in different countries and all legal traditions the prosecutor's office occupies a key position in the criminal justice system and exercises great powers and responsibilities (UNODC, 2014). According to UNODC (2014), the supremacy of law cannot be upheld if the Prosecutor's Office does not exist, nor can human rights be protected, without an effective prosecution service that acts with independence, integrity and impartiality in the administration of justice. Rules and regulations as a juridical basis, quality governance and quality of internal control are very necessary to achieve the goals of this body. According to the International Monetary Fund (IMF) in UCLG ASPAC (2021), governance is a concept by which a country is managed, including economic and policy aspects and law.

According to Hall (2012), good quality governance is a combination of structures and processes at and below the board level to lead overall quality performance including: 1) Ensuring required standards are achieved; 2) Investigating and taking action on performance below standards; 3) Plan and drive continuous improvement; 4) Identify, share and ensure implementation of best practices; and 5) Identify and manage risks to service quality. Furthermore, internal controls help companies comply with laws and regulations, and prevent employees from stealing assets or committing fraud (Kenton, 2023).

Then, internal control is an ongoing process (not just ticking a box once) but is influenced by people from the supervisory board to managers, to front-line employees and what matters are the people and their actions, not the form, system, or procedure manual (University of Florida, 2023a). According to the University of Florida (2023a), internal controls are designed to provide reasonable assurance regarding the achievement of institutional objectives (absolute assurance is not possible). COSO (1992) in Maijoor (2000) defines internal control as a process, implemented by the board of directors, management and other personnel of an entity, which is designed to provide adequate confidence regarding the achievement of objectives in a company/organization by considering many organizational actions as part of the internal control system, including human resource policies and practices, communication procedures within the organization, and the management style of the board of directors.

According to Maijoor (2000), the main feature of the internal control system is that it refers to accounting controls, and measures concerns in organizations such as: 1) Separation of duties; 2) Authorization policies, and organizational

structure; 3) Measures to protect assets and information; and 4) Credibility tests, especially public policy documents regarding audits and corporate governance which include operational effectiveness and efficiency, reliability of financial reporting and compliance with applicable laws and regulations. Therefore, the formulation of the research problem is as follows:

1) What and how are the regulations and legislation related to the role of the Prosecutor's Stolen Asset Recovery Agency in Indonesia?

2) Can the quality of governance improve the role of the Prosecutor's Stolen Asset Recovery Agency in Indonesia?

3) Can the quality of internal control increase the role of the Prosecutor's Stolen Asset Recovery Agency in Indonesia?

Thus, this research is entitled as follows: "*Key Factors Increasing the Role of the Prosecutor's Stolen Asset Recovery Agency in Indonesia*: *Opportunities and Challenge*s". This article sequentially discusses the 3 (three) main questions asked in the research problem formulation which includes: 1) The Regulations and Legislation related to the role of the Prosecutor's Stolen Asset Recovery Agency in Indonesia; 2) The Quality of Governance improve the role of the Prosecutor's Stolen Asset Recovery Agency in Indonesia; and 3) The Quality of Internal Control increase the role of the Prosecutor's Stolen Asset Recovery Agency in Indonesia as described in **Figure 1** below. Furthermore, the article ends with conclusions and suggestions according to the research title.

2. Literature Review

Corruption has become a global problem and no country in the world can escape the threat of corruption (Ochulor & Bassey, 2010). Ochulor & Bassey (2010) stated that corruption is a multidimensional problem in almost all developing countries, and the public sector is targeted by the state to serve society to improve its welfare, but this sector is often targeted by corruptors to achieve their personal goals. Corruption is still the main problem that hinders the achievement of prosperity and social justice in Indonesia (Ghoffar et al., 2020). According to the World Bank in Shabbir and Anwar (2007), corruption is the single biggest obstacle to economic and social development that can weaken development by distorting the role of law and weakening the institutional foundations on which economic growth depends. Corruption is no longer a local problem in a country but can also affect the global economy so international cooperation is needed to kill it (United Nations Convention against Corruption or UNCAC 2003 in Isra, 2008).

According to UNODC (N/Da), efforts are needed to combat corruption by encouraging citizen participation in anti-corruption efforts including dynamics and approaches that may be different from citizen participation in other public processes. The role of citizens is better understood in social accountability, where citizens oppose corruption by monitoring it, critically assessing the behaviour and decisions of officeholders, reporting errors and crimes of corruption,

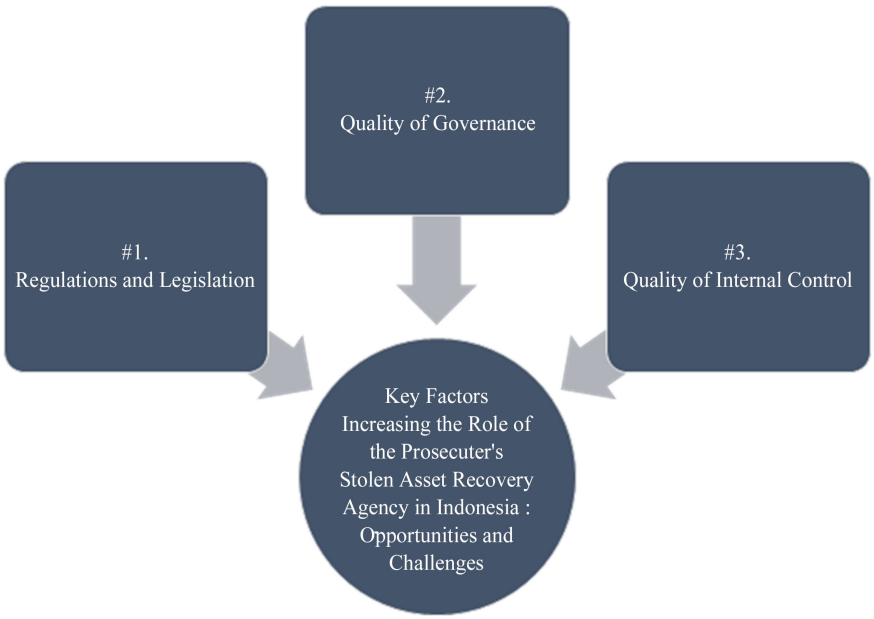

Figure 1. Key Factors Increasing the Role of the Prosecutor's Stolen Asset Recovery Agency in Indonesia: Opportunities and Challenges.

and requesting appropriate countermeasures (UNODC, N/Da). Innes & Booher (2004) have identified five reasons to uphold citizen participation in public decision-making: 1) To include public preferences in decision-making; 2) To improve decision-making by incorporating citizens' local knowledge; 3) To promote fairness and justice, and listen to marginalized voices; 4) To legitimize public decisions; and 5) To fulfil the requirements of laws and regulations.

In this case, Indonesia has ratified UNCAC 2003 through Law of the Republic of Indonesia Number 7 of 2006 concerning Ratification of the United Nations Convention against Corruption, 2003 (United Nations Convention Against Corruption, 2003) or *Undang-Undang Republik Indonesia Nomor* 7 *Tahun* 2006 *tentang Pengesahan United Nations Convention Against Corruption*, 2003 (*Konvensi Perserikatan Bangsa-Bangsa Anti Korupsi*, 2003) or UU No. 7/2006.. The legal basis for the formation of Law No. 7/2006 is Article 5 paragraph (1), Article 11, and Article 20 of the 1945 Constitution of the Republic of Indonesia (*Undang-Undang Dasar Negara Republik Indonesia tahun* 1945 or UUD 1945); Law of the Republic of Indonesia Number 37 of 1999 concerning Foreign Relations (*Undang-Undang Republik Indonesia Nomor* 37 *Tahun* 1999 *tentang Hubungan Luar Negeri* or UU No. 37/1999) and Law of the Republic of Indonesia Number 24 of 2000 concerning International Agreements (*Undang-Undang Republik Indonesia Nomor* 24 *Tahun* 2000 *tentang Perjanjian Internasional* or UU No. 24/2000).

