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Strengthening The Institutional System for The Management of Confiscated Objects and Evidence of Collateral Objects in Corruption Crimes in Indonesia

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Abstract

Basically, corruption is an extraordinary crime because of its great destructive power so that the danger of corruption in Indonesia is equated with other extraordinary crimes, namely terrorism, narcotics abuse, or serious environmental damage. According to the Rome Statute, the status of corruption crimes is equal to extraordinary crimes, namely crimes of genocide, crimes against humanity and crimes of aggression. Therefore, the crime of corruption is synonymous with evidence that is confiscated and even confiscated by the state so that the evidence can be stored in the state's confiscated objects to be managed and cared for so that the value of the confiscated objects does not decrease. State confiscated goods are defined as State Property (BMN) originating from confiscated objects or evidence determined to be confiscated for the state based on a Court Decision which has obtained permanent legal force (Inkrach) determining that evidence is confiscated for the state or other goods based on a judge's decision. or the court decision is declared forfeited to the state. Apart from that, the state also has a place for storing evidence of confiscated objects which can be used as a place to store evidence in criminal acts so that they are stored and cared for and made for security for confiscated objects so that there is no misuse of the confiscated objects, namely they can be placed in the Property Storage House. State Confiscation (RUPBASAN).

Keywords: *RUPBASAN, Corruption Crime, Property Storage House*

I. INTRODUCTION

Corruption is an extraordinary crime because of its great destructive power so that the danger of corruption in Indonesia is aligned with other extraordinary crimes, namely terrorism, drug abuse, or severe environmental destruction. According to the Rome Statute, the crime of corruption has been paralleled by extraordinary crimes, namely the crime of genocide, crimes against humanity, and crimes of aggression.[1] In practice, all crimes have been regulated as well as possible, both at the level of the Law and its derivatives for the welfare of the Indonesian people, but many also have the desire to achieve glory by means of

[1] Center for Anti-Corruption Studies, The main reason why corruption is called an extraordinary crime is because of its great destructive power so that the danger of corruption in Indonesia is aligned with other extraordinary crimes, namely terrorism, drug abuse, or severe environmental destruction. Under the Rome Statute, this corruption crime has been paralleled by extraordinary crime namely the crime of genocide, the crime against humanity, and the crime of aggression. Create-Works-Empowered.

corruption, of course what is corrupted is a form that is worth currency so that this crime is a crime that arises in the intention to enrich themselves and others by taking what is not their right so as to harm many people, Because basically corruption is something related to state losses and disrupting the stability of economic growth and development.

According to Articles 2 and 3 of Law No. 31 of 1999 as amended by Law No. 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning the Eradication of Corruption Criminal Acts said that the Criminal Acts of Corruption are: First: Any person who unlawfully enriches himself or another person or a corporation that can harm state finances or the country's economy. Second: Any person who, with the aim of benefiting himself or another person or a corporation, abuses the authority, opportunity or means available to him because of a position or position that can harm state finances or the country's economy.[2] While the definition of State Finance in this law is all state assets in any form, both separated and inseparable, including all parts of state wealth and all rights and obligations arising therefrom: First: Being in the control and responsibility of officials of state institutions both at the central and regional levels. Second: Being in the control, management and responsibility of State-Owned.

Enterprises/Regional-Owned Enterprises, Foundations, Legal Entities, and Companies that include State Capital, or companies that include third parties based on agreements with the state.[3] Thus, corruption is an unlawful act by enriching oneself or others, where the act causes losses to the country's economy.

In fact, corruption cases are not all who commit corruption enrich themselves and others, but in fact, a person who wins the project tender held by the government, where the facts arising from the winner of this tender are not purely as winners but are assisted by the encouragement of other parties who want benefits for the project so that this tender is only a formality because in it the winner has been arranged. This is evidenced by the existence of corruption, which is often arrested by Law Enforcement both at the level of the Police, Prosecutor's Office and the Corruption Eradication Commission (KPK), in this corrupt practice involved are usually government officials who provide services or Commitment Making Officials (PPK), but who run projects often through the Activity Implementation Committee (PPK) as the chief executive of the project and hold a mandate / incidental with membership can come from internal Work Units Regional Device (SKPD).

SKPD is a Work Tool that is the beginning of corruption where the project originates. However, there is one fact that someone who has been convicted of corruption in the

[2] Eddy Suhartono, Regarding the Provisions of the Criminal Act of Corruption, Supervision Bulletin No. 28 &; 29 of 2001. http/www/google.com/korupsi, Retrieved 23 February 2014.
[3] Ibid, p. 2

procurement of electricity networks into villages in North Tapanuli Regency, should have been audited by the Financial Audit Agency (BPK) of the Republic of Indonesia and found state losses of Rp. 900,000,000.00,- (Nine hundred million), but this finding was returned by the perpetrator in the amount of Rp. 600,000,000.00 (six hundred million rupiah) to the Acting Authority in this case PT Jola. Furthermore, the audit again by the North Sumatra Representative Financial and Development Supervisory Agency (BPKP) found again state losses of Rp3,000,000,000.00 (three billion rupiah) so that the case was reported to the Police with audit evidence from the BPKP until it continued until trial. State losses are the lack of money, securities and goods that are real and definite in amount as a result of unlawful acts, either intentionally or negligently. Thus, an act can be said to have resulted in state losses if it meets the elements of state negligence, namely: 1. The existence of lack of money, 2. The amount is real and certain, and 3. As a result of unlawful acts, either intentionally or negligently.[4]

With the findings of state losses as the basis for the perpetrators convicted by the Medan PN with Decision No.09 / Pid.Sus.TPK / 2017 / PN.Mdn, convicted of corruption together, with imprisonment for 3 years and 6 months accompanied by asset seizure, but the verdict was compared by the defendant's lawyer, where the Medan High Court Decision overturned the Medan District Court Decision and tried itself stating that the defendant FRENKY MARIO LUMBAN TOBING had been proven legally and conclusively guilty of committing the crime of "Corruption Jointly" and Sentenced the Defendant to imprisonment for 4 (four) years and 6 (six) months accompanied by asset seizure.

