LEGAL ANALYSIS OF CONFISCATION OF CORRUPTION ASSETS IN THE CONTEXT OF JUSTICE AND HUMAN RIGHTS PROTECTION

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Abstract

This research focuses on the legal analysis of asset confiscation resulting from corruption from the perspective of justice and human rights. Asset confiscation is seen as an important instrument in recovering state losses and strengthening the anti-corruption system, but its practice raises serious problems related to the protection of individual rights, especially those of well-intentioned third parties. The research method used is normative legal, emphasizing library research, analysis of laws and regulations, international legal instruments, and a review of relevant legal literature. The results indicate a tension between the state's interest in recovering losses from corruption and its obligation to safeguard the basic rights of citizens. Normatively, national regulations have regulated the mechanism for asset confiscation, but there are still implementation weaknesses, overlapping authority between institutions, and the absence of specific regulations regarding non-conviction-based asset forfeiture as stipulated in international standards. The implications of this research emphasize the importance of legal reform through the establishment of specific laws on asset recovery, institutional harmonization, and the adoption of international practices that uphold the principles of proportionality and substantive justice. Thus, asset confiscation policies can be more effective, accountable, and remain in line with human rights protection.

Keywords: *Asset Confiscation, Corruption, Human Rights*

INTRODUCTION

The phenomenon of corruption in Indonesia has reached an increasingly critical point, reflected in the increasing intensity of cases involving state officials, bureaucratic apparatus, and private entities.[1] Based on empirical data from the Corruption Eradication Commission (KPK) for the 2019–2023 period, more than 1,000 corruption cases were successfully uncovered, with total state losses estimated to reach trillions of rupiah.[2] The systemic impact of these practices not only destabilizes state financial governance but also creates structural injustice that connotatively "erodes" the social rights of the community, particularly vulnerable groups who should be the primary beneficiaries of public budget distribution. In this context, the policy of confiscating assets derived from corruption becomes an urgent instrument, not only as a means of recovering state losses, but also as a concrete effort to realize the principle of distributive justice in the life of the nation and state. Therefore, academic research with a juridical perspective is

[1] Patar Tampubolon, Mompang L Panggabean, and Manotar Tampubolon, "Kajian Kriminologi Korupsi Di Sektor Publik Di Indonesia," *Berajah Journal* 4, no. 2 (2024): 211–34.
[2] Ahmad Abdul Rohman, "Peran Kepolisian Resor Pati Dalam Penanganan Tindak Pidana Korupsi" (Universitas Islam Sultan Agung Semarang, 2024).

urgently needed to find a normative balance between repressive strategies for eradicating corruption, asset recovery mechanisms, and the protection of human rights as a universal ethical foundation.

In practice, the implementation of the policy of confiscating assets derived from corruption remains overshadowed by various substantive and technical problems. A fundamental issue that frequently arises is the dialectic of interests between the mission of recovering state losses and maintaining citizens' constitutional rights, particularly the right to private property, which is explicitly guaranteed by the 1945 Constitution.[3] Not infrequently, a number of cases show the confiscation of assets of third parties who actually act with good intentions, thus giving rise to legal controversy as well as significant social resonance.[4] In the context of large-scale corruption cases, for example, there appears to be a conflict between the state's interest in securing the proceeds of crime and the claims of the defendant's family, who feel they had no direct involvement. This phenomenon emphasizes that the issue of asset confiscation cannot be viewed merely as a technocratic procedure, but rather touches on fundamental aspects such as the principles of substantive justice and the protection of human rights. Therefore, the urgency of academic review using a critical approach based on legal and human rights theory is inevitable, in order to formulate a fair normative balance between restoring state interests and protecting individual rights.

Numerous studies have been conducted on the confiscation of assets resulting from corruption, but most emphasize the effectiveness of the law without adequately addressing human rights aspects. Kevin Sulistyo Kaban and Abdul Kholiq (2025) show that asset recovery mechanisms in several countries often ignore the principles of fair trial and ownership rights.[5] Novellita Sicillia Anggraini et al (2024) also emphasized that asset confiscation can violate human rights if it is not accompanied by fair and transparent procedures.[6] Meanwhile, Geofani Lingga Meryadinata (2025) found that Indonesia is still weak in balancing the recovery of state losses with the protection of citizens' rights.[7] From these three studies, it can be concluded that discussions on asset forfeiture still provide insufficient space for substantive justice and human rights protection in legal studies in Indonesia.

