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## The Urgency of Asset Confiscation Results of Corruption and Criminal Acts Money Laundering: Solutions to Eradicate Corruption and Reform of National Laws

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**Abstract:** Corruption and money laundering erode economic welfare and public trust, while asset recovery in Indonesia remains constrained by a fragmented, conviction-centric legal framework. This study analyzes the positive law governing confiscation of proceeds of corruption and money laundering, identifies normative and practical gaps, and assesses the urgency of adopting a dedicated Asset Forfeiture Law—particularly the introduction of non-conviction-based (NCB) asset forfeiture. Using normative (doctrinal) legal research with conceptual and comparative approaches, supported by illustrative cases, the paper finds three core problems: (1) reliance on criminal convictions impedes confiscation when defendants abscond, die, or proceedings stall; (2) regulatory disharmony and weak inter-agency coordination undermine tracing, freezing, and asset management; and (3) insufficient rules on standards of proof and governance of confiscated assets. Comparative evidence shows that NCB regimes with due-process safeguards, civil standards of proof, and specialized fora improve recovery outcomes and align with UNCAC and FATF recommendations. The study recommends enacting an Asset Forfeiture Law with robust human-rights guardrails, establishing an integrated cross-agency asset recovery unit, strengthening mutual legal assistance and international cooperation, and digitizing asset management to ensure accountability. Implementing NCB in Indonesia is both urgent and feasible to accelerate restitution of state losses, enhance deterrence, and reinforce legal-system integrity.

**Keyword:** Asset Confiscation, Non-Conviction-Based Forfeiture, Corruption, Money Laundering, Asset Recovery, Legal Reform, UNCAC, FATF, Indonesia.

### INTRODUCTION

Economic globalization and advances in financial technology have also complicated efforts to track and confiscate assets resulting from criminal acts. Asset concealment practices are now not only carried out through the ownership of the names of third parties (nominees) or shell companies (shell companies), but also through digital instruments such as

cryptocurrencies and cross-border transactions that are difficult to trace.<sup>1</sup> This makes international cooperation and strengthening the national legal framework two crucial aspects in building an effective and equitable asset recovery system. Corruption and money laundering are extraordinary crimes that have a systemic impact on economic, political, and legal stability in Indonesia. These two criminal acts not only cause financial losses to the state, but also weaken the joints of the state, the economy, and public trust in state institutions. One of the main challenges in eradicating corruption and anti-trafficking is the effectiveness of efforts to confiscate assets resulting from crime, which are often hidden, disguised, or moved outside the jurisdiction of Indonesian law.

Current Indonesian legal instruments, such as Law No. 31 of 1999 jo. Law No. 20 of 2001 concerning the Eradication of Corruption and Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering, have not fully provided sufficient legal force to ensure optimal asset recovery. In addition, the limitations of the criminal procedure law which requires proof of a criminal act before assets can be confiscated, have posed its own challenges in practice.<sup>2</sup> In practice, Indonesia still faces serious obstacles in the process of identification, tracking, freezing, confiscation, and confiscation of assets resulting from crime. For example, lengthy and complex legal processes often prevent assets that have been frozen from being immediately confiscated, and even experience a depreciation in economic value. In addition, the provisions in the Criminal Procedure Code (KUHAP) have not accommodated the need for asset confiscation independently of the criminal process.<sup>3</sup>

In response to these obstacles, the Indonesian government through President Prabowo Subianto encouraged legal reform through the drafting of a Bill on Asset Forfeiture which is currently in the process in the House of Representatives of the Republic of Indonesia (DPR). This bill aims to strengthen the national legal framework in recovering assets from crime, including through the non-conviction based asset forfeiture (NCB) mechanism, which is by confiscating assets without having to wait for a criminal verdict with permanent legal force.<sup>4</sup> This concept has been applied effectively in various countries, and has shown significant results in eradicating organized crime.

The condition of eradicating organized crime is exacerbated by the weak integration of data between law enforcement agencies and the lack of capacity of the authorities to track assets across jurisdictions. In fact, the asset recovery approach, both in the form of restitution, compensation, and forfeiture, has become an important instrument in the strategy to eradicate corruption according to the United Nations Convention against Corruption (UNCAC) which has been ratified by Indonesia through Law No. 7 of 2006.<sup>5</sup> UNCAC even emphasized the importance of the asset recovery mechanism as one of the basic principles in the fight against global corruption.