In this case, both the Public Prosecutor and the Legal Representative made Cassation legal remedies, but the Supreme Court rejected the Cassation and sentenced the defendant to be aggravated to 7 (seven) years, but there was no asset seizure as stated in the decision Number: 2828 K / PID. SUS/2017 states Prosecuting. 1. Reject the cassation application from the Cassation Applicant I / Public Prosecutor at the Toba Samosir State Attorney's Office; 2. Rejecting the cassation application of Cassation Applicant II/Defendant Frenky Mario Lumban Tobing; 3. Revise the Corruption Court Decision at the Medan High Court Number 19 / PID. SUS-TPK / 2017 / PT MDN dated October 2, 2017 which canceled the Corruption Court Decision at the Medan District Court Number 09 / Pid.Sus- TPK/ 2017 / PN.Mdn dated July 4, 2017 regarding the crime imposed on the Defendant and fines, as follows: Sentenced the Defendant to imprisonment for 7 (seven) years and a fine of Rp250,000,000, 00 (two hundred and fifty million rupiah). Considering that thus the

[4] Adek Junjunan Syaid, Restorative Justice as an effort to optimize the return of state losses that are fair in money laundering with criminal origins of corruption. Rajawali Pers, College Book Division, RajawaliGrafindo Persada. 2022. p. 115.

decision of the Corruption Court at the Medan High Court Number 19 / PID. SUS- TPK / 2017 / PT MDN dated October 2, 2017 which canceled the Corruption Court Decision at the Medan District Court Number 09 / Pid.Sus-TPK / 2017 / PN.Mdn dated July 4, 2017 must be corrected regarding the crime imposed on the Defendant, criminal fines and imprisonment in lieu of fines.

There was one legal event that occurred, where a finance company with the mode of applying for a Working Capital credit facility loan and Current Account credit facility to Bank Panin for the period May 2016 to September 2017 with a ceiling that had been given to debtors of Rp 425 billion. Another mode carried out by the SNP is to add, duplicate, or use many times this list of receivables so that creditors issue as much as they ask according to the list provided by the SNP to banks as creditors with the list of names of consumers who make credit purchases manipulated by PT SNP by adding, doubling and using it many times as collateral to several banks. The fictitious receivables are pledged to the Bank to make credit loans so that Panin's bank conducts a report at the Police Criminal Investigation Office at the Directorate of Special Economic Crimes withallegations that the crimes violated by the suspect are forgery and/or embezzlement and/or fraud and money laundering. Entangled in article 263 paragraph 1 and/or paragraph 2 of the Criminal Code and/or Article 372 of the Criminal Code and/or Article 378 of the Criminal Code and Article 3 and or Article 4 and or Article 5 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering. On this suspicion, the National Police Bareskrim Directorate has examined a number of banks related to bank break-in cases by PT Sunprima Nusantara Financing (SNP). Bareskrim targeted the bank's negligence in providing credit which eventually broke into losses reaching 14 trillion.

One of the banks asked for information included Bank Mandiri as a creditor of PT SNP to explain how the lending system to PT SNP. Moreover, it was found that PT SNP had problems in payments since 2010. With this incident, PT SNP officials were made suspects and detained including, Company Owners, COOs, President Directors, Operations Directors, Finance Directors, Finance GMs, Finance Managers, Assistant Finance managers to financial staff. Thus, the evidence seized was in the form of cash belonging to PT SNP amounting to Rp. 51,000,000,000.00 (fifty-one billion rupiah) until a verdict was handed down that the evidence in the form of money was confiscated by the state. If you dig into the fact that the money is the result of business and not a crime because the money comes from the income of PT SNP branches throughout Indonesia and is deposited to PT SNP Pusat in a holding account to be used as company operational funds and employee salaries. However, again confiscation on the basis of law enforcement procedures which ultimately caused harm to other parties, especially employees of PT SNP Pusat and even employees of PT SNP Branches throughout Indonesia. Thus, PT SNP was declared bankrupt in 2018 by

the Commercial Court at the Central Jakarta District Court on the grounds that PT SNP was unable to pay debts so that PT SNP under the supervision of the Supervisory Judge of the Central Jakarta Commercial Court and its management moved to the management of the Curator who handled and managed PT SNP's bankruptcy assets.

In this position, with the seizure of PT SNP's money by the state in the amount of IDR 51,000,000,000.00 (fifty one billion rupiah), the Curator made other lawsuit legal efforts to recover the funds to be distributed to eligible Creditors including all former employees of PT SNP both at branches and at the Center with Lawsuit Number 16/Pdt.Sus-GLL/2023/PN Niaga.Jkt.Ps. But these efforts were unsuccessful, so the funds that had been decided in the PT SNP Finance Criminal case were still confiscated by the state without thinking about the fate of creditors who had rights to the money, especially the rights of employees. Another lawsuit is a lawsuit that falls into the realm of civil procedural law as referred to in Article 3 paragraph 1 of Law No. 37 of 2004,[5] concerning Bankruptcy and Suspension of Debt Payment Obligations (PKPU) states that the Decision on the application for bankruptcy declaration and other matters related to and / or regulated in this Law, is decided by the Court whose jurisdiction includes the area where the Debtor's legal seat is. The explanation of Article 3 paragraph 1 of the Bankruptcy Law and PKPU says that what is meant by "other things", is, among others, actio pauliana, third party resistance to confiscation, or cases where debtors, creditors, receivers, or managers become one of the parties in cases related to bankruptcy assets including Curatorial claims against the Board of Directors which cause the company to be declared bankrupt due to its negligence or fault.[6] The Procedural Law that applies in adjudicating cases that include "other matters" is the same as the Civil Procedure Law that applies to bankruptcy declaration application cases, including regarding the limitation of the period for resolution. Thus, in the Palitan Law and PKPU, creditors are given room to take legal remedies for goods seized by the state if the confiscation and seizure of confiscated objects harms other parties or creditors.

The process of law enforcement with procedural propositions in confiscating evidence is a legal act, but in fact, the procedural law is only limited to the propositions authorized by law, but in essence, the process of confiscating evidence is not based on a fact and tends to be misused so that acts like this become a problem in unjust law enforcement, And making the

[5] Article 3 paragraph 1 of Law No.37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations.

[6] The explanation of Article 3 paragraph 1 of the Bankruptcy Law and PKPU says that what is meant by "other things", is, among others, actio pauliana, third party resistance to confiscation, or cases where debtors, creditors, receivers, or managers become one of the parties in cases related to bankruptcy assets including Curatorial claims against the Board of Directors which cause the company to be declared bankrupt due to its negligence or fault.

