

The Civil Liability of Heirs in Lawsuits for the Recovery of State Losses Due to Corruption Committed by a Deceased Perpetrator Under Indonesian Positive Law

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Corruption is an extraordinary crime that inflicts severe financial losses on the state. When a corruptor dies before or during the legal process, criminal prosecution is legally dropped, yet the state's financial losses persist, prompting civil lawsuits against the heirs to recover the corrupted assets. This research aims to analyze the form of civil liability of heirs and the legal protections afforded to them in lawsuits for state loss recovery under Indonesian positive law. This study employs a normative juridical approach of a descriptive-analytical nature, utilizing primary statutory materials and a case study of the Nabire District Court Decision No. 47/Pdt.G/2023/PN Nab, which are analyzed qualitatively. The results indicate that the heirs' civil liability is purely restitutive and strictly limited to the value of the inherited estate (boedel waris), meaning they do not bear personal responsibility for the deceased's crimes. Furthermore, legal protection is robustly guaranteed through the limitation of liability up to the inheritance value and the fundamental right to reject the inheritance entirely. In conclusion, Indonesian civil law effectively prevents the covert criminalization of heirs while maintaining the state's right to asset recovery. These findings are crucial for providing legal certainty to law enforcement, particularly State Attorneys, in executing proportional and just asset recovery strategies.

Keywords: Asset Recovery, Civil Lawsuit, Heirs, Positive Law, State Losses.

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1. Introduction

Corruption is an extraordinary crime that is highly detrimental to the Indonesian nation, as it directly impacts state finances and the general welfare of the society. This criminal act not only injures moral values and social justice but also significantly hampers national development. Consequently, as an extraordinary crime, corruption requires extraordinary measures and handling, both in terms of strict law enforcement and robust efforts to recover the financial losses suffered by the state [1]. Therefore, the state continuously strives to prosecute perpetrators and restore state assets through both criminal and civil legal mechanisms.

A complex legal phenomenon arises when a suspect or defendant in a corruption case dies before or after a court decision obtains permanent legal force. In such circumstances, criminal prosecution against the perpetrator is automatically dropped by law; however, the financial loss inflicted upon the state remains. To address this issue, the state, often represented by the State Attorney (Jaksa Pengacara Negara), pursues a civil lawsuit against the heirs of the deceased corruptor to demand the return of assets derived from the criminal act [2]. The legal basis for this action is grounded in the concept of unlawful acts (perbuatan melawan hukum), ensuring that the state's right to recover financial losses is upheld even when the criminal procedure is no longer viable [3].

This research focuses on the scope of civil obligations borne by the heirs within the framework of Indonesian civil law. According to civil law principles, heirs inherit not only the rights but also the obligations of the

deceased, including the settlement of civil debts such as the obligation to compensate for damages caused by unlawful acts [4]. In the context of unrecovered state losses from corruption, these losses transition into a civil debt that shifts to the inheritance estate (boedel waris). However, a critical limitation in this legal framework is that the heirs' responsibility is strictly limited to the value of the inherited assets they receive and does not extend to their personal wealth, positioning them as independent civil subjects rather than criminal perpetrators.

Based on the established context and focus, the objective of this research is specifically to analyze the form of civil liability of heirs in lawsuits for the recovery of state losses resulting from corruption committed by a deceased perpetrator under Indonesian positive law. Furthermore, this study aims to examine the form of legal protection provided to these heirs in facing civil lawsuits over state losses, ensuring a balance between the state's interest in asset recovery and the proportional rights of the heirs.