Against this background, this paper is relevant and urgent to be carried out which aims to answer important questions related to the extent of the effectiveness of existing regulations, how the substance of the legal reform in the Asset Forfeiture Bill is, and what are the juridical and institutional implications of the implementation of the asset forfeiture

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<sup>1</sup> Levi, M., & Reuter, P. (2006). Money Laundering. *Crime and Justice*, 34(1), 289–375. <https://doi.org/10.1086/501508>

<sup>2</sup> Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption and Law of the Republic of Indonesia Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes.

<sup>3</sup> Setiadi, E. (2020). Procedural Law Reform in Handling Money Laundering Crimes. *Journal of Law & Development*, 50(3), 543–562.

<sup>4</sup> United Nations Office on Drugs and Crime. (2012). *Manual on Non-Conviction-Based Asset Forfeiture*. Vienna: UNODC.

<sup>5</sup> United Nations Office on Drugs and Crime. (2004). *United Nations Convention against Corruption*. New York: UNODC.

mechanism based on the principle of non-conviction. This paper uses a normative juridical approach, supported by actual case studies as critical analysis material, in order to contribute to the formation of a legal system that is more responsive to the challenges of modern crime.

### **Problem Formulation**

In the context of national law reform and the complexity of corruption and money laundering, some of the main questions that are the formulation of the problem in this paper are:

1. What are the positive legal arrangements in Indonesia related to the confiscation of assets resulting from corruption and money laundering?
2. What are the normative and practical challenges in the implementation of asset forfeiture in Indonesia?
3. What is the urgency and direction of legal reform through the Asset Forfeiture Bill, as well as how is the effectiveness of the non-conviction based asset forfeiture mechanism applied in the Indonesian legal system?

### **Purpose of Writing**

This article aims to:

1. Analyze national legal arrangements related to the confiscation of assets resulting from corruption and money laundering.
2. Identify obstacles in the implementation of the asset forfeiture law, both in terms of laws and regulations and law enforcement practices.
3. Presenting a critical study of the urgency of national law reform through the Asset Forfeiture Bill and analyzing the potential implementation of the concept of non-conviction based asset forfeiture.

## **METHOD**

This writing uses a normative legal research method (normative juridical research), which is research that focuses on the study of relevant legal documents and sources, such as laws and regulations, court decisions, legal literature, and international instruments related to the recovery of assets from crime.<sup>6</sup> The author also uses conceptual and comparative approaches to examine the legal ideas that have developed in international practice and compare them with Indonesia's national legal framework. This approach is intended to provide suggestions for legal reform that are adaptive to modern challenges in economic law enforcement.

## **RESULTS AND DISCUSSION**

### **THEORETICAL AND CONCEPTUAL REVIEW**

#### **1. Definition of Corruption and Money Laundering**

Corruption is generally defined as the abuse of power for personal or other gain. In the context of Indonesian law, corruption includes various forms of irregularities, including abuse of authority, bribery, gratuities, and acts of enriching oneself or others that harm the state's finances as stipulated in Law No. 31 of 1999 jo. Law No. 20 of 2001.<sup>7</sup>

Meanwhile, the crime of money laundering (TPPU) is an attempt to hide or disguise the origin of the proceeds of crime so that it looks legal. Law No. 8 of 2010 defines TPPU as any act that meets the elements of concealing, transferring, or placing funds from criminal

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<sup>6</sup> Soekanto, S., & Mamudji, S. (2001). Normative Law Research: A Brief Overview. Jakarta: RajaGrafindo Persada.

<sup>7</sup> Law of the Republic of Indonesia No. 31 of 1999 jo. Law No. 20 of 2001 concerning the Eradication of Corruption.

acts into the formal financial system to disguise its origin.<sup>8</sup> These two crimes are closely related because corruption often produces illegal funds that are then laundered so that they cannot be detected by law enforcement.

