

CRIMINAL LAW REFORM OF ASSET CONFISCATION SYSTEMS FOR PROCEEDS CORRUPTION AND MONEY LAUNDERING IN INDONESIA

REFORMA DO DIREITO PENAL DOS SISTEMAS DE CONFISCO DE ATIVOS PARA FINS DE CORRUPÇÃO E LAVAGEM DE DINHEIRO NA INDONÉSIA

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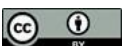
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Abstract

Indonesia's criminal law system, which is still oriented towards criminalizing offenders (offender oriented), has not been able to optimally guarantee the recovery of state losses. The method used is a normative juridical approach with conceptual and comparative analysis. The results of the study show the need for a paradigm shift towards an asset-oriented approach through strengthening the mechanisms of non-conviction based asset forfeiture, value-based confiscation, and limited and balanced reverse proof, as well as the reformulation of procedural law through in rem justice and early confiscation. Criminal law reform is expected to increase the effectiveness of asset recovery while maintaining the principles of due process of law and human rights protection. Philosophically, this reform is based on substantive and restorative justice, juridically in line with the constitution and the UNCAC, and sociologically responds to public demands. Thus, an integrated and fair asset forfeiture system is the key to the effectiveness of eradicating corruption and strengthening public trust.

Resumo

O sistema penal indonésio, ainda orientado para a criminalização de infratores (centrado no infrator), não tem conseguido garantir de forma otimizada a recuperação das perdas estatais. O método utilizado é uma abordagem jurídico-normativa com análise conceitual e comparativa. Os resultados do estudo demonstram a necessidade de uma mudança paradigmática para uma abordagem centrada no patrimônio, por meio do fortalecimento dos mecanismos de confisco de bens sem condenação, confisco baseado em valor e prova reversa limitada e equilibrada, bem como a reformulação do direito processual por meio da justiça in rem e do confisco precoce. Espera-se que a reforma do direito penal aumente a eficácia da recuperação de bens, mantendo os princípios do devido processo legal e da proteção dos direitos humanos. Filosoficamente, essa reforma baseia-se na justiça substantiva e restaurativa, está juridicamente em consonância com a Constituição e a Convenção das Nações Unidas contra a Corrupção (UNCAC) e, sociologicamente, responde às demandas públicas. Assim, um sistema integrado e justo de



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confisco de bens é fundamental para a eficácia no combate à corrupção e no fortalecimento da confiança pública.

Palavras-chave: Confisco de Bens. Corrupção. Lavagem de Dinheiro. Reforma do Direito Penal. Recuperação de Ativos.

1 INTRODUCTION

Corruption is no longer just understood as an act of abuse of authority that harms the state's finances, but has developed into a systemic crime that is integrated with money laundering mechanisms to disguise, divert, and secure the proceeds of these crimes. The urgency of criminal law reform in the confiscation of assets resulting from corruption and money laundering crimes in Indonesia is very urgent (critical), considering the paradigm shift of corruption from conventional crimes to systemic crimes that are integrated with money laundering mechanisms (Studi *et al.*, 2025).

The current legal system focuses too much on prison sentences (*Imprisonment Oriented*), so that it often fails to recover state losses optimally. Asset forfeiture is crucial to ensure the principle of "crime must not provide profits" (*Crime Doesn't Pay*). As a result, even though the perpetrators of corruption are sentenced to prison, the proceeds of the crime cannot be fully recovered, so that the goal of punishment in the form of recovering state losses and preventing crime has not been optimally achieved (barda nawawi arief, 2016) .

The urgency of criminal law reform is also driven by the development of international standards, especially those contained in the *United Nations Convention Against Corruption* (UNCAC) and recommendations *Financial Action Task Force* (FATF), which places asset forfeiture as the main instrument in the fight against corruption and money laundering. As a state party to the UNCAC, Indonesia has an obligation to adapt its national laws to accommodate effective asset forfeiture mechanisms, including the forfeiture of assets without criminal prosecution under certain conditions, as well as international cooperation in the tracking and return of assets proceeds of crime (Garnasih, 2017).

Legal reform is needed to adopt a non-criminal asset forfeiture (NCB) mechanism. It allows the state to seize illegal assets even if the perpetrator dies, escapes, or cannot be proven guilty in a criminal case, which has been hampered by existing regulations. Asset forfeiture is currently hampered by normative limitations and fragmented regulations between the Anti-Corruption Law and the Money Laundering Law (TPPU). Special laws (such as the Asset Forfeiture Bill) are needed to unify the forfeiture and forfeiture mechanisms to be effective.

As a party to *the United Nations Convention Against Corruption* (UNCAC) and FATF recommendations, Indonesia is obliged to adapt its national laws, especially in terms of tracking, confiscation, and return of assets resulting from transnational crimes. Legal reform must include both material and formal aspects, including the deprivation of economic benefits that have been diverted or disguised (money laundering). The urgency of criminal law reform in the confiscation of assets resulting from corruption and money laundering departs not only from the practical needs of law enforcement, but also from the conceptual demands to build a criminal law system that is responsive to the development of crime, in line with international standards, and able to realize substantive justice.

2 RESEARCH METHODS

This study uses a normative juridical method with conceptual, legislative, and comparative approaches. Normative legal research focuses on the study of legal principles, provisions of laws and regulations, and legal doctrines relevant to asset forfeiture in the criminal justice system. The legislative approach is carried out through an analysis of various related regulations, including the Criminal Code, the Law on the Eradication of Corruption, and the Law on Money Laundering, which are the main basis for the current framework for asset forfeiture in Indonesia.

