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A Double-Edged Sword? Legal Certainty and the Perils of Authority in Indonesia's Draft Asset Deprivation Act

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Abstract

The urgency of enacting the Draft Asset Deprivation Act in Indonesia stems from the need to recover assets linked to criminal activities, even in the absence of a conviction. This approach is seen as a preventive measure to safeguard illicitly acquired assets; however, its implementation raises serious legal concerns. The potential violation of property rights—recognized as fundamental human rights—poses risks to justice and legal certainty. The lack of clear procedural safeguards could lead to authority abuse, arbitrary asset seizures, and disproportionate impacts on individuals. This study identifies critical inconsistencies within the draft law. First, the phrase "*asset deprivation is only carried out once*" in the explanation of Article 3 contradicts Article 5(1)(c), which allows additional asset deprivation if previously seized assets are insufficient. This antinomy undermines legal certainty and fairness. Second, Article 56 permits the auctioning of assets before a final court decision without

specifying clear conditions for its application. The absence of rigid legal criteria opens avenues for abuse of authority, further exacerbating risks of injustice. The novelty of this research lies in its critical legal analysis of these contradictions and their implications for property rights and procedural fairness. This research contributes to the global discourse on asset deprivation laws by critically examining the tension between crime prevention and fundamental human rights. The study highlights how ambiguities in legal drafting and the absence of clear procedural safeguards can lead to authority abuse, a challenge faced by many jurisdictions implementing non-conviction-based asset forfeiture (NCB) frameworks. By comparing Indonesia's Draft Asset Deprivation Act with international best practices, this research offers valuable insights into the legal balance between state power and individual rights, which is crucial in developing laws that do not unduly compromise fundamental freedoms.

KEYWORDS *Legal Certainty, Abuse of Authority, Asset Deprivation*

I. Introduction

Currently, asset deprivation provisions in Indonesia are limited to a few specific criminal acts, such as corruption and money laundering. The implementation of asset deprivation in these cases relies on penal measures, which are often time-consuming and complex. To address these limitations, alternative approaches are needed that can effectively facilitate the seizure of criminal assets.[1] This is particularly important because assets derived from or involved in criminal activities are not confined to corruption and money laundering alone; they encompass a wide range of crimes that are both diverse and complex.

[1] Vivi Arfiani Siregar and Feni Puspitasari, "Alternative Return For State Losses In Crime Cases," *International Journal of Multidisciplinary Research and Literature* 2, no. 4 (2023): 481–491, https://doi.org/https://doi.org/10.53067/ijomral.v2i4.137.

Money laundering is a follow-up crime of a predicate crime. Article 2 paragraph (1) of Act Number of 2010 concerning the prevention and eradication of money laundering crime (hereinafter referred to Act Number 8 of 2010) places corruption as a predicate crime with the first order after other types of predicate crime. The placement of corruption as the first order certainly means preference in its eradication. This is reasonable, because corruption is the predicate crime of money laundering that most often occurs in Indonesia.[2] The rise of corruption in Indonesia is inseparable from the family culture that is deeply embedded in Indonesian society, resulting in corrupt cultural behavior that is difficult to eliminate.[3]

Money laundering is the process of concealing the origins of assets obtained through illegal activities, making them appear as if they come from legitimate sources. In essence, it involves transforming 'dirty money'—funds derived from criminal activities—into assets that are perceived as legally acquired, thus allowing individuals to present their wealth as legitimate.[4]

Article 2 of Act Number 8 of 2010 provides certain criteria for what constitutes money laundering. The provision of these criteria is intended to reach money launderers who operate with sophisticated modes and

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[2] Johari and Teuku Yudi Afrizal, "The Criminal Acts of Corruption as Extraordinary Crimes in Indonesia," *International Journal of Law, Social Science and Humanities (IJLSH)* 1, no. 1 (2024): 17–27, https://doi.org/https://doi.org/10.70193/ijlsh.v1i1.141.

[3] Asep Bambang Hermanto and Bambang Slamet Riyadi, "Constitutional Law on The Discretionary of Prosecutor's Power Against Abuse of Power Implications of Corruption Culture in The Prosecutor's Office Republic of Indonesia," *International Journal of Criminology and Sociology* 9 (2020): 763-772, https://doi.org/https://doi.org/10.6000/1929-4409.2020.09.71.

[4] Mahrus Ali et al, "Corruption, Asset Origin and the Criminal Case of Money Laundering in Indonesian Law," *Journal of Money Laundering Control* 25, no. 2 (2022): 455–466, https://doi.org/DOI 10.1108/JMLC-03-2021-0022.

reach those who avoid law enforcement. Usually the method used by the perpetrator in circumventing law enforcement is by storing or hiding the proceeds of crime in his own corporation and/or owned by other people, immediate family, and/or people trusted by the perpetrator. Therefore, to reach various methods or modes of money laundering and the role of corporations, Act Number 8 of 2010 expands the subject of money laundering criminal acts that can be subject to criminal sanctions, namely corporations and/or controlling personnel of corporations.[5]

Corruption and money laundering are characterised as transnational crimes. This is because these crimes are committed across national borders or the proceeds of these crimes are located outside the territory of Indonesia, which makes it difficult to eradicate them. These crimes are usually committed by large business networks. In the case of large-scale corruption and followed by money laundering carried out transnationally, it ultimately has implications for poverty which is very sad.[6] So it is very reasonable if the international community recognises it as an international crime which is essentially an "the enemies of humanity" or "*hostis humanis generis*".[7]

In Indonesia, the proceeds of money laundering can be seized using the legal instruments of Article 7 paragraph (2), Article 9 paragraph (1) and Article 79 paragraph (4) of the Act Number 8 of 2010. Meanwhile,

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[5] Boy Nurdin and Dwi Asmoro, "Imposition of Criminal Sanctions on Corporations and/or Corporate Control Personnel Who Commit Money Laundering Crimes," *Journal of Indonesian Social Science* 5, no. 1 (2024): 27–34, https://doi.org/https://doi.org/10.59141/jiss.v5i1.938.

[6] Gbenga Oduntan, "International Moral Legalism and the Competence over Prosecution of Corruption Crimes," *African Journal of Law and Criminology* 1, no. 1 (2011): 78–99, https://doi.org/https://kar.kent.ac.uk/28637/.

