REFUND OF FINANCIAL LOSS IN THE CRIME OF CORRUPTION LINKED WITH ARTICLE 81 OF LAW NUMBER 8 YEAR 2010 ON CRIME PREVENTION AND COMBATING MONEY LAUNDERING

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Abstract

Returning state financial losses is the focus of the corruption law, especially in the case of money laundering crimes committed by state officials to deceive law enforcement officials in examining the assets of public officials. One way to return state assets is to seize or confiscate assets suspected of being the result of corruption or money laundering. Money laundering is an attempt to hide or disguise the origin of money/funds or wealth resulting from a criminal act through various financial transactions so that the money or assets appear as if they came from legal/legal activities. The research method used in this study is a normative juridical approach with the sources of legal materials used are primary sources of legal materials and secondary sources of legal materials. The technique of collecting legal materials uses a literature study of listening techniques and the technique of analyzing legal materials using qualitative analysis techniques. The results of the study indicate that the implementation of the return of state financial losses on corruption is related to Article 81 of Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering. can be done by tracking, freezing, confiscation, confiscation and repatriation.

Keywords: Refund of State Financial Losses, Crime, Money Laundering.

INTRODUCTION

Indonesia has been familiar with the term *money laundering* since Indonesia entered the NCCT *(non-cooperative countries and territories)* with 14 other countries by the *Financial Action Task Force* or hereinafter referred to as FATF. The basis for the inclusion of Indonesia in the *blacklist is* FATF due to considerations, namely the absence of laws and regulations that state money laundering as a crime, in the regulation of financial institutions, especially financial institutions *non-bank*, limited resources, and the lack of international cooperation in efforts to fighting money laundering crimes.[1]

Efforts to comply with the FATF's recommendations were carried out by immediately compiling Draft Law No. 15 of 2002 amidst the hectic schedule of the DPR and the Government and piling up draft laws that had to be discussed. Law Number 15 of 2002 concerning the Crime of Money Laundering was finally ratified on April 17, 2002. However, because this Law was deemed no longer capable of meeting the needs in eradicating the Crime of Money Laundering, Law Number 8 of 2010 concerning the Crime of Money Laundering was enacted. Money Laundering which is still valid today as the basis for punishment in cases of money laundering.[2]

Money laundering and corruption are closely related. This is because in the crime of money laundering, corruption can be a *predicate crime predicate crime*. In essence, money laundering is an attempt to hide or disguise the origin of money/funds or assets resulting from criminal acts through various financial transactions so that the money or assets appear as if they came from legal or legal activities. According to *Black's Law Dictonary* quoted by Andi Hamzah, corruption is an act carried out with the intent to provide an unofficial advantage by using the rights of another party, who is wrongly using his position or character in obtaining an advantage for himself or herself. another person, which is contrary to the obligations and rights of the other party.[3]

As described above, the criminal act of corruption if it is associated with the crime of money laundering has a very fundamental relationship. This can clearly be seen in Article 2 paragraph (1) of Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering, this law is known as a *predicate crime.* Predicate *crime is* defined as a crime that triggers (sources) the occurrence of money laundering. The proceeds of a crime are assets obtained from a criminal act, one of which is a criminal act of corruption. The crime was committed in the territory of the Unitary State of the Republic of Indonesia or outside the territory of the Unitary State of the Republic of Indonesia and the crime is also a crime under Indonesian law.[4]

The scope of the crime of money laundering itself is regulated in Article 2 paragraph (1) of Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering that: "the proceeds of a crime are assets obtained from a criminal act of corruption; bribery; narcotics; psychotropic; labor smuggling; migrant smuggling; in the banking sector; in the capital market sector; in the field of insurance; customs; excise duty; trafficking in persons; illicit arms trade; terrorism; kidnapping; theft; embezzlement; fraud; counterfeiting money; gambling; prostitution; in the field of taxation; in the forestry sector; in the environmental field; in the field of marine and fisheries; or other criminal acts punishable by imprisonment of 4 (four) years or more, which are committed in the territory of the Unitary State of the Republic of Indonesia or outside the territory of the Unitary State of the Republic of Indonesia and such criminal acts are also criminal acts according to Indonesian law".[5]

The basic characteristic of money laundering is a crime that is motivated by the pursuit of maximum profit, this is different from other conventional crimes that frighten society. This crime has the nature of creating creativity in the development of new crimes that are international in nature. Professionally organized using high technology and with profitable business services. Broadly speaking, what can be understood from the opinions of experts can be concluded that money laundering is a process to hide or disguise assets obtained from the proceeds of crime to avoid prosecution and or confiscation.[6]