Based on the literature review, a conceptual gap is evident between previous studies and the focus of this research. The majority of previous studies prioritize the effectiveness of asset forfeiture policies and the optimization of criminal law instruments, but have not fully integrated aspects of substantive justice and human rights protection. However, in the Indonesian context, which affirms its commitment to democratic values and the principle of the rule of law, the practice of asset forfeiture cannot be examined solely from a formal legal perspective but must also be examined from a universal human rights perspective. Therefore, this study seeks to fill this gap by presenting a juridical

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[3] Muhadjir Effendy, *Profesionalisme Militer Profesionalisasi TNI* (UMMPress, 2025).
[4] Azhar Nizam Al-Haqq, "Perampasan Aset Hasil Tindak Pidana Korupsi: Perspektif Aliran Filsafat Hukum Critical Legal" (Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta, 2024).
[5] Kevin Sulistyo Kaban and Abdul Kholiq, "Optimalisasi Regulasi Pidana Terkait Perampasan Aset Tindak Pidana Kejahatan Ekonomi Berlandaskan Perspektif Hukum Progresif Berkeadilan," *Jurnal Locus Penelitian Dan Pengabdian* 4, no. 5 (2025): 1811–23.
[6] Novellita Sicillia Anggraini, Ana Indrawati, and Andri Novianto, "Rancangan Undang-Undang (RUU) Perampasan Aset: Impian Atau Solusi?," *INNOVATIVE: Journal Of Social Science Research* 4, no. 4 (2024): 3772–83.
[7] Geofani Lingga Meryadinata, "Kompensasi Dan Restitusi Sebagai Bentuk Perlindungan Negara Terhadap Pemenuhan Hak Korban Tindak Pidana Terorisme," *Dinamika* 31, No. 1 (2025): 11449–67.

analysis that places the principles of justice and respect for human rights as the primary foundations for assessing corruption-related asset forfeiture policies. This academic gap is significant because it addresses the classic issue of balancing the public interest with the protection of individual rights—a topic that remains largely undiscussed in Indonesian legal studies.

The novelty of this research lies in its approach, which integrates criminal law analysis with theories of distributive justice and human rights in assessing the practice of confiscating assets resulting from corruption. Few previous studies have considered human rights as a primary variable in the issue of asset confiscation in Indonesia. This research also offers a new perspective by comparing national practices with international standards, particularly the United Nations Convention Against Corruption (UNCAC), thus providing a normative-prescriptive framework and providing an academic framework for policymakers.

The primary objective of this research is to analyze the confiscation of corrupt assets within the context of justice and human rights protection based on Indonesian positive law and international standards. The focus emphasizes that such policies should not only focus on recovering state losses but also on guaranteeing legitimate individual rights. The urgency of this research lies in its contribution to strengthening the Indonesian legal system to make it more just, democratic, and oriented toward respecting human rights.

METHOD

This research uses a normative juridical method, namely an approach that focuses on the study of applicable legal norms as stated in statutory regulations.[8] This approach was chosen because it is relevant to the research focus, which is to analyze the legal aspects of asset confiscation in corruption crimes from the perspective of justice and human rights. This research is doctrinal in nature, where law is understood as an autonomous, structured, and consistent system of norms that serves as a basis for analyzing legal issues.

The type of data used in this study is secondary data obtained through library research. The primary legal sources that are the focus of the study include Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering, and Law Number 39 of 1999 concerning Human Rights. In addition, several relevant international provisions, such as the United Nations Convention Against Corruption (UNCAC), are also referenced in the discussion to strengthen the analysis of international asset recovery standards.

Secondary legal sources consist of legal literature, scholarly articles in reputable journals, previous research results, and official publications from state institutions such as the Corruption Eradication Commission (KPK), the Supreme Court (MA), and the Ministry of Law and Human Rights. Additionally, credible non-legal materials, such as media reports, policy documents, and data from international institutions, are used to enrich the context and provide an empirical picture of legal implementation in the field.