[7] Edi Setiadi and Dian Andriasari, "The Correlation and Cohesion of Criminal Act of Money Laundering (TPPU) and Criminal Act of Human Trafficking (TPPO) Perceived from the Perspective of Criminal Law Reform in Indonesia," in *Proceedings of the 2nd Social and Humaniora Research Symposium*, ed. Atie Rachmiatie et al (Amsterdam: Atlantis Press, 2020), 553-556, https://doi.org/10.2991/assehr.k.200225.120.

for the proceeds of corruption, asset deprivation can be carried out using the legal instruments of Article 38 paragraph (5) and (6) of the Act Number 31 of 1999 junto Article 38B paragraph (2) of the Act Number 20 of 2001 concerning the amendment to Act Number 31 of 1999 concerning the Eradication of Corruption Crime. The concept of deprivation asset in the legal instruments in question is an in-person process attached to the perpetrators of criminal offences.[8] In that sense, the deprivation of the object of criminal offence and the process of imposing criminal sanctions on the subject of criminal offence are carried out in the same process and cannot be separated.

The legal instrument of deprivation asset in Indonesia has not yet reached several problems, such as for example the suspect has the status of a wanted list, the suspect or defendant suddenly becomes insane, there is no heir or the heir's whereabouts are unknown to be sued in civil law. While on the other hand there have been state losses that have not been recovered when faced with various these kinds of problems. On this basis, the Indonesian legal system has weaknesses and at the same time a statute vacuum that specifically regulates deprivation asset.[9]

The Act of eradicating corruption crime was formed for the advancement of the country's economy and cannot be separated from the development of international regulations. The United Nations Convention Against Corruption (UNCAC) is a global legal instrument in fighting corruption, which has become a common enemy of various countries in the world, including Indonesia. Indonesia is a state party to the convention and has ratified it with Act Number 7 of 2006. In the general explanation of Act Number 7 of 2006, efficient and effective

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[8] Achmad Taufan Soedirjo et al, "Reform of Corruption Criminal Law: A Study of Corruptor Asset Application Law in Indonesia," *Journal of Social Research* 2, no. 9 (2023): 2942–2954, https://doi.org/10.55324/josr.v2i9.1346.

[9] Imelda F.K. Bureni, "Kekosongan Hukum Perampasan Aset Tanpa Pemidanaan Dalam Undang-Undang Tindak Pidana Korupsi," *Masalah-Masalah Hukum* 45, no. 4 (2016): 292-298, https://doi.org/10.14710/mmh.45.4.2016.292-298.

prevention and eradication of corruption is by returning assets derived from corruption. This is also emphasized in Article 53 of UNCAC which requires each state party to provide legal instruments for other countries to file civil suits in local courts and establish ownership of property obtained from corruption. However, until now Indonesia has not provided a specific legal instrument for asset deprivation that is sufficiently effective.[10]

Recently, there has been a discourse on the inclusion of the Draft Act on Asset Deprivation in Indonesia into the National Legislation Program. The Draft Act on Asset Deprivation, included in the National Legislation Programs for 2009-2014 and 2014-2019, aims to address juridical challenges associated with the recovery of criminal assets. This Draft Act proposes measures for asset deprivation independent of criminal charges, thereby accelerating the process of confiscating assets from offenders.[11] While the concept of asset deprivation without a criminal conviction originates from common law systems, it is applicable and adaptable to civil law systems, such as Indonesia's. Article 54, paragraph (1), letter c of the 2003 UNCAC supports this concept by encouraging participating countries—regardless of their legal traditions—to implement asset deprivation mechanisms without requiring criminal conviction.[12]

Existence concept of asset deprivation without being followed by punishment in UNCAC, states parties are required to maximise all efforts to deprivation assets resulting from criminal acts without going through the prosecution process. Although Indonesia is a state party to UNCAC,

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[10] Ridwan Arifin et al, "Collaborative Efforts in ASEAN for Global Asset Recovery Frameworks to Combat Corruption in the Digital Era," *Legality : Jurnal Ilmiah Hukum* 31, no. 2 (2023): 329-343, https://doi.org/https://doi.org/10.22219/ljih.v31i2.29381.

[11] Marfuatul Latifah, "Urgensi Pembentukan Undang-Undang Perampasan Aset Hasil Tindak Pidana Di Indonesia," *Negara Hukum* 6, no. 1 (2015): 17–30, https://doi.org/https://doi.org/10.22212/jnh.v6i1.244.

[12] Imelda F.K. Bureni, "Kekosongan Hukum Perampasan Aset Tanpa Pemidanaan Dalam Undang-Undang Tindak Pidana Korupsi."

asset deprivation in Indonesia is only for certain criminal act, such as money laundering, narcotics crimes and corruption. This scope is considered less effective and optimal in saving state losses or assets related to criminal act,[13] because asset deprivation cannot be separated from criminal act for interests the judicial process.[14] Thus, Indonesia does not yet have a legal instrument that covers asset deprivation of *instrumenta delictie* and *corpora delictie* in all types of crimes on a Non Conviction Based (NCB) basis.

On May 11, 2023, Commission III of the House of Representatives of the Republic of Indonesia is set to discuss the Draft Act on Asset Deprivation. This draft has been in development since 2008, when it was initially proposed by PPATK. In 2022, it was prioritized for inclusion in the National Legislation Program for 2023. According to Arsul Sani, a member of Commission III, he has consistently supported discussions on the Draft Act but emphasizes the need for caution and thorough deliberation to ensure legal certainty. He highlights the importance of incorporating input and suggestions from various stakeholders.[15] Additionally, Mudzakkir stresses that the Draft Act should be developed proportionally while upholding the principles of justice.[16]

Because moral considerations, state can limit the will of a person who is very personal.[17] For example, in the arrangement Draft Act asset

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[13] Yunus Husein, "Penjelasan Hukum Tentang Perampasan Aset Tanpa Pemidanaan Dalam Perkara Tindak Pidana Korupsi" (Jakarta, 2019).

[14] Andrie Wahyu Setiawan et al, "Problematics of Execution of Assets of Convictions in Efforts Recovery of State Losses," *Scholars International Journal of Law, Crime and Justice* 7, no. 2 (2024): 91–96, https://doi.org/10.36348/sijlcj.2024.v07i02.005.

[15] Dewan Perwakilan Rakyat Republik Indonesia, "DPR Akan Bahas RUU Perampasan Aset Usai Masa Reses," 11 Mei, 2023, https://www.dpr.go.id/berita/detail/id/44464/t/DPR Akan Bahas RUU Perampasan Aset Usai Masa Reses.

