

Asset Return from Corruption Not Yet Optimum

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Apart from prevention and eradication, asset return is one of the attempts to counter corruption.

Despite the potential to bring back the lost state funds, there are still legal issues related on the confiscation matters.

“The success in asset return needs to be appreciated, but this has not been optimum because actually a considerable amount of funds has not been returned,” said Agustinus Herimulyanto in his doctoral promotion at Faculty of Law UGM on Friday (5/10).

He said asset return was a series of processes starting from materials collections or intelligence, evidence, asset tracking, asset freezing and confiscation, trials, verdict, to asset return to the state.

Asset return is the responsibility of all law enforcers doing investigation and prosecution, i.e., Police, Attorneys, and Corruption Eradication Commission. But it is difficult, said Agustinus, to prove the relations between assets and crimes, because confiscation and expropriation stipulated in the Laws are still based on property.



“With regard to legal substance, there is some weakness such as the confiscation rules that are constructed for the interest of criminal act, not for asset return,” said the coordinator in North Maluku Prosecutor’s office.

Agustinus added asset confiscation system based on value as regulated in Article 31 UNCAC 2003 was more prospective to be implemented in asset return efforts, which is through substitute asset confiscation mechanism from investigation up to the value equal with the asset value of corruption crime.

In his opinion, this system, enables proofing because it does not need to prove the ties between perpetrator’s asset and corruption act, but only by proving the asset value of corruption crime then confiscation of asset of equal amount.

“Such system is also prospective as it is in line with proofing of corruption acts that leads to the value of state loss or asset value of corruption act, and it can reach the benefit value or profit of the result, including value increase due to appreciation of assets,” he said.

It is therefore necessary to amend regulations related to confiscation, expropriation, and proofing for the interest of asset return.

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