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International Legal Strategy to Trace and Recover Corrupt Assets Hidden Outside the State Jurisdiction Under UNCAC Provisions

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Abstract: Recovery of assets resulting from corruption hidden outside the jurisdiction of a country is a serious challenge in law enforcement and the eradication of corruption globally. The United Nations Convention Against Corruption (UNCAC) as an international legal instrument provides a comprehensive framework to facilitate cooperation between countries in tracing, freezing, and returning corruption assets. This study examines the international legal strategies regulated in UNCAC, including the mechanism of international cooperation, mutual legal assistance, and the principle of recognition and enforcement of foreign judgments. In addition, this study analyzes the implementation obstacles faced by developing countries in accessing cross-jurisdictional asset recovery procedures and the importance of strengthening the capacity of domestic institutions and legal diplomacy between countries. With a normative approach and case studies, this paper aims to identify strategic steps in optimizing asset recovery based on the UNCAC international legal framework.

Keyword: UNCAC, Asset Recovery, International Law, Corruption

Abstrak: Pengembalian aset hasil korupsi yang disembunyikan di luar yurisdiksi suatu negara merupakan tantangan serius dalam penegakan hukum dan pemberantasan korupsi secara global. United Nations Convention Against Corruption (UNCAC) sebagai instrumen hukum internasional memberikan kerangka kerja yang komprehensif untuk memfasilitasi kerja sama antarnegara dalam menelusuri, membekukan, dan mengembalikan aset hasil korupsi. Penelitian ini mengkaji strategi hukum internasional yang diatur dalam UNCAC, termasuk mekanisme kerja sama internasional, bantuan hukum timbal balik, dan prinsip pengakuan dan pelaksanaan putusan pengadilan asing. Selain itu, studi ini menganalisis hambatan implementasi yang dihadapi oleh negara berkembang dalam mengakses prosedur pengembalian aset lintas yurisdiksi serta pentingnya penguatan kapasitas institusi domestik dan diplomasi hukum antarnegara. Dengan pendekatan normatif dan studi kasus, tulisan ini bertujuan untuk mengidentifikasi langkah-langkah strategis dalam mengoptimalkan pemulihan aset berdasarkan kerangka hukum internasional UNCAC.

Kata Kunci: UNCAC, Pemulihan Aset, Hukum Internasional, Korupsi

INTRODUCTION

Corruption is an extraordinary crime that not only damages a country's governance system but also often involves cross-border mechanisms (Saputra, 2023). In the era of globalization, perpetrators of corruption can easily move the proceeds of their crimes abroad using sophisticated international financial instruments, including shell companies, offshore accounts, and crypto asset transactions (Wardani, 2022). The existence of different jurisdictions in each country adds complexity to the process of tracking and recovering these assets (Sigalingging, 2021). In this situation, the national legal system alone is not enough to reach assets that have been hidden abroad, so it is necessary to implement an international legal cooperation mechanism (Meganingratna, 2023).

The phenomenon where assets from corruption are hidden abroad has become an urgent global issue. Developing countries are the main victims of this practice because public resources that should be used for development and public services are enjoyed by perpetrators of corruption in asylum countries (Sukiyat, 2020). In the Indonesian context, major cases such as BLBI and Century have shown how difficult it is to trace and return funds that have moved to various foreign jurisdictions (Samara, 2024). Protracted legal processes and differences in legal systems between countries are often real obstacles in asset recovery efforts.

The United Nations Convention Against Corruption (UNCAC) is one of the important milestones in building an international legal regime that focuses on asset recovery (Prasetyo, 2023). Agreed upon in 2003 and ratified by Indonesia through Law Number 7 of 2006, this convention emphasizes that asset recovery is a fundamental principle in eradicating corruption (Farhan, 2025). UNCAC not only provides a legal basis for cooperation between countries, but requires member countries to adjust their domestic regulations to be in line with the principles of the convention, including in terms of tracking, freezing, confiscation, and return of assets (Kartika, 2021).