## 2. Relevant Legal Theories

The discussion of the confiscation of assets resulting from crime requires a theoretical foundation in criminal law theory and justice theory. The theory of material criminal law serves to explain the nature of the imposition of sanctions, including asset confiscation, as a form of accountability for criminal acts. In this case, a repressive approach is justified as long as it does not violate human rights principles.<sup>9</sup> Aristotle's theory of distributive justice is also relevant to explain the importance of restoring assets to the state or victim as a form of proportional justice. According to this theory, justice is achieved if resources are returned appropriately to the rightful parties.<sup>10</sup> In the context of eradicating corruption, justice not only demands criminal punishment, but also the recovery of state losses through asset confiscation mechanisms.

In addition, the utilitarian theory of Jeremy Bentham can be used to justify the confiscation of assets as a means of prevention (deterrent effect). By showing that the proceeds of crime cannot be enjoyed, the law provides a stronger deterrent effect to potential perpetrators.<sup>11</sup>

## 3. The Concept of Asset Forfeiture and Non-Conviction Based Asset Forfeiture

Asset forfeiture is a legal process that allows the state to take ownership of assets that are suspected or proven to be the result of criminal acts, either through criminal proceedings (conviction-based) or civil (non-conviction-based). The main purpose of asset confiscation is to eliminate economic benefits from criminal acts and to restore state or community losses. In the conviction-based forfeiture system, forfeiture can only be carried out after the perpetrator is found guilty through a criminal justice process. In Indonesia, this system is regulated in the Criminal Procedure Code and the Corruption Law, where confiscation or confiscation is carried out as part of an additional criminal sentence.<sup>12</sup>

Asset forfeiture is the state's action to take over property resulting from crime based on a court decision. Generally, this is done after the defendant is found guilty (conviction based). However, in international practice, the concept of non-conviction based asset forfeiture (NCB) has developed which allows forfeiture without the need to prove a criminal act first.<sup>13</sup> Non-conviction based asset forfeiture (NCB) is a legal mechanism that allows the state to confiscate assets without having to wait for or obtain a criminal verdict against the perpetrator. This process is carried out in civil proceedings or in rem, namely against the object (asset) itself, not against the perpetrator.

The main principle is that if the assets can be proven sufficiently strongly as the result of a crime, then the state has the right to confiscate the assets even if the perpetrator has not or cannot be convicted. Some of the characteristics of NCB forfeiture:

- a. It does not require proof of the perpetrator's criminal guilt.
- b. The process is separate from the criminal process (stand-alone).
- c. It usually uses a lower standard of proof, such as a balance of probabilities rather than beyond reasonable doubt in a criminal case.

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<sup>8</sup> Law of the Republic of Indonesia Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes.

<sup>9</sup> Andi Hamzah. (2008). Indonesian Criminal Law. Jakarta: Sinar Grafika.

<sup>10</sup> Aristotle. (2009). Politics. Trans. Benjamin Jowett. Oxford: Oxford University Press.

<sup>11</sup> Bentham, J. (2007). An Introduction to the Principles of Morals and Legislation. Dover Publications.

<sup>12</sup> Law of the Republic of Indonesia No. 31 of 1999 jo. Law No. 20 of 2001 concerning the Eradication of Corruption.

<sup>13</sup> United Nations Office on Drugs and Crime. (2012). Manual on Non-Conviction-Based Asset Forfeiture. Vienna: UNODC.

d. Still guarantee the right to defend the asset owner (due process of law).

NCBs become important when the perpetrator escapes, dies, or the legal system does not allow for effective punishment. This principle has been recognized in various international instruments, including the United Nations Convention against Corruption (UNCAC) and recommended by the Financial Action Task Force (FATF) as part of the global anti-money laundering regime.<sup>14</sup> The concept of NCB is supported by several international legal instruments, including:

- a. United Nations Convention Against Corruption (UNCAC) Article 54(1)(c), which encourages countries to adopt a system of asset forfeiture without penalty, especially in certain situations.
- b. The Financial Action Task Force (FATF) recommends the implementation of the NCB as part of a global strategy to combat anti-trafficking and corruption.<sup>15</sup>

In the Indonesian context, the concept of NCB is still a debate because it is considered to challenge the principle of presumption of innocence. However, with strict legal protection signs, this mechanism can be a progressive legal solution in order to recover assets more efficiently and fairly.

