# UNIVERSITAS BHAYANGKARA JAKARTA RAYA
## FAKULTAS HUKUM
Kampus I : Jl. Harsono RM No. 67 Ragunan Pasar Minggu, Jakarta Selatan 12140
Tlp: 021. 7231948 7267655 Fax: 7267657
Kampus II : Jl. Perjuangan Raya Marga Mulya Bekasi Utara Telp: 021. 88955882


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Mengingat :
1. Undang-Undang No. 20 Tahun 2003 Tentang Sistem Pendidikan Nasional.
2. Undang-Undang No. 14 Tahun 2005 Tentang Guru dan Dosen.
3. Undang-Undang No. 12 Tahun 2012 Tentang Pendidikan Tinggi.
4. Undang-Undang No. 49 Tahun 2014 Tentang Standar Nasional Pendidikan Tinggi.
5. Program Kerja Fakultas Hukum Universitas Bhayangkara Jakarta Raya Tahun Akademik 2019.
6. Kalender Akademik Universitas Bhayangkara Jakarta Raya T.A. 2018/2019.

**MENUGASKAN :**

Kepada : Nama : FRANSISKA NOVITA ELEANORA, S.H., M.HUM.
NIDN : 0313047703

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Ditetapkan di : Bekasi
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Dekan Fakultas Hukum

**Dr. Slamet Pribadi, SH, MH**
**NIP. 1901381**

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# IMPLEMENTATION OF STATE CONFISCATED OBJECTS STORAGE HOUSES (RUPBASAN) BY LAW NUMBER 8 OF 1981 CONCERNING LAW BOARD LAW OF CRIMINAL EVENTS (KUHAP)

**Fransiska Novita Eleanora**

Faculty of Law, Bhayangkara Jakarta Raya University
JL. Darmawangsa 1 No.1, Pulo, Jakarta Selatan, Jakarta, 12140, Indonesia
Telp./Fax: +62-21-7231948 Email: vita_eleanor@yahoo.com

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***Abstract***

*State confiscated storage house (rupbasan) in the provisions of the Criminal Procedure Code (Criminal Procedure Code) is a place of storage of confiscated objects or the proceeds of state booty in the form of movable and immovable goods to be stored after receiving a permanent decision from the court must incorporated into rupbasan, in carrying out its duties, Rupbasan still experiencing obstacles both internally or externally to be addressed properly, so that Rupbasan as a place to keep confiscated objects remain existence and competence according to its function. Internal obstacles are lack of human resources (HR), limited facilities / infrastructure, lack of regulation about Rupbasan, unknown level of examination case of goods deposited, no time limit of goods custody, External obstacles of assumption law enforcement officers that rupbasan has not been able to manage / storing confiscated objects of state, and there is no similar perception of society related to rupbasan, especially related institutions.*

***Keywords:*** *Competence; Confiscation; Existence*

## INTRODUCTION

Indonesia as a sovereign and legal state in the Criminal Procedure Code, has Law Number 8 of 1981 concerning the Criminal Procedure Code, it creates the first time Codification and Unification in Indonesia, the purpose of which is held from the beginning to the end and covers the entire process of criminal namely the investigation up to the Supreme Court in the form of cassation, and even up to the implementation of the decision, which includes a Judicial Review (Herziening).

The role of the procedural law in its implementation, namely the Criminal Procedure Code regulates the investigation with forced efforts, namely the arrest, detention, search, seizure and also examination of the letter[1].

Point 16 Article 1 explains that confiscation is:

*"The actions of the investigator to carry out a series of actions taken to take*

[1] Basmanizar, *Penyelamatan dan Pengamanan Benda Sitaan Negara dan Barang Rampasan Negara di Rupbasan*, Jakarta : Rajawali Pers, hal. 24

*over and / or under his control keep all immovable or immovable objects, which are intangible and / or tangible for the sake of proof in the investigation, and prosecution, and justice".*

Objects that can be confiscated and related to various foreclosures and actions include:

1. The suspect or also called the defendant in this case is deemed to have committed an act in the form of a criminal result either partially or wholly on the object or bill.
2. Crime is carried out directly by preparing objects that will and have been used.
3. Using objects aimed at obstructing criminal acts committed by investigators.
4. Using objects that are specific to a criminal or criminal offense.
5. A criminal act is carried out in relation to 2 (two) related objects.