From the perspective of public international law theory, there is a tension between the principle of state sovereignty and the obligation to cooperate in cross-border law enforcement (Nrangwesti, 2022). On the one hand, each country has exclusive rights over its jurisdiction, including processing assets within its territory (Rombot, 2023). On the other hand, the spirit of the UNCAC emphasizes the importance of solidarity and openness between countries to support the eradication of global corruption (Aprianto, 2024). This tension creates space for new norms in international law that are more cooperative and adaptive.

The theory of international regimes is a relevant analytical tool for understanding how state actors build global agreements and institutions to address common problems such as cross-border corruption (Ngelo, 2025). The UNCAC can be seen as a product of this international regime, where countries agree on a set of norms, rules, and procedures to facilitate more structured cooperation. Asset recovery is no longer merely a matter of domestic law but part of an interdependent and coordinated international system (Diantha, 2023)

Asset recovery conceptually includes a series of complex and interconnected stages. This process begins with the identification and tracking of assets suspected of being the result of a crime, followed by temporary freezing, and confiscation based on a court decision, to the process of returning them to the country of origin (Muhamad, Saputra, Adhy, Wibowo, & Pranowo, 2023). Each of these stages requires strong legal instruments and efficient coordination between domestic and international institutions. In addition to technical aspects, a political and diplomatic approach is also needed to pave the way for cooperation between countries (Prayoga, 2024).

The scope of asset recovery is comprehensive and requires a deep understanding of the legal system of the country where the assets are located. The country of origin must be able to prove that the assets are the result of a criminal act of corruption and submit an official request for their freezing or confiscation (Mahmud, 2021). If not supported by valid documentation, adequate standards of proof, and mutually trusting cooperation, recovery efforts can end in vain. It is where the importance of harmonizing laws between countries within the framework of international cooperation lies.

UNCAC, particularly Chapter V on Asset Recovery, is the main international legal basis that provides guidance and obligations for state parties to carry out effective asset recovery. The articles in this chapter explain in detail the procedures for freezing, confiscation, to asset recovery, including provisions on the recognition of foreign judgments and mutual legal assistance. This instrument encourages countries to be proactive in establishing transnational asset recovery mechanisms and prioritizing transparency and accountability (Niken, 2024).

In addition to UNCAC, other international initiatives have strengthened global efforts in asset recovery. One of the most influential is the Stolen Asset Recovery Initiative (StAR), a collaboration between the World Bank and UNODC (Fairuza, 2022). This initiative not only provides technical guidance but also encourages best practices in asset tracking and recovery. On the other hand, the Financial Action Task Force (FATF) through its latest recommendations in 2023 increasingly emphasizes the importance of transparency over beneficial ownership to prevent the concealment of assets resulting from corruption (Hook, 2024).

The 1990 UN Model Treaty on Mutual Assistance in Criminal Matters also provides a framework for an agreement that can be used as a reference in forming bilateral and multilateral cooperation in asset recovery. This model treaty regulates the procedure for submitting requests for legal assistance, the types of assistance that can be provided, and the forms of legal protection that must be adhered to by the recipient country. In practice, this model treaty is often used as a reference in negotiations between countries that do not yet have a specific extradition treaty or MLA (Asgarova, 2021).

The urgency to optimize international legal strategies in asset recovery becomes important when considering the systemic impact of corruption on economic stability and public trust in state institutions. Without an effective cross-jurisdictional cooperation mechanism, developing countries such as Indonesia will continue to experience difficulties in recovering financial losses due to complex and organized corruption practices. Asset recovery is not only a legalistic technical issue but also reflects a country's commitment to global justice and clean governance. Through a deep understanding of international legal instruments, such as UNCAC and other global initiatives, as well as through strengthening domestic legal systems, countries can narrow the room for corruption perpetrators to maneuver and reclaim public rights that have been seized.