2. Literature Review and Problem Statement

The theoretical framework of this study intersects the principles of civil inheritance law and anti-corruption regulations. According to Article 33 and 34 of Law No. 31 of 1999 as amended by Law No. 20 of 2001, the death of a corruption suspect or defendant does not eliminate the state's right to recover financial losses; instead, it shifts the mechanism to a civil lawsuit directed at the heirs [3]. In civil law, the liability of heirs is rooted in Article 1365 of the Indonesian Civil Code (KUHPerdata) concerning unlawful acts (onrechtmatige daad) committed by the deceased, which translates into a civil debt [4]. Previous literature highlights that when inheriting an estate, heirs assume both assets (aktiva) and liabilities (pasiva). Scholars emphasize that the heirs' responsibility is strictly limited to the value of the inherited estate (pasiva hereditatis), preventing personal liability for the deceased's crimes [13], [15]. Furthermore, theoretical categorizations of inheritance attitudes such as Pitlo's concept outline the heirs' options into unconditional acceptance, rejection, or beneficial acceptance (beneficiaire aanvaarding), which fundamentally determine the extent of their legal obligations [5].

Despite existing statutory frameworks, a significant research gap remains regarding the practical equilibrium between the state's aggressive pursuit of asset recovery and the legal protection of innocent heirs. Previous studies often focus primarily on the state's authority to sue, while overlooking the potential inconsistencies in jurisprudential applications where heirs might unjustly bear burdens exceeding their received inheritance. This tension necessitates a deeper analysis of concrete jurisprudential applications, such as the Nabire District Court Decision No. 47/Pdt.G/2023/PN Nab, to evaluate how positive law is implemented in reality [9]. Based on this academic gap, the problem statement of this research is formulated into two core questions: (1) What is the form of civil liability of the heirs in a lawsuit for the recovery of state losses due to corruption when the perpetrator has died, according to positive Indonesian law? and (2) What forms of legal protection are guaranteed for the heirs in such civil lawsuits under positive Indonesian law?

3. Method

This study employs a normative juridical approach with a descriptive-analytical nature [17]. This specific method was chosen because it provides an accurate and stable framework for examining the legal norms, principles, and doctrines that govern the civil liability of heirs in cases involving state financial losses due to corruption. By focusing comprehensively on positive law, this approach ensures consistency in analyzing the characteristics of the legal data, particularly regarding the complex intersection of civil inheritance law and anti-corruption regulations. The underlying assumption of this method is that legal certainty and justice

can be evaluated optimally through the systematic interpretation of prevailing statutory texts and judicial practices.

Furthermore, the research samples and data sources are clearly categorized into primary and secondary legal materials. The primary data parameters consist of specific statutory regulations, namely Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption (specifically Articles 33 and 34), and the Indonesian Civil Code (KUHPerdata), with a focus on Articles 1365, 830, and 833 [3], [4]. The secondary data sources encompass relevant legal literature, doctrines, academic journals, and a specific case study approach utilizing the Nabire District Court Decision Number 47/Pdt.G/2023/PN Nab [9]. Each sample is identified based on its legal characteristics; for instance, the court decision serves as a concrete parameter to evaluate the practical application and legal reasoning behind civil lawsuits directed at the heirs of deceased corruption perpetrators.

Each step in the methodological process was systematically executed, starting with initial data collection through comprehensive library research (*studi kepustakaan*). This involved gathering legal documents, court decisions, and academic writings directly relevant to the legal issues. Subsequently, the applied analysis technique is qualitative normative, operating strictly on a deductive reasoning pattern. The evaluation approach begins by extracting general legal norms from the primary legal materials and systematically connecting them to address the specific problem formulations. Finally, these general norms are applied to evaluate the concrete case of the Nabire District Court Decision, ensuring that the theoretical analysis produces stable, well-supported conclusions regarding the balance between state interests and the legal protection of heirs.

4. Results and Discussion

The research results are presented through analytical tables and structured descriptions that summarize the main legal values in a concise manner, allowing patterns, comparisons, and jurisprudential trends regarding the civil liability of heirs to be clearly observed. This structured presentation makes it easier for readers to understand the fundamental differences and relationships between the state's right to asset recovery and the heirs' right to legal protection. With this tabular presentation, the main findings derived from positive law and concrete court decisions can be identified quickly and objectively.