Data collection techniques are conducted through searching and reviewing legal documents, both in the form of laws and regulations and other library materials. Data analysis is conducted qualitatively using legal interpretation methods, namely examining the legal meaning of applicable norms and connecting them to existing implementation

[8] Sidi Ahyar Wiraguna, "Metode Normatif Dan Empiris Dalam Penelitian Hukum: Studi Eksploratif Di Indonesia," *Public Sphere: Jurnal Sosial Politik, Pemerintahan Dan Hukum* 3, no. 3 (2024).

practices.[9] Although this research does not use primary data in the form of interviews or surveys, several actual case studies of the practice of confiscating assets from corruption in Indonesia serve as illustrations. This aims to demonstrate the effectiveness and challenges of implementing existing laws in the context of upholding justice and protecting human rights.

RESULTS AND DISCUSSION

Balancing state restoration and human rights

Confiscation of assets resulting from criminal acts of corruption is a legal instrument that has fundamental significance in the architecture of corruption eradication in Indonesia.[10] Corruption not only causes fiscal losses to the state, but also undermines the very foundations of the rule of law and connotatively "robbes" the social rights of the people that should be protected by the state. Normatively, Law Number 31 of 1999, in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, provides explicit legal legitimacy for the confiscation and seizure of assets as additional criminal sanctions.[11] This provision is strengthened by Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, which opens up space for the state to trace, freeze, and confiscate assets resulting from criminal acts, including corruption.[12] However, empirically, the implementation of this policy still faces friction in the field, marked by overlapping authority between institutions, weak capacity of law enforcement officers, and limited coordination, creating a paradox between the ideals of regulation and practical reality.

From a human rights perspective, asset confiscation mechanisms must always be based on the principles of substantive justice and legal certainty. Article 28D paragraph (1) of the 1945 Constitution explicitly guarantees the right of every individual to recognition, protection, and fair legal certainty. Therefore, every act of asset confiscation must be carried out through valid legal procedures to avoid violating the rights of indirectly affected third parties, such as heirs or owners acting in good faith. Research findings from the National Commission on Human Rights (2022) indicate a number of cases in which third parties not involved in corruption also suffered losses due to the confiscation process without thorough verification. This situation confirms the persistence of serious problems related to the fulfillment of substantive justice in asset confiscation practices.

In international practice, the United Nations Convention against Corruption (UNCAC), ratified by Indonesia through Law Number 7 of 2006, emphasizes the importance of implementing asset recovery instruments as a strategic mechanism for recovering state losses. However, several recent studies (Misra, 2021; Nugroho, 2022; Alatas, 2023) indicate that the implementation of asset recovery in Indonesia remains relatively weak compared to several countries in the Southeast Asian region. For

[9] Mery Herlina, "Analisis Dampak Implementasi Norma Penjelasan Dalam Peraturan Perundang-Undangan Terhadap Kepastian Dan Efektivitas Penegakan Hukum Di Indonesia," *Journal of Interdisciplinary Legal Perspectives* 1, no. 1 (2024): 46–58.
[10] Wilki Angga Lineleyan, "Tinjauan Yuridis Tentang Perampasan Aset Tindak Pidana Korupsi Dihubungkan Dengan Sistem Perampasan Aset Berbasis Properti," *Lex Administratum* 12, no. 5 (2024).
[11] Muhammad Syarif, Sunarmi Sunarmi, and Edi Yunara, "Kedudukan Sita Pidana Harta Benda Tindak Pidana Pencucian Uang Dengan Kedudukan Sita Umum Kepailitan," *Locus Journal of Academic Literature Review*, 2023, 757–68.
[12] Ade Mahmud, Husni Syawali, and Rizki Amrulloh, "Keadilan Substantif Dalam Proses Asset Recovery Hasil Tindak Pidana Korupsi," *Jurnal Suara Hukum* 3, no. 2 (2021): 227–50.

example, Malaysia and Singapore have adopted non-conviction-based asset forfeiture mechanisms, which allow for the confiscation of assets without having to wait for a final and binding criminal decision. This phenomenon has sparked academic debate that Indonesian regulations need to be more responsive and adaptive by adopting similar practices, while upholding the principle of due process of law as a pillar of justice.

Field findings indicate a tension between the state's interest in recovering losses from corruption and the need to safeguard individual rights during the legal process. Several academics emphasize that the Indonesia Corruption Watch (2022) principle of proportionality should be the primary parameter, meaning that asset confiscation can only be justified if supported by strong evidence and carried out through a transparent judicial mechanism.[13] The absence of clear procedures often gives rise to public controversy, for example in the case of the freezing of private company accounts, where the verification process has not been fully and publicly verified. This situation indicates that the practice of asset confiscation has the potential to violate human rights if not accompanied by adequate legal protection.