Therefore, stolen asset recovery initiatives are needed to recover funds lost due to corruption from safe havens around the world (The World Bank, 2010). Then from that, what is no less important is how the state manages assets stolen from criminal acts of corruption by establishing a stolen asset recovery agency,

as a legal tool and institution needed to recover the proceeds of corruption (UNODC, N/Db), and in Indonesia carried out this through the establishment of the Prosecutor's Stolen Asset Recovery Agency. According to Article 1 of Law of the Republic of Indonesia Number 11 of 2021 Amendment to Law of the Republic of Indonesia Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia (*Undang-Undang Republik Indonesia Nomor* 11 *Tahun* 2021 *Perubahan atas Undang-Undang Republik Indonesia Nomor* 16 *Tahun* 2004 t*entang Kejaksaan Republik Indonesia* or UU No. 11/2021) the Prosecutor's Office of the Republic of Indonesia, hereinafter referred to as the Prosecutor's Office is a government institution whose functions are related to judicial power that carries out state power in the field of prosecution and other authorities based on law. In this context, the Prosecutor's Office can optimize its work program through justice mechanisms and obtain immediate compensation, as regulated by national law, for the losses they suffer (Falconi et al., 2023).

According to Falconi et al. (2023), judicial and administrative mechanisms must be established and strengthened to combat the bad impacts of corruption and facilitate the recovery of the proceeds of corruption so that they can be recovered and returned to the country as the rightful owners through fast, fair formal or informal procedures, cheap and accessible. According to the UN Convention against Corruption, (UNCAC chapter V Articles 51-59) in the UNCAC Coalition (2023), asset recovery refers to the process in which the proceeds of corruption transferred abroad are recovered and repatriated to the country from which the assets were taken or to the owner who legitimate. Stolen asset recovery agencies should be managed by referring to the principles of good governance and quality of internal supervision so that the objectives of establishing the agency can be achieved.

Governance is defined as a process of interaction between public and/or private actors which ultimately aims to realize collective goals (Lange et al., 2013). According to Ates (2021), quality of governance is a measurement of how well an organization performs in the dimensions of governance, namely controlling corruption, government effectiveness, political stability and the absence of violence/terrorism, regulatory quality, rule of law and accountability. And practice guidelines related to management control features (Rae & Subramaniam, 2008). According to University of Florida (2023b), good internal controls help ensure efficient and effective operations that achieve unit goals and still protect employees and assets.

The definition of internal control according to the Committee of Sponsoring Organizations of the Treadway Commission—COSO (2013) is a system, structure or process implemented by the board, commissioners, management and employees in a company which aims to provide adequate guarantees that control objectives are achieved, including effectiveness and efficiency of operations, reliability of financial reporting and compliance with laws and regulations can be achieved. COSO (2013) reveals five interrelated components of the internal con-

trol model, namely: control environment, risk assessment, control activities, information and communication, and monitoring activities. Through Government Regulation Number 60 of 2008, the government stipulates that there is an internal control system that must be implemented, both by the central and regional governments.

The internal control system is expected to be able to control government activities to achieve effective, efficient, transparent and accountable state financial management. According to Government Regulation Number 60 of 2008 concerning the Government's Internal Control System, it is stated that internal control consists of 5 (five) related components, namely: environmental control; risky tasks; control activities; information and Communication; and monitoring. According to the University of Florida (2023b), good internal control is very important to: 1) Ensure the achievement of goals and objectives; 2) Providing reliable financial reporting for management decisions; 3) Ensure compliance with applicable laws and regulations to avoid the risk of public scandal. Thus, poor or excessive internal controls reduce productivity, increase the complexity of transaction processing, increase the time required to process transactions, and do not add value to the activity (University of Florida, 2023b).

3. Materials and Methodology

The research method used is the normative legal research method, normative legal research is legal research carried out by examining library materials or secondary data (Soekanto & Mamudji, 2003). According to Marzuki (2010), normative legal research is a process of finding legal rules, legal principles and legal doctrines to answer the legal issues faced. In this type of legal research, the law is often conceptualized as what is written in statutory regulations or law is conceptualized as rules or norms which are benchmarks for human behaviour that are considered appropriate (Amiruddin & Asikin, 2006). This research uses a qualitative approach (Creswell, 2014). The data analysis technique that will be used in this research is the Miles and Huberman (1994), model data analysis technique.

In this technique, data collection is placed as a component which is an integral part of data analysis activities which is divided into two types, namely primary data and secondary legal materials in the form of legal opinions, doctrines, theories, scientific articles and related websites (Miles & Huberman, 1994). Data Collection—In this research data collection is focused on document analysis. In the data collection process, the themes raised were related to regulations for eradicating corruption in Indonesia and annual reports of corruption cases and indexes for Indonesia. Data Analysis—Qualitative research researchers create a complex picture, examine words, detailed reports from respondents' views and conduct studies in natural situations (Iskandar, 2009).

Qualitative research seeks to understand and explore, is contextual and interpretive, emphasizes the process or development patterns, can be used to explore

a series of questions, and data is collected through qualitative data collection tools such as interviews, field notes, diaries, observations and others (Nassaji, 2020). Therefore, this qualitative research aims to find out what and how the key factors are to increase the role of the Stolen Asset Recovery Agency in Indonesia as opportunities and challenges, namely: 1) Regulations and Legislation; 2) Quality of Governance; and 3) Quality of Internal Control. These three things are key factors to increase the role of the Prosecutor's Office for Stolen Asset Recovery in Indonesia: Opportunities and Challenges.

4. Discussion

4.1. Regulations and Legislation

The Indonesian state is legal (*rechtstaat*), as explained in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia (*Undang-Undang Dasar Negara Republik Indonesia Tahun* 1945 or UUD 1945). As a legal state, the Indonesian State must carry out the law enforcement process for criminal acts of corruption. to realize the upholding of the supremacy of law and justice and peace in life in society (Gradios Nyoman Tio, 2020). This can be interpreted as meaning that all citizens and state administrators must comply with the applicable legal provisions. Therefore, in a rule-of-law state, legal regulations are made to be obeyed and implemented in the life of the nation and state (Widayati, 2018). However, in reality, there are still many legal regulations that are violated by society, such as cases of criminal acts of corruption in Indonesia.

In this case, the Indonesian Government, politically, has positioned itself as one of the countries in Asia which is committed to eradicating corruption through international cooperation through the ratification of the 2003 United Nations Convention on Corruption. From the perspective of juridical principles or legal principles (*la regle de droit*) prohibiting or ordering a certain thing to be done, not because the action is considered good or bad according to a principle understood a priori, but because the action is contrary to or by social relations in society permanent human collective (Duguit, 1917). According to Duguit (1917), the law looks at the whole person, both in mental state and outward behaviour, including the juridical principle or legal principle (*la regle de droit*) looking at the outward manifestation of human will which underlies legal principles. Corruption is an extraordinary crime that must take priority over other criminal acts (Nurdjana, 2009). This view is in line with Ifrani (2017) who states that corruption is as follows:

1) Corruption is systemic, endemic and has a very broad impact (systematic and widespread) which not only harms state finances but also violates the social and economic rights of the wider community; and

2) Action related to criminal acts of corruption requires comprehensive ordinary measures so many regulations, institutions and commissions have been formed by the government to deal with it.