The conceptual approach is used to examine theoretical perspectives related to criminal law policy, *asset recovery*, and modern approaches in countering economic crimes. Key concepts such as *asset-oriented justice*, *non-conviction-based forfeiture*, and *value-based confiscation* were analyzed to assess their relevance in the context of the Indonesian legal system. A comparative approach is carried out by examining

international legal standards and best practices in asset forfeiture, especially those developed within international frameworks such as the *United Nations Convention Against Corruption (UNCAC)* and the *recommendations of the Financial Action Task Force (FATF)*.

Research data was obtained through literature studies which included academic books, journal articles, international reports, and legal documents. Data analysis was carried out qualitatively with descriptive-analytical methods to identify legal *gaps* and formulate recommendations for criminal law reform.

3 RESULTS AND DISCUSSION

3.1 The urgency of criminal law reform in asset forfeiture

Corruption and Money Laundering Crimes show the character of profit-oriented crimes, but the national criminal law is still offender-oriented, not on the results of the crime. This raises several problems, including state losses not fully recovered, assets resulting from crime remain safe, criminality does not provide an optimal deterrent effect. The inability of the law to reach technology-based crimes, cross-border transactions, and the use of corporations as a means of crime requires a paradigm shift towards an asset-oriented approach.

The shift in crime from conventional to technology-based and financial systems is complicated, where perpetrators often use corporations as instruments. (Romli Atmasamita, 2024) The weakness of classical criminal law is that the individualistic Criminal Code is no longer adequate to ensnare systemic and transnational financial crimes. Financial crime today knows no physical boundaries (*borderless*). The use of technologies such as cryptocurrencies, Puppet companies (*shell companies*), and Incognito transactions *The Dark Web* creates a thick layer of anonymity. Our criminal law still relies heavily on physical evidence and direct testimony, while in the cyber world, evidence can be deleted in seconds or stored on a server (*server*) foreign countries that are difficult to reach national jurisdictions. Criminal law reconstruction must shift, not just punish the agency (*remunerative*) Because financial criminals often consider prison as an operational cost. (Jamba & Husna, 2025)

The law must be able to pursue the results of crime (*follow the money*). If the law is not immediately reconstructed to be able to reach anonymous and digital transactions, the state will continue to lose financially. This creates a wide legal loophole when the perpetrator dies, escapes, or hides assets behind complicated corporate structures and third parties (*Nominee*). Criminal law reform through the formulation of asset forfeiture policies is an absolute necessity, not just an option. Solutions to these juridical obstacles require a paradigm shift towards a mechanism *Non-Conviction Based (NCB) Asset Forfeiture* or the seizure of assets without penalty. By adopting an approach *Crime Oriented*, the state can pursue assets directly (*in brake*) (Silawati Dayang Ganjar, 2025).

Indonesia's positive criminal law still shows a tendency *Offender Oriented*, which focuses on the criminalization of perpetrators through prison sentences as the main instrument of law enforcement. This paradigm is reflected in the Criminal Code and special laws and regulations, which historically prioritized proving the guilt of the perpetrator (*Debt*) from the recovery of state losses and the expropriation of the proceeds of evil. Trends *Offender Oriented* shows the need for a paradigm shift towards *Asset Oriented* or *recovery oriented approach*. This approach places the confiscation and return of assets as the primary goal, while the criminalization of the perpetrator becomes the means, not the final goal. Instruments such as *Non-conviction based asset forfeiture*, reversal of the burden of proof limited to the origin of wealth, and strengthening civil lawsuits for assets resulting from crime are relevant to be more firmly integrated into the national legal system.

Regulatory gaps (*Legal Gap*) in Indonesia's positive criminal law (in particular *Corruption Law* and *Anti-Corruption Law*) in dealing with modern financial crimes includes several crucial points. Absence of Mechanism *Non-Conviction Based (NCB) Asset Forfeiture*, Indonesia does not yet have a regulation at the level of the law that comprehensively regulates the confiscation of assets without criminalizing the perpetrator (*in rem forfeiture*). As a result, assets resulting from corruption disguised through TPPU are often difficult to confiscate if the main criminal process is stopped (Sumardiana, 2025). Along with developments, there has been a paradigm shift in criminal law enforcement from a perpetrator-oriented approach (*Offender Oriented Approach*) towards an asset-oriented approach (*Asset Oriented Approach*). This approach

places the confiscation of assets resulting from crime as the primary goal of law enforcement.

The asset-oriented approach departs from the understanding that contemporary crimes, especially corruption, money laundering, and other economic crimes, are *Profit Driven Crimes*. The perpetrator acts rationally by considering the economic benefits obtained compared to the criminal risk. Asset forfeiture is no longer seen as an additional crime, but as a central instrument of criminal law enforcement. The success of law enforcement is not only measured by the proven guilt of the perpetrators, but also by the extent to which the state is able to identify, freeze, confiscate, and confiscate the proceeds of crime. This approach is in line with the theory *Deterrence* modern emphasizes that the most effective deterrent effect is achieved by eliminating the profits of crime (*Crime Should Not Pay*) (Nazla Shafira Hariyadi, Ade Maman Suherman, 2025).

The shift from *an offender oriented approach* to *an asset-oriented approach* marks a fundamental change in criminal law politics. Law enforcement no longer stops at the imprisonment of the perpetrator, but is directed to ensure that economic crimes do not generate profits, so that the economic rationality of the perpetrators becomes irrelevant. This paradigm is an important prerequisite for the effectiveness of eradicating corruption and money laundering in the Indonesian criminal law system.