law enforcement profession a tool to benefit from the position, this is worse than corruption because the convicted of corruption itself does not enjoy the benefits of the results of the project instead incurring debts everywhere, moreover the assets are still collateral. Therefore, so that goods that have been confiscated, both whose status is still evidence and looted goods by the state, as much as possible must be managed by the State Confiscated Property Storage House (RUPBASAN) so that it can be used as a result of state income. Referring to the provisions of article 1 number 12 of the Minister of Finance Regulation No: 08/PMK.06/2018 concerning the Management of State Property Originating from State Booty and Gratuity Goods.[7] Thus, RUPBASAN has the position to manage state confiscated goods for maintenance, maintenance and keeping them from decreasing in value until there is an auction order by a court decision with permanent legal force (Inkracht Van Gewijsde). RUPBASAN itself is under the Ministry of Law and Human Rights to manage confiscated goods that have changed their status to state loot based on Court Decisions that already have permanent legal force. In this case, the RUPBASAN Party in executing the loot must get advance notice whether the loot will be destroyed, returned to its owner or at auction. The legal basis for the existence of RUPBASAN it self is indifferent to Law Number 8 of 1981 concerning the Code of Criminal Procedure (KUHAP) Article 44 paragraphs 1 and 2 Paragraph 1. This article contains a provision that confiscated objects must be stored in the state confiscated property storage house. From the provisions of this article, it is known by the name of the new institution "RUPBASAN" which stands for the State Confiscated Property Storage House. While paragraph 2 of this article contains the basic idea of how to save, which officials are juridically responsible. This paragraph also contains a prohibition on the unauthorized use / use of confiscated objects.[8] Thus, misuse of confiscated objects is an unlawful act that must be held legally responsible, especially by using confiscated goods without rights and against the law.

Article 45 consists of paragraphs 1 to paragraph 4, containing provisions in the form of the need for certain actions if for some reason confiscated objects are impossible to keep in RUPBASAN, then confiscated objects can be auctioned and the money from the auction seller is used as evidence. However, the confiscated object must be left a small part for evidentiary purposes.[9] Article 46 consists of two paragraphs, including: paragraph 1 regulates the return of confiscated objects before a Court decision. While paragraph 2 shows the rules for the return of confiscated objects after a court decision.[10] Furthermore, the

[7] Article 1 point 12 of Minister of Finance Regulation No; 08/PMK.06/2018 concerning Management of State Property Originating from State Booty and Gratification Goods
[8] Dr. Andi Hamza, S.H., KUHP dan KUHAP, Revised Edition, Rineka Cipta, 2014. pp. 251-252.
[9] Ibid, p. 252
[10] Ibid, p. 253

existence of RUPBASAN is also regulated in Law Number 39 of 1999 concerning Human Rights. In this Law, which is closely related to the RUPBASAN material is Article 37 which includes the protection of property rights of an object.

The existence of RUPBASAN is also explained in Government Regulation Number 27 of 1983 concerning the implementation of the Criminal Procedure Code there are 11 (eleven) articles containing material on RUPBASAN. This Government Regulation is a description of 4 articles of Law Number 8 of 1981 concerning the Code of Criminal Procedure. The 11 (eleven) articles are article 1 point 3 official designation/naming of the agency "RUPBASAN", which stands for State Confiscated Property Storage House as mentioned in Article 1 point 3. The following articles explain in outline the organization, position, main duties and functions of RUPBASAN with regard to the management of State Confiscated Property. It is also contained in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 16 of 2014 concerning Procedures for the Management of Confiscated Objects and State Spoils in State Confiscated Property Storage Houses. This Ministerial Regulation is an amendment to the regulation of the Minister of Justice Number M.05-UM.01.06 of 1983 concerning the Management of Confiscated Objects and State Spoils at RUPBASAN in order to realize an orderly, directed, transparent, and accountable process of management of confiscated objects and state loot with the aim of law enforcement, human rights protection and rescue of state assets resulting from criminal acts. And the Decree of the Minister of Justice of the Republic of Indonesia Number: M.04.PR.07.03 of 1985 concerning the Organization and Work Procedures of RUTAN and RUPBASAN. This Ministerial Decree contains the position, main duties, functions, classification, and organizational structure of RUPBASAN. As well as the Decree of the Director General of Corrections of the Ministry of Law and Human Rights of the Republic of Indonesia Number PAS-140. PK.02.01 of 2015 concerning Guidelines for the Management of Confiscated Objects and State Spoils in State Confiscated Property Storage Houses.

Judging from the history of loot management, of course, it cannot be separated from the provisions stipulated in the Code of Criminal Procedure (KUHAP) where Article 273 paragraph 3 says that if a court decision stipulates that evidence is seized for the state, then the criminal execution of confiscation of evidence, the Prosecutor empowers the object at the state auction office within a grace period of 3 (three) months to be sold and can be extended again by one month, and the proceeds are entered into the state treasury in the name of the Prosecutor.[11] The procedural law in Indonesia already regulates well the management of looted assets against perpetrators of corruption, but its management actually

[11] Ibid, p. 343

causes problems, often loot and confiscated goods are misused so that the loot is used as a moment to take advantage of the loot and confiscation.

The management of confiscated objects and loot related to criminal acts is a long- standing problem in law enforcement practice in Indonesia. Developments in practice require practitioners to be more careful in managing confiscated property and loot considering the consequences arising from confiscation and confiscation and their relation to the issue of human rights protection. In addition, keep in mind that responsibility for misuse of confiscated objects is everyone's right to prosecute both criminally and civilly.

Article 421 of the Criminal Code says that an official who abuses power to force someone to do, not do or allow something, is punished with imprisonment for a maximum of two years and eight months.[12] Meanwhile, the Civil Code regulates the existence of Unlawful Acts due to such misuse as referred to in Article 1365 of the Civil Code states that every act that violates the law and brings harm to others, requires the person who caused the loss because of his fault to compensate for the loss.[13] conditions that need to be known in the act of unlawful acts, among others:[14]

1. Contrary to the legal obligations of the perpetrator.
2. Contrary to the subjective rights of others.
3. Contrary to decency.
4. Contrary to patting, thoroughness and caution.

The management of confiscated objects and loot is a consequence of confiscation of objects/ goods related to a criminal act committed by the suspect and confiscated as evidence by the Investigator. Law Number 8 of 1981 concerning the Code of Criminal Procedure or better known as the Code of Criminal Procedure has contained rules regarding confiscation and management of confiscated objects, general provisions regarding confiscation are regulated in Chapter V of the Fourth Part of Article 38 to Article 46 of the Code of Criminal Procedure. The management of confiscated objects is specifically regulated in Articles 44 to 46 of the Code of Criminal Procedure.

The definition of confiscation itself is explained that a series of actions of investigators to take over and / or keep under their control movable or immovable objects, tangible or intangible for evidentiary purposes in investigation, prosecution, and trial. From this understanding, it is clear that confiscation is carried out for evidentiary purposes. The problem of managing confiscated objects and loot stems from forced attempts to confiscate them by investigators. The basic principles and constructions of confiscation law are often

[12] R. Susilo, Criminal Code (KUHP), Politeia-Bogor. 1996, p. 286.
[13] Subject. R, Tjitrosudibio, Pradnya Paramitha, Jakarta, Indonesian Civil Code, Article 1365, 2006. Thing, 242.
[14] Wirjono Prodjodikoro, Unlawful Acts, Cet. V, Bandung: Sumur Bandung, 1967, p. 16

not understood comprehensively by investigators, including Public Prosecutors and Judges, other than especially in relation to efforts to prove a criminal case in court.