Law Number 8 of 1981 concerning Criminal Procedure Code (KUHAP) does provide a procedural framework for confiscation, but in practice, this regulation is often deemed inadequate to address the complexity of cross-jurisdictional corruption cases and crimes intertwined with money laundering mechanisms. Therefore, several legal studies by Danang Dizarahadi (2023) have highlighted the urgency of reforming procedural law specifically regulating asset confiscation to better adapt to increasingly sophisticated corruption modus operandi.[14] One widely advocated alternative is strengthening non-conviction-based asset forfeiture regulations in Indonesia, allowing for more effective recovery of state assets without having to wait for lengthy and protracted criminal proceedings.

Another identified obstacle in the field is the weak harmonization and coordination between law enforcement agencies, such as the Attorney General's Office, the Police, and the Corruption Eradication Commission (KPK). This is despite the fact that Law Number 30 of 2002, in conjunction with Law Number 19 of 2019 concerning the KPK, normatively grants these institutions broad authority to conduct asset tracing.[15] However, field practice often demonstrates overlapping authority with other law enforcement institutions. This situation is reinforced by a report by Transparency International Indonesia (2023), which asserts that the effectiveness of asset recovery remains relatively low due to a lack of synergy between institutions. Consequently, many assets resulting from corruption fail to be recovered from the state treasury, thereby connotatively "injuring" the public's sense of justice and eroding legal legitimacy.

Thus, the confiscation of corrupt assets in the context of justice and human rights still faces serious challenges, both normatively and practically. On the one hand, the state has a constitutional obligation to eradicate corruption and recover state losses. However, on the other hand, the protection of individual rights, including those of well-intentioned third parties, must not be neglected. This study finds that the greatest urgency lies in the need for more comprehensive regulatory reform, strengthening the capacity of law enforcement agencies, and adopting relevant international practices, to

[13] Indonesia Corruption Watch, "Laporan Pemantauan Tren Penindakan Kasus Korupsi Tahun 2021," 2022.
[14] Danang Dizarahadi, "Urgensi Pengaturan Perampasan Aset Unexplained Wealth Pada Perkara Tindak Pidana Korupsi Di Indonesia" (Universitas Islam Indonesia, 2023).
[15] Atta Syach Ubaidila, "Kebijakan Hukum Pidana Illicit Enrichment Dalam Tindak Pidana Korupsi Sebagai Upaya Pemulihan Aset Negara" (Universitas Jambi, 2023).

achieve a balance between state interests and human rights protection in the context of asset confiscation.

Problems in Implementing Asset Confiscation Law in the Field

The problems in implementing laws related to asset confiscation in Indonesia are inseparable from technical and legal complexities.[16] One of the main obstacles is the difficulty in proving the origin of assets suspected of originating from corruption. In judicial practice, the evidentiary framework based on Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption still prioritizes the in personam approach, namely focusing on the direct link between the asset and the perpetrator. This approach makes it difficult to ensnare assets transferred to third parties or disguised through money laundering mechanisms. Research findings by Yogi Yasa Wedha (2025) revealed that more than 60% of assets resulting from corruption fail to be returned to the state treasury due to weak evidence in the litigation process, thus posing a significant challenge to the effectiveness of asset recovery.[17]

In addition to evidentiary challenges, there are also obstacles stemming from overlapping regulations between legal instruments governing asset confiscation. For example, the Corruption Law, the Money Laundering Law (Law No. 8 of 2010), and Supreme Court Regulation No. 1 of 2013 concerning Procedures for Asset Confiscation often give rise to differing interpretations in the field. Findings from the Institute for Legal and Criminal Studies (2023) indicate that these differences hamper the effectiveness of asset confiscation execution, as each law enforcement agency operates on a different regulatory basis, which often gives rise to legal disputes in court proceedings.[18]

Weak coordination between law enforcement agencies is a determining factor in the effectiveness of asset forfeiture implementation. The Corruption Eradication Commission (KPK), the National Police, and the Prosecutor's Office often lack an integrated mechanism for asset tracing, confiscation, and management. This often results in slow confiscation processes and the risk of reducing the economic value of seized assets. A 2021 UNODC study noted that approximately 30% of assets resulting from criminal activity in developing countries experience depreciation due to inefficient management, including in Indonesia. This situation confirms that without strong inter-agency synergy, asset forfeiture implementation is only partially and limitedly effective.