Therefore, the level of seriousness of the Indonesian government in eradicat-

ing criminal acts of corruption can be seen seriously by the issuance of several legislative and policy products as follows:

1) Law of the Republic of Indonesia Number 30 of 2002 concerning the Corruption Eradication Commission (*Undang-Undang Republik Indonesia Nomor* 30 *Tahun* 2002 *tentang Komisi Pemberantasan Korupsi* or UU No. 30/2002). UU No. 30/2002) is a follow-up to the order of Law of the Republic of Indonesia Number 31 of 1999 (*Undang—Undang Republik Indonesia Nomor* 31 *Tahun* 1999 or UU No. 31/1999);

2) Decree of the President of the Republic of Indonesia Number 59 of 2004 concerning the Establishment of a Corruption Crime Court (*Keputusan Presiden Republik Indonesia Nomor* 59 *Tahun* 2004 *tentang Pembentukan Pengadilan Tindak Pidana Korupsi*),

3) Decision President of the Republic of Indonesia Number 4 of 2005 concerning the Acceleration of Corruption Eradication (*Keputusan Presiden Republik Indonesia Nomor* 4 *Tahun* 2005 *tentang Percepatan Pemberantasan Korupsi*);

4) Law of the Republic of Indonesia Number 25 of 2003 concerning Eradication of the Crime of Money Laundering (*Undang-Undang Republik Indonesia Nomor* 25 *Tahun* 2003 *tentang Pemberantasan Tindak Pidana Pencucian Uang* or UU No. 25/2005). UU No. 25/2005 is better known as the anti-money laundering law; and

5) Law of the Republic of Indonesia Number 10 of 1998 concerning Banking (*Undang-Undang Republik Indonesia Nomor* 10 *Tahun* 1998 *tentang Perbankan* or UU No. 10/1998), and Law of the Republic of Indonesia Number 13 of 2006 concerning Witness Protection (*Undang-Undang Republik Indonesia Nomor* 13 *Tahun* 2006 *tentang Perlindungan Saksi* or UU No. 13/2006).

Then, various independent institutions were also formed by the Indonesian government, including the Financial Transaction Reports and Analysis Center (*Pusat Pelaporan dan Analisis Transaksi Keuangan* or PPATK) as a Financial Intelligence Unit, and a witness and victim protection agency. No less important is providing opportunities for the community to play an active role in supporting government programs in eradicating corruption by providing opportunities and the role of Non-Governmental Organizations (NGOs). What is interesting is that various corruption cases that occurred in Indonesia were revealed because of the role of NGOs. In terms of quantity, criminal acts of corruption in Indonesia have penetrated various sectors; corruption not only occurs in the executive institutions but has also penetrated the legislative and judicial institutions. Corruption as a crime not only harms the country's finances and economy but also harms individuals and other community groups. According to Rose-Ackerman (2006), there is a strong relationship between a country's level of corruption and the country's poverty level and low economic growth.

According to Ghoffar et al. (2020), at least, based on data released by Transparency International (TI) in 2019, Indonesia is still ranked 85th out of 180

countries surveyed. The score is also less encouraging, with a score of 1 to 100, Indonesia gets a score of 40. Indonesia is at the same level as several countries such as Trinidad and Tobago, Lesotho and Kuwait. Meanwhile, compared with countries in Southeast Asia, Indonesia is beaten by Malaysia which is in 51st place with a score of 53, Brunei Darussalam with a score of 60 in 35th place and of course, Singapore is in 4th place with a score of 85. Meanwhile, there are ten countries with the best Corruption Perception Index in 2019 (Ghoffar et al., 2020). According to Dinino & Kpundeh (1999), corruption has spread to various fields, including:

1) Corruption in the political field has distorted democracy and good governance because corruption occurs in the election of legislative members so that it has an impact on accountability and representation in the preparation of policies; corruption. Political corruption is considered to have the most damaging effects. This type of political corruption is behaviour that is openly illegal in the political realm, for example, bribery in voting (Ghoffar et al., 2020); and

2) Corruption in the courts results in obstruction of legal certainty; Corruption in the government sector results in discrimination in public services. Corruption exacerbates inequality, victimizing the most vulnerable and marginalized groups in society, affecting society's ability to meet their basic needs, and reducing their opportunities to overcome poverty and exclusion.

According to Falconi et al. (2023), corruption harms society and has an impact on the global economy, and corruption has hampered business opportunities; foreign aid and investment, and corruption negatively impacts the construction industry and health sector. divestment of public funds causes a decrease in spending on public services, such as education and environmental protection Falconi et al. (2023), and Chayes (2015) state that when corruption is carried out through criminal groups that have links to influential economic or political actors, this increases the risk of instability and violence. Meanwhile, Waluyo (2022) states that assets or assets resulting from criminal acts of corruption are state assets or assets which should be used for Indonesia's national development, welfare and prosperity of the Indonesian nation fairly and evenly in all fields. Therefore, returning assets is a very important and strategic agenda because the theft of state assets in Indonesia is carried out by people who are in power and who have been in power so this is a serious problem.

Efforts to return state assets stolen through criminal acts of corruption tend not to be easy to carry out because the perpetrators of criminal acts of corruption have extraordinary access and are difficult to reach in hiding or laundering money resulting from their criminal acts of corruption (Isra, 2008). According to experts in Maguchu & Ghozi (2022), in general, the process of recovering stolen assets is led by the state, and there are main stages related to asset recovery as follows:

1) First, asset tracing, which checks the income received, obtained from criminal activities based on illegally obtained proceeds;

2) Secondly, asset freezing involves holding property pending a final decision in a criminal case to prevent assets from being destroyed, altered, removed, relocated or disposed of before the case is closed; and

3) Third, asset confiscation is intended to stop criminals from accessing property by seizing it permanently; and

4) Fourth, asset disgorgement refers to the recovery of criminal assets, before they are returned to the relevant state, which are divided among several states.

However, tracking, freezing, confiscating and disposing of each of the steps mentioned above presents unique challenges because managing the investigative stages of asset recovery can be very time-consuming and complex, and requires a lot of resources, expertise and political will (Maguchu & Ghozi, 2022). According to experts in Maguchu & Ghozi (2022), asset recovery is the most complicated area of law and can take years and sometimes decades. The problem becomes increasingly difficult for recovery efforts because the place where the proceeds of crime are hidden can cross the borders of the country where the criminal act of corruption was committed (Isra, 2008). Therefore, to determine criminal acts of corruption which are difficult to prove, a joint team can be formed under the coordination of the Attorney General as regulated in Article 27 of Law of the Republic of Indonesia No. 31 of 1999 concerning Eradication of Corruption Crimes (UU No. 31/1999).

In this case, criminal acts of corruption which are difficult to prove can be interpreted as criminal acts of corruption in the fields of banking, taxation, capital markets, trade and industry, commodity futures, or in the monetary and financial fields which: 1) Are cross-sectoral; 2) Carried out using advanced technology; and 3) Carried out by a suspect/defendant who has the status of a State administrator as specified in Law of the Republic of Indonesia No. 28 of 1999 concerning State Administrators who are Clean and Free from Corruption, Collusion and Nepotism (*Undang-Undang Republik Indonesia Nomor* 28 *Tahun* 1999 *tentang Penyelenggara Negara yang Bersih dan Bebas dari Korupsi*, *Kolusi dan Nepotisme or UU No.* 28/1999). According to Fauzan (2023), de jure and de facto, the Prosecutor's Office is an important institution and has always been present in the history of the state administration Republic of Indonesia, especially about law enforcement together with judges and the National Police of the Republic of Indonesia.

The Indonesian Prosecutor's Office in carrying out its functions, duties and authority is independent of the influence of government power and the influence of other powers (Fauzan, 2023). In Indonesia, the Corruption Crime Law (*Tipikor*) is regulated in Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption Crimes as amended by Law of the Republic of Indonesia Number 20 of 2001 concerning the Eradication of Corruption Crimes (*Undang-Undang Republik Indonesia Nomor* 31 *Tahun* 1999 *tentang Pemberantasan Tindak Pidana Korupsi sebagaimana telah diubah dengan Undang-Undang Republik Indonesia Nomor* 20 *Tahun* 2001 *tentang Pemberanta-*

san Tindak Pidana Korupsi or UU No. 20/2001).