METHOD

This study uses a normative legal method, namely an approach that relies on the analysis of applicable positive legal norms, both in national and international law, especially those related to the recovery of assets resulting from corruption across jurisdictions. The main sources used include the provisions of the United Nations Convention against Corruption (UNCAC) in 2003, recommendations from the Financial Action Task Force (FATF), which was last updated in 2023, and other international documents such as the Stolen Asset Recovery (StAR) Initiative and the Model Treaty on Mutual Assistance in Criminal Matters (UN, 1990). In addition, this study also examines Indonesian national laws and regulations, such as Law Number 8 of 2010 concerning the Prevention and Eradication of Money

Laundering and Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption. Data collection techniques through literature studies by reviewing legal literature, academic journals, international organization reports, and court decisions related to cross-border asset recovery cases. Data analysis is carried out qualitatively by interpreting existing legal norms and examining how the principles of international cooperation in UNCAC can be applied in Indonesian law and to answer actual challenges in the field. This approach aims to provide a comprehensive understanding of relevant international legal strategies and their contribution to strengthening the national asset recovery system.

RESULT AND DISCUSSION

International Legal Strategies in Asset Recovery Under UNCAC

Asset recovery within the framework of the United Nations Convention Against Corruption (UNCAC) is a key pillar that distinguishes this instrument from other international conventions in the field of criminal law. The principle of international cooperation as stated in Article 51 of the UNCAC explicitly states that asset recovery is a fundamental principle in efforts to eradicate corruption. The UNCAC places collective responsibility between countries to facilitate the process of tracking, freezing, confiscating, and returning corrupt assets hidden across jurisdictions. In addition, the principle of non-refoulement of stolen assets emphasizes that assets resulting from crime must not be allowed to settle in third countries. Articles 52 to 59 provide a detailed legal foundation on how countries should act in implementing asset recovery strategies internationally.

The Mutual Legal Assistance (MLA) mechanism as stipulated in Article 55 of the UNCAC is the backbone of international cooperation in asset recovery. MLA allows a country to request assistance from another country in legal action, including freezing and confiscating assets outside its jurisdiction. MLA requests must be submitted through formal channels and meet certain administrative requirements according to the legal system of the recipient country. In this case, the integration between the national criminal justice system and the global MLA mechanism is a challenge that requires harmonization of regulations and strengthening of institutions. In addition, strengthening the capacity of international legal aid institutions is crucial so that the MLA can run effectively and efficiently.

UNCAC also emphasizes the importance of cooperation in terms of extradition and exchange of financial intelligence information, as stated in Articles 44 and 58. Extradition allows the country of origin to request the return of corruption suspects who have fled to another country, while still considering the principles of human rights and the principle of fair trial. Meanwhile, the exchange of financial intelligence information is facilitated by Financial Intelligence Units (FIUs) which play a role in collecting, analyzing, and disseminating suspicious financial data. The presence of FIUs in each country, which are part of the Egmont Group network, strengthens early detection and evidence collection of cross-border financial transactions. Collaboration between FIUs is becoming increasingly important in preventing perpetrators from exploiting institutional loopholes to obscure the origin of corruption funds.

One important aspect of asset recovery is the recognition and enforcement of foreign judgments, both criminal and civil. The UNCAC does not explicitly regulate the technical procedures for recognizing foreign judgments but mandates that states adopt domestic rules that support the recognition of valid judgments from other countries (see Articles 54 and 55). In practice, the courts in the country where the assets are located must verify that the judgment was validly issued, is not contrary to public order, and meets the principle of dual criminality. This principle requires that the conduct on which the judgment is based must be considered a criminal offense in both the requesting and requested countries. However,

differences in legal systems, levels of proof, and interpretations of crimes often pose serious obstacles to the enforcement of cross-border judgments.

Jurisdictional issues are a major challenge in the recognition and enforcement of foreign judgments. Common law and civil law legal systems have different approaches to recognizing judgments from other countries, especially when it comes to freezing and confiscating assets. In some jurisdictions, foreign court judgments cannot be immediately enforced without going through a separate execution process. This causes delays in the return of assets and gives perpetrators time to hide or transfer their assets. This lack of synchrony between legal systems between countries can only be overcome by bilateral or multilateral agreements that guarantee equality and trust between law enforcement authorities.

Freezing and seizure of assets are crucial steps in stopping the transfer and disappearance of assets before a court decision is made. UNCAC stipulates in Article 54 paragraph (1) letters a to c that countries must allow their authorities to order the freezing or seizure of assets upon request from another country. This interim freezing order is a preventive measure so that assets are not transferred by the perpetrator before the legal process is underway. In certain legal systems, freezing can be done administratively through financial authorities, while in other countries, this authority can only be done through a court decision. This flexibility is necessary to adapt to the national legal system, but must still guarantee the principles of justice and legal protection.