Evidence used in the examination of a criminal case can function and use all five of these items, so that in confiscating and obtaining evidence and placing various types of confiscation of the item is needed at a place which is a storage center of all existing confiscated items.

Objects in the form of confiscation and booty from the State from criminal cases that are filed as evidence are written in Article 44 paragraph 1, concerning the Criminal Procedure Code (KUHAP) reads that: "Seized Objects from the State are kept inside A house that functions as a storage of objects in the form of state seizures ".[2]

The establishment of Rupbasan is based on the provisions of Article 44 paragraph 1 of the Criminal Procedure Code and also with Government Regulation No. 27 of 1983 along with the Minister of Justice Regulation No. M.05.UM.01.06 of 1983. In some areas of DKI Jakarta there are around 5 (houses) Houses of Storage of Objects in the form of Seizures from the State, abbreviated (RUPBASAN) and are under the Ministry of Law and Human Rights Republic of Indonesia (KEMENKUMHAM) , meaning that Broadly based on structural and even functional, Rupbasan is under the environment of the Ministry of Law and Human Rights of the Republic of Indonesia which will become a central place and storage of all kinds of confiscated goods from various existing institutions.[3]

A good cooperation is required from various institutions that are related, such as the Prosecutor's Office, the Police and

[2] Budi Wijayanto, *Fungsi dan Peranan Rumah Penyimpanan Benda – Benda Sitaan Negara*, Jakarta : Gramedia, 2010, Hal 30

[3] Undang-undang Nomor 8 Tahun 1981 tentang *Kitab Undang-Undang Hukum Acara Pidana (KUHAP).*

the Court or other agencies so that they can hand over the confiscated items to be taken and stored in Rupbasan so that they are safe and protected and if in a process decisions from the court can be returned in full as before without any defects or damage and slight blisters. The aim is none other than that in the Implementation and Management of Confiscated Objects and Goods Confiscated by the State in Rupbasan according to its function it can run well.

**Formulation of the problem**

What is the existence and competency of the house of storage of confiscated objects and spoils from the State?

**Discussion**

**Evidence**

In the case of the existence of the interests and proof of the criminal case that will be held then regarding the existence of objects that are related / involved in a case of an act of criminal action, this is certainly very necessary. But if we refer in detail there has not been a specific rule that provides a definition of evidence means that one by one the legislation and its implementation there is no article regarding the regulation of evidence.

Because these objects are commonly found in crime scenes, where the occurrence of the case occurs there is known as the "Evidence", then the evidence of the crime that has been committed by the suspect, even though the evidence already has a criminal or a very important criminal process. Experts from the law relating to the event in the Criminal Justice process, namely Andi Hamzah said, an item of evidence to be used in the process of a criminal case is evidence that which of the offenses occurred and carried out (object of offense) and also the item in which the offense done (a tool used to commit a crime / offense), including here an item that is the crime that occurred and is the result of a criminal / offense event.[4]

Objects that can indeed be used as evidence, have several characteristics, for example:

a. Material object of an object
b. Imposing there is a connection between the perpetrator and the object, it can be said to speak for yourself
c. The existence of the means of proof is considered most valuable if compared with the means of various other evidences

[4] Andi Hamzah, *Hukum Acara Pidana Indonesia*, Ghalia Jakarta, 2004, hal. 254

d. Between the statements of the defendant and witness testimony there must be an identification of the linkages[5]

**Evidence**

Article 184 of the Criminal Procedure Code, provides provisions regarding the types of evidence:

1. The information given by the witness, in general everyone can be said to be a witness:
   a. In the blood of the family or also called semenda where the line must be down or even up straight, it can even reach the third degree from the accused or who can be together as the perpetrator or defendant;
   b. Together with the defendant or also the brother of the defendant, who can also be a brother or sister from his mother, also from those who have a relationship due to a marriage between the previous defendant, along with the children of the defendant and his brother based on the third degree only.
   c. The wife or husband of the defendant has the right to provide information relating to the case that was filed even though they had been separated for a long time or together with the defendant.
2. Expert Information

   An expert has the right to give a statement in court regarding a matter that is understood and indeed already exists and is carried out with conclusions, the expert is considered to be someone who controls or works in a special skill and gets a skill or has expertise in accordance with the case at hand.
3. Letter

   1 (one) article that regulates the letter, namely Article 187, the letter in the official sense and can be accounted for. Where the article consists of 4 verses:
   a. Other letters in official form or minutes in which general officials make and have authority even make letters in front of them, and contain information about events or circumstances that are directly heard, experienced by themselves, or heard accompanied by various clear and clear reasons. about all the information;

[5] Basmanizar, *Penyelamatan dan Pengamanan Benda Sitaan Negara dan Barang Rampasan Negara di Rupbasan*, Jakarta : Rajawali Pers, 2011, hal. 17-19

b. The letter is indeed made based on the provisions of the authorities from an official based on a matter and / or circumstances, which are included in the rules responsibility, or adjusted to the rules and only intended for a proof, in accordance with the legislation and a number of existing regulations.

c. Letters and information from an expert that contains / contains opinions based on his expertise is formally requested by him regarding the situation or something[6].

d. Other letters that are only obtained and valid if there is a connection / relation to the contents of the other evidentiary evidences.

4. Proof of Instructions

Based on paragraph 1 of Article 188 of the Criminal Procedure Code, the definition of the Directive is that the dressing has been carried out, the circumstances or events, the connection thereof, with the crime and the action itself carried out by the suspect, meaning that the elements have been fulfilled, proven criminal acts occurred and who is the culprit.

5. Information from the Actor / Defendant

The statement of the defendant is where an action that justifies some circumstances or events or actions that have been proven in an act that is in accordance with other evidence and is a proof.

**Relationship between Evidence and Evidence**

Evidence is a very absolute part of the evidence, and a set of evidence cannot stand alone evidence that will strengthen the conviction of a judge related to a criminal offense and criminal incident. In the examination of a criminal case there is a term "proof tool: in the provisions of paragraph 1 of Article 197 of the Criminal Procedure Code, the use of the term also includes evidence in pretrial is very relevant.

In a trial that has the duty of the judge to read the permanent decision and determine the items to be confiscated by the panel of judges, at least it must be determined that an object that will be confiscated by the State does not include the available evidence, so it

[6] Jam Remmelink, Hukum Pidana : Komentar Atas Pasal – Pasal Terpenting Dari Kitab Undang-Undang Hukum Pidana Belanda dan Padanannya dalam Kitab Undang – Undang Hukum Pidana Indonesia, Jakarta : Gramedia, 2003, hal. 34-35

must be returned and handed over to the suspect or where the object was confiscated beforehand, and this must also have a decision from the judge.

Letter b Article 82 of the third paragraph of the Criminal Procedure Code, it is very clear that dictating objects that can be confiscated and objects that cannot be confiscated are included in the category of evidence, so that this article uses seized objects replacing existing evidence[7].

Conclusions can be drawn from the hearing in the trial of the existence of evidence in the Criminal Procedure Code in Article 181, as follows:

1. Objects that are in the courtroom and related to the evidence are shown before the suspect and the judge as the chairman who presides over the hearing can ask and show the perpetrator in accordance with the Criminal Procedure Code provisions Pasal 45 concerned in this case the defendant knows or not.
2. The witness also has the right to see objects that are considered as evidence, and if deemed necessary the judge as the chairman of the session must show them.
3. Defendants or witnesses who have an official report that has been read by a judge at the hearing can be asked for information if needed.