[16] Marfuatul Latifah, "Urgensi Pembentukan Undang-Undang Perampasan Aset Hasil Tindak Pidana Di Indonesia."

[17] Peter Mahmud Marzuki, *Pengantar Ilmu Hukum* (Jakarta: Kencana, 2015).

deprivation, a person whose assets are not in balance with income or sources of addition to his wealth and cannot be legally proven to have acquired his assets, these assets can be deprivation by the state.[18] It is undeniable that spirit that inspires this arrangement is principle crime does not pay, which means that no one is allowed to benefit from costs incurred by others without restitution with a fair value in proportion to wealth, services, or profits paid has been obtaine.[19] In other words, everyone is not allowed to enjoy the benefits or wealth derived from crime.

In principle, act contains restrictions on basic rights, but on the other hand, act must also provide legal protection for the rights subject to these restrictions. Even if interests the nation and wider community are threatened, the state can regulate a person's private rights.[20] Draft Act Asset Deprivation is included in classification public law, this is due two reasons. First, those who maintain public law are the ruler, in this investigators and state solicitors who have authority to carry out forced measures such as deprivation and request for asset deprivation to the court. Second, relationship regulated in Draft Act Asset Deprivation is a social relationship, namely a relationship within framework maintaining community welfare.[21] Therefore, the arrangement for asset deprivation must be arranged in harmony and balance between interests the state and an individual person, so that it becomes a beautiful unit, with strict and

[18] *See* Article 5 paragraph (2) letter a the Draft Act concerning Asset Deprivation Related to Criminal Act.

[19] Badan Pembinaan Hukum Nasional, *Hasil Penyelarasan Naskah Akademik Rancangan Undang-Undang Tentang Perampasan Aset Terkait Dengan Tindak Pidana* (Jakarta, 2022).

[20] Teuku Isra Muntahar et al, "Perampasan Aset Korupsi Tanpa Pemidanaan Dalam Perspektif Hak Asasi Manusia," *Iuris Studia: Jurnal Kajian Hukum* 2, no. 1 (2021): 49–63, https://doi.org/https://doi.org/10.55357/is.v2i1.77.

[21] Maintaining community's welfare as meant is coherent with considerations in alphabet b of draft act asset deprivation related to criminal. In Peter Mahmud Marzuki, *Pengantar Ilmu Hukum.*

clear limits on authority, and respect for human rights as a consequence adopting Indonesia as a rule of law.

However, after the author has traced several provisions in the Draft Act Asset Deprivation, there are still several juridical problems. The first problem is that the explanation of Article 3 of the draft Asset Deprivation Act stipulates that 'asset deprivation is only carried out once'. However, Article 5 paragraph (1) letter c of the Draft Act Asset Deprivation allows the Prosecutor to seek additional asset deprivation if the assets that have been confiscated turn out to be insufficient or do not match the amount of loss suffered. Therefore, these 2 (two) provisions create legal antinomy (*conflict normen*) and create legal uncertainty.

The second problem is that Article 56 of the Draft Act Asset Deprivation does not specify the conditions under which an investigator or state solicitor can request the Prosecutor General to auction assets prior to a final court decision. Potentially, it is possible that assets that have been auctioned before a final court decision can be proven by the owner that the assets were not derived from a criminal act or related to a criminal act. The absence of clear criteria regarding when investigators or state solicitors can request the sale of assets to the Prosecutor General through an auction mechanism before a court decision that is legally binding creates a legal vacuum (*nulle normen*) and at the same time opens up opportunities for abuse of authority by investigators, state solicitors and the Prosecutor General.

There are five previous studies on asset deprivation in the Indonesian context that have relevance to this research. First, Arizon Mega Jaya[22] highlighted asset deprivation using criminal law instruments (*in personam forfeiture*) and civil lawsuits (*in rem forfeiture*), but within the

[22] Arizon Mega Jaya, "Implementasi Perampasan Harta Kekayaan Pelaku Tindak Pidana Korupsi," *Cepalo* 1, no. 1 (2017): 21–30, https://doi.org/https://doi.org/10.25041/cepalo.v1no1.1752.

scope of corruption offences. Second, Agus Pranoto[23] highlighted the weakness of asset deprivation for corruption, which is only an additional criminal sanction and is not mandatory. Third, Refki Saputra[24] highlighted the importance of proving assets obtained from crime, not proving a person's guilt. Fourth, Oly Viana Agustine[25] highlighted corruption asset deprivation without punishment of the perpetrator as an opportunity and the absence of political will of the Indonesian House of Representatives to ratify the Draft Act Asset Deprivation as a challenge. Fifth, Irwan Hafid[26] highlighted asset deprivation within the framework of economic analysis of law theory which is believed to bring effectiveness and efficiency in recovering state financial losses.

This research is different from previous studies that specifically discuss asset deprivation in corruption crimes and effectiveness issues that essentially only highlight factors outside the law. This research specifically discusses the intrinsic values in the concept of asset deprivation that will be applied in the future, which not only applies to corruption assets, but asset deprivation that applies to all types of crimes. This research provides recommendations for the formulation of a good the Draft Act Asset Deprivation to prevent antinomy between one provision and another and

[23] Agus Pranoto et al, "Kajian Yuridis Mengenai Perampasan Aset Korupsi Dalam Upaya Pemberantasan Tindak Pidana Korupsi Menurut Hukum Pidana Indonesia," *Legalitas: Jurnal Hukum* 10, no. 1 (2018): 91–121, https://doi.org/http://dx.doi.org/10.33087/legalitas.v10i1.158.

[24] Refki Saputra, "Tantangan Penerapan Perampasan Aset Tanpa Tuntutan Pidana (Non-Conviction Based Asset Forfeiture) Dalam RUU Perampasan Aset Di Indonesia," *Integritas: Jurnal Antikorupsi* 3, no. 1 (2017): 115–130, https://doi.org/https://doi.org/10.32697/integritas.v3i1.158.

[25] Oly Viana Agustine, "RUU Perampasan Aset Sebagai Peluang Dan Tantangan Dalam Pemberantasan Korupsi Di Indonesia," *Hukum Pidana Dan Pembangunan Hukum* 1, no. 2 (2019): 1–6, https://doi.org/https://doi.org/10.25105/hpph.v1i2.5546.