Evidence to be confiscated must meet the criteria to be seized as confiscated objects, must not necessarily be confiscated without knowing the history of the confiscated objects. however, in practice, both the National Police Investigator and the Prosecutor's Office make their own rules on the grounds of efficiency and effectiveness of actions and management of confiscated goods. This creates uncertainty and arbitrariness in the management of confiscated evidence, moreover the intention is not to be secured with the status of evidence to be used at the time of evidence in Court, but sometimes it is not used as opearational by certain individuals in enjoying confiscated goods even if they have it. Actually, confiscation or seizure of evidence is no problem to make your own rules, as long as these rules do not conflict with the Criminal Procedure Code and other related laws and regulations, it is certainly not a problem. However, normatively and practically the birth of separate regulations has not been able to solve the problem of managing confiscated objects and loot but can cause new problems related to the management of confiscated objects so that with the existence of RUPBASAN as a manager of confiscated objects will be more effective and maintain and care for confiscated objects so as not to experience a decrease in selling value so that confiscated objects remain valuable as they should.

The concept of maintenance of confiscated objects, not only based on accountability, but also, about how information disclosure about confiscated objects, if one door is placed, namely RUPBASAN, then there is no need to find where the confiscated objects are, just ask RUPBASAN as the manager of confiscated objects. To see the extent to which the management of confiscated objects and loot raises legal problems, we need to review with a scientific approach the basic arrangements that exist in Indonesian laws and regulations. In this way, it is expected to clarify whether existing laws and regulations are no longer adequate so that new regulations need to be made, or just technical problems that only require arrangements regarding the administration of its management. Moreover, it is also necessary to review the meaning of confiscated objects and loot in our legal system to position the problem proportionally in the Management of Confiscated Objects and Booty based on Laws and Regulations. Thus, strengthening between institutions that have the authority to manage state confiscated objects needs to be made a Joint Guideline with the Police, Prosecutor's Office, KPK and RUPBASAN so that there is no overlap in power and is under the auspices of the Ministry of Law and Human Rights so that the guideline can be used as a legal basis with a formal legal system that must be obeyed and respected by all institutions related to the management of state confiscated objects and used as a form of achievement law enforcement both the Police, Prosecutor's Office and KPK and contribute to the nation's sustainable economic development for the welfare of society in general.

Confiscated objects and loot are two different objects in the Indonesian criminal procedural system even though they are actually the same material objects. Confiscated objects are objects confiscated for evidentiary purposes at the investigation, prosecution, or judicial stages. While loot is objects that by a court decision are declared confiscated for the state. To examine the problem of managing confiscated objects and loot, it is necessary to first explain the nature of the act of confiscation according to the Code of Criminal Procedure (KUHAP) with a scientific/academic approach so that the action can be measured and systematic so that it does not violate the procedures set by laws and regulations in Indonesia.

II. LITERATURE REVIEW

1. Theory of Proof

The Code of Criminal Procedure does not clearly mention what is meant by evidence. However, the Criminal Procedure Code states that objects that can be confiscated are objects that have been used directly to commit criminal acts or to prepare them and objects that are specifically made or intended to commit criminal acts and other objects that have a direct relationship with the criminal acts committed. In other words, confiscated objects as mentioned in the Code of Criminal Procedure can be referred to as evidence.[15]

2. Theory of Authority with the Burden of Legal Liability

Often we find the term equated with the word authority is power. Authority or authority has a very important position in the study of administrative law. according to F.A.M. Stroink and J.G Steenbeek stated: "Het Begrip bevoegdheid is dan ook een kembegrip in he staats- en administratief recht".[16] In the concept of constitutional law, most use the term authority which means legitimate power. Competence must also be based on a law by giving authority to the official, in the context of the Corruption Criminal Law, the law gives authority in law enforcement, namely the Indonesian National Police (Polri), the Prosecutor's Office and the Corruption Eradication Commission.

Law enforcement can also be interpreted as the administration of law by law enforcement officers and by everyone who has interests in accordance with their respective authorities according to the rules of law in force in Indonesia. Criminal law enforcement is a unified process beginning with the investigation, arrest, detention, trial of the accused and ending with the correction of the convict.[17] Criminal law enforcement is the concrete application of criminal law by law enforcement officials. Therefore, criminal law enforcement is the implementation of criminal regulations. Thus, law enforcement is a system that involves the

[15] Ratna Nurul Afiah, Evidence in Criminal Proceedings, p. 14.
[16] Nur Basuki Winanrno, Abuse of Authority and Corruption, laksbang mediatama, Yogyakarta, 2008, p. 65.
[17] Harun M.Husen, 1990, Crime and Law Enforcement in Indonesia, Rineka Cipta, Jakarta, p 58

harmony between values and rules so that the regulation becomes a norm that must be obeyed and regulate real human behavior. With these norms will be guidelines for behavior or actions that are considered appropriate or should be. The behavior and/or attitude of the act aims to create, maintain, and maintain peace.

According to Moeljatno, it elaborates based on the understanding of the term criminal law which says that law enforcement is part of the overall law in force in a State that holds elements and rules, namely: a. Determine actions that should not be done accompanied by threats or sanctions in the form of certain crimes for those who violate the prohibition. b. Determine and in what cases to those who violate the prohibition it may be charged or punished as threatened. c. Determine in what manner the criminal imposition may be carried out if the person suspected of having violated the prohibition.[18]

Thus, responsibility for acts harming others can be categorized as unlawful and not justified in law, as the Indonesian state adheres to the principle of law as the highest commander who controls the actions and actions of both the community and the state civil apparatus including law enforcement. The consequences of these actions are very detrimental and the evidence should go to the state treasury instead of taxes, but because of the abuse of authority included in the element of irregularities can cause losses to the state, these actions are immoral and categorized as worse than corruption. The loss of morality of law enforcement, in essence, reflects law enforcement that has no legal certainty. If his behavior does not conform to social expectations caused by disagreement with social standards or lack of a feeling of obligation to conform, it is also called immoral. The measure of morality is the willingness to accept and perform rules, values and moral principles. These moral values include a call to do good to others, or a prohibition not to do evil to others. Thus, morals are human behavior based on good and bad on the basis of values and norms that apply in society.

III. METHODOLOGY

This type of research comes from literature study. Most of the directions of this research relate to written regulations as primary data. Secondary data sources are studied from aspects of theory, philosophy, comparison, explanation/overview and so on.