3.2 Limitations of conventional asset forfeiture models

The asset forfeiture model in Indonesian criminal law is currently still based on conviction-based asset forfeiture, which requires a criminal verdict with permanent legal force. This model has a number of structural weaknesses. First, asset confiscation cannot be carried out if the perpetrator dies, flees, or cannot be proven guilty. Second, perpetrators often take advantage of legal loopholes by transferring assets through nominees, fictitious corporations, or foreign jurisdictions. Third, the recovery of state losses is often not proportional to the losses incurred (Paruntu & Sudiro, 2025).

In addition, imprisonment does not automatically eliminate the economic ability of the perpetrator to enjoy the proceeds of the crime. This creates a paradox in law enforcement, where the goal of restorative justice is not achieved. Thus, the conventional model is considered ineffective in dealing with modern economic crimes, so reforms are

needed towards more adaptive mechanisms, such as non-conviction based asset forfeiture (NCB). Disadvantages of Conventional Models (*Conviction-Based*) which requires the perpetrator to be convicted (*Conviction-based*) has a fundamental weakness, Slow Process awaiting a verdict *Strength* (permanent legal force) takes years. Assets Lost During this time frame, assets are often transferred, hidden, or used up. If the perpetrator dies, becomes permanently ill, or runs away, prosecutors often have a hard time seizing their assets in the conventional model (Paruntu & Sudiro, 2025).

The success of asset confiscation is not solely determined by the severity of the prison sentence, but by the effectiveness of legal mechanisms that are able to reach the assets of crime quickly and adaptively. By making assets the center of attention for criminal law enforcement, legal reform is expected to be able to overcome the failure of the conventional model while increasing the effectiveness of recovering state losses. This approach is in line with developments in international law and best *practices* in the fight against corruption and money laundering, which place asset forfeiture as a key instrument in breaking the chain of financial crime.

3.3 Foundations of criminal law reform

Criminal law reform of asset forfeiture is rooted in the values of social justice and the goals of modern criminality. Corruption and money laundering are crimes that not only violate the law, but also hurt the sense of justice of the community and hinder the realization of public welfare. From the perspective of the Pancasila legal state, criminal law must function as a means of protecting the public interest and an instrument to realize social justice for all Indonesian people. Therefore, the confiscation of assets resulting from crime is seen as a form of corrective justice, which aims to restore the balance disturbed by unlawful acts. Criminal law reform in the confiscation of assets resulting from corruption and money laundering is based on three main foundations, namely philosophical, juridical, and sociological, which are the basis for legitimacy in the formation of modern criminal law policies.

3.3.1 Philosophical foundations

The philosophical foundation serves as the basis for values (*Value Base*) which guides the direction of the formation and enforcement of criminal law to be in harmony with the goals of justice, utility, and protection of the public interest. In the context of modern financial crime, a philosophical approach that focuses solely on criminalizing perpetrators has proven to be inadequate, so a reorientation towards a more substantive and restorative-oriented concept of justice is needed. Substantive justice requires that the law be able to correct the inequality and losses caused by a criminal act, not just punish the perpetrator (I Made Wantra, Cokorde Istri Dian Laksmi Dewi, 2025).

Substantive justice in criminal law emphasizes the restoration of the rights of victims and communities affected by criminal acts. In the context of corruption and money laundering, the losses incurred are not only financial, but also have an impact on the social, economic, and development aspects of the country. This approach is in line with the principle of restorative justice, which emphasizes that criminal law should serve to restore social balance and redress collective harm, not simply enforce formal sanctions against perpetrators (Bazargan, 2020). Criminal law reform is based on the concepts of substantive justice and social justice. Asset forfeiture is seen as a form of corrective justice aimed at recovering losses to the state and society. This approach reflects a shift from retributive justice to restorative and utilitarian justice.

The confiscation of assets resulting from corruption and TPPU can be seen as a corrective mechanism to restore the balance of distribution. By confiscating and returning assets to the state, criminal law plays an active role in correcting structural injustices caused by financial crimes. Within this framework, asset confiscation not only has a repressive dimension, but also an ethical and social dimension, as it aims to ensure that public wealth is managed and utilized as much as possible for the welfare of the people. Thus, philosophically, the reform of the criminal law on asset confiscation is a necessity to realize substantive justice, protect the public interest in the rule of law, and restore the principle of distributive justice that has been undermined by corrupt and money laundering practices.

3.3.2 *Juridical basis*

The juridical basis for the reform of criminal law on asset forfeiture of corruption and money laundering is derived from constitutional norms, modern criminal law principles, and international commitments, which affirm that this policy is a normative mandate of the state, not just a policy choice (Dicky *et al.*, 2025). Constitutionally, the 1945 Constitution, especially Article 23, mandates the transparent and responsible management of state finances for the greatest possible prosperity of the people. Corruption and money laundering are contrary to these principles because they illegally divert public wealth. Therefore, asset forfeiture is a legitimate legal instrument to recover state losses and carry out the constitutional mandate.

In the perspective of modern criminal law, there has been a shift from a penalty-oriented approach to a more functional, preventive, and outcome-oriented approach. The effectiveness of countering economic crimes is determined by the ability of the law to eliminate the illegal profits of the perpetrators. In this context, asset confiscation, including non-conviction-based confiscation, is recognized as a legitimate mechanism as long as it guarantees legal principles and human rights protection.

There has been a change in approach from one that is oriented towards punishing perpetrators (retributive) to a more functional, preventive, and result-oriented approach (asset return). The mechanism of confiscation of assets without waiting for a criminal verdict that criminalizes the perpetrator (*in rem*) is recognized as a legitimate mechanism for economic crimes, as long as it guarantees the protection of human rights and third parties in good faith. The effectiveness of anti-corruption measures is determined by the legal ability to remove illegal profits from the hands of perpetrators.