From a legal perspective, the lack of specific regulations regarding non-conviction-based asset forfeiture (NCB) is a fundamental problem. NCB is considered crucial because it allows the state to confiscate assets even without a criminal conviction. This concept has been adopted in many countries, such as the United States and Switzerland, to strengthen the effectiveness of asset recovery. However, Indonesia does not yet have a law that comprehensively regulates this mechanism. Research conducted by Lubis (2021) confirms that the absence of NCB regulations means that law

[16] Fathin Abdullah et al., "Rancangan Undang-Undang Perampasan Aset Tindak Pidana: Solusi Dan Tantangan Implementasi Di Indonesia," *Iuris Studia: Jurnal Kajian Hukum* 5, no. 3 (2024): 870–76.
[17] Yogi Yasa Wedha, Made Hendra Wijaya, and Kadek Apriliani, "Analisis Hukum Penyitaan Aset Korupsi Dalam Perspektif Keadilan Dan Pemulihan Keuangan Negara: Analysis of Legal Confiscation of Corruption Assets from the Perspective of Justice and State Financial Recovery," *LITIGASI* 26, no. 1 (2025): 477–504.
[18] Andhie Fajar Arianto, "Peran Lembaga Penegak Hukum Dalam Proses Perampasan Aset," *JURNAL USM LAW REVIEW* 7, no. 3 (2024): 1601–15.

enforcement officers lack a strong legal basis for following up on assets related to criminal acts but not formally proven in court.[19]

Table 01. Comparison between UNCAC and Indonesian National Regulations

Legal Aspect	UNCAC (2003)	National Regulation (Indonesia)	Gap
Asset Recovery	Regulates asset recovery comprehensively	No specific law, only scattered across Anti-Corruption Law (*UU Tipikor*) & Anti-Money Laundering Law (*UU TPPU*)	No integrated mechanism for asset recovery
Non-Conviction Based Forfeiture	Permitted to maximize asset recovery	Not clearly regulated under national law	Weakness in seizing corruption assets without criminal conviction
International Cooperation	Mandatory Mutual Legal Assistance (MLA) and extradition	Regulated under Law No. 1 of 2006 concerning MLA	Implementation remains limited and less effective in practice
Human Rights Protection	Emphasizes balance with individual rights	Protection stipulated in the 1945 Constitution & Criminal Procedure Code (*KUHAP*), but fragmented	No specific legal instrument safeguarding the rights of bona fide third parties

Another aspect that is no less important is the risk of injustice due to weak procedures in the implementation of asset confiscation. Without a clear control mechanism, asset confiscation has the potential to violate human rights, especially the right to ownership as regulated in Article 28H paragraph (4) of the 1945 Constitution and strengthened by Law Number 39 of 1999 concerning Human Rights.[20] The research findings of Muhammad Bari (2023) show that there are several cases where well-intentioned third parties become victims of asset confiscation due to weak verification and procedural accountability.[21] This raises the urgency of establishing a more accountable checks and balances mechanism.

The above issues demonstrate that the implementation of asset confiscation is not merely a technical legal issue, but also a structural one. Without procedural and institutional improvements, asset confiscation policies will tend to be inconsistent and

[19] rahma Fitri Et Al., "Pembangunan Hukum Melalui Penerapan Konsep Non-Conviction Based Dalam Praktik Pemulihan Aset Pencucian Uang Di Indonesia," *Jurnal Riset Ilmu Keadilan Dan Hukum* 4, no. 2 (2025).
[20] Aldi Yusri, Ma'ruf Hafidz, and Muhammad Fachri Said, "Analisis Yuridis Terhadap Tanggung Jawab Negara Dalam Kasus Penggusuran Tanah Di Indonesia," *LEGAL DIALOGICA* 1, no. 1 (2025): 1–10.
[21] Muhammad Bari, "Eksistensi Pengadilan Khusus Pertanahan Guna Mewujudkan Pengarusutamaan Land Rights Sebagai Hak Asasi Manusia," *LITRA: Jurnal Hukum Lingkungan, Tata Ruang, Dan Agraria* 3, no. 1 (2023): 37–55.

prone to creating legal uncertainty. Therefore, a legal reform strategy is imperative, whether through strengthening regulations, improving institutional coordination, or developing more progressive NCB instruments. This way, asset confiscation policies can be implemented more effectively while remaining in line with the principles of justice and human rights protection.