Table 1. Summary of Legal Analysis on Heirs' Civil Liability

Aspect	Description
Key Findings	The civil liability of heirs is strictly limited to the inherited estate (<i>boedel waris</i>) and is not personal. Legal protection is guaranteed through the limitation of liability up to the value of the inheritance and the fundamental right to reject the inheritance entirely.
Comparison with Previous Research	The results show consistency with legal literature emphasizing that while criminal liability terminates upon death, state losses resulting from unlawful acts (Article 1365 of the Civil Code) transition into civil debts. This aligns with the principle that penal sanctions cannot be inherited, yet the state retains legitimacy to demand the return of corruptly acquired assets.
Phenomena and Explanations	The jurisprudential phenomenon, such as the Nabire District Court Decision No. 47/Pdt.G/2023/PN Nab, is consistent with theoretical expectations; the heirs were held liable jointly, but strictly restricted to the bounds of the inherited estate. This is explained by the heirs' legal attitude towards the inheritance (unconditional acceptance, beneficial acceptance, or rejection) under Articles 1045 and 1100 of the Civil Code.

Aspect	Description
Preliminary Conclusions	Civil lawsuits against the heirs of deceased corruptors serve as a legitimate and equitable asset recovery instrument. This mechanism effectively balances the state's interest in recovering financial losses with the protection of the rights of good-faith heirs.

The Civil Liability of Heirs

In the context of Indonesian civil law, heirs acquire not only the rights but also the obligations of the deceased, which explicitly includes the responsibility of settling the deceased's debts [5]. The transition of these obligations is firmly established in Article 1100 of the Indonesian Civil Code (KUHPPerdata), which stipulates that heirs who have agreed to accept an inheritance must share the responsibility for paying debts, testamentary gifts, and other burdens proportionately to the share they receive [4]. Consequently, unrecovered state losses resulting from a deceased corruptor's unlawful acts are legally categorized as civil debts. Thus, the obligation to compensate for these state losses automatically shifts to the inherited estate (boedel waris) and becomes the formal responsibility of the heirs [14].

To enforce this civil liability, the burden of proof rests entirely on the plaintiff, namely the state, which is represented by the State Attorney (Jaksa Pengacara Negara) [3]. In the civil court proceedings, the State Attorney is fundamentally obligated to prove not only the existence of actual state financial losses but also the direct connection between these losses and the inherited assets left by the deceased perpetrator [11]. Furthermore, the plaintiff must successfully demonstrate with valid evidence that the object of the lawsuit is strictly part of the inheritance estate and not the personal, legitimately acquired property of the heirs [6]. This rigorous evidentiary requirement is crucial to ensure justice, because the heirs' liability is strictly limited only to the assets they inherit [13].

An in-depth analysis of the Nabire District Court Decision No. 47/Pdt.G/2023/PN Nab reveals the practical implementation of these legal principles [9]. The court's ruling solidifies that the civil liability of heirs in the Indonesian positive law system is purely restitutive rather than repressive [7]. The primary focus of the lawsuit is not the imposition of personal punishment, but rather the legitimate recovery of state losses [17]. In this legal framework, heirs are positioned merely as the parties controlling the inherited assets, rather than as perpetrators of criminal acts, making the imposed liability fundamentally objective and passive [8]. Consequently, the scope of the heirs' responsibility is strictly limited to the value of the boedel waris, ensuring it remains non-personal and does not unjustly encroach upon their private wealth [15].

Legal Protection for Heirs (*Perlindungan Hukum bagi Ahli Waris*)

In the dynamics of Indonesian positive law enforcement, the state's aggressiveness in recovering financial losses due to corruption must not disregard the human rights and legal protection of the heirs [1]. This protection is rooted in the fundamental principle that criminal guilt and liability are strictly personal (*asas personalitas*) and absolutely cannot be inherited [15]. When a corruption perpetrator dies, the criminal prosecution is automatically dropped by law. Therefore, the shift towards a civil dispute resolution mechanism must not be misinterpreted or manipulated as an instrument of covert criminalization against their family or heirs [16]. To prevent this, Indonesian civil law provides a robust protective fortress through the principle of proportionality and the strict limitation of liability, as explicitly mandated in the Indonesian Civil Code (KUHPPerdata) [4].