Strengthening the asset forfeiture regime is needed to meet international standards in the fight against money laundering, which is an indicator of the credibility of Indonesia's legal and financial system at the global level. In addition, criminal law reform is also driven by international obligations, particularly through the UNCAC and FATF standards, which require states to develop effective systems for the identification, freezing, seizure, and seizure of assets proceeds of crime. Thus, the strengthening of the asset forfeiture regime not only meets national needs, but also becomes an indicator of the credibility of Indonesia's legal and financial system at the global level.

3.3.3 Sociological basis

From a sociological perspective, society demands law enforcement that not only punishes the perpetrators, but also recovers state losses. Failure to return assets can lower public confidence in the legal system. The sociological foundation for criminal law reform of asset forfeiture is rooted in social reality, societal expectations, and the widespread impact of corruption and money laundering on public life. Today's society no longer only focuses on physical punishment (prison) for perpetrators of economic crimes (corruption/money laundering). There are high expectations that the state will be able to recover losses (asset recovery). Failure to confiscate the assets of the proceeds of the crime is considered a substantive injustice because the perpetrator can still enjoy the proceeds of his crime (DetikNews, 2026).

Corruption and money laundering have systemic impacts, such as declining state fiscal capacity, deteriorating public services, increasing social inequality, and disrupting the financial system. Therefore, asset forfeiture is seen as an important instrument for restoring deprived public rights and restoring economic benefits to society.

The state's failure to return assets has the potential to generate public distrust and is considered a substantive injustice, as the perpetrator can still enjoy the proceeds of the crime. In this context, asset confiscation has a function, restorative to recover state losses, preventive by eliminating the economic motive of crime, symbolic as an affirmation that crime *does not pay*. In addition, the complexity of modern transnational crime demands more responsive legal mechanisms, including the seizure of assets without criminalization. Thus, the reform of the criminal law on asset forfeiture is a social necessity to maintain social justice, strengthen legal legitimacy, and increase public trust in the criminal justice system.

3.4 The concept of reform of the substance of criminal law in asset forfeiture

The reform of the substance of criminal law in the confiscation of assets resulting from corruption and money laundering is a necessity to realize effective law enforcement, oriented towards recovering state losses and preventing crime. The modern criminal law paradigm has shifted from an offender-oriented approach to an asset-oriented, with a

primary focus on the elimination of profits from crime, with the strengthening of the concept;

3.4.1 Strengthening the concept of non-conviction based asset forfeiture

NCB is a mechanism for asset confiscation without having to wait for a criminal verdict against the perpetrator. This approach focuses on the relationship between assets and criminal acts (*follow the money*), so that they are more effective in dealing with complex and transnational economic crimes. The NCB is also supported by international law such as the UNCAC and serves as a preventive and restorative instrument to ensure that crime does not provide benefits. (Yunus Husein, n.d.) The NCB considers assets as objects related to crimes, not at the fault of the person (civil case against the object). The NCB allows for the seizure of the proceeds of complex organized crime, especially when the perpetrator is on the run, dies, or cannot be proven guilty in a criminal case. NCBAF (*Non-Conviction Based Asset Forfeiture*) mandated by *UN Convention Against Corruption* (UNCAC) 2003, which was ratified by Indonesia through Law No. 7 of 2006. The implementation of the NCB is urgently regulated in the Asset Forfeiture Bill to optimize the return of state losses due to corruption and TPPU. This mechanism aims to recover state losses quickly, preventively, and restoratively, ensuring that illegal assets can be confiscated even if the perpetrators are not criminally touched.

3.4.2 Rationality and legitimacy of asset seizure without criminal prosecution

NCBs emerged as a solution to the limitations of conventional law enforcement, especially when the perpetrator cannot be prosecuted (e.g. fleeing or dies). The focus is on asset recovery for the public interest. Normatively, the NCB does not contradict the principle of the rule of law as long as it upholds due process of law and human rights protection. In addition, the legitimacy of the NCB is strengthened by the UNCAC which places asset forfeiture as a key pillar of corruption eradication, including encouraging a mechanism for forfeiture without penalty. UNCAC provides strong legitimacy for member states to adopt the NCB into national law, which in Indonesia is realized through the discourse of the Asset Forfeiture Bill. (Abdullah, 2021) The NCB is a rational legal

tool to recover state losses (*Asset Recovery*) while maintaining the principles of the rule of law and human rights. (Fakultas Hukum Universitas Trisakti, n.d.)

3.4.3 *Implementation criteria and limitations*

The application of NCB must be strictly limited to prevent arbitrariness, with criteria, the existence of a strong suspicion of assets originating from criminal acts, the impossibility or ineffectiveness of criminalization, the existence of a causal relationship between assets and crimes. The implementation of *the Non-Conviction Based (NCB) Asset Forfeiture mechanism* needs to be strictly regulated to maintain a balance between crime eradication and human rights protection. These criteria and limitations are important so that there is no arbitrariness by law enforcement officials. In addition, procedural guarantees such as court supervision, the right to object for parties in good faith, and a balanced evidentiary mechanism are needed to remain in accordance with the principles of proportionality and legal certainty.

3.4.4 *Human rights protection guarantee*

The strengthening of the NCB must be accompanied by the protection of human rights, especially the right to property, the right to a fair trial, the right to be heard, legal aid, and legal remedies. The implementation of NCB must remain within the framework of due process of law, so that it does not become an arbitrary instrument. The balance between state interests and individual rights is the key to legal legitimacy and public trust (Abdullah, 2021).