[26] Irwan Hafid, "Perampasan Aset Tanpa Pemidanaan Dalam Perspektif Economic Analysis of Law," *Lex Renaissance* 6, no. 1 (2021): 465–480, https://doi.org/https://doi.org/10.20885/JLR.vol6.iss3.art3.

limit the authority of administrative power rigidly to prevent abuse of authority when state power will deprive someone of their assets. The recommendations in this study are intended to maintain a balance between the legitimacy of the state in taking over one's property rights and one's property rights as human rights in order to achieve fair legal certainty. Based on this description, this research includes the formulation of the problem: 1. Legal Certainty of Deprivation of Substitute Assets in Draft Act Asset Deprivation; 2. Potential for Abuse Authority in Asset Deprivation Prior to a Court Decision.

This research is a legal research that seeks the coherence to various legal principles,[27] namely whether there is coherence between the provision of 'asset deprivation is only carried out once' in the Draft Act Asset Deprivation with legal principles, especially the principle of good statute formation. Whether there is coherence between the provision of asset deprivation before a court decision that has permanent legal force in the Draft Act Asset Deprivation with legal principles, especially the principle of the use of authority. The approach used in this research is statute and conceptual approach.

This legal research material consists of primary and secondary legal materials. Primary legal materials are binding legal materials,[28] namely in the form of statutes related to the formation of the Draft Act Asset Deprivation and Academic Manuscripts of the Draft Act Asset Deprivation related to criminal acts which are useful for knowing the *ratio legis*[29] or reasons for the formation of norms in the Draft Act Asset Deprivation as referred to in the research legal issues. The purpose of using

[27] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2005).

[28] Agus Budianto, "Legal Research Methodology Reposition in Research on Social Science," *International Journal of Criminology and Sociology* 9 (2020): 1339–1346, https://doi.org/10.6000/1929-4409.2020.09.154.

[29] *Ratio legis* can be interpreted as the thinking behind the Act. The background of the thought is the ontological aspect of the birth of the Act found in the Academic Manuscript. In Peter Mahmud Marzuki, *Teori Hukum* (Jakarta: Kencana, 2020).

primary legal materials is to identify legal materials that are authorities in answering research legal issues. Meanwhile, secondary legal materials are legal materials that provide explanations of primary legal materials, such as Draft Act.[30] Secondary sources are expert analyses, references to primary law such as statutes, regulations, and will also include such other resources as governmental reports.[31] Secondary source material is usually also defined negatively as everything which is not 'primary authority'.[32] Secondary legal materials are limited to additional legal materials, which are no less important than primary legal materials.[33] The purpose of using secondary legal materials is to assist in identifying legal doctrines that are relevant in solving research issues.

All primary and secondary legal materials were obtained through library research, then the legal materials were analysed normatively prescriptively. Normative is an adjective and its root word is norm. *Norma* in Latin is called acts standard, not rule acts. Normative refers to the notion of norms, not rules made by authorities. It is on this basis that there is the term "normative".[34] While prescriptive means what is required or not required. Normative prescriptive analysis is a necessity in legal research. Because the nature and characteristics of *sui generis* Jurisprudence require that every legal research provide normative prescriptions in guiding the formation of a legal product in accordance with doctrine, not located

[30] Agus Budianto, "Legal Research Methodology Reposition in Research on Social Science."

[31] Susan Drisko Zago, "Secondary Sources: Top Ten," *Legal Information Alert* 24, no. 3 (2005): 4–6, https://doi.org/https://scholars.unh.edu/law_facpub/54/.

[32] Neil N. Bernstein, "The Supreme Court and Secondary Source Material: 1965 Term," *Georgetown Law Journal* 57, no. 1 (1968): 55-80, https://doi.org/https://heinonline.org/HOL/Print?collection=journals&handle=hein.journals/glj57&id=71.

[33] Joyce Manna Janto and Lucinda D. Harrison-Cox, "Teaching Legal Research: Past and Present," *Law Library Journal* 84, no. 2 (1992): 281–298, https://doi.org/https://heinonline.org/HOL/Print?collection=journals&handle=hein.journals/llj84&id=291.

[34] Peter Mahmud Marzuki, *Teori Hukum*.

in the aspect of effectiveness.[35] Therefore, it is literally normative prescriptive in the context of this research 'providing acts standard that should or should not be' in the Draft Act Asset Deprivation.

II. Legal Certainty of Deprivation Substitute Assets in Draft Act Asset Deprivation

Legal certainty is often misunderstood as an end in itself; however, it is fundamentally a means to achieve justice.[36] Legal certainty should not only encompass clear and precise legal provisions but also ensure protection against arbitrary actions by the government. It establishes a framework where individuals are aware of their rights and the limits of governmental authority.[37] In the context of asset deprivation, legal certainty is crucial to prevent arbitrary treatment by law enforcement and ensure that actions are based on fair and predictable legal standards. Therefore, 'fair legal certainty' should be understood as the assurance that legal rules are applied consistently and justly, safeguarding individuals from misuse of power and ensuring equitable enforcement of the law.

In the In the Continental European system as adopted by the legal system in Indonesia, written legal rules such as the Act are used for operational purposes in the aspect of applying the law.[38] The Act is positioned as a primary source of formal law and is used as the first reference in applying the law.[39] Thus, the formal logic of a judge when applying the law always stems from 'based on rules' by positioning the Act in its first premise. The use of a formal logic model that positions the Act

[35] Tunggul Ansari Setia Negara, "Normative Legal Research In Indonesia: Its Origins And Approaches," *Audito Comparative Law Journal* 4, no. 1 (2023): 1–9, https://doi.org/https://doi.org/10.22219/aclj.v4i1.24855.
[36] Marzuki, *Teori Hukum*.
[37] Marzuki, *Pengantar Ilmu Hukum*.
[38] Peter Mahmud Marzuki.
[39] Peter Mahmud Marzuki.

as the first premise is a consequence of the principle of supremacy of legislative power in Indonesia.[40]

The application of law using formal logic certainly also requires semantic clarity so that it is not problematic in its application. Semantic clarity in the application of law by Judges requires clarity of the literal meaning of words or terms that are useful in explaining the understanding of the provisions of the Act and the reasons that lead to the need for interpretation of the Act.[41] Therefore, the principle of clarity of formulation of words or terms and clear and understandable legal language are mandatory guidelines in the formation of a good Act in Indonesia.[42]

Principle of clarity of the formulation of the Act if it is related to the formulation of the Draft Act on Asset Deprivation, Article 3 paragraph (2) the Draft Act Asset Deprivation stipulates that if a prosecution is carried out against the perpetrators crime, criminal assets that have been confiscated by the state cannot be confiscated again. Explanation Article 3 paragraph (2) draft act asset deprivation explains as "*Provisions in this Article mean that asset deprivation is only carried out once*".[43]

However juridical problem, Article 5 paragraph (1) alphabet c regulates scope action deprivation asset a crime where it is possible for asset deprivation to be carried out more than once, which in more detail regulates as follows:

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[40] Philiphus M. Hadjon dan Tatiek Sri Djatmiati, *Argumentasi Hukum* (Yogyakarta: Gadjah Mada University Press, 2005).