**Table 1. Comparison of Conviction-Based Vs Non-Conviction Based Asset Forfeiture**

Aspect	Conviction-Based Asset Forfeiture (CB-AF)	Non-Conviction Based Asset Forfeiture (NCB-AF)
Legal Basis	Requires a criminal conviction as the foundation for forfeiture.	Does not require a prior criminal conviction; relies on civil or administrative proceedings.
Burden of Proof	Higher burden, typically “beyond reasonable doubt” because it is tied to criminal prosecution.	Lower burden, commonly “preponderance of the evidence” or “balance of probabilities,” depending on jurisdiction.
Purpose	Punishes offenders by depriving them of proceeds or instrumentalities of crime.	Prevents the enjoyment of illicit assets even when prosecution is not possible (e.g., death, fugitive suspects, immunity, insufficient evidence).
Proceeding Type	Criminal proceeding	Civil or sui generis proceeding, separate from criminal trial.
Target	Focuses on the defendant and their criminal liability.	Focuses on the property (“in rem”) and whether it is linked to illicit activity.
Standard Safeguards	Strong procedural protections for defendants due to the criminal nature of the case.	Procedural protections still exist but are typically less stringent than in criminal trials.
Evidentiary Requirements	Requires proof of guilt and proof that assets are proceeds or tools of crime.	Requires proof that the assets are connected to unlawful conduct, not that the owner is criminally liable.
Utility in Anti-Corruption and Money Laundering	Limited when prosecution fails, is delayed, or the suspect absconds.	Highly effective for corruption, organized crime, and money laundering cases where offenders hide, flee, or intimidate witnesses.
Time Frame	Often lengthy due to full criminal trial requirements.	Generally faster because it bypasses criminal conviction procedures.
Challenges	Difficult in cases of complex financial crime, deceased suspects, or lack of cooperation.	Risk of abuse if safeguards are weak; may raise concerns about due process and property rights.

<sup>14</sup> Financial Action Task Force (FATF). (2012). International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation (The FATF Recommendations).

<sup>15</sup> Financial Action Task Force (FATF). (2012). International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation. Paris: FATEF.

## ASSET FORFEITURE REGULATIONS IN INDONESIA

### 1. Legal Basis in Laws and Regulations

One of the most fundamental aspects of the system of recovering assets from crime is legal certainty which is the basis for confiscation by the state. In Indonesia, the confiscation of assets resulting from criminal acts, especially corruption and money laundering, has not been regulated in a special comprehensive law. On the contrary, these provisions are scattered in various applicable laws and regulations, each of which has its own scope, procedures, and limitations. This fragmented legal framework often gives rise to different interpretations, inefficiencies in legal processes, and loopholes for perpetrators to avoid liability for assets proceeds of crime. Therefore, understanding and analyzing the existing legal basis is the first step to assess the strengths and weaknesses of the national asset forfeiture system. The confiscation of assets resulting from criminal acts in Indonesia is generally regulated in several legal instruments, mainly:

- a. Law No. 31 of 1999 jo. Law No. 20 of 2001 concerning the Eradication of Corruption.
- b. Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering.
- c. The Criminal Procedure Code (KUHAP), especially related to confiscation and proof.

Article 18 of the Corruption Law explicitly states that the judge can impose an additional penalty in the form of payment of compensation, and if it is not paid, the convict's property can be confiscated and auctioned to cover the compensation.<sup>16</sup> However, this mechanism is still limited to the conviction-based forfeiture scheme, which is that forfeiture can only be carried out after the defendant has been legally and convincingly convicted.

The Antiquities Law provides further strengthening through the mechanism of tracking and freezing assets from the investigation and investigation stage. Articles 77 to 83 of Law No. 8 of 2010 regulate the confiscation, blocking, and confiscation of assets resulting from TPPU.<sup>17</sup> However, its implementation still requires proof that the asset is related to a criminal act, which becomes an obstacle when the perpetrator is not caught or has died.