The NCB must ensure that asset confiscation is only carried out as a result of a criminal act, not a legal asset belonging to an individual, in order to protect the property rights protected by law. The implementation of the NCB must go through an honest, open, and impartial judicial process, where the state is obliged to prove that the assets are related to a criminal act, rather than imposing full reverse proof on the asset owner. Asset owners have the right to be present, give evidence, and defend themselves for their ownership of their assets before they are decided to be confiscated by the state. Individuals whose assets are targeted are required to have adequate access to legal aid, especially for those who

cannot afford it, to ensure effective defense. There is a clear legal remedy mechanism (appeal/cassation) for asset owners to recover their rights if there is an error in the seizure process

3.5 Value-based confiscation and balanced reverse proof

Value-based asset forfeiture (*Value-based confiscation*) and balanced reverse proof are two main pillars in the reform of modern criminal law in Indonesia to deal with corruption and increasingly complex money laundering crimes (TPPU). This approach shifts away from the physical focus of the object (*property-based*) towards the deprivation of economic value of illegal profits (*criminal proceeds*), which aims to recover state losses to the maximum and provide a deterrent effect. (Ilmi *et al.*, n.d.) This approach was born in response to the limitations of the conventional model (property-based confiscation) that relies on the physical existence of assets, while in practice assets have often been transferred, disguised, or converted.

Value-based confiscation allows the state to seize economic value equivalent to the proceeds of crime, without having to prove the existence of certain assets. Thus, the focus shifts from objects to illegal proceeds (criminal proceeds), making it more adaptive to complex and transnational modern economic crimes. This approach also allows: the seizure of substitute assets, traceability of value even if the assets have been mixed or deformed, and the recovery of state losses more effectively.

Normatively, this concept is supported by international instruments such as UNCAC and UNTOC, and is in line with the principle that crime does not pay. However, its application must be accompanied by the principles of proportionality and legal certainty, an objective and transparent asset valuation mechanism, protection of third parties in good faith, as well as judicial supervision and due process of law guarantees. In the context of TPPU, value-based confiscation is very relevant because it is able to penetrate the practice of asset layering and the integration of illegal assets into the legal economic system. In addition to serving as a restorative instrument, this approach also has a preventive effect by eliminating economic incentives for crime.

Limited/balanced reverse proof is used to trace the origin of wealth that is not proportional to legal income, especially in cases of trafficking and corruption, is an

important instrument in criminal law reform to increase the effectiveness of handling cases of corruption and money laundering (TPPU), especially in tracing the origin of assets that are not proportional to legal income (Tppu *et al.*, 2019):

This concept places the defendant with a limited obligation to provide an explanation of the origin of the property, while the primary burden of proof remains on the public prosecutor, so that the principle *of the presumption of innocence* is maintained. This approach aims to overcome the difficulty of proving complex economic crimes without ignoring the principle *of due process of law*. Strengthening reverse proof must be accompanied by clear limitations on the object and criteria of property, proportionate proof mechanisms, and judicial oversight to prevent abuse of authority.

In addition, its application must remain in line with the principle of presumption of innocence, so that reverse proof is positioned as a limited and contextual exception in the public interest. Substantively, this mechanism supports the principle of "crime should not pay", by allowing law enforcement to trace and recover assets resulting from crime more effectively, while providing a deterrent effect to perpetrators. Limited, and balanced reverse evidence is a progressive legal instrument that integrates the effectiveness of law enforcement and the protection of human rights. With clear and proportionate arrangements, this mechanism is able to strengthen asset recovery without compromising the basic principles of the rule of law.

3.6 Criminal procedure law update in asset forfeiture

Criminal procedural law reform in asset forfeiture is an urgent need to deal with modern crimes that are organized, transnational, and profit-oriented. The old paradigm that focused on the perpetrator (*Offender-oriented*) is considered ineffective in recovering state losses, so it is necessary to shift to an asset-oriented approach by placing asset confiscation as the main instrument (Alwan Hadiyanto, 2025).

This reformulation includes the integration of asset confiscation in all criminal justice processes, including from the investigation stage, while still upholding the principle of due process of law. Asset forfeiture is no longer positioned simply as an additional crime, but as a preventive and restorative legal action (*maatregel*) to eliminate the profits of crime.

In addition, the procedural law update accommodates, Judiciary in rem, which focuses on assets as legal objects, thus allowing forfeiture even if the perpetrator cannot be convicted; Strengthening the authority of investigators and public prosecutors, including early seizure and asset freezing across jurisdictions; Optimizing the role of PPATK in tracking and analyzing financial transactions. On the other hand, this update also emphasizes the importance of protecting third parties in good faith, through objection mechanisms, proportionate proof, and guarantees of legal certainty, so that there is no infringement of property rights.

The reform of the criminal procedure law confirms a shift towards a system oriented towards asset recovery and substantive justice. With a balanced approach between the effectiveness of law enforcement and the protection of human rights, asset forfeiture can be a strategic instrument in the fight against corruption and money laundering. The Asset Forfeiture Bill has been included in the 2025-2026 Priority National Legislation Program (Prolegnas) as an answer to the fragmentation of existing sectoral regulations. This approach aims to create a fairer legal system and is oriented towards maximum recovery of state losses. (*Paripurna Tetapkan RUU Perampasan Aset Masuk Bersama 51 RUU Prioritas Prolegnas 2025-2026 Lainnya - DPR RI*, n.d.)

3.7 Institutional reform and international cooperation

Criminal law reform in the seizure of assets resulting from corruption and money laundering concerns not only substance and procedures, but also demands structural and institutional reform of law enforcement. The main problems today include institutional fragmentation, weak coordination between agencies, and suboptimal cooperation and asset management, which hinder the effectiveness of asset recovery. It is necessary to establish a centralized, independent, and professional asset management authority to manage assets from the confiscation stage to execution. This institution aims to improve efficiency, economic value of assets, and support the principle of *follow the money*.