IV. RESULT AND DISCUSSION

A. The concept of evidence management in corruption cases in Indonesia.

[18] Moeljatno, 1993, Principles of Criminal Law, Putra Harsa, Surabaya, p. 23.

In the case of corruption that befell Frenky Mario Lumbang Tobing regarding the Procurement of Electricity Scarcity in Tarukim Village, North Tapanuli Regency, where this case continued to the Supreme Court level because the Decision at the Court of First Instance, namely the Medan District Court gave a ruling that Frenky Mario Lumbang Tobing's brother was not proven to have committed a criminal act of corruption as the primary charge, however, the criminal verdict of corruption was imposed jointly as the charges Subsidair was sentenced to 3 (three) years 6 (six months) looter and a fine of Rp. 100,000,000,00,00 (one hundred million rupiah), provided that if not paid it is replaced by imprisonment for 2 (two) months. However, with this decision, the Public Prosecutor appealed at the Medan High Court through the Medan District Court Registrar's office so that the Medan High Court decision sentenced him to 4 (four) years and 6 (six) months in prison and a fine of Rp.200,000,000.00,- (two hundred million rupiah). provided that if not paid it is replaced by imprisonment for 3 (three) months. This means that the Appeal Decision at the Medan High Court overturned the Medan Tipikor District Court Decision and handed down a more severe verdict.

In the level 1 (one) judgment and appeal, it is said that the verdict was accompanied by the seizure of assets belonging to the defendant Frenky Mario Lumbang Tobing in the form of a permanent building seized for the state then auctioned, the proceeds of the auction were used to compensate for the return of state losses and payment of the defendant's debt to Bank Negara Indonesia (BNI) 1946 on behalf of Frenky Mario Lumbang Tobing (Credit Agreement). And the Fortuner car was seized for the state to be auctioned, the proceeds of the auction were used for compensation for the return of state losses and payment of the defendant's debt to U Finance on behalf of Frenky Mario Lumbang Tobing (Credit Agreement). However, in the cassation decision of the Supreme Court in its decision to correct the Corruption Crime Verdict at the Medan High Court No. 19 / PID. SUS-TPK/2017/PT MDN dated October 2, 2017 which overturned the decision of the Criminal Court at the Medan Ngeri Court No. 09/PID. SUS. TPK / 2017 dated July 4, 2017 regarding the Crime imposed on the Defendant and the Criminal fine becomes as follows:

1. Impose a Penalty on the Defendant therefore with imprisonment for 7 (seven) years and a fine of Rp. 250,000,000.00., (two hundred fifty million rupiah) provided that if the fine is not paid, then the defendant is subject to a substitute Criminal in the form of imprisonment for 8 (eight) months.
2. Charge the Defendant to pay the costs of the Case at the Cassation level in the amount of Rp. 2,500.00., (two thousand five hundred rupiah).

In terms of correcting the Medan High Court Decision, it means that there is something wrong in the decision so that the Supreme Court decision is not accompanied by asset confiscation but the sentence is increased to 7 years imprisonment and a fine of Rp.

250,000,000.00., (two hundred fifty million rupiah) provided that if the fine is not paid, then the defendant is subject to a substitute crime in the form of imprisonment for 8 (eight) months. However, in practice, cars and permanent houses located in Siborongborong, North Tapanuli Regency, prosecutors still insist on confiscation to be auctioned and part of the proceeds from the sale will be paid off to BNI bank as the holder of the right to cover housing loans and at U Finance where the convicted person takes the car by way of credit. However, in fact, 1 (one) unit of the Fortuner car just disappeared for unclear reasons even the convict and his family and even legal counsel did not know for sure about the position of the evidence, but when confirmed at the Prosecutor's Office, the confiscated evidence management section stated that it had been auctioned. This is contrary to the theory of Public Information Openness as stipulated in Law Number 14 of 2008 concerning Public Information Openness. More specifically, namely the right to seek, obtain, possess, store, process and convey information using all types of available means. This right is a classification of the right to develop themselves in the operational basis of Law Number 39 of 1999 concerning Human Rights. Furthermore, judging from the characteristics of the rule of law, one of which is guaranteeing and protecting human rights, legal certainty in protecting the right to obtain information looks in sync with Law Number 14 of 2008 concerning Public Information Openness. This means that humans as individuals who are one of the public components have the right to access information from the state in general and government administrators in particular. Law Number 14 of 2008 concerning Public Information Disclosure in Article 7 paragraph 1 stipulates, that every Public Agency must provide, provide and/or publish Public Information under its authority to Public Information Applicants, in addition to information that is excluded in accordance with the provisions. Meanwhile, if Human Rights are viewed from the perspective of state administrative law, there are 3 (three) approaches, including:

a. Approach to government power, which emphasizes government power as the focus of administrative law.
b. The approach to human rights, a new approach to administrative law that the British began to develop, the emphasis was on the protection of human rights and the principles of good governance.
c. Functional approach, an approach that complements the above approaches, which is more emphasised on public officials who exercise state power.

From some of these approaches, when related to the right to obtain information, it is clear that there are several basic norms for the behavior of officials (public bodies), including:

a. Attitude of Service In this behavior, public bodies related to public services are the implementation of human rights protection, especially the right to develop themselves in the form of the right to information.

b. Trusted

With public disclosure of all information, it will be seen that the basic norms of behavior of public bodies describe good governance in meeting the information needs of information applicants.

With the Public Information Disclosure Law, it is appropriate for the Prosecutor as the executor of the evidence to provide information about the process of canning the evidence. Which should be at the time of auction, the prosecutor's office provides information to the convict that the car has been auctioned in accordance with the decision of the Medan High Court so that the rest of the convict's receivables are paid off next, if there is any more remaining input into the state treasury through Non-Tax State Revenue (PNBP) on behalf of the Prosecutor. However, the fact is that the prosecutor conducted a unilateral auction and at the time of confirmation at U Finance in Medan, did not know that the car had been confiscated and even auctioned by the prosecutor. This is very contrary to Law No. 39 of 1999 concerning Human Rights which talks about the Right to Justice where Article 17 says that everyone, without discrimination, has the right to obtain justice by filing applications, complaints, and lawsuits, both in criminal, civil, and administrative cases and tried through a free and impartial judicial process, In accordance with the procedural law that guarantees an objective examination by an honest and fair judge to obtain a fair and correct verdict. Thus, what was decided by the High Court seemed to be made a decision on paper and was not carried out properly. However, these confiscated objects are used by unscrupulous individuals for personal gain. It is, more para than corruption. Even though it has also been explained that responsibility for confiscated evidence, both the Police, Prosecutors and the Court, can be entrusted to the RUPBASAN for treatment and if in the future the evidence is used as evidence in the Court, it can be taken and used properly. Not only was the confiscation of both movable and immovable assets, but also the money belonging to the convict was confiscated for maintenance and as substitute money. Therefore, the action of the Toba Samosir Prosecutor's Office by not disclosing the widest possible information to the Defendant, his family and legal counsel is contrary to social values and human rights as a dick for good and modern law enforcement so that in the end this arbitrary action causes harm to the convict himself, and in essence the convicted person also cannot exercise his rights as social control as a community even though It is said to be guilty, but at least the rights as human beings are still attached to human rights values that arise from birth to obtain justice and legal certainty. Moreover, the evidence in the form of a permanent building is still a guarantee at the Bank so that it has a Deed of Dependent Rights based on Law No. 4 of 1996 concerning Dependent Rights which is indivisible for these dependent rights.