This principle of limited liability serves as the primary foundation ensuring that heirs will never be burdened with legal obligations exceeding the value of the inherited estate (boedel waris) they receive [14]. To concretely realize this protection, civil inheritance law constructs three privileged rights or optional attitudes

for heirs when an inheritance is opened [5]. First, the heirs have the right to accept the inheritance unconditionally (*volkomen aanvaarding*). Second, the heirs may choose to accept the inheritance under the privilege of inventory (*beneficiaire aanvaarding*) [12]. This choice acts as a crucial protective shield, as it legally prevents the mixing of the deceased's corrupted assets with the personal assets of the heirs. By adopting this legal attitude, the obligation to settle civil debts to the state can only be executed up to the value of the remaining inheritance assets, ensuring that the heirs' legitimately acquired personal wealth remains completely secure from state confiscation [13]. Third, and most fundamentally in preventing harm, Article 1045 of the Civil Code grants heirs the absolute right to explicitly reject the inheritance (*verwerping*). This rejection legally renders the heir as having never existed in the context of the inheritance, thereby totally freeing them from any demands for state loss recovery [10].

An in-depth analysis of these legal protection instruments reveals that the Indonesian legal system is highly cautious in determining the position of heirs within corruption disputes. Heirs are positioned purely as passive civil law subjects parties who administratively happen to control the deceased's estate and not as extensions of the criminal perpetrator [6]. This concept is extremely vital to prevent covert criminalization (*kriminalisasi terselubung*), a scenario where the state might arbitrarily seize the personal assets of innocent heirs under the guise of asset recovery [2]. This profound understanding is perfectly reflected in the jurisprudence of the Nabire District Court Decision No. 47/Pdt.G/2023/PN Nab. In that decision, the panel of judges objectively ordered the heirs to pay compensation jointly, but with the imperative condition that the execution must be strictly limited to the deceased's estate [9]. This jurisprudential balance represents an ideal fusion between retributive justice where the state appropriately retains its right to reclaim corrupted assets and distributive justice, where good-faith heirs are protected from bearing a burden of justice that exceeds their proportional share [17]. Ultimately, this protection ensures that the recovery of state losses proceeds in alignment with proportional and civilized legal certainty.

5. Conclusion

This study concludes that the form of liability of heirs in civil lawsuits over state losses caused by deceased corruptors is limited and material in nature. Heirs do not bear personal responsibility for the unlawful acts committed by the deceased; instead, their obligation is strictly limited to the value of the inherited estate (*boedel waris*) they receive. This emphasizes that civil lawsuits function purely as an instrument for state loss recovery, not as a means of transferring criminal guilt to the heirs.

Regarding legal protection, the results of this study demonstrate consistency with the theory of proportional justice and civil law principles. Legal protection for heirs is explicitly realized through the limitation of liability regulated in Indonesian positive law. This limitation includes the absolute right to reject the inheritance, the principle of liability being restricted to the value of the inherited assets, and the right to self-defense during the evidentiary process in court. The interpretation of this jurisprudential phenomenon proves that these instruments effectively prevent covert criminalization, ensuring that the legitimately acquired personal property of the heirs cannot be made the object of a lawsuit, thereby creating a balance between state interests and the rights of the heirs.

The implications of this research confirm that Indonesian positive law has successfully balanced the state's interest in recovering state finances with the protection of heirs' rights. A limitation of this study is its focus on normative juridical analysis of statutory texts and court precedents. Therefore, future research is highly recommended to examine the practical and operational challenges faced by law enforcement, particularly the State Attorney (*Jaksa Pengacara Negara*), in proving the origin of inherited assets and their connection to state losses in practice.