In addition, asset management must uphold Transparency and accountability, through auditing mechanisms, open reporting, and a strong oversight system to prevent abuse and increase public trust. More effective integration between KPK, Prosecutor's Office, Police, and PPATK, with a clear division of roles and synergistic cooperation.

PPATK acts as a financial intelligence center that supports asset tracking and proofing. As a support, it is necessary to build National Asset Information System which is integrated to contain data on seized, frozen, and seized assets. This system will improve coordination, prevent overlap, and strengthen the effectiveness of policy tracking and evaluation. Structural and institutional reform is an important prerequisite for creating an asset forfeiture system that integrated, transparent, and effective, so as to maximize the recovery of state losses and strengthen the eradication of corruption and money laundering. Construction of an integrated data system that contains seized, frozen, and seized assets to improve transparency and accountability. Creating an integrated, transparent, and effective asset forfeiture system to support economic growth and address entrenched culture of corruption. (*Lembaga Manajemen Aset Negara*, n.d.)

Optimizing international cooperation is an important element in the seizure of assets resulting from corruption and transnational money laundering. Mutual Legal Assistance (MLA) MLA is the main instrument for tracking, freezing, confiscating, and confiscating assets abroad. However, its effectiveness is still constrained by differences in legal systems, lengthy bureaucratic procedures, and limitations in bilateral agreements. Cross-Border Asset Recovery In addition to MLAs, a more progressive approach is needed such as non-conviction based asset forfeiture (NCB), which allows the seizure of assets without waiting for a criminal verdict, especially in situations where the perpetrator cannot be reached by law (Prawira & Alamsyah, 2023).

Asset Repatriation The main purpose of international cooperation is the return of assets to the country of origin as a form of recovery of state losses and public justice. Therefore, it is necessary to strengthen institutional capacity, legal diplomacy, and political commitment. Conceptually, the optimization of international cooperation in asset recovery reflects a paradigm shift from territorial-based enforcement to a transnational justice approach. Corruption and anti-corruption crimes can no longer be effectively dealt with only with national legal instruments, but require cross-jurisdictional integration.

The limitations of MLA show that the formal cooperation-based approach is not sufficiently adaptive to the speed of movement of illegal assets in the global financial system. Therefore, it is necessary to develop more flexible mechanisms, such as informal cooperation, joint investigation, and intelligence sharing, so that the asset tracking process

is not hampered by administrative procedures. The implementation of NCB asset forfeiture in the international context is a progressive step that strengthens the principle *of crime does not pay*. However, its implementation must still pay attention to the protection of human rights and due process of law, so as not to cause jurisdictional conflicts or cross-border legal disputes.

The return of assets does not only have an economic dimension, but also has a political dimension and legal legitimacy. The country's success in returning assets from abroad will strengthen public trust, increase international credibility, and demonstrate the effectiveness of the national legal system. The main challenges lie in the limitations of the international treaty network, the technical capacity of law enforcement in tracking global assets, and the lack of optimal legal diplomacy in international forums. Therefore, criminal law reform should be directed at strengthening synergy between national law and the international legal regime, including regulatory harmonization, capacity building of apparatus, and expansion of strategic cooperation. Optimizing international cooperation is the key to successful asset confiscation and recovery in transnational crimes. With a more progressive, adaptive, and integrated approach, asset recovery can function not only as a legal instrument, but also as a mechanism for restoring justice and state sovereignty (Prawira & Alamsyah, 2023).

3.8 The ideal model of the proceeds asset forfeiture system in criminal law reform

The ideal model of criminal law reform of asset forfeiture aims to create a law enforcement system that not only punishes the perpetrators, but also recovers state losses and prevents repeat crimes. This model focuses on the *asset-oriented* (asset recovery) rather than just retributive (retaliation). (I Putu Aris Perdana Putra, 2025) The ideal model of asset forfeiture system design is;

3.8.1 Effective and equitable system design

The ideal asset forfeiture system must integrate two main mechanisms, namely; Forfeiture based on a criminal verdict, Forfeiture carried out after the perpetrator is convicted by the court and Non-conviction based asset forfeiture (NCB), Forfeiture of

assets resulting from a criminal act without having to wait for a criminal verdict against the perpetrator. This is especially crucial if the perpetrator dies, escapes, or becomes permanently ill. In its application, it must guarantee *due process of law*, proportionality, protection of a third party in good faith, and a balanced reverse proof mechanism (the perpetrator must prove his assets are legal if the indication of a crime is strong). Asset Management is carried out transparently, accountably, and efficiently to prevent asset value from decreasing during the confiscation period. (Surya Hadi Purnama, 2021)

3.8.2 Integration in the national legal system

Asset forfeiture needs to be integrated into the Criminal Code and the national criminal law system comprehensively, including, the expansion of the object of confiscation (including substitute assets and money laundering proceeds) and the value of the profits obtained. Harmonizing and synchronizing the material law of the Corruption Crime Law and the Money Laundering Law and the formal law of the Criminal Code of the Criminal Code. The implementation of criminal proceedings, as well as the strengthening of procedures and coordination between institutions provides clear legal procedures, combining the legal aspects of criminal and civil procedure.