[41] Izabela Skoczen, "Minimal Semantics and Legal Interpretation," *International Journal for the Semiotics of Law* 29 (2016): 615–633, https://doi.org/10.1007/s11196-015-9448-3.

[42] What is meant by clarity of formulation is that it must meet the technical requirements for preparation statute, systematics, choice words or terms, as well as legal language that is clear and easy to understand so as not to give rise to various kinds interpretations in its implementation. See the explanation of Article 5 letter f the Act Number 12 of 2011 concerning the Formation of Statute as amended by Act Number 13 of 2022.

[43] Article 3 paragraph (2) following the explanation of the Draft Act concerning Asset Deprivation Related to Criminal Act.

(1) Assets that can be deprivation under this act include:

a. …

b. …

c. Other assets that are legitimately owned by perpetrators crime as a substitute for assets that have been declared confiscated by the state.

Article Explanation:

What is meant by "other assets legally belonging to perpetrator a crime as a substitute for assets" in this provision is a replacement for assets if calculations carried out by state solicitor turn out to be less or not in accordance with amount losses suffered.[44]

With arrangement Article 5 paragraph (1) alphabet c in Draft Act Asset Deprivation it is as if there is an antinomy with Article 3 paragraph (1) Draft Act Asset Deprivation, Article 3 paragraph (1) declare that in principle asset deprivation can only be done once, but on the other hand based on Article 5 paragraph (1) alphabet c it is possible to deprivation a replacement asset which is also equivalent to asset deprivation more than once, if based on calculations carried out by state solicitor it turns out that value asset does not correspond to loss suffered victim or state, so that this arrangement creates legal uncertainty because there is ambiguity in meaning and opens up opportunities for state to enforce the law arbitrarily against individuals.

A review of juridical background behind provisions Article 3 paragraph (2) Draft Act Asset Deprivation in Academic Manuscripts of Draft Act, it turns out that what is meant asset deprivation which can only be carried out once means that the state solicitor cannot apply for deprivation same assets if the same assets have been deprivation through a

[44] Article 5 paragraph (1) letter c following the explanation of the Draft Act concerning Asset Deprivation Related to Criminal Act.

prosecution mechanism or criminal law.[45] Because of that, how important it is to compile a Draft Act based on Academic Manuscripts prepared by the jurist. Because the ontological basis and *ratio legis* an act are contained in Academic Manuscripts itself, by knowing ratio legis an act, it can avoid legal antinomy in an act,[46] and course in accordance with principle clarity formulation in formation an act.

The depth meaning prohibition regarding deprivation same assets not more than once is so that a person's peace mind is not continuously disturbed by feeling being threatened because danger from enormous power the state to try events that have been decided, in order to guarantee legal certainty that is fair to individuals.[47] With the prohibition asset deprivation more than once against same asset as referred in Academic Manuscripts, course it is coherent and does not conflict with Article 5 paragraph (1) alphabet c Draft Act Asset Deprivation, because Article 5 paragraph (1) alphabet c and its explanation contains the phrase "*other assets*", in other words, object asset deprivation is course different. Therefore the authors recommend that explanation Article 5 paragraph (1) alphabet c Draft Act Asset Deprivation be formulated as "*Provisions in this Article mean that asset deprivation is only carried out once for same asset.*"

If there is no phrase "*against the same assets*", then it is as if it means that assets can only be deprivation once, either through criminal law mechanisms or mechanisms Civil Fourfeiture regime, so that as a result there is an antinomy with Article 5 paragraph (1) alphabet c it is possible

[45] Badan Pembinaan Hukum Nasional, "Hasil Penyelarasan Naskah Akademik Rancangan Undang-Undang Tentang Perampasan Aset Terkait Dengan Tindak Pidana."

[46] Peter Mahmud Marzuki, *Teori Hukum*.

[47] Vanggy Poli et al, "Analisis Yuridis Implementasi Asas Nebis In Idem Dalam Perkara Perdata (Studi Kasus Putusan Nomor: 145/PDT.G/2017/PN.THN)," *Lex Privatum* 9, no. 4 (2021): 120–129, https://doi.org/https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/33351.

to deprivation other assets or substitute assets if according calculations the state solicitor value assets does not match the loss.

When talking about calculation osses and nominal value assets, Draft Act Asset Deprivation does not stipulate if it turns out that results auction for sale criminal assets exceed nominal value loss. An illustrative example, criminal assets form a plot land were obtained in 2023 with a Selling Value Tax Object (NJOP) Rp. 4,500,000, then in 2024 a plot land will be deprivation by state and sold through auction based on of 2024 NJOP calculation, which is Rp. 5,000,000, course such excess difference is not regulated in Draft Act Asset Deprivation, whether the money remains as Non-Tax State Revenue or is it returned to those entitled it. Course such matters must be regulated, so that there are no opportunities for law enforcers to enrich themselves or others unlawfully. Because in principle, management criminal assets must be based on professionalism, legal certainty, transparency, efficiency and accountability.[48]

Therefore, to ensure legal certainty and potential problems as illustrated above, including mitigating various risks in the future, the elucidation of Article 3 the Draft Act Asset Deprivation should be revised to state: 'Asset deprivation is only carried out once for the same assets'. The addition of the phrase ‘for the same assets’ also has an urgency to align with the principle of clarity of formulation in the formation of a good Act, namely by using clear and precise formulation of words or terms, so as not to cause antinomy between one Article and another, and easily understood by society and law enforcers when the Draft Act Asset Deprivation is ratified and effective in the future.

[48] Yunus Husein, “Penjelasan Hukum Tentang Perampasan Aset Tanpa Pemidanaan Dalam Perkara Tindak Pidana Korupsi.”