**Confiscation of Goods / Objects**

The act of punishment in the form of a takeover of the temporal tenure rights of goods already owned from the hands of someone or another group that can be used for the purpose of investigation, then prosecution and also the court. Usually it can be said as a process, or a way, even an act and action to confiscate and retrieve from someone's personal property carried out by the government without any compensation to the victim. Where the process of enforcing the rule of law can validate the existence of an action that is in the form of a confiscation.

Used as evidence in the investigation, in and prosecution action and even in the examination of a court hearing, and keeping all available evidence used for the sake of "proof" especially can be addressed and considered as strong evidence before the existing trial . Even the most likely thing that can happen without proper evi-

[7] Richard Lokas, *Barang Bukti Dan Alat Bukti Dalam Kitab Undang-Undang Hukum Acara Pidana*, Lex et Societatis, Vol. III/No.9/Okt.2015, hal. 127-128, Online, (diakses, Rabu, 25 Juli 2018, Jam : 19.46 wib)

dence is that a case cannot possibly be tried and brought before a court, therefore every case that is complete with evidence that has been prepared and brought by the investigator is the main goal[8].

It can usually be said to be the process and method used and also the actions and actions to take actions to confiscate and take over from law enforcers and the government to someone's personal property, without the provision of compensation that is appropriate to victims who suffer.

Where the process of enforcing the rule of law can validate the existence of an action that is in the form of a confiscation. The act of punishment in the form of a takeover of the right of possession of goods for the time being from the goods that have been owned and owned from private hands and from a group or another can only be used for the court, the interests of investigation and even prosecution.

Actions from investigations that occur even prosecution can propose an evidence that already exists, even in court in the trial can also function, and keep safe and undamaged all available evidence and can be used for every interest of the "proof" submitted, especially it can be addressed and considered as evidence before the existing trial and strong evidence.

In fact, most likely that can occur without proper evidence, a case may not be heard and brought before a court, therefore every case that is complete with evidence that has been prepared and brought by the investigator is the main objective.[9]

**Objects that can be seized are:**

1. Seizure of objects or goods
   a) Crimes in the form of additions can be applied to goods or / and objects seized (regulated in the Criminal Code Article 10).

      Whereas in Article 33 states that every object by the State that can be confiscated includes:

      - When obtaining or committing an act or act of crime that is either partially or in full and by using an object / tool.

      - Assistance to commit criminal acts using and using objects.

      - Investigations are carried out with objects aimed at blocking

[8] Peraturan Pemerintah Republik Indonesia Nomor 27 Tahun 1983 tentang *Pelaksanaan KUHAP*.

[9] Hendrat Puryanto, *Susunan Yuridis Pengelolaan Benda Sitaan Negara di Indonesia*, Surakarta: Krakatau Surakarta, 2010, hal. 28-31

- State policy can occur ownership of a transition when the object to be used is used to commit a crime.

b) In the process of a judiciary shows from objects that have been confiscated.

The Criminal Procedure Code in paragraph 1 of the rules in Article 39, explains with a fundamental meaning that the Regulation set by the Government of 1983 No. 27 in the fourth number Article 1, reads "the criminal procedure governing the goods or the items that have been confiscated" and the items that have been confiscated in scope are:

- Act in the form of a crime and that has been committed by a suspect or defendant with an object or form in the form of a bill that is obtained in part or in whole.
- Conducting a crime which is a crime and an action that is not good by preparing directly an object that will be used.
- Investigators carry out criminal investigations but are carried out by obstructing using objects.
- Crimes and actions taken with objects specifically made
- As material for proof in court there are other objects suspected of committing crimes or criminal acts.

Other provisions in the second paragraph clearly state that an object / object seized or intended to be taken by the State must be due to a case to be filed must always be civil or due to bankruptcy (state of being unable to pay) and can also be confiscated provided for the purpose of adjudicating a crime that is indeed a case, a prosecution is held even up to the investigation, provided that it is not contradictory and insofar as it complies with the provisions of the provisions of the first paragraph[10].