3.8.3 Implications for corruption eradication

This model has a strategic impact on law enforcement in Indonesia, in the form of Increasing Deterrence Effect by making perpetrators "poor" or losing profits from economic crimes (*Profit-driven crime*). The NCB's mechanism accelerates the country's financial recovery, which has been stalled due to slow judicial processes, and shifts the focus of crime eradication from "punishing people" to "taking their assets." (Irma Reisalinda Ayuningsih, 2023)

3.8.4 Implementation challenges

The success of this model depends on institutional synergy of coordination between the KPK, the Prosecutor's Office, the Police, PPATK, and asset management

institutions. Preparedness of investigators in complex financial investigations and ability to track and seize assets abroad (transnational crime). (Zulkarnain Pantoli, 2024) This model is a new paradigm that is progressive, but it requires a very strict legal design to ensure that human rights, especially property rights and presumptions of innocence, are not abused.

Conceptually, this model reflects the transformation of criminal law from a retributive approach to a restorative and economic approach, a new paradigm of asset forfeiture in modern criminal law in Indonesia, especially related to corruption and money laundering. (Samsudin, 2026) Criminal law is no longer just punishing the perpetrator (retributive), but focuses on recovering state losses by eliminating illegal profits (*Profit-driven crime*). Combining criminal conviction-based forfeiture and in rem asset forfeiture to address the complexities of modern crime.

The focus is no longer on punishment alone, but on the elimination of illegal profits as the core of economic crimes. The integration between conviction-based and NCB demonstrates a hybrid approach that is adaptive to the complexity of modern crime. This is a progressive step, but it requires a strict legal design so as not to violate human rights principles, especially regarding property rights and the presumption of innocence. The emphasis on integration in the Criminal Code and the national legal system shows that the main problem is not only in norms, but in the fragmentation of regulations and institutions. Without harmonization, the effectiveness of asset confiscation will remain limited even if regulations are strengthened. This model has a strategic dimension in modern criminal policy, which is to shift the success indicator of law enforcement from the number of criminal convictions to the level of asset recovery.

This is more relevant in the context of corruption as a *profit-driven crime*. The implementation challenges in Indonesia lie in the readiness of law enforcement officials in an asset-based approach, complex financial tracking capacity, and inter-agency and cross-border system integration. Thus, the success of this model relies heavily on the synergy between normative, institutional, and technical capacity reforms. The ideal model of asset forfeiture is a new paradigm in criminal law that places the recovery of state losses as the main goal. With an integrated, fair, and adaptive approach, this model has the potential to be an effective instrument in eradicating corruption and money laundering in Indonesia.

4 CONCLUSION

Criminal law reform in the system of asset forfeiture resulting from corruption and money laundering crimes in Indonesia is a necessity in facing the transformation of modern economic crimes that are complex, organized, and profit-oriented. The findings of the study show that the criminal law paradigm that is still *offender-oriented* is no longer adequate to ensure the effectiveness of recovering state losses. Therefore, a shift towards *an asset-oriented approach* is needed that places asset forfeiture as the primary instrument in law enforcement. This shift must be followed by strengthening the substance of the law through the implementation of non-conviction-based asset forfeiture (NCB), value-based confiscation, and limited and balanced reverse proof, which still upholds the principles *of due process of law* and human rights protection.

In addition to the substantive aspect, the reformulation of the criminal procedural law is crucial through strengthening *the in rem mechanism*, early confiscation, and optimizing the role of financial intelligence in asset tracking. This reform must be supported by institutional reforms that include the establishment of a professional asset management agency, improved coordination between law enforcement officials, and the development of an integrated national asset information system. On the other hand, optimizing international cooperation through *mutual legal assistance*, cross-border approaches, and asset returns is a strategic factor in dealing with the transnational character of crime.

Theoretically, this criminal law reform is based on substantive justice, restorative justice, and the principle that crime *does not pay*. Juridically, these updates are in line with constitutional mandates and international obligations, in particular the UNCAC and FATF standards. Meanwhile, sociologically, this update answers the public's demands for the recovery of state losses and increased trust in the criminal justice system.

REFERENCES

- Abdullah, F. (2021). *PERAMPASAN ASET HASIL TINDAK PIDANA KORUPSI TANPA PEMIDANAAN (NON-CONVICTION BASED ASSET FORFEITURE) BERDASARKAN HUKUM INDONESIA DAN UNITED NATIONS CONVENTION AGAINST CORRUPTION (UNCAC) 2003*. 09(01).