This means that the position of the Holder of the Deed of Rights of Liability is a lex specialist who has executory rights whose legal force is the same as the judge's decision compared to

the executory rights owned by the Prosecutor which are public so that the executory of the Prosecutor based on the decision of the Court can be excluded as long as it does not harm the Bank as the Holder of the Deed of Rights as explained in article 2 paragraph 1 explains that the rights of dependents have an unbearable nature divided, unless otherwise agreed in the Deed of Granting Rights. while article 14 paragraph 1 says that as proof of the existence of dependent rights, the Land Office issues a Certificate of Dependent Rights in accordance with the applicable laws and regulations and in paragraph 2 explains that the Certificate of Dependent Rights as referred to in paragraph 1 contains irah-irah with the words "FOR THE SAKE OF JUSTICE BASED ON THE ONE AND ONLY GOD". Furthermore, paragraph 3 explains that the Certificate of Rights of Dependents as referred to in paragraph 2, has the same executory legal force as the decision of the Court which has permanent legal force and applies as grosse acte hyphoteek as far as land ha katas are concerned. Thus, the seizure of the object of collateral that has been placed in the right of dependent, the position of the goods becomes joint property between the debtor as the grantor of the guarantee right and the creditor as the recipient of the dependent right so that the implementation of the court decision can be set aside as long as the debtor who has become a Convicted of Corruption in good faith makes payment of the guarantee credit.

Meanwhile, in Law No. 42 of 1999 concerning Fiduciary Guarantees, especially related to evidence seized by the Tobasamosir State Prosecutor's Office in the form of a Fortuner Car with Pol BK 22 JJ No., on the grounds that the car has a connection with corruption crimes, but in fact the car was obtained through credit before the corruption crime. The Fiduciary Guarantee Act has privileges as described in article 27 paragraph 1 says that the Fiduciary Recipient has a precedence over other creditors. Paragraph 2 says that the right of precedence as referred to in paragraph 1 is the right of the Fiduciary to take repayment of his receivables on the results of the execution of the Object that is the object of the Fiduciary Guarantee. The Fiduciary Guarantee Law also has the same executory power as the Court Decision as explained in Article 15 paragraph 1 says that in the Fiduciary Guarantee Certificate as referred to in Article 14 paragraph 1 the words "FOR THE SAKE OF JUSTICE BASED ON THE ONE AND ONLY GOD". While paragraph 2 says the Fiduciary Guarantee Certificate as referred to in paragraph 1 has the same executory power as a court decision that has obtained permanent legal force. Therefore, the Fiduciary Guarantee Law contains an element of fair value, if there is an execution of the fiduciary guarantee object to be sold through auction and only receivables are taken, the rest is returned to the debtor if there is a certificate. Where Article 29 paragraph 1 letter b says that the sale of Objects that are the object of Fiduciary Guarantee on the power of the Fiduciary Recipient itself through public auction and take repayment of receivables from the proceeds of the sale.

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In the Criminal Code, there is actually no criminal regulation for the payment of substitute money. Money substitute crime is a type of crime that is regulated outside the Criminal Code separately, which is based on the principle of lex specialist derogat legi generalis which means that if there are rules that are specific to regulate a matter, then general rules can be set aside. Relating to the criminal substitute money, it is regulated in Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Criminal Acts in Article 18 paragraph 1 letter b which reads as follows: In addition to additional crimes as referred to in the KUH- Criminal as an additional crime is the payment of substitute money in the amount of as much as equal to the property obtained from the criminal act of corruption. In Article 18 paragraph 2 which reads that if the convicted person does not pay the substitute money as referred to in paragraph 1 point b no later than one month after the court decision that has obtained permanent legal force, then his property can be confiscated by the prosecutor and auctioned to cover the replacement money. Furthermore, Article 18 paragraph 3 which reads that in the event that the convict does not have sufficient property to pay the substitute money as referred to in paragraph 1 point b, then imprisonment whose duration does not exceed the maximum threat of the principal crime in accordance with the provisions of this law and the duration of the crime has been determined in a court decision.

From the content of the article above, it is clear that the substitute money crime is actually an additional crime that can be imposed along with the principal crime. For those convicted of corruption cases other than corporal punishment (imprisonment) and / or fines, additional penalties are also imposed, including the payment of substitute money as much as the amount equal to the assets obtained from corruption. In practice, almost no convict pays money in lieu under various pretexts, such as having no money or assets. The attitude of convicts who are unwilling or unable to pay the replacement money can actually be known by investigators and public prosecutors since before the case was transferred to court. Faced with such convicts, the public prosecutor should demand the maximum corporal punishment (imprisonment) as stipulated by law. With this knowledge, both the Investigator and the Public Prosecutor must thoroughly survey the assets and ability of the convicted person to pay before the verdict in order to obtain accurate information and also when the prosecution is carried out to the District Court in accordance with the acquisition of the results of corruption not to borrow someone not in accordance with what is the fact in the field and also the results of the corruption whether it is really intended or not. Thus, neither the state nor the convicted are harmed and the most important thing is justice with legal certainty.

In practice, it is not easy to seize corrupt assets, because corruption is generally carried out by people who are classified as white collar, namely people who have authority and/or expertise in their fields, so that the disclosure of corruption is long after the act is committed

and at that time the results of corruption can be secured by the perpetrators. The security of corruption assets is carried out with sophisticated and neat engineering and uses legal loopholes so that they are well protected. The applicable corruption law, namely Law Number 31 of 1999 junto Law Number 20 of 2001 concerning the Eradication of Corruption Criminal Acts has provided two instruments to recover state losses due to corrupt acts, namely criminal and civil instruments. The process or procedure for criminal instruments is specifically contained in the two laws, while for civil instruments using the applicable ordinary or general provisions, namely the Civil Code and the Code of Civil Procedure. The specifics for these criminal instruments include, among others, that in court hearings, namely:

- The accused must provide information about all his property, the property of his wife, husband, children's property, and the property of other parties suspected of having a connection with the corruption act charged against him as referred to in Article 28 of the Corruption Law.
- If the defendant cannot prove that his property (which is not balanced with his income) does not come from corruption, then his property is considered to be obtained from corruption and the judge is authorized to seize it as referred to Article 37 paragraph 4 of the Corruption Law.
- In the event that the defendant dies before the judge's verdict is handed down and there is strong evidence that the defendant committed corruption, the defendant's property can be confiscated by the judge as referred to Article 38 paragraph 5 of the Corruption Law.