However, the problem of corruption is very difficult to eradicate, partly because the approach used is still partial, even though the treatment needed is a multidimensional approach (Wiranti & Arifin, 2020). Then, the plan of the Attorney General of the Republic of Indonesia with the Minister for Administrative Reform and Bureaucratic Reform of the Republic of Indonesia (*Jaksa Agung RI bersama Menteri Pendayagunaan Aparatur Negara dan Reformasi Birokrasi Republik Indonesia* or Menpan RB) of the Republic of Indonesia is to create a new institution, namely the Attorney General's Stolen Asset Recovery Agency in Indonesia. This agency is a step forward and will be effective as a means to achieve the goal of eradicating corruption in Indonesia. In this context, every criminal law norm always has an address or goal to be achieved, and criminal law norms are made to achieve the goal, building trust from several aspects, namely, the level of usefulness, convenience, use and compliance with these regulations (Haliah & Nirwana, 2019).

The aim of eradicating corruption is to protect state finances from actions that are detrimental to it unlawfully. Thus, the Prosecutor's Stolen Asset Recovery Agency in Indonesia must be able to safeguard and restore corrupted state finances. The Prosecutor's Stolen Asset Recovery Agency in Indonesia is a concrete form of effort to return assets that have been corrupted while also creating a deterrent effect for perpetrators of corruption so that it is hoped that it can prevent people from committing corruption. Then, people who see the legal takeover of assets by this agency will see or realize that what is taken through criminal acts of corruption will be in vain because in the end these assets are taken by the state through this agency.

Based on various previous descriptions, it is necessary to have the authority of the Stolen Asset Recovery Agency in Indonesia as an organization which is expected to guarantee that the state acts according to the principles of regulations and legislation to intervene and implement law enforcement actions against corruption problems which are basically within the jurisdiction. The Prosecutor's Stolen Asset Recovery Agency in Indonesia should be seen as part of Article 30 A of Law of the Republic of Indonesia Number 11 of 2021 Amendment to Law of the Republic of Indonesia Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia (UU No. 11/2021). Therefore, the legal position of the Prosecutor's Asset Recovery Agency in Indonesia, referring to article 30 A of Law No. 11/2021, is to give authority to the prosecutor's office not only for assets from criminal acts of corruption but also assets from all criminal acts.

This authority to eradicate criminal acts of corruption is very useful for returning assets obtained from criminal acts of corruption. Eradicating corruption without returning assets will not achieve regulatory and statutory standards, namely legal norms related to criminal acts of corruption. The Stolen Asset Recovery Agency of the Prosecutor's Office in Indonesia is not only for criminal

acts of corruption, but the eradication of corruption will have a more pronounced form, namely the return of assets that have been corrupted. The Stolen Asset Recovery Agency is an instrument of the prosecutor's authority in article 30 A of Law of the Republic of Indonesia Number 11 of 2021 Amendment to Law of the Republic of Indonesia Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia (*Undang-Undang Republik Indonesia Nomor* 11 *Tahun* 2021 *Perubahan Atas Undang-Undang Republik Indonesia Nomor* 16 *Tahun* 2004 *tentang Kejaksaan Republik Indonesia*) as mentioned above. The Stolen Asset Recovery Agency is only the executor of the prosecutor's authority. Therefore, the legal question arises as to whether it is legally permissible for the prosecutor's office to establish an agency even though the law does not mandate the establishment of an agency.

Thus, this question can be answered that the asset recovery agency is not an independent body that has authority from the law but is a work apparatus from the prosecutor's office to carry out the authority of Article 30 A of Law of the Republic of Indonesia Number 11 of 2021 Amendment to Law Number 16 of 2021 2004 concerning the Prosecutor's Office of the Republic of Indonesia. Therefore, the Prosecutor's Stolen Asset Recovery Agency in Indonesia is an inseparable part of the prosecutor's office institutionally and in terms of legal authority. In this context, the legal action taken is a prosecutor's legal action according to the Prosecutor's Law and other applicable laws and regulations such as the criminal procedure code. Therefore, in terms of nomenclature, this body cannot be separated from the prosecutor's office, namely the Stolen Asset Recovery Agency of the Republic of Indonesia Prosecutor's Office.

4.2. Quality of Governance

According to Kementerian Pendayagunaan Aparatur Negara dan Reformasi Birokrasi (2023), the Asset Recovery Agency has the duty and authority to carry out the tracing and return of criminal proceeds and other assets to the state, victims or those entitled to them by the provisions of statutory regulations. Therefore, several institutional strengthening efforts within the prosecutor's office are needed, and one of them is the approval of the increase in the status of the Asset Recovery Agency from the previous Asset Recovery Center, which will be included in the Presidential Regulation of the Republic of Indonesia (Kementerian Pendayagunaan Aparatur Negara dan Reformasi Birokrasi, 2023). This aims to strengthen the Asset Recovery Agency in the Prosecutor's Office as an Asset Recovery Center with stronger institutional capacity, from echelon II to echelon I and its function is as a techno-structure to support the core operations of the Prosecutor's Office so that it can be more optimal (Kementerian Pendayagunaan Aparatur Negara dan Reformasi Birokrasi, 2023).

In general, governance has the meaning of a decision-making process and the process of determining which policies will and will not be implemented (UCLG ASPAC, 2021). The World Bank defines governance as a way of exercising pow-

er in managing a country's economic and social resources for development (Lopes et al., 2023). Indicators that influence the quality of governance are customer orientation, adequate work culture and organization, leadership quality and policy implementation (Akao, 2004). According to the 1994 World Bank report in Lopes et al. (2023), the quality of governance is focused on the existence of a transparent process, including a bureaucracy that is run with a professional ethos, a government that is accountable for its actions, and a strong civil society that is involved in the public sector affairs that act based on the supremacy of law. The rule of law will depend on the laws and regulations of the jurisdiction involved in the investigation, as well as international or bilateral conventions and agreements (Brun et al., 2011).

The Stolen Asset Recovery (StAR) Initiative initiated by the World Bank is a collection of recommendations developed in partnership with UNODC (Ayu & Putri, 2022). Then, one of the first considerations in the (StAR) Initiative related to asset recovery cases is the development of effective strategies to obtain criminal penalties (if possible) and recover assets resulting from corruption (Brun et al., 2011). According to Brun et al. (2011), the various legal pathways available to recover assets resulting from corruption, and several factors that constitute obstacles related to selecting assets resulting from corruption can be described in **Figure 2** below.

Referring to **Figure 1**, it can be interpreted that the Process for Recovery of Stolen Assets by Brun et al. (2011: pp. 5-8) consists of:

1) *First*—Collecting Intelligence & Evidence Asset Tracing—Evidence is collected. Law enforcement officers search for assets under the supervision of or in close collaboration with prosecutors or investigating judges, or by private investigators or other interested parties in civil actions. In addition to collecting publicly available information and intelligence from law enforcement agencies or other government agency databases, law enforcement may use special investigative techniques that require permission from a prosecutor or judge (e.g., electronic surveillance, search and seizure warrants, production orders, or monitoring orders account). Private investigators do not have the authority granted to law enforcement, and private investigators will be able to use publicly available sources and submit requests to the court regarding civil law matters including production orders, on-site records reviews, preliminary testimony, or expert reports.

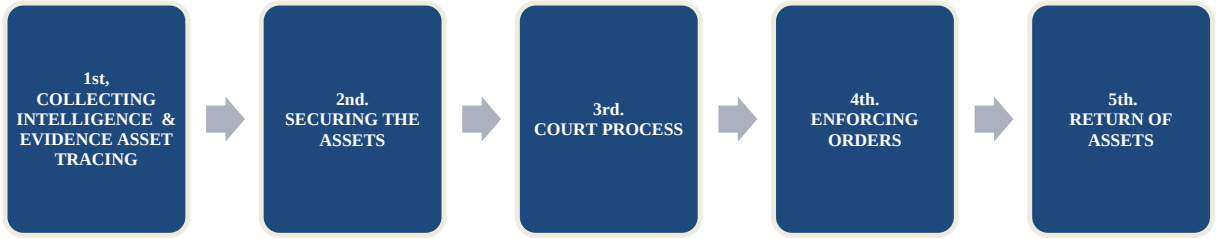

Figure 2. Process for Recovery of Stolen Assets (processed). Source: Brun et al. (2011: pp. 5-8).