In an effort to eradicate money laundering for the first time, the Corruption Eradication Commission (KPK) ensnared M. Nazaruddin in the Garuda stock money laundering case in 2012. The Corruption Eradication Commission (KPK) began to frequently use Law Number 8 of 2010 concerning

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[1] Yunus Husein, Prevention and Eradication of the Crime of Money Laundering in Indonesia, *Paper at a Limited Workshop on the Crime of Money Laundering,* at the Financial Club, Graha Niaga, Jakarta, 2004, p. 25

[2] *Ibid*, p. 27

[3] Rohim, *Modus Operandi of Corruption Crimes*, Pena Multi Media, Jakarta, 2008, p. 2.

[4] *Ibid*, p. 4

[5] Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering, Article 2 paragraph (1).

[6] Teguh Sulistia and Aria Zurnetti, *New Horizons of Criminal Law Post-Reformation*, PT. Raja Grafindo Persada, Jakarta, 2012, p. 56.

the Prevention and Eradication of the Crime of Money Laundering to ensnare suspects. corruption. The role of the money laundering law is an effective way to open up greater opportunities for recovering state financial losses. Combining corruption cases with money laundering crimes provides a distinct advantage for the KPK in handling corruption cases, firstly, more actors are ensnared, including corporations; second, the maximum punishment; Third, make effective return of state assets, and; Fourth, it can impoverish corruptors.[7]

In an effort to overcome this, the government enacted the Law on eradicating corruption, namely Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 and also Law No. 8 of 2010 in Indonesia. The promulgation of the Law on the Eradication of Corruption and Money Laundering is to restore state losses. The return of state losses is intended so that the state losses that arise can be covered by returns from the proceeds of corruption so that they do not have a worse impact. One way that can be taken to restore the lost state losses is to provide additional penalties in the form of payment of replacement money.[8]

Returning state financial losses is the focus of this corruption law, especially in the case of money laundering crimes committed by state officials to deceive law enforcement officials in examining the assets of public officials. One way to return state assets is to seize or confiscate assets suspected of being the result of corruption or money laundering. In terms of money laundering, the law does not regulate in detail the confiscation or confiscation of assets in terms of the crime of money laundering. However, Article 81 of Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering, reads: "In the event that sufficient evidence is obtained, that there are assets that have not been confiscated, the Judge orders the Public Prosecutor to confiscate the assets" .[9]

Recovery of state losses in corruption and money laundering through efforts to recover state losses still has obstacles, one of which is procedural, this is related to the absence of strict regulations regarding the procedure for returning the replacement money that must be paid by the defendant. So that in reality the recovery of state financial losses with efforts to restore state financial losses in corruption cases in terms of money laundering crimes is still experiencing obstacles both at the procedural level and at the technical level. At the procedural level, certain legal instruments are needed that are appropriate to the modus operandi of the crime and the object of the legal problem. In the case of money laundering, the proceeds of the crime in the form of state finances are not only accepted or enjoyed by the defendant, but also received and enjoyed by third parties who are not defendants. In this case, efforts to recover state financial losses procedurally require appropriate and effective instruments.[10]

As has been explained that the current state financial loss recovery in Indonesia is still difficult and less effective. This is because the amount of material or immaterial state losses is very large. In addition, there are other obstacles, namely the process of tracking and investigating state assets/assets that have been corrupted, which is the biggest challenge in taking legal action against corruption.[11]

Based on the description of the background above, the formulation of the problem in this study is how the implementation of the return of state financial losses on corruption crimes is related to Article 81 of Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering?

RESEARCH METHOD

This research was conducted using a normative juridical approach, namely an approach to the law which is conceptualized as a norm, rule, principle or dogma. This method is also a method that sees the law as an abstract rule. A method that sees law as an autonomous institution and can be discussed as a separate subject apart from other matters relating to regulations.[12] Aims to obtain an objective explanation regarding the analysis of the Implementation of Return on State Financial

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[7] The Corruption Eradication Commission (KPK), *Guidelines for Handling the Crime of Money Laundering and Asset Recovery in the Capital Market*, Center for Law and Policy Studies (PSHK), Jakarta, p. 6

[8] Nadya Syafira, Juridical Review of the Crime of Receiving Gratification Based on Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, *Journal of JOM Faculty of Law*, Volume II Number 2 March 2015, p. 7

[9] Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering, Article 81

[10] Muhammad Djafar Saidi, *State Finance Law*, Raja Grafindo Persada, Jakarta, 2008, p. 94.