III. Potential for Abuse Authority in Asset Deprivation Prior to a Court Decision

Based on Article 56 paragraph (1), paragraph (2) and paragraph (4) of the Draft Act Asset Deprivation which essentially regulates that the Prosecutor General is duty to divert criminal act assets by selling them through an auction system. The sale of criminal act assets in question can be carried out after or before a court decision that has permanent legal force.[49] In the provision of the sale of criminal act assets before a court decision that has permanent legal force, the Prosecutor General can only sell criminal act assets if there is a request from the investigator or state solicitor.[50] This provision can be understood that the determination of whether or not the Prosecutor General can sell criminal act assets before a court decision that has been legally enforceable, depends on whether or not there is a request from the investigator or state solicitor to sell the criminal act assets. Thus, it can be understood that investigators and state solicitors have extremely strong authority in the seizure of criminal act assets.

Regulatory Directions in Academic Manuscripts Draft Act Asset Deprivation also say same thing, that sale criminal assets that was carried out before a legally enforceable court decision is still carried out when there is a request from investigator or state solicitor.[51] In Academic Manuscripts Draft Act Asset Deprivation is not found under what circumstances the investigator or state solicitor can request that criminal assets be sold or what are reasons for allowing sale assets to be possible without waiting for a court decision that has permanent legal force.

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[49] Article 56 paragraphs (1), (2), and (4) the Draft Act concerning Asset Deprivation Related to Criminal Act.

[50] Article 56 paragraphs (3) the Draft Act concerning Asset Deprivation Related to Criminal Act.

[51] Badan Pembinaan Hukum Nasional, "Hasil Penyelarasan Naskah Akademik Rancangan Undang-Undang Tentang Perampasan Aset Terkait Dengan Tindak Pidana."

On the other hand, based on Article 1 point 3 of the Draft Act Asset Deprivation determines that the seizure of criminal act assets requires a court decision that has permanent legal force, the provisions referred to are:

> "Asset Deprivation Criminal Act, hereinafter referred to as Asset Deprivation is a forced effort made by the state to take over the control and/or ownership of Criminal Act Assets based on a court decision that has permanent legal force without being based on the punishment of the perpetrator."[52]

In reading the text of the definition above, according to McLeod, the principle of Contextualism *Noscitur a Sociis applies*, which means that a word must be interpreted in its series.[53] It can be understood that in interpreting 'asset deprivation', it must be read in the next series of words, namely 'based on a court decision that has permanent legal force'. From the formulation of the definition, it is very clear that the proposition 'based on a court decision that has been legally binding' is contained in the *definiendum* of 'Asset Deprivation' in Article 1 point 3 of the Draft Act on Asset Deprivation. So, it can be understood that asset deprivation can only be carried out after a court decision that has been legally enforceable, not before a court decision.

Asset Deprivation and when associated with the divert criminal act asset as one of the duties of the Prosecutor General as previously explained have a connection. 'Divert'[54] assets is a continuation of the act of 'Asset Deprivation' itself. Basically, both of them mean taking over the

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[52] Article 1 point 3 the Draft Act concerning Asset Deprivation Related to Criminal Act.

[53] Philiphus M. Hadjon dan Tatiek Sri Djatmiati, *Argumentasi Hukum.*

[54] What is meant "divert" is divert ownership assets deprivation by selling, exchanging, granting, or including as government capital. See the explanation of Article 51 paragraph (2) letter e the Draft Act concerning Asset Deprivation Related to Criminal Act.

ownership of criminal act assets. It's just that diverting criminal act assets specifically mentions the follow-up way of transferring it, namely by selling, exchanging, donating, or including as government capital. Therefore, if guided consistently with the definition of Article 1 point 3 of the Draft Act Asset Deprivation, it can be understood that diverting criminal act assets is prohibited before a court decision as referred to in Article 56 of the Draft Act Asset Deprivation.

With no regulation in what circumstances the investigator or state solicitor can make a request to Prosecutor General for crime assets to be sold without waiting for a court decision that has permanent legal force, course there has been a legal vacuum, so that the Conceptors the Draf Act Aset Deprivation has been deemed to have failed to form comprehensive draft legal rules governing under what circumstances an investigator or state solicitor can make a request for sale assets before a court decision is made and one provision with another in one rule is contradictory.[55] If such matters are not regulated strictly, it will certainly open up opportunities for investigators and state solicitors to abuse their authority. Measures abuse authority are not only based on principles accuracy, propriety and General Principles of Good Governance, but must also be based on principle legality (*wetmatigheid van bestuur*).[56] Since the enactment of Act Number 30 of 2014 concerning Government Administration, the concept of abuse of authority into a concept that has a scope

[55] Two of eight criteria for legal failure according Lon Lovois Fuller. In Philipus M. Hadjon, "Potret Sistem Hukum Indonesia Era Reformasi: Kegagalan Dalam Pembentukan Peraturan Perundang-Undangan Hukum Administrasi," in *Prosiding Seminar Nasional Oleh UBAYA Dan Badan Pengkajian MPR RI*, vol. 1945 (Surabaya, 2019), 68–78.

[56] Arma Dewi, "Penyalahgunaan Wewenang Dalam Perspektif Tindak Pidana Korupsi," *Jurnal Rechten : Riset Hukum Dan Hak Asasi Manusia* 1, no. 1 (2019): 24–40, https://doi.org/https://doi.org/10.52005/rechten.v1i1.4.

(extension/denotation) or a plural concept.[57] Table I below is the concept and criteria for actions that are considered as abuse of authority:

TABLE 1. Criteria for Acts Abuse of Authority

Beyond Authority	Mixing Authority	Act Arbitrarily
Exceeding term position or validity period authority	Outside the scope field or material authority given and/or	Without the basis authority and/or
Exceeding region limit the validity authority and/or	Contrary to purpose authority granted	Contrary to a court decision that has permanent legal force
Contrary to provisions statute	-	-

Source: Primary legal materials[58] processed

Based on Article 18 paragraph (1) of Act Number 30 of 2014 concerning Government Administration, it can be understood that the act of exceeding authority consists: 1) surpass the designated term of office or the time limit for authority validity; 2) go beyond the territorial boundaries of their authority; and/or 3) contravene the provisions of statue.[59] The second category abuse of authority, Based on Article 18 paragraph (2) of Act Number 30 of 2014 concerning Government Administration, it can be understood that the act of mixing authority

[57] Adex Yudiswan et al, "The Concept of Abuse of Authority in Corruption in Indonesia After the Enactment of Law Number 30 of 2014 Concerning Government Administration," *Jilin Daxue Xuebao (Gongxueban)/Journal of Jilin University (Engineering and Technology Edition)* 42, no. 11 (2023): 310–320, https://doi.org/10.5281/zenodo.10183628.