- Alwan Hadiyanto. (2025). Urgensi Perampasan Aset Korupsi Melalui Civil Forfeiture. *Jurnal USM Law Review, Vol 8 No 3*.
- barda nawawi arief. (2016). *Bunga Rampai Kebijakan Hukum Pidana*. Kencana Prenada Media Group.
- Bazargan. (2020). Restoratiive Justice and Collective Harm. *Journal of Criminal Law, 12, no 3, 45–46*.
- DetikNews, Y. E.-. (2026). RUU Perampasan Aset Dibahas DPR, Pakar Bicara Sanksi Efektif Lawan Koruptor. *Jumat, 16 Jan 2026*.
- Dicky, A., Nafi, I., Nuzulurrizki, A., Widagdo, Y., Aset, P., & Indonesia, P. (2025). Analisis Rancangan Undang-Undang Perampasan Aset dalam Sistem Pemerintahan Indonesia Universitas Trunojoyo Madura , Indonesia Oleh karena itu , penelitian mengenai " Analisis Rancangan Undang-Undang secara rinci sejauh mana RUU ini bisa dipadukan dalam ke. *Jurnal Hukum, Administrasi Publik Dan Negara, Volume. 2,(November), 01–10. <https://doi.org/DOI:https://doi.org/10.62383/hukum.v2i6.658>*
- Fakultas Hukum Universitas Trisakti. (n.d.). *Paradigma dalam Pemberantasan Tindak Pidana Korupsi melalui Rezim Pemulihan Aset Berbasis Non-Keyakinan (NCBAF)*.
- Garnasih, Y. (2017). *Anti Pencucian Uang*. 198.
- I Made Wantra, Cokorde Istri Dian Laksmi Dewi, I. W. P. S. A. (2025). Telaah pengembalian aset hasil kejahatan korupsi melalui konsep keadilan restoratif sebagai alternatif pemulihan kerugian negara. *Jurnal Sosial Dan Sains (SOSAINS), 5(3), 522–532*.
- I Putu Aris Perdana Putra. (2025). EFEKTIVITAS PENERAPAN PERAMPASAN ASET DALAM MENCEGAH DAN MEMBERANTAS KORUPSI. *Jurnal Kertha Wicara, Vol 15 No, hlm. 179-190. <https://doi.org/KW.2025.v15.i03.p5>*
- Ilimi, M., Muchtar, S., & Ilyas, A. (n.d.). *Penyitaan Berbasis Properti Sebagai Upaya Pengembalian Kerugian Keuangan Negara Dalam Tindak Pidana Korupsi. 5(2), 493–507*.
- Irma Reisalinda Ayuningsih. (2023). Pengelolaan Aset yang Dirampas melalui Mekanisme Non-Conviction Based Asset Forfeiture: Suatu Perbandingan Indonesia - Thailand. *Kementrian Keuangan Republik Indonesia Direktorat Jenderal Kekayaan Negara, Jum'at, 05*.
- Jamba, P., & Husna, L. (2025). Analisis Yuridis Perampasan Aset Koruptor Ditinjau Berdasarkan Perspektif Undang-Undang Pemberantasan Tindak Pidana Korupsi. *Jurnal Ilmu Sosial & Hukum, 3 Number 6, 10978–10994. <https://doi.org/https://doi.org/10.61104/alz.v3i6.2874>*
- Lembaga Manajemen Aset Negara. (n.d.)*.

- Nazla Shafira Hariyadi, Ade Maman Suherman, T. S. (2025). Teori hukum pidana: pembedaan, korupsi, dan perlindungan anak di indonesia. *Action Research Literate*, 9(1), 55–61.
- Pariapura Tetapkan RUU Perampasan Aset Masuk Bersama 51 RUU Prioritas Prolegnas 2025-2026 Lainnya - DPR RI. (n.d.).
- Paruntu, N. K., & Sudiro, A. (2025). Pergeseran Paradigma Pemulihan Aset Dalam Tindak Pidana Korupsi Untuk Mewujudkan Optimalisasi Pengembalian Kerugian Negara Paradigm Shift in Asset Recovery in Corruption Crimes to Achieve Optimization of Restitution of State Losses. 8(3), 6–11.
- Prawira, M. Y., & Alamsyah, F. (2023). The Implementation of Mutual Legal Assistance between Indonesia and Switzerland Regarding Asset Recovery. *Indonesia Comperative Law Review*, 5(2), 58–74. <https://doi.org/DOI:> <http://dx.doi.org/10.18196/iclr.v5i2.17435>
- Romli Atmasamita. (2024). Transformasi Kejahatan Keuangan dan Kebutuhan Rekonstruksi Hukum Pidana. *Jurnal Hukum Nasional*, 10 No. 2, 45.
- Samsudin, D. (2026). Menelusuri Harta Kriminal Melalui Justice Collaborator : Analisis Yuridis terhadap Implementasi Follow the Money dan Follow the Asset dalam Peradilan Pidana Indonesia. *Jurnal Ilmu Multidisiplin*, 4(6), 4327–4335.
- Silawati Dayang Ganjar. (2025). ANALISIS PERAMPASAN ASET TANPA PUTUSAN PIDANA DALAM PENEGAKAN TINDAK PIDANA KORUPSI DI INDONESIA. *Jurnal.Ensiklopediaku.Org Ensiklopedia Of Journal*, 7(3), 421–428.
- Studi, P., Pidana, H., Syariah, F., Imdad, M., Baehaqi, J., & Rosyid, M. (2025). Urgensi Perampasan Aset Dalam Pemberantasan Korupsi : Dalam Perspektif Hukum Pidana Islam The Urgency of Implementing Asset Forfeiture in Anti-Corruption Efforts : A Study of Islamic Criminal Law Perspectives. 8(2), 952–977.
- Sumardiana, B. (2025). Konsep Kebijakan Perampasan Aset Tanpa Pidanaan Melalui Gugatan In Rem Berdasarkan Pendekatan Economic Analysis of Law. *Reformasi Hukum*, 29(1), 52–69.
- Surya Hadi Purnama. (2021). Pengelolaan Barang Rampasan dan Pemulihan Aset Tindak Pidana. *Pengelolaan Kekayaan Negara Pada Kantor Pelayanan Kekayaan Negara Dan Lelang Palu, Jum'at*, 17.
- Tppu, U., Perkara, D., Pidana, T., & Di, K. (2019). Pembuktian pidana asal terkait tindak pidana pencucian uang (tppu) dalam perkara tindak pidana korupsi di indonesia. 1–15.
- Yunus Husein. (n.d.). *Penjelasan Hukum tentang Perampasan Aset Tanpa Pidanaan - pshk*.
- Zulkarnain Pantoli. (2024). Rancangan Undang-Undang Perampasan Aset (Strategi Baru

Melawan Korupsi Dengan Pendekatan In REM). *Journal of Human And Education*,
Volume 4, 1124–1132. <https://doi.org/Website:>
<https://jahe.or.id/index.php/jahe/index>