Instructions and implementation of goods which constitute spoils and confiscations carried out by the State through Decisions from the Director and General of the Correctional Office of the Ministry and Human Rights Law and Rights in the Republic of Indonesia in 2015 and Number PAS-140.PK.02.01 concerning its management can be stored at Home place of

[10] Basmanizar, Penyelamatan dan Pengamanan Benda Sitaan Negara dan Barang Rampasan Negara di Rupbasan, Jakarta : Rajawali Pers, 2011, hal. 38-42

Object Storage and confiscation from the State, can be interpreted as:

- Confiscation of confiscated goods and objects (abbreviated as Basan), is only used because of the necessity of the judicial process because of the use of the evidence and carried out by the public prosecutor or even the investigator because of the authority to do so.
- Deprivation and confiscation of Basan (known as confiscated goods / items that have been seized) must wait for / the power of the law that remains based on the decision of the court may be carried out by the State, and subsequent actions are carried out by means of:

i. Stored for use in proving other cases, meaning that it can be submitted to the House where Storage is made of objects in the form of sitaam (termed Rupbasan)

ii. Eliminated or eliminated even destroyed;

iii. The State can auction and the results can be entered into the State Treasury;

iv. Agencies appointed and determined to hold and use them; and

Whereas in a predetermined and specified time period there is no one who claims to be the owner of the goods that have been found or the findings of the goods, it can become the property of the State.

**Implementation of Home Storage of Seized Objects (Rupbasan)**

Management of goods that are categorized as confiscated by the State (Basan) and goods that the State has also taken from their owners are said to be appropriate for the term RUPBASAN, is the beginning and process of confiscated and spoiled receipts up to the basan and bar reporting stages that can be said occurs in a system in one activity or an existing circuit.

In the case of a very simple, fast, and light trial, the costs in the process of a court must prioritize various aspects and aspects of an accurate safeguard, friendly service attitude, and the assurance of the integrity of the evidence, all of which become the task of

the party of the unit will be implementing and technical correcting of the Management of Objects in the form of Confiscation and also against the Irritable

Deprivation conducted by the State for the purpose of the interest to the investigation, and prosecution as well as examination in the court or more at the court hearing, so that it can support the judicial process is simple, fast and low cost, it contains aspects of adequate service, equipped with security accurate, and maintenance is maintained so that the integrity of the goods used as evidence will be guaranteed.[11]

Rupbasan has a very important role in the management, especially in the system of a criminal justice, especially in storing existing evidence, which will be used in all evidences, its duty as a storage place is of course very optimal and efficient in carrying out existing functions in accordance with the provisions in the rules already stated, but in practice Rupbasan still cannot implement it because there are still many dualisms from the rules which are evident, namely where the reality of the existence of objects that have been seized and has been seized by the State is used by certain parties or institutions of law related and do not want to hand it over to the Rupbasan for delivery, of course this raises a dilemma, because it is considered violating.

There needs to be a court verdict followed by the determination of confiscated goods and or the goods seized by the State or returned to the defendant if the verdict stipulates that the goods be seized by the State, then there needs to be a follow-up in the form of execution. As for the period of management of booty of the State (Baran) starting from the physicality of a confiscated object the State has permanent legal force based on a court decision.[12]

Implementation in implementing a management of confiscated objects and items that have been seized by the State based on provisions and provisions of the existing, various obstacles experienced by the process of implementation and management of objects that are confiscated from the state and goods in the form of booty from the country as follows:

1. Barriers that are internal

   Various aspects of the obstacles that always appear in the Rupbasan

[11] Undang-undang Nomor 8 Tahun 1981 tentang *Kitab Undang-Undang Hukum Acara Pidana (KUHAP).*

[12] Hendrat Puryanto, Susunan Yuridis Pengelolaan Benda Sitaan Negara di Indonesia, Surakarta: Krakatau Surakarta, 2010, hal. 27-32

building itself, which exists and include:

a. Personnel who are prepared by Rupbasan and who are still very limited and very minimal in terms of their human resources and resources in the place, (especially officials and / or officers) and their knowledge and knowledge are very minimal in relation to existing and most basic Rupbasan caused by employees who are often transferred.