[11] Elwi Danil, *Corruption, Concepts, Crimes, and Their Eradication*, Raja Grafindo Persada, Jakarta, 2011, p. 5.

[12] Bambang Sunggono, *Legal Research Methods*, PT. Raja Grafindo Persada, Jakarta, 2007, p. 41

Losses in the Crime of Corruption associated with Article 81 of Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering.

Sources of legal materials used in this study include a number of information materials contained in books or other sources that have a relationship so that they support the writing process. The sources of legal materials used in this study are:

1. Primary Legal Material

    Sources This source consists of the Law on the Eradication of Criminal Acts of Corruption and the Law on Money Laundering. Official records or treatises in the making of laws and judges' decisions.

2. Sources of Secondary Legal Materials

    This data was collected through library research based on documents in the Central Jakarta District Court, including:

    a. Primary Legal Materials,

        namely materials that have authority, namely legislation, including: the

        1) Criminal Code (Criminal Law Book));
        2) Law Number 8 of 1981 concerning the Criminal Procedure Code;
        3) Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption;
        4) Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption;
        5) Law Number 8 of 2010 concerning the Crime of Money Laundering;
        6) Law Number 16 of 2004 concerning the Prosecutor's Office; and
        7) Law Number 17 of 2003 concerning State Finance.

    b. Secondary Legal Materials Secondary

        Legal materials, which are publications about law that are not official documents. In this case, publications on law include textbooks, legal dictionaries, legal journals and comments on court decisions related to the problem under study.

    c. Tertiary legal

        Materials, namely materials that provide guidance on primary legal materials and secondary legal materials, including legal dictionaries and others related to those to be studied.

Legal Materials Collection Techniques

Data collection techniques used by the researchers in this study were literature study of listening techniques, literature study of listening techniques could be divided into several techniques, including note-taking techniques. The note-taking technique is a data collection technique by using books, literature or library materials, then taking notes or quoting the opinions of experts in the book to strengthen the theoretical basis in research. This listening technique uses books, literature and library materials that are relevant to the research being carried out, which can usually be found in the library or where the author conducts research.

Legal Material Analysis Techniques Legal

Material analysis is the most important step in a study, the data that has been obtained will be analyzed at this stage so that conclusions can be drawn. In this study using qualitative analysis techniques. And the data obtained from the research will be analyzed using descriptive methods, which will only describe the results of research related to the subject matter, while the analyzed data will be presented using qualitative methods, namely by providing comments and not using numbers.

DISCUSSION

Implementation of Returning State Financial Losses in Corruption Crimes is related to Article 81 of Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering. The

Provisions of the criminal procedure in the Criminal Procedure Code are still valid as long as the law does not specifically regulate the procedural law. However, regarding the right way to impoverish corruptors, until now there is no exact legal definition of what poverty means, while President Joko Widodo also issued Presidential Instruction of the Republic of Indonesia Number 7 of 2015 concerning actions to prevent and eradicate corruption.[13]

One of the elements in the criminal act of corruption is the loss of state finances. Against this state's financial loss, a Corruption law was made, in order to achieve one of the legal objectives put

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[13] Nur Basuki Minarmo, *Process of Handling in Criminal Acts of Corruption Review of Special Procedure Law in Corruption Crimes*, Yuridika, Surabaya, 2002, p. 398.

forward by Jeremy Bentham with the principle of *The Principle of Utility* which reads *The Greatest Happiness of The Greatest Numbur* (the greatest happiness of the greatest number of people). This usability principle becomes the norm for private actions or government policies through the formation of law. Thus, a law that will bring happiness to the greatest part of the late community is considered a good law. Therefore, the task of law is to maintain good and prevent evil. Strictly maintain usability.[14]

Along with the times, corruption and money laundering are closely related. This is because in the crime of money laundering, corruption can be a predicate crime (predicate crime) in the crime of money laundering. In essence, money laundering is an attempt to hide or disguise the origin of money/funds or assets resulting from criminal acts through various financial transactions so that the money or assets appear as if they came from legal or legal activities. The crime of corruption with money laundering has a very fundamental relationship or relationship. This has been regulated in Article 2 Paragraph (1) of Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering.[15]