Of course, to be able to bring corrupt property or assets into court hearings, it must be preceded by confiscation actions by investigators in the investigation stage. The corrupt assets seized by investigators were then used by the public prosecutor to be presented as evidence before a judge during the prosecution stage. This confiscation process is the most difficult process in the effort to recover state losses as stated above. There are many ways and avenues that corruptors can choose to secure the results of corruption, from the simplest to sophisticated using financial engineering available in business practices domestically and abroad.

In this connection, at the investigation stage of corruption cases there needs to be special activities, namely identifying or tracing assets that are allegedly related directly or indirectly to corruption cases so that it is necessary to form a special unit to trace where the results of corruption are obscured by corruptors by fostering networks in the country and abroad, in collaboration with a kind of financial intelligence unit that already exists in various countries. This special unit needs to be given extra authority to penetrate legal walls that can be used by corruptors to obscure their assets, for example provisions on bank secrets.

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Without a special unit tasked with tracing corrupt assets at the investigation stage, efforts to recover state losses will not be optimally successful.

Domestically, investigators can cooperate with the Financial Transaction Reporting and Analysis Center (PPATK) which has the authority to trace money from money laundering. For those convicted of corruption cases other than corporal punishment (imprisonment) and/ or fines, additional penalties are also imposed, including the payment of substitute money as much as the amount equal to the assets obtained from corruption. In practice, almost no convict pays substitute money under various pretexts, such as no more money or assets. The attitude of convicts who are unwilling or unable to pay the replacement money can actually be known by investigators and public prosecutors since before the case was transferred to court. Faced with such a convict, the public prosecutor should demand the maximum corporal punishment (imprisonment) as stipulated by law. The provisions of Article 1131 of the Civil Code are much broader when compared to the provisions of Article 39 of the Criminal Code or the provisions of Article 18 paragraph 1 letter a of Law Number 31 of 1999 junto Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. The provisions of the criminal law only limit the confiscation of goods used to commit corruption and goods obtained from corruption.

In the provisions of civil law does not question that. All the property of the corruptor can be confiscated to pay off his obligations in payment of damages. Civil law does not question whether the goods are used to commit corruption or not and whether the goods are the result of corruption or not.

The Civil Mechanism requires a long time in seizing corrupt assets due to the many legal efforts passed, both the Public Prosecutor at the Attorney General's Office and the Public Prosecutor at the KPK as well as legal efforts made by the corruption convicts by conducting appeals, cassation and judicial review (PK). Meanwhile, in the Asset Acquisition Bill, it is explained about the separation of legal efforts to facilitate the seizure of corrupt assets by the state where corporate crime is an effort against corruption perpetrators while criminal assets are efforts to trace and seize corrupt assets that are directly related to corruption crimes through RUPBASAN supervision under the Ministry of Law and Human Rights and / or DJKN under the Ministry of Finance. Thus, the overlapping authority in seizing corrupt assets becomes coordinated and does not confuse the public in seeking information, especially if there is no certainty about whether the evidence is seized by the state or not in accordance with the Court's decision, if it is not seized, then the process of tracing the goods that have been seized during the investigation process directly focuses on state agencies, in this case RUPBASAN and DJKN or without in accordance with the regulations in the Criminal Procedure Code are returned to those entitled to confiscated goods so that the law enforcement process is based on justice and upholds human rights.

B. Responsibility for corrupt assets that are used as loot by the state.

Responsibility according to the dictionary Indonesian is an obligation that bears everything, meaning that if anything happens to someone can be sued, blamed, estimated, and so on. While legal responsibility occurs because there is an obligation that is not carried out by one of the parties who has made the agreement, it must also make the other party experience losses. Thus, legal responsibility can be interpreted as a condition where a person is obliged to bear all the consequences of his actions that have violated the provisions stipulated in a law and regulation. The person who violates it must be responsible and compensate for the losses he has committed. In general, the concept of legal liability will refer to responsibilities in the field of public law, including state administrative legal responsibilities and criminal law responsibilities, as well as responsibilities in the field of private / civil law.

In the case of corruption that befell Frenky Mario Lumbang Tobing, the procurement of electricity in Tarukim Village, North Tapanulita Regency, where this case continued to the Supreme Court level because the decision at the court of first instance, namely the Medan District Court gave a ruling that Frenky mario Lumbang Tobing's brother was not proven to have committed a criminal act of corruption as the primary charge, but was handed down a corruption criminal verdict together as charged Subsidair was sentenced to 3 (three) years 6 (six months) looter and fined Rp. 100.000.000,00,- (one hundred million rupiah), provided that if not paid replaced with imprisonment for 2 (two) months. However, with this decision, the Public Prosecutor appealed at the Medan High Court through the Medan District Court Registrar's office so that the Medan High Court decision sentenced him to 4 (four) years and 6 (six) months in prison and a fine of Rp.200,000,000.00,- (two hundred million rupiah). provided that if not paid it is replaced by imprisonment for 3 (three) months. In the decision level 1 (one) and appeal, it is said in the judgment accompanied by the seizure of assets belonging to Frenky Mario Lumbang Tobing in the form of a permanent building seized for the state then auctioned, the proceeds of the auction are used to compensate for the return of state losses and payment of the defendant's debt to Bank Negara Indonesia (BNI) 1946 on behalf of Frenky Mario Lumbang Tobing (Credit Agreement). And the Fortuner car was seized for the state to be auctioned, the proceeds of the auction were used for compensation for the return of state losses and payment of the defendant's debt to U Finance on behalf of Frenky Mario Lumbang Tobing (Credit Agreement). However, in the cassation decision of the Supreme Court in its decision to correct the Corruption Crime Verdict at the Medan High Court No. 19/PID. SUS-TPK/2017/PT MDN dated October 2, 2017 which overturned the decision of the Criminal Court at the Medan Ngeri Court No. 09/PID. SUS. TPK / 2017 dated July 4, 2017 regarding the Crime imposed on the Defendant and the Criminal fine becomes as follows:

1. Impose a Penalty on the Defendant therefore with imprisonment for 7 (seven) years and a fine of Rp. 250,000,000.00., (two hundred fifty million rupiah) provided that if the fine is not paid, then the defendant is subject to a substitute Criminal in the form of imprisonment for 8 (eight) months.
2. Charge the Defendant to pay the costs of the Case at the Cassation level in the amount of Rp. 2,500.00., (two thousand five hundred rupiah).