2) *Second*—Securing the Assets—In the investigation process, the results and evidence to be confiscated must be secured so that they are not lost, moved or destroyed. In certain civil law jurisdictions, the power to order the detention or confiscation of assets to be confiscated may be granted to prosecutors, investigative judges, or law enforcement agencies. In common law jurisdictions, orders to detain or seize assets generally require court permission, with some exceptions in cases of forfeiture.

3) *Third*—the Court Process, involves criminal confiscation or civil action; and will achieve recovery of assets through orders of confiscation, compensation, damages, or fines. Confiscation related to property is based on a value system as contaminated property so that assets can be confiscated because they are found to be the proceeds or tools of crime. This action requires a link between the asset and the offence (a requirement that is often difficult to prove when assets have been laundered, altered, or transferred to hide or disguise their illegal origin). Some jurisdictions use forfeiture techniques such as replacement asset provisions to help meet evidentiary standards.

4) *Fourth*, Enforcing Orders—When the court orders the detention, confiscation, or confiscation of assets, the steps that must be taken are to enforce the order. If the assets are located in a foreign jurisdiction, a Mutual Legal Assistance (MLA) request must be submitted. The order may then be enforced by authorities in the foreign jurisdiction through the mutual legal assistance process; And

5) *Fifth*, Return of Assets—The imposition of a confiscation order in the requested jurisdiction often results in the confiscated assets being transferred to the general treasury or confiscation fund in the requested jurisdiction (not immediately returned to the requesting jurisdiction). As a result, other mechanisms are needed to regulate the return of these assets. If UNCAC applies, the requested party will be obliged under article 57 to return seized assets to the requesting party in the event of embezzlement of public funds or laundering of such funds, or when the requesting party would have reasonably known of prior ownership. If UNCAC does not apply, the return or distribution of seized assets will depend on domestic law, other international conventions, MLA agreements, or special agreements (e.g., asset-sharing agreements). In all cases, the total recovery may be reduced to compensate the requested jurisdiction for its expenses in holding, maintaining the seized assets and other legal costs.

According to UNCAC (2023), practices related to asset recovery cases consist of three main stages as follows:

1) Identifying and tracing assets—Identifying assets is not as easy as tracing the flow of money originating from bribery, embezzlement or other diversion of public funds. It needs to be proven that the assets were obtained unlawfully. Tracing an asset means carrying out an investigation that traces the asset to obtain written traces and prove that the asset was obtained illegally. This requires resources, expertise and effective international cooperation. The Financial Action Task Force (FATF) recommends implementing a strong legal framework,

minimizing structural barriers through coordination, communication and resourcing, simplifying procedures and addressing cultural issues.

2) Freezing and confiscating assets—Freezing and confiscating the proceeds of corruption will stop the use of these assets for further criminal activities. The OECD defines confiscation as the permanent seizure of assets by order of a court or other competent authority. Confiscation can be carried out after a criminal decision by the court based on a non-conviction, or administratively. Non-punitive asset forfeiture is essential for dealing with cases where the offender has died, has fled the jurisdiction, is immune from investigation or prosecution, or is essentially too powerful to be prosecuted. However, not all countries have this law so there is no recourse when facing cases that cannot be prosecuted through criminal courts. Asset confiscation can be carried out in two ways: property-based confiscation, which requires identification of specific assets; or value-based, which is based on the monetary value of an asset that cannot be materially recovered because for example it has been removed or destroyed. The FATF provides useful guidance to countries on best practices in confiscation, including ensuring that countries have a legal framework to respond to requests to identify, freeze and seize property,

3) Recovering and returning assets—Once corrupt assets are identified and legally confiscated, they must be returned to their former legal owners (UNCAC, Article 57). Article 57 paragraphs 1 to 4 of UNCAC regulates the return and disposal of assets as follows: paragraph 1—Property confiscated by a State Party under article 31 or 55 of this Convention must be disposed of, including by returning it to its previous legal owner, by paragraph 3 this article, by that State Party based on the provisions of this Convention and its domestic Law; paragraph 2—Each State Party shall take such legislative and other measures, based on the fundamental principles of its domestic law, as may be necessary to enable its competent authorities to return confiscated property, when acting on a request made by another State Party, based on this convention., taking into account the rights of bonafide third parties; paragraph 3—Under articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall: a) In the event of embezzlement of public funds or money laundering. embezzlement of public funds as intended in articles 17 and 23 of this Convention, if the confiscation is carried out under article 55 and based on a final decision in the requesting State Party, a condition which may be waived by the requested State Party, returns the confiscated property to the requesting State Party; b) In the case of proceeds of crimes covered by this Convention when confiscation is carried out under article 55 of this Convention and based on a final decision in the requesting State Party, such requirements may be waived by the requesting State Party, return confiscated property to the requesting State Party when the requesting State Party reasonably proves prior ownership of the confiscated property to the requested State Party or when the requested State Party recognizes the loss suffered by the requesting State Party as a basis for re-

turn confiscated property; c) In all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its former legal owner or providing compensation to the victim of the crime; and paragraph 4—Where necessary, unless the Contracting States decide otherwise, the requested State Party may deduct reasonable costs incurred in investigations, prosecutions or judicial proceedings leading to the returnor release of property confiscated under this article; and paragraph 5 Where necessary, States Parties may also give special consideration to concluding mutually acceptable agreements or arrangements, on a case-by-case basis, for the final disposal of confiscated property.

4.3. Quality of Internal Control

Ejoh and Ejom (2014) state that internal control refers to the actions taken by an organization to ensure the achievement of the entity's goals, objectives and mission. It is a set of policies and procedures adopted by an entity to ensure that organizational transactions are processed appropriately to avoid waste, theft, and misuse of organizational resources (Ejoh & Ejom, 2014). Internal controls are the policies, structures, procedures, and processes that enable organizations to identify and respond appropriately to risks, both internal and external and strategic, operational, financial or compliance risks (OECD, 2023). According to Mwindi (2008) in Ejoh & Ejom (2014), Internal control is a process that is designed and implemented by those charged with governance, management and other personnel to provide reasonable assurance regarding the achievement of the entity's objectives concerning the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.

A similar view was also expressed by Otoo et al. (2023) who stated that an internal control system is very important for organizational efficiency and encourages compliance with norms and rules. In this context, the management of the Attorney General's Stolen Asset Recovery Agency in Indonesia should refer to the understanding and application of quality internal control as a modern organization. According to Devoteam (2023), modern organizations have characteristics, including the following: 1) Modern organizations are more dynamic, which allows for progress and change, especially the acceleration of the development of science and information technology (ICT). This has implications for efforts to build more effective teams, networks and collaboration to diversify activities where challenges can be accepted more easily; 2) Modern organizations are flexible, more flexible to change in every aspect of their work environment: from knowledge and skills to approaches and workflows; and 3) Modern organizations have risk management to mitigate all types of risks based on clear calculations and assessing risks from various dimensions. This is not only applied to a particular problem at a particular point in time that has occurred, but organizations also look at possible potential risks.

According to Hilgert (1964), the modern organizational concept goes beyond

traditional concepts of organizational forms such as line and staff, departmentalization, and managerial span of control, thereby viewing the modern organization as a multidimensional system consisting of interdependent but varied factors as follows: 1) Modern organizations include individuals and groups of individuals, their attitudes and motives; 2) Formal organizational structure and its modification through informal structure; interaction patterns that permeate all levels of the organization; and the effects of status, authority, and goals. These and other aspects of behaviour are influenced by and in turn, function to influence the organizational environment theoretically including all social, cultural, physical, technical, legal and economic factors related to the organizational environment; and 3) Modern organizational concepts are based on the overall concept. That is, it seeks to systematically describe how an organization operates, how it maintains its goals and direction, and how many complex functions must be brought together.