b. The function of the implementation of Rupbasan is not supported itself, due to excessive overcapacity of existing regulations and barriers and funds and budgets that include limited infrastructure and facilities in this case warehouses or buildings. The basan maintenance budget and bar in Rupbasan are still very limited.

c. Legal status that is clearly evident is sometimes absent or not owned and because of the lack of regulations for various regulations that always regulate the authority of Rupbasan to immediately take various actions from the law in relation to the existence of Basan / Baran which indeed has permanent power from the law.

d. There is no knowledge of the level of litigation against the bananas deposited because the relevant agencies do not provide information about the process of the existing basan / baran law.

e. It can also cause dangers and risks that can be happy and threaten various security due to the nature of a basan and the existing bar which is very sensitive and easily burnt, or others and in this case there is no regulation regarding the time limit and safekeeping so it can cause various buildups and delays in the process and in and out of the bar.

2. Obstacles including External

If barriers are included in the external, there are various obstacles that can sometimes arise and come from outside an environment within the Rupbasan region, which includes various aspects:

a. The emergence of assumptions originating from various authorities in the law enforcement agency itself which states that Rupbasan is always considered unable or not able to save or manage an object that is confiscated from the State. A very concrete and clear example of the

results of money in corruption crimes which should always be kept in Rupbasan.

but in the field the fact that the results of corruption are stored in the prosecutor's inscription and the basis of consideration is because they are considered to be less guaranteed for security if they are kept in Rupbasan.

b. The community has no perception in common with the agencies related to Rupbasan.

There needs to be efforts needed to overcome all obstacles in the management of confiscated objects and spoils from the State, where the implementation makes clear the rules of existing management[13].

**Existing obstacles can be overcome with various countermeasures including:**

a. Officers or other relevant institutions in this case law enforcers even from the Rupbasan party, their officers must be included and involved in technical guidance and counseling regarding training and also the education of very clear knowledge of the parties from Rupbasan in terms of administrators by parties from the Directorate General and Corrections Ministry and Law and Human Rights.

b. Being the authority and duty of the Head of Rupbasan to optimize all available facilities and infrastructure and the fees and barages that are also in accordance with the existing provisions must be stored, so that there will be no overcapacity and the goods are maintained

c. The authority of Rupbasan is more intended for basan and barans who have seizure value that has permanent legal force or can also be due to having a clearer legal status which can be harmed at the end of the country's economy.

d. It must be clear that the rules regarding bananas and barriers can result in a reduction in the value of the economy due to the buildup in the warehouse.

e. The other parties take over from the police and the work and the District Court all must have a basic procedure and must be known by the Rupbasan regarding its management.

[13] Keputusan Menteri Kehakiman dan Hak Asasi Manusia RI Nomor: M.01.PR.07.10 Tahun 2001 tentang *Organisasi dan Tata Kerja Kementerian Kehakiman dan Hak Asasi Manusia Rl.*

f. The image and assessment of the community is very bad for the management of confiscated goods and spoils from objects carried out by the State. Due to seeing and knowing the process that occurred after investigators confiscated or seized property belonging to the people in the hands of the authorities.

   To be able to overcome all of this, every Head of Rupbasan must always coordinate with each of the relevant agencies through several agreements or MOUs with parties from the Court, or the Prosecutor's Office, even the Police[14].

## Conclusion

The implementation of Rupbasan is a place of management of goods or objects that are confiscated by the State that has been implemented in accordance with the regulations of the provisions of an existing law. contained in the Law and direct coordination with relevant parties so that the main purpose of the State in protecting the right of the convicted person (HAM) as well as saving personal assets is very maximum in providing services that are public.

## Suggestion

In order to optimize the Rupbasan function, at least the Head of Rupbasan should collaborate with relevant agencies namely the police, prosecutor's office and the court which aims to harmonize, and synchronize and harmonize the management of the existing criminal justice system, steps that can be taken so that goods and objects not a deficit so that the economic value decreases or does not exceed the existing overcapacity, so in the rescue there must indeed be an agreement or cooperation between the existing agencies.

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