### 2. Institutions in Asset Recovery

The effectiveness of asset confiscation from criminal acts is largely determined by the performance and coordination between the law enforcement agencies involved. In Indonesia, the functions of tracking, confiscating, and managing assets are not carried out by a single authority, but are spread across various institutions such as the Corruption Eradication Commission (KPK), the Prosecutor's Office, the Police, and the Financial Transaction Reporting and Analysis Center (PPATK). Each institution has mandates, authorities, and procedures that often run independently without a strong integration system. This condition poses challenges in information consolidation, duplication of work, and potential conflicts of authority that can hinder the effectiveness of asset recovery. Therefore, it is important to examine in depth how institutional roles function within the current legal framework, as well as the extent to which synergies between institutions can be strengthened to support a more resilient asset recovery system. Institutions that have authority in tracking and confiscating assets include:

- a. Corruption Eradication Commission (KPK): acts in corruption cases with the authority to confiscate and manage evidence.
- b. Financial Transaction Reporting and Analysis Center (PPATK): functions to conduct analysis and examination of suspicious financial transactions.

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<sup>16</sup> Law of the Republic of Indonesia No. 31 of 1999 jo. Law No. 20 of 2001 concerning the Eradication of Corruption.

<sup>17</sup> Law of the Republic of Indonesia Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes.

- c. The Prosecutor's Office: has the authority to execute asset confiscation through legal remedies and auctions.<sup>18</sup>

Coordination between these agencies still faces challenges in terms of data integration, duplication of authority, and execution mechanisms. One obvious example is the weak administrative system for managing confiscated assets and the lack of oversight of assets that are confiscated but not immediately confiscated. Therefore, an integrated and integrated asset management information system is needed.

### **3. Weaknesses in the Positive Legal System**

Although Indonesia already has a number of laws and regulations governing the confiscation of assets resulting from criminal acts, the existing legal framework still leaves many fundamental weaknesses, both substantive and procedural. Current laws tend to be repressive and rely on criminal convictions against perpetrators, making it difficult to recover assets in situations where effective judicial proceedings do not permit. On the other hand, the absence of specific arrangements regarding the mechanism of non-conviction based asset forfeiture (NCB) also shows that national laws are not fully responsive to the dynamics of modern crime that are transnational, organized, and sophisticated. Therefore, identifying weaknesses in the positive legal system is an important step to understand why existing regulations are not optimal, as well as as a basis for formulating more progressive and adaptive legal reforms. Some of the weaknesses found in the current asset forfeiture system include:

- a. Reliance on a conviction: hindering asset recovery if the perpetrator flees, dies, or is protected by a power network.
- b. There is no specific regime for non-conviction based forfeiture in national law.
- c. The lack of a mechanism for the management and productive use of confiscated assets has resulted in many high-value assets being damaged or depreciating in value during the legal process.<sup>19</sup>

This structural problem shows the need for comprehensive legal reform, both in terms of substance, procedure, and institutional, to encourage a more effective, fair, and adaptive asset recovery system to global dynamics.

## **NATIONAL LAW UPDATE ON ASSET FORFEITURE**

### **1. The Urgency of Update: The Gap between Law and Reality**

The current national legal system has not been able to effectively address the challenges of recovering assets resulting from criminal acts, especially in cases where the perpetrator cannot be brought to justice. Reliance on conviction-based forfeiture makes criminal assets often unconfiscable because legal processes are hampered or fail.<sup>20</sup> This condition raises an urgent need to present a new legal tool that is more adaptive, one of which is through the Bill on Asset Forfeiture. This bill aims to enable the confiscation of assets without the need for criminal proof (non-conviction based asset forfeiture), as well as provide a legal mechanism that is transparent, accountable, and respects human rights principles.<sup>21</sup>

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<sup>18</sup> Nurhayati, N. (2021). The Role of the Prosecutor's Office in the Execution of Criminal Assets. *Journal of Law and Justice*, 8(2), 198–213.

<sup>19</sup> Indonesia Corruption Watch (ICW). (2020). *Monitoring Report on the Recovery of Assets Proceeds of Corruption*. Jakarta: ICW.

<sup>20</sup> ICW. (2020). *Monitoring Report on the Recovery of Assets Proceeds of Corruption*. Jakarta: Indonesia Corruption Watch.

<sup>21</sup> Ministry of Law and Human Rights of the Republic of Indonesia. (2023). *Academic Manuscript of the Asset Forfeiture Bill*. Jakarta: BPHN.