The Need for Legal Reform and Adaptation to International Standards

Legal reform related to the confiscation of corrupt assets is an urgent need in the Indonesian legal system, considering that corrupt practices have reached a level that is eroding the state structure and public trust.[22] Within the positive legal framework, asset confiscation is regulated in the Criminal Code, Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, and Law Number 8 of 2010 concerning the Prevention and Eradication of Criminal Acts of Money Laundering.[23] However, this regulation is considered incomplete because it does not explicitly regulate the non-conviction-based asset forfeiture mechanism, which is the international practice for addressing extraordinary crimes. Research conducted by Wahyu Sinta Dewi Pramudita (2025) shows that the absence of specific asset recovery regulations weakens legal certainty and creates disparities in implementation.[24]

Furthermore, effective asset forfeiture requires specific legislation governing the recovery of assets obtained from corruption. Several legal scholars, such as Soeherman Soeherman (2024), emphasize that the creation of an asset recovery law would provide a clearer legal framework for both law enforcement and the public.[25] This is relevant to practices in several countries, such as the United Kingdom and Australia, which have established the Proceeds of Crime Act as the legal basis for comprehensive asset recovery. Empirical findings in Indonesia indicate that many assets resulting from crime are difficult to confiscate due to regulatory limitations, making the creation of new regulations inevitable.

In addition to national aspects, discussions on asset forfeiture also need to consider international principles. Indonesia has ratified the United Nations Convention Against Corruption (UNCAC) through Law Number 7 of 2006, which emphasizes the importance of international cooperation in tracking, freezing, and recovering assets. However, the implementation of UNCAC principles in Indonesia has not been optimal, particularly regarding cross-border cooperation. A study by Transparency International (2022) stated that bureaucratic obstacles and limited extradition treaties hamper the effectiveness of cross-jurisdictional asset recovery.

The need for legal reform also relates to the harmonization of regulations between law enforcement agencies. Currently, asset forfeiture authority is spread across several institutions, such as the Corruption Eradication Commission (KPK), the

[22] Lalu Syaifudin, "Perampasan Aset Dalam Penyelidikan Kasus Korupsi: Tantangan Dan Peluang Dalam Hukum Indonesia," *Lex Aeterna Law Journal* 1, no. 1 (2023): 28–42.
[23] Andi Nursalam, Nasrullah Arsyad, and Andi Istiqlal Assaad, "Analisis Rancangan Undang-Undang Perampasan Aset Dalam Penegakan Hukum Tindak Pidana Korupsi Di Makassar," *LEGAL DIALOGICA* 1, no. 1 (2025): 11–22.
[24] Wahyu Sinta Dewi Pramudita, Ali Masyhar Mursyid, and Cahya Wulandari, "Pemulihan Aset Tindak Pidana Korupsi Melalui Non-Conviction Based Asset Forfeiture," *Politika Progresif: Jurnal Hukum, Politik Dan Humaniora* 2, no. 2 (2025): 358–72.
[25] Soeherman Soeherman, Tuti Widyaningrum, and Cecep Suhardiman, "Penguatan Pusat Pemulihan Aset (PPA): Langkah Strategis Percepatan Pemulihan Kerugian Negara Akibat Tindak Pidana Korupsi: Ditinjau Dari Perbandingan Sistem Hukum," *J-CEKI: Jurnal Cendekia Ilmiah* 3, no. 6 (2024): 6583–6600.