According to Monteiro et al. (2021) that in modern organizations, the decision-making process is managed as a system of rules to reduce risk in business management. The decision-making process, in environmental organizations, is characterized by logical thinking carried out by someone who has legitimate decision-making power who, through the help of experts, attempts to prepare, manage, implement and control a particular decision. Then, experts in Monteiro et al. (2021) stated that the contingency theory of modern organizations is that the success of an organization/company depends on a balance between context and organizational structure, and must be able to adapt to various economic, social and physical environments. Then, the definition of internal control is an integral process in the form of a series of actions that permeate an entity's activities carried out by the management and personnel of an entity and are designed to overcome risks and provide adequate confidence in achieving the entity's mission (Aware Public, 2021).

In this context, general matters that must be considered to achieve the mission objectives of the Stolen Asset Recovery Agency for Prosecutors in Indonesia are as follows: 1) Fulfill accountability obligations; 2) Comply with applicable laws and regulations; 3) Protect resources from loss, misuse and damage; and 4) Carry out operations in an orderly, ethical, economical, efficient and effective manner. Then, efforts to increase the role of the Prosecutor's Stolen Asset Recovery Agency in Indonesia are through rules and legislation as a juridical basis, quality of governance and quality of internal control. Furthermore, the key factor in increasing the role of the Prosecutor's Stolen Asset Recovery Agency in Indonesia as an opportunity and challenge is the quality of internal control. This aims to ensure that all policies consistently meet regulatory and statutory compliance (domestic legal aspects and international legal aspects through MLA are met), ensuring the implementation of the quality of oversight and the quality of internal control. The Quality of Internal Control aims to: 1) Minimize risks, and 2) Manage and protect stolen assets resulting from criminal acts of corruption as described in **Figure 3** as follows.

Figure 3. The Objectives of Quality of Internal Control is A Key Factor in Increasing the Role of the Prosecutor's Stolen Asset Recovery Agency in Indonesia.

Referring to **Figure 3**, by the objectives, the Quality of Internal Control is a key factor in increasing the role of the Prosecutor's Office for the Recovery of Stolen Assets in Indonesia as follows: first, the Quality of Internal Control aims to minimize risks (for example legal certainty, accuracy of records, effectiveness and efficiency operations, and risk mitigation); and second, Internal Control Quality aims to manage and protect stolen assets resulting from criminal acts of corruption in Indonesia to be returned to the country.

1) Internal Control Quality aims to Minimize Risk.

Minimizing the risks associated with Stolen Assets Recovery certainly has challenges and opportunities. For example: ensuring legal certainty, ensuring detailed records, operational efficiency and risk mitigation.

a) Ensure legal certainty

The importance of having an anti-money laundering regime in Indonesia as a national necessity is a follow-up to the results of the first review in 2001 by The Financial Action Task Force (FATF). The FATF is the global money laundering and terrorist financing watchdog. It sets international standards that aim to prevent illegal activities and the harm they cause to society (FATF, 2023). Efforts to provide the 40 FATF recommendations are a process of preparing a legal framework that is in line with domestic needs and international standards. However, the Indonesia Risk Assessment on Money Laundering (2021) states that UU No. 15/2002 is considered to still contain weaknesses, namely Law of the Republic of Indonesia Number 15 of 2002 has been amended by Law of the Republic of Indonesia Number 25 of 2003 concerning Amendments, regarding Law of the Republic of Indonesia Number 15 of 2002 concerning Money Laundering including several material weaknesses in Law Number 15 of 2002.

According to the Indonesia Risk Assessment on Money Laundering (2021), the existence of the Law of the Republic of Indonesia Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering (UU No. 8/2010) has strengthened the existence of the Financial Transaction Reports and Analysis Center (PPATK) as an independent institution that is free from interference and influence from any party. In this case, everyone is prohibited from interfering in implementing PPATK's duties and authority. In addition, PPATK is obliged to reject and/or ignore any interference from any party in the implementation of its duties and authority. PPATK is fully responsible to the President of the Republic of Indonesia. As a form of accountability, PPATK prepares and submits reports on the implementation of its duties, functions and

authority periodically every 6 (six) months to the President and the House of Representatives; Efforts to prevent and eradicate the crime of money laundering use a follow-money approach in preventing and eradicating criminal acts. This approach is carried out by involving various parties (known as the Anti-Money Laundering Regime) each of which has an important role and function, including the Reporting Party, the Self Regulatory Body, Law Enforcement Agencies, and other related parties.

Apart from that, to support the implementation of efforts to prevent and eradicate money laundering crimes in Indonesia, through Presidential Regulation of the Republic of Indonesia Number 117 of 2016 concerning Amendments to Presidential Regulation of the Republic of Indonesia Number 6 of 2012 concerning National Coordination. Committee for the Prevention and Eradication of Money Laundering, a Coordinating Committee (*Peraturan Presiden Republik Indonesia Nomor* 117 *Tahun* 2016 *tentang Perubahan Atas Peraturan Presiden Republik Indonesia Nomor* 6 *Tahun* 2012 *tentang Koordinasi Nasional. Komite Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang*,) has been formed. The National Money Laundering Committee is chaired by the Coordinating Minister for Political, Legal and Security Affairs with the Deputy Coordinating Minister for Economic Affairs and the Chair of the PPATK as secretary of the Money Laundering Committee. This committee is tasked with coordinating the prevention and eradication of money laundering crimes. The Anti-Money Laundering Approach is an approach that complements the conventional approach that has been used to eradicate crime.

This approach has several advantages and breakthroughs in uncovering criminal acts, pursuing the consequences of criminal acts, and proving them in court. PPATK and the Anti-Money Laundering Regime aim to maintain the stability and integrity of the financial system and assist law enforcement efforts to reduce the crime rate, which is a progressive and advanced government step in its anti-money laundering commitment in Indonesia. This is proven by the Decision of the Constitutional Court of the Republic of Indonesia Number 15/PUU-XIX/2021 concerning the results of the judicial review of Article 74 of Law of the Republic of Indonesia Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering (*Putusan Mahkamah Konstitusi Republik Indonesia Nomor* 15/*PUU-XIX*/2021 *tentang hasil uji materi Pasal* 74 *Undang-Undang Republik Indonesia Nomor* 8 *Tahun* 2010 *tentang Pencegahan dan Pemberantasan Penyakit. Tindak Pidana Pencucian Uang* or Money Laundering Law) which has provided legal certainty and provided the same understanding and commitment to enforcing anti-money laundering laws. Next, the definition of "Investigators' expressions for crime predicates" and "Indonesia's Risk Assessment of Money Laundering in 2021 in Article 74 of the Money Laundering Law" has provided a broad definition, which includes Civil Servant Investigators (*Penyidik Pegawai Negeri Sipil or* PPNS).

Therefore, this progressive decision of the Constitutional Court is significant,

especially in optimizing the recovery of assets resulting from criminal acts included in the scope of PPPNS duties, including 1) Crimes in the forestry sector; 2) Criminal acts in the environmental sector; and 3) Criminal acts in the maritime and fisheries sector, fisheries, as well as all other predicate crimes that are economically motivated. Thus, the Decision of the Constitutional Court of the Republic of Indonesia Number 15/PUU-XIX/2021 has consequences for the explanation of Article 74 of the Anti-Money Laundering Law which means that what is meant by a predicate criminal investigator is an official or body authorized by statutory regulations to carry out investigations.

b) Operational Effectiveness and Efficiency

Internal control is a check and balance that is the responsibility of management and is implemented by staff as part of daily activities as a framework for effective and efficient internal control and risk management. Internal controls help an organization comply with its mandate and relevant regulations, safeguard its assets, and facilitate internal and external reporting (OECD, 2023). According to the OECD (2023), Internal controls also help ensure greater accountability, better management and increased cost-effectiveness, because controls help organizations to run more smoothly, reduce costs, avoid waste, hold officials accountable for their actions, and report to the public and supervisory institutions regarding their performance and performance value for money achieved.