Based on the draft of the Asset Forfeiture Bill developed by the government and encouraged by the KPK and the Ministry of Law, there are several key elements that are the substance of the update:

- a. Application of NCB Forfeiture: allows the seizure of assets from people who are not criminally tried for certain reasons (e.g.: death, escape, or immunity).
- b. Special asset forfeiture court: to speed up the settlement process and improve decision-making efficiency.
- c. Reverse burden of proof: in certain contexts, it allows a judge to ask for proof that an asset does not come from the proceeds of a crime.
- d. Management of assets by the state: through auction mechanisms, social utilization, or returned to the victim (restitution/compensation).<sup>22</sup>

The bill also needs to regulate international cooperation in the context of cross-border asset tracking and seizure, in line with the principles set out in the UNCAC and FATF Recommendations.

## 2. Comparative Study: Practices of Other Countries

Various countries have already adopted non-conviction based asset forfeiture mechanisms with significant results. For example:

- a. The United States uses the Civil Asset Forfeiture Reform Act (CAFRA) of 2000, which allows forfeiture of assets in civil cases if proven to be related to a criminal offense.
- b. Switzerland and Singapore also have legal regimes in place that allow authorities to seize assets on the basis of investigations, although no court ruling has yet been corroborated.
- c. Australia, through the Proceeds of Crime Act 2002, gives courts the power to order the forfeiture of assets based on evidence of balance of probabilities.<sup>23</sup>

**Table 2. International Comparison of Asset Forfeiture**

Country	Types of Asset Confiscation	Special Courts	Asset Management	Special Notes
United States	Conviction-based & Non-conviction-based (Civil Forfeiture)	None (regulated in federal/civil courts)	Department of Justice (DOJ) & US Marshals Service	CAFRA 2000 allows forfeiture of civilian assets
Switzerland	Non-conviction-based	None	Swiss Prosecutor's Office	Often used for international case assets
Singapore	Non-conviction-based	None	Monetary Authority of Singapore	Effective for freezing foreign assets
Australia	Non-conviction-based (Proceeds of Crime Act 2002)	Ada (Court of Summary Jurisdiction)	Australian Financial Security Authority (AFSA)	Fast and probability-based mechanism

This comparative study shows that the application of the NCB can be carried out proportionately, while still ensuring the protection of individual rights through fair and open legal procedures.

## 3. Future Implementation Challenges

Although normatively the reform of the law through the Asset Forfeiture Bill looks promising, its implementation in Indonesia will face a number of challenges, including:

- a. Political resistance to the concept of reverse proof and confiscation without a criminal verdict.

<sup>22</sup> Corruption Eradication Commission. (2023). White Paper on Asset Confiscation. Jakarta: KPK RI.

<sup>23</sup> Gray, C. (2010). Recovering Stolen Assets. In Pieth, M. (Ed.), Recovering Stolen Assets (pp. 23–45). Bern: Peter Lang.



- b. Limited institutional capacity, including law enforcement human resources and asset management infrastructure.
- c. The issue of constitutionality, especially related to the principle of presumption of innocence and the protection of property rights.<sup>24</sup>

Therefore, legal reform must be carried out in stages by strengthening the system of supervision, accountability, and public education to build social legitimacy for this policy.

## JURIDICAL ANALYSIS AND LAW ENFORCEMENT PRACTICE

A number of major cases in Indonesia show real challenges in the process of confiscating assets from crime. Currently, in the midst of the crowd, there is a lot of talk about the "Indonesian Corruption League", which is an overview of the classification of various corruption cases in Indonesia that harm the state with fantastic values. The following is the order of the position of the Indonesian Corruption League standings<sup>25</sup> from 1st (oneth) to 10th (tenth):

1. PT. Pertamina, alleged state losses of Rp. 968.5 T
2. PT. Tin, alleged state loss of Rp. 300 T
3. BLBI, alleged state losses of Rp. 138 T
4. PT. Duta Palma, alleged state losses of Rp. 104 T
5. PT. TPPI, alleged state losses of Rp. 37.8 T
6. PT. ASABRI, alleged state losses of Rp. 22.7 T
7. CPO exports, alleged state losses of Rp. 20 T
8. PT. Jiwasraya, alleged state losses of Rp. 16.8 T
9. PT. Garuda Indonesia, alleged state losses of Rp. 9.37 T
10. BTS Kominfo, alleged state losses of Rp. 8 T