[58] Article 18 paragraphs (1), (2), and (3) the Act Number 30 of 2014 concerning Government Administration

[59] Asmuni, "The Abuse of Power Philosophy in Government Administration," *Media of Law and Sharia* 5, no. 2 (2024): 119–125, https://doi.org/https://doi.org/10.18196/mls.v5i2.95.

consists: 1) is beyond the scope of their authority's subject matter or material given; and/or 2) conflicts with the purposes of their authority.[60]

The third and final category of abuse of authority, based on Article 18 paragraph (3) of Act Number 30 of 2014 concerning Government Administration, can be understood as consisting of act arbitrarily consists: 1) done without the basic authority and/or 2) against the court ruling which has a fixed legal force.[61]

Based on Table 1 above, acts of abuse of authority that have relevance in this discussion are the third category, namely actions that conflict with court decisions that have permanent legal force. Can imagine, if before court decision the Investigator or state solicitor asked Prosecutor General to sell the assets crime and assets were sold through auction, but in fact the court decision on application for deprivation the state solicitor's assets was rejected by court and the party submitting an objection and/or resistance can prove that the assets are legally owned and/or are not assets criminal, so that the party who filed objection and/or resistance is accepted by court[62] and decision has permanent legal force. Course if this happens it can be concluded that the actions investigator, state solicitor and Prosecutor General also abused their authority because they contradicted a court decision that has permanent legal force.

In line with that, according Adami Chazawi abuse of authority occurs if someone who has authority based on general provisions or habits that apply and is attached to a position that is in him, but is used incorrectly

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[60] Sadjijono and Bagus Teguh Santoso, "Misconception on the Authority Abuse of Power in the Law Enforcement against Corruption," *Asian Social Science* 13, no. 9 (2017): 51–62, https://doi.org/10.5539/ass.v13n9p51.

[61] Seno Wibowo Gumbir and Ratna Nurhayati, "An Overview on the Abuse of Power in the Perspective of Corruption Law and Government Administration Law in Indonesia Based on the Criminal Justice System and the State Administration of the Justice System," *Yustisia* 5, no. 3 (2016): 581–606, https://doi.org/https://doi.org/10.20961/yustisia.v5i3.8798.

[62] *See* Article 44 the Draft Act concerning Asset Deprivation Related to Criminal Act.

for purpose of giving that authority.[63] In this context, purpose selling criminal assets by Prosecutor General before a court decision at request investigator or state solicitor is to dilute the criminal assets into an amount money that will be deposited into state treasury.[64] Urgency arranged under what circumstances an investigator or state solicitor can sell assets before a court decision, so that someone's rights are not harmed if it turns out that application for assets deprivation by state solicitor is rejected by court and it turns out that someone who owns assets can prove that the assets are his legally and/or not an asset criminal.

Asset[65] that state still suspects are related to criminal as referred to in draft act asset deprivation are natural rights that belong to everyone. According John Locke, everyone has freedom not to be harmed by their property rights and state is obliged so that everyone can maintain and enjoy property rights which are natural rights.[66] Furthermore, according John Locke, natural law and reason are the foundation legal objectives in the formation legal rule by authorities, the purpose legal in question is not to arbitrarily seize wealth belonging to others.[67] Therefore, Constitution Indonesian guarantees that everyone has the right to protection property under his control, and has the right to feel safe and protected from threats fear to do or not do something.[68] In line with that, Act Number 39 of

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[63] Disiplin F. Manao, "Penyelesaian Penyalahgunaan Wewenang Oleh Aparatur Pemerintah Dari Segi Hukum Administrasi Dihubungkan Dengan Tindak Pidana Korupsi," *Wawasan Yuridika* 2, no. 1 (2018): 1–22, https://doi.org/https://doi.org/10.25072/jwy.v2i1.158.

[64] Explanation of Article 56 paragraph (1) the Draft Act concerning Asset Deprivation Related to Criminal Act.

[65] All movable or immovable objects, both tangible and intangible and have economic value. See Article 1 point 1 the Draft Act concerning Asset Deprivation Related to Criminal Act.

[66] Peter Mahmud Marzuki, *Teori Hukum*.

[67] In addition property rights, natural rights according John Locke are right to life and right to freedom. In Bernard L. Tanya et al, *Teori Hukum: Strategi Tertib Manusia Lintas Ruang Dan Generasi* (Yogyakarta: Genta publishing, 2013).

[68] Article 28G paragraph (1) the 1945 Constitution of the Republic Indonesia.

1999 concerning Human Rights reaffirms that everyone has the right to protection their property rights.[69] Thus, recognition, guarantees and protection for asset deprivation, divert assets and selling assets through auction must certainly go through a judicial process based on principle due process of law, because it is the judge in judicial process who has right to determine fate a person's ownership rights on this earth based on evidence.[70]

Principle due process of law does not only apply to criminal law, but also applies to all areas law including the asset deprivation in a Civil Forfeiture regime.[71] Due process of law means that a person's rights cannot be taken away without a fair and legal procedure.[72] Principle due process of law in Magna Charta 1215 document contains "*constitutional guaranty, that no person will be deprived of life, liberty of property for reason that arbitrary, protects the citizen against arbitrary actions of the government*". Therefore, due process of law at least includes elements of hearing, counsel, defense, evidence, and a fair impartial court.[73] Thus, divert criminal assets through sales must course be carried out through a fair trial, thus state solicitor must also prove that assets were illegally obtained and/or are assets a criminal, and vice versa, parties who feel they have rights over these assets must be given the opportunity to defend that their assets are legally owned and/or are not assets criminal offense by being obliged

[69] Article 29 paragraph (1) the Act Number 39 of 1999 concerning Human Rights.

[70] Fajar Nurhardianto, "Sistem Hukum Dan Posisi Hukum Indonesia," *Jurnal Tapis* 11, no. 1 (2015): 34–45, https://doi.org/http://dx.doi.org/10.24042/tps.v11i1.840.

[71] Peter Mahmud Marzuki, *Teori Hukum*.