Operational Efficiency related to Stolen Assets Recovery has both challenges and opportunities. According to INTOSAI—The International Organization of Supreme Audit Institutions (2022), there are many stakeholders in the asset recovery process including: 1) Law enforcement, especially financial crime investigators who collect evidence and provide clues for investigations; 2) Prosecutors and other judicial officials who can confiscate assets and impose punishment; 3) Other government officials, namely those who coordinate with foreign authorities or impose fines on those who steal assets; 4) Banks that can freeze assets; 5) Private companies and their intermediaries, such as lawyers; and 6) Development agencies that provide technical assistance and training. Therefore, integrated coordination and cooperation is needed so that operational efficiency with various stakeholders in the asset recovery process can be carried out well.

Experts in the field of asset recovery have identified several key mechanisms for international cooperation in asset recovery. These include the following 1) Mutual Legal Assistance (MLA) Request: An MLA Agreement is an agreement between two or more countries to collect and exchange information to enforce public or criminal laws. MLA may be used in asset recovery cases to obtain financial records, testimony, or search and seizure warrants, or to enforce temporary restraining orders. Experts recommend that international cooperation begin with informal assistance and escalate to MLA if necessary; and 2) Informal assistance: Informal assistance is any formal support provided outside the scope of the MLA's request. This information may be used by comparable or comparable law enforcement agencies, financial intelligence units, or regulatory agencies to

obtain information to assist investigations and potential asset recovery. For example, with appropriate permission, a country can work through the Egmont Group, a network of international financial intelligence units. A country may also cooperate with one of the many international justice networks that cover various regions of the world and assist in training, capacity building, and information exchange. Then, in 2019, the StAR Initiative developed an asset recovery network directory to help parties involved in asset recovery facilitate cooperation (INTOSAI, 2022).

c) Ensuring Record Accuracy

According to experts in INTOSAI (2022), the assets stolen are money and other proceeds resulting from crimes that generate profits. Stolen public assets are money lost from a country due to government corruption (e.g. kleptocracy and the bribery and fraud that allow this to happen). Criminals often hide these proceeds in "haven" financial centers to avoid identification and confiscation. The social costs of corruption may far exceed the value of the assets stolen. The theft of public assets—especially in developing countries—diverts valuable resources from addressing problems such as poverty and fragile infrastructure. According to the World Bank in INTOSAI (2022), corruption weakens trust in public institutions, damages the private investment climate, and undermines mechanisms for implementing poverty alleviation programs such as public health and education. Additionally, corruption undermines the rule of law.

Therefore, ensuring the accuracy of records related to Stolen Assets Recovery certainly has challenges and opportunities. According to INTOSAI (2022), several steps that must be taken to ensure the accuracy of records related to Stolen Assets Recovery are as follows: 1) First step—Identify and secure assets. This step includes identifying and tracing the assets that need to be recovered, collecting the necessary evidence, taking appropriate steps to confiscate these assets, and freezing these assets so that they cannot be accessed or moved; 2) Step two—Confiscate assets. This step includes preparing a legal case for confiscation, obtaining appropriate legal decisions, and obtaining and executing law enforcement orders; and 3) Step three—Repatriating (or returning) the assets back to the country or government from which they were stolen (if possible). These steps include establishing jurisdiction over the recovered assets, negotiating the return of those assets, and obtaining the necessary court orders for the repatriation of those assets.

d) Risk Mitigation

In general, internal control is interpreted as a key element of the risk management framework which includes processes for assessing, mitigating and monitoring risks. According to the OECD (2023), developing a specific risk management framework for corruption and fraud risks is essential in raising awareness of these risks and in detecting and mitigating the various types of corruption that may occur in public institutions. These risks impact resource allocation and decision-making. This also affects the integrity of public policy and public trust in the government (OECD, 2023). According to experts in Hsiao et

al. (2013), the risk is defined as a state of uncertainty where possible outcomes can cause undesirable impacts, and risk can be categorized into two components as follows: 1) Uncertainty, where limited knowledge results in the inability to accurately or precisely understand the current state of the project or predict its outcome or future circumstances; and 2) Unintended impacts, where a result can have a negative impact that affects a project. These negative impacts can cause a waste of money, energy and time resulting in no results.

Therefore, organizations should be able to implement internal controls throughout the program cycle and as part of the overall governance structure and reporting system. According to the VComply Editorial Team (2023), risk mitigation is an internal control procedure that can be implemented to mitigate or reduce risks after they have been identified and assessed. For example, segregation of duties can help prevent fraud by limiting the ability of one person to initiate and approve transactions (VComply Editorial Team, 2023). Risk Mitigation related to Stolen Assets Recovery certainly has challenges and opportunities, namely political risk. According to DFAT Australia (N/D), asset recovery usually occurs in sensitive political environments so it is necessary to assess manage and mitigate these risks to build a clear picture of what can and cannot be done by emphasizing the aspect of political will as a priority main,

2) The Quality of Internal Control aims to Manage and Protect Stolen Assets Recovery in Indonesia.

According to the StAR Initiative: World Bank Group and UNODC (2017a), asset management is an important component of the asset recovery process which includes managing confiscated, frozen and confiscated assets in the country of confiscation as well as transparent, accountable and effective disbursement of funds at the time of return. Koontz and O'Donnell in Davey (1956) have implemented five divisions of management functions into: 1) Organization, 2) Staffing, 3) Direction, 4) Planning, and 5) Controlling. Management applications based on Good Corporate Governance (GCG), especially risk management related to the quality of internal control in managing and protecting stolen assets recovery in Indonesia, is an important agenda.

Therefore, the Prosecutor's Stolen Asset Recovery Agency of the Republic of Indonesia always ensures that GCG principles are applied in all operational aspects and at all levels in the work environment to achieve the continuity of its work existence while still paying attention to the interests of stakeholders. The application of the five GCG principles can be described as follows:

1) *Transparency*—The Stolen Asset Recovery Agency in Indonesia consistently provides clear, accurate, complete and timely information to shareholders and other stakeholders through financial reports, information and other relevant materials or disclosures. This can be accessed easily on the website of the Indonesian Attorney General's Stolen Asset Recovery Agency and is disclosed in regular reports.

2) *Accountability*—The management of the Stolen Asset Recovery Agency in Indonesia accepts its responsibility to shareholders and other stakeholders re-

garding the implementation of the organization's strategy and achievement of its objectives and is ready to be accountable for all its actions and decisions to the Supervisory Board of the Stolen Asset Recovery Agency in Indonesia and interested parties. The Supervisory Board of the Stolen Asset Recovery Agency for Prosecutors in Indonesia is responsible for the effective supervision of the Management of the Stolen Asset Recovery Agency for Prosecutors in Indonesia and its accountability to the State and other stakeholders.

3) *Responsibility*—The management of the Stolen Asset Recovery Agency in Indonesia complies with relevant laws and regulations and respects the rights of all stakeholders. The management of the Stolen Asset Recovery Agency in Indonesia also fulfil its responsibility to protect and improve the quality of internal control.

4) *Independence*—Management of the Stolen Asset Recovery Agency. The Prosecutor's Office in Indonesia manages its operations professionally, without any conflict of interest, influence or pressure from any party which is contrary to statutory regulations. This can be seen from the decision-making of the Stolen Asset Recovery Agency Management in Indonesia which is objective and free from interference from third parties.

5) *Fairness*—The Stolen Asset Recovery Agency in Indonesia treats all stakeholders fairly, and guarantee the rights of the state and other stakeholders, for example, access to information and so on.