In the context of the latest recommendations from the Financial Action Task Force (FATF), freezing assets without prior notification to the asset owner is considered an effective strategy to prevent the disappearance of evidence. The FATF Recommendations updated in 2023 firmly encourage countries to have a fast and confidential mechanism for freezing assets based on credible financial intelligence. It is in line with the spirit of UNCAC to accelerate the legal process and minimize unnecessary intervention from interested parties. Transparency regarding beneficial ownership, as emphasized in FATF Recommendations 24 and 25, is key to tracing who possesses and controls suspected assets.

The success of freezing and confiscating assets cannot be separated from the effectiveness of cross-agency coordination within the country. Institutions such as PPATK, the Prosecutor's Office, and the courts must work within a coordinated framework to follow up on requests from abroad or submit requests to other countries. Cross-agency coordination must also be accompanied by ongoing training on international legal instruments and the use of information technology in asset tracking. Without synergy between institutions, the freezing order could be executed too late and endanger the ongoing asset recovery process. Institutional capacity is the foundation for the implementation of an effective international legal strategy.

The effectiveness of the international legal strategy stipulated in the UNCAC will always be directly proportional to the political commitment of the state parties to build a transparent, fair, and collaborative legal system. The implementation of the UNCAC requires concrete actions, ranging from revising national regulations to negotiating bilateral agreements that support the recognition and implementation of foreign decisions. The biggest challenges are not only legal in nature, but also concern the dynamics of international relations, power imbalances, and political resistance from countries where assets are being fled. In this framework, asset recovery is a legal effort and an instrument of global diplomacy to build economic justice between countries.

Institutional Challenges in Cross-Jurisdictional Asset Recovery

Developing countries face serious challenges in implementing cross-jurisdictional asset recovery strategies. One of the main obstacles lies in the weak capacity of law enforcement agencies, which often lack adequate human resources, budgets, and technology. This

unpreparedness has a direct impact on the slow investigation process, delays in responding to requests for legal assistance, and difficulties in preparing formal request documents by international standards. Many developing countries also do not have adequate technical training for legal officials to understand the complex mechanisms of international cooperation. The situation creates an imbalance between formal obligations under the UNCAC and actual capabilities at the national implementation level.

The dependence of developing countries on the destination country of the assets often becomes a barrier to the recovery process. The destination countries for the storage of corrupt assets, especially jurisdictions with closed financial systems, tend to implement policies that are not always cooperative. Some countries rely on the principle of the rule of law or protection of financial privacy to refuse to return requested assets. Even in situations where bilateral agreements exist, their implementation often does not go as expected due to political or economic obstacles. The imbalance in power relations places developing countries in a weak position when it comes to negotiating cross-border legal cooperation.

Technical barriers are also often significant obstacles. Requests for international cooperation must be drafted in very specific legal formats and languages, which are not always understood or mastered by law enforcement officials in developing countries. In addition, lengthy and unsynchronized bureaucratic processes between domestic agencies slow the sending or receiving of important information from abroad. When there is a need to follow up on financial intelligence information, a delay of just one day can result in the loss of assets or their transfer to a third country. It is not uncommon for asset freeze requests to be rejected simply because of minor administrative errors or lack of adequate supporting documentation.

Indonesia itself has experienced several real challenges in the asset recovery process, especially in major cases such as the Bank Indonesia Liquidity Assistance (BLBI). The government's efforts through the Corruption Eradication Commission (KPK), the Financial Transaction Reports and Analysis Center (PPATK), and the Attorney General's Office have demonstrated seriousness in tracing and prosecuting assets spread across various countries, including Hong Kong and the United States. Although some assets have been frozen and returned, the process is lengthy and requires high-level diplomatic intervention. Legal uncertainty in the destination countries of the assets and the lack of clarity in legal documentation complicate the recovery process. The BLBI case is an important reflection that legal strategies alone are not enough without strong institutional readiness and political support.