It can be seen in the article above that there are many criminal acts that can be used as *predicate crimes,* and can turn into money laundering crimes. One of the criminal acts that can become a *predicate crime* is corruption. In general, the perpetrators of the crime of money laundering try to hide or disguise the origin of the assets resulting from criminal acts in various ways so that the assets resulting from their crimes are difficult to trace by law enforcement officers so that they can freely use these assets for legal or illegal activities. legitimate. Therefore, the crime of money laundering not only threatens the stability and integrity of the economic system and financial system, but can also harm the joints of life in society, nation and state based on Pancasila and the 1945 Constitution.[16]

Referring to the results of a study by the University of Economics Laboratory. Gajah Mada (UGM), that the value of state losses due to corruption in Indonesia has reached Rp. 203.9 trillion and also calculating penalties in the form of fines and confiscation of assets only collected Rp. 21.26 Trillion. The total loss to the state is Rp. The 203.9 trillion came from 2,321 cases involving 3,109 defendants. This loss does not take into account the social costs of corruption. With a fine of Rp. 21.26 trillion, it means that there is still a hole that must be subsidized by Rp. 182.64 trillion. The impact of corruption will be much greater if it is calculated based on the social costs of corruption rather than state losses alone. The estimation of the social costs of corruption can be done by multiplying state losses by a multiplier of 2.5 times.[17]

In 2018 state losses due to corruption in 2018 reached Rp. 9.29 trillion. This is the result of a study from Indonesia Curroption Watch (ICW) released on April 28, 2019. Indonesia Curroption Watch (ICW) collects data on corruption case decisions issued to district courts, high courts and the Supreme Court. Data collection was carried out from January 1, 2018 to December 31, 2018. The results of ICW's monitoring in 2018 were 1,053 cases with 1,162 defendants decided at all three levels of the court," said ICW researcher Lalola Easter in a presentation at the ICW office.[18]

ICW noted that the distribution of decisions on corruption crimes in 2018 was 926 defendants at the district court level, 208 at the high court level, and 28 defendants at the Supreme Court level. "The problem of asset recovery is still a challenge in itself. With a state loss of around Rp. 9.29 trillion, efforts to recover losses have not been maximized," according to Lalola, ICW noted, the verdict on payment of replacement money handed down by the panel of judges to defendants in corruption cases was around Rp. 805 billion and about 3 million United States dollars. "Then only about 8.7% of state losses are reimbursed through additional criminal penalties.[19]

The return of state financial losses is expected to be able to cover the deficit in the State Revenue and Expenditure Budget (APBN) so that it can cover the state's inability to finance various aspects of community needs. Refunding state financial losses is an approach to fighting crime, which is then applied to a wider type of crime by including *Organized Crime* in 2000. The mechanism for recovering state financial losses is also considered important because those who carry out efforts to

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[14] Moeljatno, *Principles of Criminal Law*, Rineka Cipta, Jakarta , 2008, p. 1

[15] Abdoel Djamali, *Introduction to Indonesian Law revised edition*, PT Raja Grafindo Persada, Jakarta, 2013, p. 175.

[16] Adam Chazawi,System, *Criminal Law Lessons 1 CriminalCriminal Acts, Criminal Theories & Limits of Criminal Law Enforcement*, PT Raja Grafindo Persada, Jakarta, 2011, p. 69.

[17] Aprialdo, Dylan, ICW State Losses Due to Corruption in 2018 Reached Rp. 929 Trillion. https://nasional.kompas.com/read/2019/04/28/15294381/icw-kerugian-negarahasil-korupsi-pada-2018-reach-rp-929-trillion?page=all[accessed on 07/12/ 2021, 5:32 p.m.]