[72] Peter Mahmud Marzuki.

[73] Supardi, *Perampasan Harta Hasil Korupsi: Perspektif Hukum Pidana Yang Berkeadilan* (Jakarta: Kencana, 2018).

to prove otherwise,[74] so that finally it reaches judge to make a decision that has permanent legal force.

If such a draft act asset deprivation is maintained regarding possibility Prosecutor General to divert criminal assets for sale at request investigators or state solicitor without prior court decisions that have permanent legal force, course this will also create new problems and injustice, because it is as if someone who owns and/or controls these assets is not given the opportunity to defend, defend their assets through evidence in court.

The following hypothetical illustration can illustrate the opportunities and potential problems of asset deprivation prior to a final court decision. A person named A has an asset in the form of a car. However, because the car is suspected to be the proceeds of a criminal act, investigators seize it. Then the Prosecutor General diverted the car at the request of the investigator by selling the car through an auction process without being based on a court decision that has permanent legal force. Then the asset sold through the auction was bought by a person named B who is a car rental businessman. At once the car asset owned by B was under the control of a person named C as a tenant whose control was based on a lease agreement for a period of 2 (two) years.

Sometime later when the lease agreement was in progress, a person named A filed an opposition to the Court to prove that the seized car was a legitimate asset and/or not an asset of a criminal act. It turned out that the Court granted the challenge by stating that A's car was his legitimate asset and not an asset of a criminal act.

The complexity of this problem certainly does not only have implications for injustice, but further expands injustice, because it is detrimental to B and C as the enjoyers of the rights to the car, both B as the enjoyer of the rights to the car obtained from the auction and C as the

[74] Evidentiary provisions in Draft Act Assets Deprivation adhere to reversed proof in a balanced manner. See Article 37 *junto* Article 38 the Draft Act concerning Asset Deprivation Related to Criminal Act.

enjoyer of the rights to the car obtained through a lease agreement with B. Course, the regulation of asset deprivation without a legally enforceable court decision is not based on common sense and does not deserve to be called an Act, but rather deserves to be called a product of oppression with implications for widespread injustice.[75]

If the Draft Act Asset Deprivation is passed into an act, but the arrangement for sale of assets prior to a legally enforceable court decision is still maintained, course act made by legislature does not have binding legal force because it is "*in violation of common rights and reason*".[76]

A legal rule such as an act provides exceptions to something that is regulated, course those exceptions are based on certain reasoning.[77] In this connection, it is possible to sell assets by Prosecutor General at request an investigator or state solicitor without waiting for a court decision that has permanent legal force, course exceptions or certain reasons that can be accepted reason must be given, besides that on other hand it is also useful as a mitigation potential abuse of authority as explained on. Therefore, Ronald Dworkin reminded that even though an act is procedurally correct, if the act is substantially contrary to morality, then the act has no validity.[78]

Moral in question is not only related to matters a sexual nature, or about things that are good or bad such as stealing, cheating and so on, but morals in this case also include notion of love and togetherness in maintaining one's life.[79] In a sense of love and togetherness there is an abundance that protects personal and public interests[80] in a balanced way

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[75] Peter Mahmud Marzuki, *Teori Hukum*.

[76] According Edward Coke. In Peter Mahmud Marzuki.

[77] Peter Mahmud Marzuki.

[78] Peter Mahmud Marzuki.

[79] Peter Mahmud Marzuki.

[80] Interests according Roscoe Pound: Personal Interests in form a person's personal desires and public interests are related to life the state. In Adriano et al, *Eksistensi, Fungsi, Dan Tujuan Hukum D alam Perspektif Teori Dan Filsafat Hukum: Dalam Rangka Memperingati 80 Tahun Guru Kami Prof. Dr. Limahelu, S.H., LL.M* (Jakarta: Kencana, 2020).

and becomes a beautiful unit.[81] According Peter Mahmud Marzuki, the law must bring peace prosperous, because in peace prosperous there is abundance, the strong do not oppress weak, those who are entitled to really get their rights, and there is protection for society.[82]

In this connection, future draft act asset deprivation must pay attention to and respect the interests of both sides. On the one hand, draft act asset deprivation must protect public interest in handling criminal with economic motives, so that the approach to returning proceeds and instruments of criminal to state is used for interest society and advancing country's national economy.[83] On the other hand, draft act asset deprivation must protect the personal interests a person whose assets are confiscated by the state because they are suspected to have been obtained illegally and/or are assets criminal offense, because assets or objects are private property and are natural human rights.

Because actually in entire series asset deprivation processes, a person will be faced with such great power, namely the state through its law enforcement apparatus to take over someone's property. Do not let law enforcers who are so strong with all the authority they have oppress someone who is weak and powerless, either by abusing their authority or in other ways. In the due process of law, a civilized state should provide equal opportunity to anyone to prove that seized assets are assets that were legally obtained and/or are not assets of a criminal offense, of course this is an embodiment of the value "rightful person really gets his rights" in peace prosperous.

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[81] Peter Mahmud Marzuki, *Teori Hukum*.

[82] Peace prosperous as legal purpose. In Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*.

[83] The philosophical basis of Draft Act Asset Deprivation. In Badan Pembinaan Hukum Nasional, "Hasil Penyelarasan Naskah Akademik Rancangan Undang-Undang Tentang Perampasan Aset Terkait Dengan Tindak Pidana."

IV. Conclusion

The phrase 'asset deprivation is only carried out once,' as stated in the elucidation of Article 3 of the draft Act on Asset Deprivation, creates a legal conflict with Article 5, paragraph (1), letter c, which allows the state solicitor to seek additional asset deprivation if the initially confiscated assets are insufficient. This inconsistency introduces legal uncertainty. Additionally, Article 56 does not specify the conditions under which an investigator or state solicitor may request the Prosecutor General to auction assets before a final court decision. This omission raises concerns about potential abuse of authority by investigators, state solicitors, and the Prosecutor General, particularly if assets are sold before a court ruling confirms their criminal nature. To resolve these issues and ensure legal certainty, the elucidation of Article 3 should be revised to state: 'Asset deprivation is only carried out once for the same assets.' Furthermore, to mitigate potential abuse, it is essential to establish clear criteria for when an investigator or state solicitor may request an asset sale through auction before a final court decision is made. A thorough discussion on these provisions is necessary to address these concerns and ensure the integrity of the asset deprivation process.

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