In terms of regulation, Indonesia has adopted a number of regulations that serve as a legal basis for cross-jurisdictional asset recovery. Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes provides authority for institutions such as PPATK to track and analyze suspicious financial transactions. Meanwhile, Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes provides the basis for the confiscation and return of assets related to corruption. These two laws have become important instruments in national efforts to reach assets abroad, although in practice there are still gaps that need to be fixed, such as limited access to information on the actual beneficial owner.

The national strategy going forward should focus on harmonizing domestic laws with the provisions of the UNCAC. This harmonization is not merely about matching substantive legal norms but also concerns technical procedures, administrative provisions, and standards of proof used in the international cooperation process. Indonesia needs to strengthen its legal position through ratification or renegotiation of extradition and mutual legal assistance agreements with countries where assets are held. This harmonization is also important to ensure that requests for cooperation from Indonesia are not rejected due to inconsistencies

with the laws of other countries. The synergy between national regulations and international legal instruments is the foundation for successful asset recovery.

Bilateral and multilateral cooperation frameworks must be strengthened with a more active legal diplomacy approach. Indonesia can utilize its role in international forums such as ASEAN, G20, and APEC to push the asset recovery agenda as a global priority. At the bilateral level, negotiations on legally binding cooperation agreements need to be directed at overcoming obstacles that often arise in the recognition of foreign judgments and the implementation of asset freezes. This strategy can also involve technical cooperation, real-time exchange of financial data, and the establishment of fast tracks for urgent and high-risk cases. In this context, legal diplomacy does not only rely on intergovernmental relations but also includes relations between law enforcement agencies across countries.

Digital transformation is an important element in a long-term strategy for asset recovery. The development of a digital asset tracking system will make it easier for authorities to identify cross-border financial transaction patterns and trace the flow of funds in real time. Indonesia can develop a beneficial ownership registry that is integrated with banking data, company records, and information from international financial institutions. This system will increase transparency and accelerate responses to requests for international cooperation. In addition, digitalization reduces the possibility of data manipulation and increases accountability for the asset-tracking process, especially in sectors that were previously closed or difficult to monitor.

The effectiveness of the national strategy will depend greatly on the government's ability to create an inclusive, adaptive, and transparent legal ecosystem. The involvement of civil society, the media, and academics is important to oversee the asset recovery process so that it is not misused or used as a political tool. The openness of public information, independent audits, and regular reporting on asset recovery results can increase public trust and strengthen the country's legitimacy in international cooperation. Ultimately, the success of asset recovery is not just a technical legal issue, but also a measure of the integrity and effectiveness of the state in eradicating corruption in a systemic and sustainable manner.

CONCLUSION

Cross-jurisdictional corruption asset recovery based on UNCAC provisions is a complex effort that requires synergy between international legal instruments, national regulations, and cross-institutional and state cooperation. The United Nations Convention Against Corruption (UNCAC) explicitly places asset recovery as one of its main objectives through principles such as international cooperation, recognition of foreign judgments, mutual legal assistance, and freezing and confiscation of assets. However, the implementation of these provisions in the field faces various implementation challenges, especially in developing countries that are still weak in terms of institutional capacity, legal instruments, and access to financial tracking technology. Obstacles in the form of international bureaucracy, differences in legal systems, and lack of transparency in foreign jurisdictions slow down and even thwart asset recovery efforts. In this context, an international legal strategy cannot stand alone without being supported by strengthening domestic law and consistent political commitment.

The strategy for optimizing asset recovery in the future must be built through a systemic and sustainable approach that includes national regulatory reform to align with international standards, the establishment of responsive cross-institutional coordination mechanisms, and increasing the capacity of legal diplomacy and information technology. Indonesia must continue to encourage the development of beneficial owner registries, digitization of asset tracking, and building strong cooperation networks both bilaterally and multilaterally. Civil society involvement and public oversight are also critical in ensuring that the asset recovery process is accountable and not misused. It contributes to the eradication of corruption,

strengthens the legitimacy of the state in clean and transparent governance at the global level. Asset recovery is not merely a matter of legal technicalities, but rather a reflection of a commitment to transnational justice and protection of state assets.

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