Prosecutor's Office, and the National Police. This lack of regulatory synchronization leads to overlapping authority and reduces the effectiveness of law enforcement. Kaban and Kholiq (2023) argue that legal reform must prioritize institutional integration and strengthen procedures to ensure faster, more transparent, and more accountable asset forfeiture mechanisms.[26]

Furthermore, the urgency of legal reform must be linked to human rights protection. Although asset confiscation is intended to recover state losses, this mechanism must not violate citizens' constitutional rights, as guaranteed by Article 28D of the 1945 Constitution concerning fair legal certainty. Therefore, a specific asset recovery law needs to include provisions that protect the rights of good-faith third parties from being harmed in the asset confiscation process. Research conducted by the National Commission on Human Rights (Komnas HAM) (2021) indicates a number of public complaints regarding losses due to misdirected implementation of the asset confiscation policy.[27]

Furthermore, legal reform must also address the effectiveness of implementation on the ground. Based on findings by Indonesian Corruption Watch (ICW, 2021), only around 40% of the total assets seized from corruption cases were successfully seized by the courts. This figure demonstrates a significant gap between legal norms and practice.[28] Therefore, the development of specific asset recovery regulations must be complemented by adequate technical instruments, such as mechanisms for tracking digital assets, blocking accounts, and international cooperation in mutual legal assistance.

Table 02. Comparison of National Regulations and International Standards (UNCAC) on Asset Forfeiture in Corruption Cases

Aspect	National Regulation (Anti-Corruption Law, Anti-Money Laundering Law)	International Standard (UNCAC 2003)
Asset Forfeiture Mechanism	Conviction-based asset forfeiture	Allows non-conviction based asset forfeiture
Third-Party Protection	Not comprehensively regulated	Regulated under the principle of good faith third-party protection
International Cooperation	Limited, dependent on bilateral agreements	Emphasizes mutual legal assistance among states
Asset Management	No integrated system, still sectoral	Emphasizes transparency and accountable mechanisms
Scope of Assets	Focused on corruption and money laundering	Covers all transnational crimes related to corruption

[26] Kaban and Kholiq, "Optimalisasi Regulasi Pidana Terkait Perampasan Aset Tindak Pidana Kejahatan Ekonomi Berlandaskan Perspektif Hukum Progresif Berkeadilan."
[27] Efrata Sinaga, "Analisis Dampak Kebijakan RUU Perampasan Aset Di Indonesia: Kajian Literatur," *Jurnal ISO: Jurnal Ilmu Sosial, Politik Dan Humaniora* 5, no. 1 (2025): 12.
[28] Abdul Halim and Meta Sari, "Analisis Penggusuran Dalam Kebijakan Penertiban Aset Daerah Oleh Pemerintah Provinsi Lampung Di Kecamatan Sukarame," *Jurnal Kajian Hukum Dan Kebijakan Publik| E-ISSN: 3031-8882* 2, no. 2 (2025): 1265–71.

Thus, the direction of Indonesian legal policy in addressing corruption as an extraordinary crime must prioritize legal reform and adaptation to international standards. Transnational corruption requires legal instruments that are not merely repressive but also progressive, adaptive, and meet global standards. The establishment of specific asset recovery legislation, institutional harmonization, and strengthening international cooperation are key foundations for ensuring that corruption eradication in Indonesia does not stop at rhetoric but is truly realized through substantive justice and the restoration of state finances.

CONCLUSION

Based on the results of this study, it can be concluded that the confiscation of assets resulting from corruption is a crucial instrument in recovering state losses and strengthening the anti-corruption system in Indonesia. However, key findings indicate a tension between the state's interest in recovering assets and its obligation to safeguard human rights, particularly the rights of third parties acting in good faith. Normatively, national regulations provide the legal basis for asset confiscation, but their implementation still faces serious challenges, ranging from overlapping authority between institutions, weak coordination, and the regulations' limited ability to accommodate international practices such as non-conviction-based asset forfeiture. A key lesson from this study is the need to establish the principles of proportionality and substantive justice as the foundation for any asset confiscation policy, ensuring a balance between sate interests and the protection of citizens' rights.

This research significantly contributes to enriching the legal literature by emphasizing the urgency of updating specific regulations for asset recovery, institutional harmonization, and the adoption of more progressive international standards. Theoretically, this research strengthens understanding of the interrelationships between criminal law, procedural law, and human rights protection in the context of corruption eradication. Practically, it offers recommendations for legal reform to be more responsive to global challenges. The limitations of this research lie in its scope, which focuses on normative studies and specific case studies, without involving primary data in the form of interviews or broader field surveys. Therefore, further research is urgently needed, incorporating a multidisciplinary approach, considering variables such as gender and age, and cross-jurisdictional studies, to provide a more comprehensive picture. Thus, the research findings are expected to provide a foundation for formulating legal policies that are more targeted, equitable, and able to address the complexities of asset confiscation practices in Indonesia.

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