[18] *Ibid*

[19] *Ibid*

recover state financial losses resulting from corruption by high-ranking officials also have many obstacles. .[20]

Reimbursement of state financial losses is a complex and multidisciplinary process that often involves criminal, civil and other legal mechanisms to repatriate or recover state losses that are intentionally divided and hidden in ways aimed at preventing returns. Technical problems can also complicate efforts to recover state financial losses: either from terminology, procedural differences or different structures regarding the delegation of tasks can complicate collaborative efforts. When faced with these challenges, investigators must approach cases flexibly and with a results-oriented view that focuses on narrow and incremental goals, with the primary objective of securing and repatriating state financial losses.[21]

The stages of the implementation process for recovering state financial losses are divided into:[22]

1. **Tracking (identification)**

    The tracking stage is the initial stage of efforts to recover assets. This stage is a very important initial stage because it determines whether the next stage will be successful or not. During the tracking phase, investigators identify information and gather relevant evidence to find all hidden assets, both domestically and abroad. This stage must be carried out very carefully, because if the perpetrators of the crime find out that their assets stored abroad are being identified and tracked by investigators, then these assets will soon be hidden again with more complex schemes and layers, which make asset tracking efforts more difficult or even impossible to recover.[23]

2. **Freezing**

    After identification, travelers must freeze all suspected assets and accounts to ensure assets and accounts are not transferred to new or previously unidentified holdings. This effort requires coordination with the relevant courts to obtain cooperation. Once the relevant party authorizes action, investigators and law enforcement officers can move to freeze assets, and then begin working with the relevant courts, to secure and repatriate assets at later stages of asset recovery. The power to issue freeze orders depends on national laws and individual jurisdictions.[24]

    In continental European jurisdictions, investigating prosecutors and judges as well as relevant law enforcement bodies may receive authority from certain authorities to freeze suspected assets, even in some cases without judicial authority. However, in Anglo-Saxon jurisdictions, asset freezing requires judicial authority. There are many informal and formal international mechanisms that can be used to help overcome the constraints created by jurisdictional and other technical issues, including mutual legal assistance.[25]

3. **Confiscation**

    specifics of the confiscation rules are regulated in Article 47 Paragraph (1) of Law Number 30 of 2002 concerning the Corruption Eradication Commission which reads: "On the basis of a strong suspicion that there is sufficient preliminary evidence, investigators may confiscate without the permission of the Head of the District Court regarding with his investigative duties. Confiscation by the Corruption Eradication Commission (KPK) may carry out confiscations without the permission of the Head of the District Court related to the duties of the investigator. This provision must also be balanced by making an official report on the confiscation on the day of confiscation as regulated in paragraph (3).[26]

    The provisions of Article 47 Paragraph (1) of Law Number 30 of 2002 concerning the Corruption Eradication Commission can also be used as a legal basis for the KPK to confiscate money laundering cases and remember that the KPK confiscates in the context of investigating cases of alleged criminal acts. Corruption, the KPK can combine its investigations with cases of alleged money laundering crimes in accordance with Article 75 of Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering which reads:

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[20] Sianturi, *Principles of Criminal Law and Its Application*, AHM-PTHM Alumni, Jakarta, 1990, p. 79.
[21] Yati Garnasih, *Anti-Money Laundering as a Strategy to Combat Profit Oriented Crimes*, PDHI Undip Press, Semarang, 2006, p. 40.
[22] Paku Utama, *Understanding Asset Recovery & Gatekeepers*, Indonesian Legal Roundtable, Jakarta, 2013, page 54
[23] *Ibid*, p. 55
[24] *Ibid*, p. 56
[25] Deni Krisnawati, et al, *Anthology of Special Criminal Law*, Pen Pundi Aksara, Jakarta, 2006, p. 126.
[26] Law Number 30 of 2002 concerning the Corruption Eradication Commission, Article 47 paragraph (1).

predicate crime, the investigator combines the investigation of the predicate crime with the crime of money laundering and notifies the PPATK".[27]

Then the procedure for confiscation of money laundering cases, in Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering does not specifically regulate the confiscation procedure in handling money laundering criminal cases, this means that the confiscation is carried out in accordance with the provisions of the law. law. However, if there are assets that have not been confiscated, the Money Laundering Law gives the judge the authority to order the prosecutor on assets as regulated in Article 81 of the Money Laundering Law which reads: "In the event that sufficient evidence is obtained that there are assets that have not been confiscated, the judge orders the prosecutor public to confiscate the said Assets".[28]

4. Forfeiture

In the main nail book in his book entitled "Understanding *Asset Recovery* and *Gatekeepe* ", confiscation is divided into 2 (two) namely criminal and civil: Nexus or the relationship between criminals and criminals and their assets must be proven first. This is the basis for seizing assets obtained from corruption. There are many weaknesses and limitations in maximizing criminal asset confiscation efforts. Then civil confiscation of assets is the seizure of assets not based on a criminal decision. In implementing forfeiture by civil means, there is a basic understanding that must be understood so that there is no misapplication in practice.[29]