6. References

- [1] A. Chazawi, *Hukum Pidana Materiil dan Formil Korupsi di Indonesia*. Malang, Indonesia: Media Nusa Creative, 2014.
- [2] Haswandi, "Pengembalian Aset Tindak Pidana Korupsi Pelaku dan Ahli Warisnya Menurut Sistem Hukum Indonesia," Universitas Andalas, Padang, Indonesia, 2016.
- [3] Republic of Indonesia, Undang-Undang Nomor 31 Tahun 1999 jo Undang-Undang Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi.
- [4] Republic of Indonesia, *Kitab Undang-Undang Hukum Perdata*.
- [5] D. R. Kartikawati, *Hukum Waris Perdata: Sinergi Hukum Waris Perdata dengan Hukum Waris Islam*. Yogyakarta, Indonesia: CV. Elvarettabuana, 2021.
- [6] M. N. Ali, "Pertanggungjawaban Perdata Ahli Waris atas Harta Tergugat yang Meninggal dalam Perkara Korupsi," *Jurnal Pendidikan Tambusai*, vol. 9, no. 2, 2025.
- [7] N. M. D. J. P. Dewi, "Pertanggungjawaban Perdata Ahli Waris Pelaku Tindak Pidana Korupsi dalam Mengembalikan Kerugian Negara," *Jurnal Kerta Semaya*, vol. 6, no. 8, 2018. URL: <https://ojs.unud.ac.id/index.php/kerthasemaya/article/view/41747>
- [8] A. Fattati, "Tanggung Jawab Perdata Ahli Waris Terdakwa Tindak Pidana Korupsi yang Meninggal Dunia," *Unes Law Review*, vol. 6, no. 4, 2024. URL: <https://www.review-unes.com/index.php/law/article/view/1971>
- [9] Nabire District Court, Putusan PN Nabire No. 47/Pdt.G/2023/PN Nab, Indonesia.
- [10] A. Holik, "Pelimpahan Hutang terhadap Ahli Waris (Perspektif Hukum Positif dan Hukum Islam)," *Hukum Keluarga Islam*, vol. 7, no. 2, 2025. DOI: <https://doi.org/10.55606/af.v7i2.1653>
- [11] F. Lubis, "Alat Bukti dalam Perkara Sengketa Waris," *JURRISH: Jurnal Riset Rumpun Ilmu Sosial, Politik dan Humaniora*, vol. 4, no. 2, 2025. DOI: <https://doi.org/10.55606/jurrish.v4i2.5426>
- [12] C. Maiyori, "Tinjauan Yuridis Tanggung Jawab Ahli Waris Menurut Kompilasi Hukum Islam dan Kitab Hukum Perdata terhadap Warisan dalam Bentuk Utang di Indonesia," *Jurnal Karya Ilmiah Multidisiplin (JURKIM)*, vol. 4, no. 1, 2024.
- [13] F. I. Nadira, "Tanggung Jawab Perdata Ahli Waris atas Kerugian Negara dalam Kasus Korupsi: Kajian Hukum Perdata dan Islam di Indonesia," *Jurnal Hukum dan Kewarganegaraan*, vol. 9, no. 2, 2024. URL: <https://garuda.kemdikbud.go.id/journal/view/33870>
- [14] F. R. Putra, "Tanggung Jawab Pelaku Tindak Pidana Korupsi dan Ahli Warisnya dalam Pembayaran Uang Pengganti Kerugian Keuangan Negara Ditinjau dari Aspek Hukum Perdata," *Mercatoria*, vol. 1, no. 2, 2008.
- [15] O. J. Sirait, "Pertanggungjawaban Perdata Ahli Waris Pelaku Tindak Pidana Korupsi yang Sudah Meninggal," *Privat Law*, vol. 12, no. 1, 2024. URL: <https://jurnal.uns.ac.id/privatlaw/article/view/50465>
- [16] R. M. Turnip, "Pertanggungjawaban Hukum terhadap Terdakwa dalam Perkara Tindak Pidana Korupsi yang Meninggal Dunia pada Saat Pemeriksaan," *Al-Zayn: Jurnal Ilmu Sosial dan Hukum*, vol. 4, no. 1, 2026. DOI: <https://doi.org/10.61104/alz.v4i1.3062>
- [17] M. I. Arief, *Pertanggungjawaban atas Kerugian Keuangan Negara dalam Perspektif Hukum Administrasi, Perdata/Bisnis, dan Pidana/Korupsi*. Jakarta Pusat, Indonesia: Mekar Cipta Lestari, 2022.