In terms of correcting the Medan High Court Decision, it means that there is something wrong in the decision so that the Supreme Court decision is not accompanied by asset confiscation but the sentence is increased to 7 Years Looter and a fine of Rp. 250,000,000.00., (two hundred fifty million rupiah) provided that if the fine is not paid, then the defendant is subject to a substitute Criminal in the form of imprisonment for 8 (eight) months. Especially on the assets of convicts who have been confiscated for the purposes of investigation and / or prosecution based on written letters of evidence in the form of North Sumatra ank Passbooks with a total of ± 300 million, cars and permanent houses. This is the responsibility of the Executing Attorney acting on behalf of the Prosecutor.

In the Supreme Court Decision by increasing his corporal sentence for 7 (seven) years accompanied by a fine of Rp.250,000,000,00,- (two hundred and fifty million rupiah). This makes the verdict cause differences of opinion between the Prosecutor and the convicted legal investigator where the Prosecutor still insists on confiscation of assets to be auctioned and part of the proceeds of the sale will be paid off to BNI bank while 1 (one) unit of Fortuner car will be auctioned, where part of the auction proceeds will be used as repayment of credit receivables to U Finance, but when confirmed at the Prosecutor's Office the management of confiscated evidence (Jaksa Executor) stated the car had been auctioned and the permanent house would also be auctioned off soon. In accordance with the decision of the Supreme Court Number 2828/K.PID. SUS / 2017 in its consideration that the Decision of the Corruption Court at the Medan High Court Number: 19 / PID. SUS-TPK / 2017 / PT Mdn dated October 2, 2017 which overturned the decision of the Corruption Court at the Medan District Court Number: 09 / Pid.Sus-TPK / 2017 / PN. Mdn dated July 4, 2017 must be corrected regarding the penalties imposed on the defendants, criminal fines and imprisonment in lieu of fines. Recalling article 2 paragraph 1 juncto article 18 of Law No. 31 of 1999 concerning the Eradication of Corruption as amended by Law No. 20 of 2001 Juncto Article 55 paragraph 1 to 1 of the Criminal Code, Law No. 8 of 1981 concerning the Code of Criminal Procedure, Law No. 48 of 2009 concerning Judicial Power, Law No. 14 of 1970 concerning the Supreme Court as amended by Law No. 3 of 2009 and other relevant laws and regulations.

ADJUDICATE

Rejecting the Application for Cassation I / Public Prosecutor at the Toba State Prosecutor's Office 'Samosir.
Rejecting Application for Cassation II/ Defendant.
Revise the Corruption Court Decision at the Medan High Court Number: 19/PID. SUS-TPK / 2017/ PT Mdn dated October 2, 2017 which overturned the decision of the Corruption Court at the Medan District Court Number: 09 / Pid.Sus-TPK / 2017 / PN. Mdn dated July 04, 2017.

1. Impose a Penalty on the Defendant therefore with imprisonment for 7 (seven) years and a fine of Rp. 250,000,000.00., (two hundred fifty million rupiah) provided that if the fine is not paid, then the defendant is subject to a substitute Criminal in the form of imprisonment for 8 (eight) months.
2. Charge the Defendant to pay the costs of the Case at the Cassation level in the amount of Rp. 2,500.00., (two thousand five hundred rupiah).

Based on the Supreme Court Decision above, it can draw a point of problem that becomes a dispute between the power of the defendant and the Public Prosecutor and has their respective interpretations of the Supreme Court decision so as to create uncertainty in the seizure of the defendant's assets. With this uncertainty, the evidence that should have been confiscated by the Prosecutor's Office in the form of a Permanent House located on Jl. Siswa, Pasar Siborongborong, North Tapanuli, was returned to its owner as referred to in Article 46 of the Criminal Procedure Code stating:

a. verse 1: The thing subject to seizure is returned to the person or to them from whom it was seized, or to the person or to those most entitled.
b. Verse 2: When the matter has been decided, then the object subject to seizure is returned to the person or to those referred to in the decree, unless according to the judge's decree it is confiscated for the state, to be destroyed or to be damaged until it can no longer be used or if it is still needed as evidence in any other matter

V. CONCLUSION

The philosophical foundation of law in Indonesia, namely Pancasila, views that the implementation of the law enforcement process should not be separated from the protection of human rights, including the position of evidence owned by corrupt actors allegedly from the proceeds of corruption crimes because in principle, criminal law seeks material truth in this case the seized assets must first be proven about the truth, whether they were really obtained from the proceeds of corruption or not, at least a survey or identification of evidence to be confiscated so as not to cause debate or Pretrial that will be taken by the suspect / defendant, his family and legal counsel. This is also closely related to the human

rights of the accused as corrupt actors, where the two things are likened to one currency with two different sides but cannot be separated. That means that we are talking about law enforcement in Indonesia, so in the same breath, it is implicitly obliged to pay attention to the protection of human rights. The position of the State Confiscation Storage House (RUPBASAN) as an evidence storage house must be utilized optimally so that in the law enforcement system, especially corruption crimes by confiscating / seizing corrupt assets, it is really through procedures so that the community or the defendants themselves do not have wild thoughts that assets that have been seized will be misused by irresponsible individuals. However, keeping it in a proper place not only provides security and removes doubts against wild thinking, but also so that the asset is treated like an evidence storage house or also known as RUPBASAN. Furthermore, the existence of evidence resulting from the seizure of assets belonging to corruptors automatically becomes the responsibility of the head of RUPBASAN and if the evidence will be used as evidence in Court, this has been determined in the laws and regulations to be used according to the process and has no potential to be misused evidence, moreover the evidence is movable. This is prone to misuse of objects of evidence of moving objects. Thus, the act of Expropriation of evidence that is still related to a third party, in this case the bank maupum leasing (financing) which is still in the status of the object of Guarantee is joint property between the Debtor (Consumer) and the Creditor so that the evidence should not be confiscated, or at least can be secured through state supervision, after having a court decision that has permanent legal force and is not listed as an asset that confiscated can be returned to the Owner (Consumer) to continue the installments. In addition, responsibility for evidence that has been confiscated by the Prosecutor's Office, if given the authority to store it with the State Confiscated Property Storage House (RUPBASAN), then automatically the responsibility will lie with the Head of RUPBASAN.

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