Attempts at confiscation can be carried out in the country where the corrupt official is located or in the area where the assets are stored. In general, a court decision is required to carry out confiscation. There are several alternatives in carrying out confiscation efforts, both criminally and civilly. *The United Nations Convention Against Corruption (UNCAC)* encourages participating countries to implement asset confiscation without punishment. *The United Nation Convention Against Corruption (UNCAC)* aims to maximize the flexibility of law enforcement officials related to confiscation that can be requested by domestic or foreign courts, either as a requesting state party or requested under the convention. International cooperation for the purpose of confiscation of assets is an important element, the original text of Article 55 paragraph (1) of the *United Nations Convention Against Corruption (UNCAC)* states that:[30]

> "A State Party that has received a request from another State Party having jurisdiction over an effence established in a accordace with thi Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to article 31, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:
> a. Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order he granted, give effect to it; or
> b. Submit ti its competent authority, with a view ti giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with articles 31, paragraph 1, and 54 paragraph 1 (a), of this Convention insofar as it relates to preceed of crime, property, equipment or other instrumentalities Referred to in article 31, paragraph 1, situated in the territory of the requested State Party

"Confiscation without a criminal prosecution is widely regarded as the most effective way to securing stolen assets due to jurisdictional or political boundaries, immunity or even escape or death of criminals are irrelevant, because the identity of the criminal is not related to the confiscation process and the only legal identity being tried is the asset itself.[31]

5. Return

assets or assets acquired from the proceeds of crime, means or instruments of crime, which are confiscated and confiscated must be returned to their rightful owners. Repatriation is the last step in efforts to recover state losses. Funding related to the asset recovery process is usually taken from the amount of assets that have been confiscated, where there is a profit-sharing system between the two countries. At each stage of the return of these assets, a process of

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[27] Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering, Article 75.

[28] Abdul Rosyad, Confiscation of Evidence of Corruption, *Journal of Legal Reform*, Volume I No. May 2-August 2014, p. 148.

[29] Paku Utama, *Op.cit*, p. 57

[30] Deddy Candra and Arfin, Constraints to Returning Assets Proceeds from Transnational Corruption Crimes, *Journal of BPPK*, Volume 11 Number 1 Year 2018, p. 42

[31] TB. Irman, *Money Laundering Practices in Theory and Facts*, MQS Publishing, Bandung, 2007, p. 5.

international cooperation through formal and informal (or informal) requests for mutual legal assistance or MLA must be carried out.[32]

CONCLUSION

One of the elements in corruption is the existence of state financial losses. Against this state's financial loss, a Corruption law was made, in order to achieve one of the legal goals put forward by Jeremy Bentham with the principle of *The Principle of Utility* which reads *The Greatest Happiness of The Greatest Numbur* (the greatest happiness of the greatest number of people). This usability principle becomes the norm for private actions or government policies through the formation of law. Thus, a law that will bring happiness to the greatest part of the late community is considered a good law. Therefore, the task of law is to maintain good and prevent evil. Strictly maintain usability.

In 2018 state losses due to corruption in 2018 reached Rp. 9.29 trillion. This is the result of a study from Indonesia Curroption Watch (ICW) released on April 28, 2019. Indonesia Curroption Watch (ICW) collects data on corruption case decisions issued to district courts, high courts and the Supreme Court. Data collection was carried out from January 1, 2018 to December 31, 2018. The results of ICW's monitoring in 2018 were 1,053 cases with 1,162 defendants decided at all three levels of the court," said ICW researcher Lalola Easter in a presentation at the ICW office.

For this reason, a mechanism for recovering state financial losses that have been corrupted is needed. The return of state financial losses is expected to be able to cover the deficit in the State Revenue and Expenditure Budget (APBN) so that it can cover the state's inability to finance various aspects of community needs. Refunding state financial losses is an approach in fighting crime, which is then applied to a wider type of crime by including *Organized Crime* in 2000.

The implementation of returning state financial losses is carried out in accordance with the method stipulated in the law, although in the law itself there are still weaknesses. The implementation of the return of state financial losses on corruption crimes related to Article 81 of Law Number 8 of 2010 concerning the crime of money laundering can be carried out by tracking, freezing, confiscation, confiscation and repatriation.

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[32] Muhammad Yusuf, *Capita Selecta ML*, Center for Financial Transaction Reports and Analysis (PPATK), Jakarta, 2012, p. 163.

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