Then, to manage risks and protect stolen assets recovery in Indonesia effectively and efficiently, good international practices are needed related to the quality of governance and the quality of internal control in managing and protecting stolen assets recovery. In this context, the Indonesian Prosecutor's Stolen Assets Recovery Agency is expected to become a professional organization and demonstrate commitment to integrity, especially for its leaders. The leaders at the Stolen Assets Recovery Agency for Prosecutors in Indonesia are senior public officials so they are expected to demonstrate the right attitude, namely referring to an attitude of integrity and awareness of quality control throughout all organizational entities. This is a very important component as indicated by the most senior executives in an organization (ACFE, 2006).

In this context, every public official at the Stolen Assets Recovery Agency in Indonesia has a role to create and maintain an internal control environment that is in line with the goals and values of the institution, including their adherence to integrity, especially being responsible for exemplifying ethical behaviour and creating an environment to demonstrate the entity's commitment to its policies in the form of ethical values in terms of managing and protecting stolen assets recovery in Indonesia effectively and efficiently, and monitoring the use of recovered assets (StAR Initiative: World Bank Group and UNODC, 2007b), namely implementing the principles management principles and refers to laws, administrative rules and procedural rules (INTOSAI, 2022).

According to INTOSAI (2022), laws, administrative rules and procedural rules

include the following: 1) Investigations, including methods for obtaining evidence, and tracing are required by the government to prove its case; 2) Restraint and confiscation of assets, including the period of restraint and confiscation and the ability to request a legally approved extension of time; 3) Confiscation, including the requirements for the factual and legal basis for ordering the confiscation, parties who have positions, interests of third parties, fugitive status, criminal proceedings, requirements for written reasons for making decisions containing factual and legal bases and others; and 4) International cooperation, including whether dual criminality is required in international cooperation and the extraterritorial impact of restraint and remedy orders (or final orders).

Based on various previous descriptions, it can be interpreted that the Stolen Assets Recovery Agency in Indonesia implements risk management, which is committed to identifying and managing risks that inevitably arise during its work operations by minimizing the potential negative impact on the achievement of strategic work goals, reputation, and sustainability of the Prosecutor's Stolen Asset Recovery Agency in Indonesia. The risk management approach of the Prosecutor's Stolen Asset Recovery Agency in Indonesia is carried out in an integrated and comprehensive manner led by the Risk Management Committee, Audit Committee, Internal Audit and External Auditor, who work together to identify, evaluate and mitigate risks by reviewing risk parameters in various fields, especially critical systems, areas affecting costs and/or profitability, fraud, and abuse of authority.

Thus, the management framework of the Prosecutor's Stolen Asset Recovery Agency in Indonesia includes objectives, strategy, governance, organization, methodology, and monitoring and risk management reporting processes. This allows the Prosecutor's Stolen Asset Recovery Agency in Indonesia to proactively identify and address risks in strategic areas in every part of the organization as a consistent application of GCG-based management functions and risk management, namely always trying to encourage and involve all employees, business partners and other stakeholders. Therefore, the Prosecutor's Stolen Asset Recovery Agency in Indonesia is expected to consistently and continuously make efforts to identify, monitor and manage risks as well as develop a road map for implementing risk management processes such as developing risk treatment matrices, risk tolerance and risk control by referring to best practices in risk mitigation throughout the organization through several functions in the areas of loss prevention, security and safety to manage and protect Stolen Assets Recovery.

5. Conclusion

The Prosecutor's Stolen Asset Recovery Agency of the Republic of Indonesia should be a role model for others in implementing the quality of good governance and the quality of internal control, including the existence of an independent supervisor as part of the internal control system. The agency's independent supervisor is responsible to the attorney general and assists the attorney general in carrying out oversight of this agency as the attorney general's work tool. By

implementing a good internal control system, this agency will avoid new corrupt behaviour. It is important to implement an optimal internal control system considering that this agency manages high-value assets so there is a high risk of irregularities. The implementation of an internal control system within the Stolen Assets Prosecutor's Office in Indonesia is risk mitigation for the risk of management irregularities.

By mitigating this risk, the assets being managed will remain worth their fair value and can be handed over to the state or victims or those entitled to them. This is very important because taking over assets should not involve obtaining assets whose value does not match their proper value due to fraud or technical ability to assess assets. The presence of an independent supervisor will strengthen technical professionalism in this agency's work processes. Apart from that, it also reduces the workload of the Attorney General as the head of the prosecutor's office in supervising this agency. The independent supervisory configuration should represent not only expertise in the field of internal control systems but also in the field of asset tracking and governance. Furthermore, another benefit from the Stolen Asset Recovery Agency of the Republic of Indonesia Prosecutor's Office for State-Owned Enterprises (*Badan Usaha Milik Negara* or BUMN) will be economic benefits, namely the return of assets corrupted by perpetrators to BUMN's that have experienced financial losses due to corruption.

Thus, this benefit is very possible because of the provisions of article 30 A of Law Number 11 of 2021 Amendment to UU No 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia (UU No. 11/2021) which reads as follows: "*In asset recovery*, *The prosecutor's office has the authority to carry out tracing activities*, *confiscate and return assets obtained from criminal acts and other assets to the state*, *victims or those entitled to them*." Article 30 A of UU No. 11/2021 can be interpreted as an effort to further optimize the performance of the prosecutor's office in enforcing the current law, so changes were made to UU No. 16 of 2004 to expand the duties and authority of the Prosecutor's Office of the Republic of Indonesia as stated in the UU No. 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. Therefore, Article 30 A of UU No. 11/2021 gives the prosecutor the authority to return assets obtained from corruption cases which have permanent legal force.

Furthermore, efforts that the government can make regarding the legal system to eradicate corruption in Indonesia include synchronizing laws and regulations or structuring regulations, developing human resources for Law Enforcement Officers (LEO), and digitalization in the government sector as follows: 1) Synchronization, statutory or structuring regulations. Currently, there are a lot of overlapping regulations in Indonesia regarding the legal system for eradicating corruption in Indonesia. Therefore, it needs to be regulated in one regulatory framework, namely the Omnibus Law as a regulatory framework to regulate

many things in one container. The Omnibus Law method or system is one of the government's ways of organizing regulations or synchronizing various existing laws and regulations in Indonesia; 2) Continuously develop human resources for law enforcement officers (LEO). Human resource development is carried out so that Indonesian people can work efficiently and effectively, and can master information and communication technology; 3) Digitization related to case handling can be analyzed by LEO so that transparency and an open dashboard for the general public can be achieved. It is hoped that these three things can improve bureaucracy to eradicate corruption in Indonesia by optimizing the implementation of Presidential Regulation Number 95 of 2018 concerning Electronic-Based Government Systems.

Acknowledgements

Thank you to Pancasila University for giving me the opportunity to carry out the Tri Dharma of Higher Education so that I can complete this research. And lastly, thank you to my colleagues in the Faculty of Law, Universitas Pancaila, Jakarta who have always provided constructive support.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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Appendix

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

Undang-Undang Republik IndonesiaNomor 10 Tahun 1998 tentang Perbankan.

Undang-Undang Republik Indonesia Nomor 37 Tahun 1999 tentang Hubungan Luar Negeri.

Undang-Undang Republik IndonesiaNomor 24 Tahun 2000 tentang Perjanjian Internasional.

Undang-Undang Republik Indonesia Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi sebagaimana telah diubah dengan Undang-Undang Republik Indonesia Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi.

Undang-Undang Republik Indonesia Nomor 15 Tahun 2002 dinilai masih terdapat kelemahan antara lain sebagai berikut: Undang-UndangRepublik Indonesia Nomor 15 Tahun 2002 telah diubah dengan Undang-Undang Republik Indonesia Nomor 25 Tahun 2003 tentang Perubahan Atas Undang-Undang Republik Indonesia Nomor 15 Tahun 2002 tentang Pencucian Uang.

Undang-Undang Republik IndonesiaNomor 30 Tahun 2002 tentang Komisi Pemberantasan Korupsi.

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Putusan Mahkamah Konstitusi Republik Indonesia Nomor 15/PUU-XIX/2021 tentang hasil uji materi Pasal 74 Undang-Undang Republik Indonesia Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang.

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