Apart from the various major cases above, one of the important examples is the corruption and TPPU case of Djoko Tjandra (the corruption case of transfer of collection rights (cessie) of Bank Bali, the bribery case related to the red notice and fatwa of the Supreme Court (MA), as well as the case of making fake road documents) which shows how large assets of great value are successfully hidden through international networks and manipulation of the legal system that takes a long time to complete.<sup>26</sup> Asset recovery efforts in this case face difficulties in proving the origin of funds and barriers to cross-jurisdictional cooperation. Another example is the corruption and TPPU case of the BTS Kominfo project which dragged high-ranking state officials and involved the complex flow of funds to various accounts and luxury assets. Despite the ongoing legal process, the seizure and seizure of assets is not entirely optimal because not all assets can be identified in the first place.<sup>27</sup> From the two examples of cases above, it can be concluded that the asset recovery system in Indonesia still faces weaknesses in the aspects of financial intelligence, data integration, and the effectiveness of coordination between law enforcement agencies.

Juridically, Indonesia does not yet have a strong legal basis to implement a non-conviction-based asset forfeiture scheme. The Criminal Procedure Code as the main criminal procedure law is still conventional and does not support modern mechanisms such as *civil*

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<sup>24</sup> Usman, M. (2022). Constitutional Challenges in the Application of NCB Forfeiture. *Constitutional Journal*, 19(1), 1–20.

<sup>25</sup> Metro TV Controversial Program, Asset Forfeiture Bill Why Is It Slow, May 8, 2025

<sup>26</sup> Time. (2020). The Djoko Tjandra Scandal and TPPU Worth Trillions of Rupiah. *Tempo.co*. <https://www.tempo.co>

<sup>27</sup> Corruption Eradication Commission. (2024). Report on the Development of the Kominfo BTS Case. Jakarta: KPK RI.

forfeiture or in rem proceedings, which are commonly applied in various countries.<sup>28</sup> Other obstacles include:

- a. A one-sided evidentiary process, where the prosecutor must prove the link of assets to the criminal act in detail.
- b. Limitations in technology and human resources in asset tracking, especially those hidden in the foreign financial system.
- c. There is no special court that can process applications for asset forfeiture quickly and efficiently.

In addition, disharmony between regulations, such as between the Anti-Corruption Law and the Anti-Corruption Law, creates legal loopholes that are used by criminals to avoid asset confiscation. This underscores the need for legal reform that unifies all asset recovery mechanisms in one unified legal framework.

Some of the asset recovery strategies that can be developed in Indonesia include:

- a. Ratification and implementation of the Asset Forfeiture Bill as a special legal instrument that complements criminal law and TPPU.
- b. Strengthening international cooperation, through Mutual Legal Assistance (MLA), Treaty on Extradition, and real-time exchange of financial intelligence data.
- c. Modernization of asset tracking technology, including the use of big data analytics, forensic accounting, and blockchain tracing.
- d. The establishment of an independent asset recovery agency, as implemented in several countries such as the UK (UK Asset Recovery Agency) and Nigeria (Assets Recovery Unit).
- e. Education and training of law enforcement officials, especially investigators, prosecutors, and judges in handling cross-jurisdictional asset cases and the international banking system.<sup>29</sup>

By implementing these strategies consistently, Indonesia's legal system can move from a reactive approach to a preventive and proactive approach in combating financial crime.

## CONCLUSION

- a. The confiscation of assets resulting from corruption and money laundering is an important part of the strategy to eradicate economic crimes in Indonesia. However, current legal arrangements and systems are not adequate to accommodate the needs of asset recovery quickly, effectively, and across jurisdictions.
- b. Reliance on conviction-based forfeiture, limitations in tracking technology, and overlapping authority of law enforcement agencies are the main obstacles and challenges in asset confiscation and asset recovery effectiveness.
- c. Legal reform through the Asset Forfeiture Bill offers a substantive solution by introducing the concept of non-conviction based asset forfeiture, special courts, and measurable reverse evidentiary mechanisms. Through this approach, the state can not only recover losses due to corruption and anti-corruption, but also provide a deterrent effect to perpetrators and others and strengthen the integrity of the national legal system.

## Recommendations

Based on juridical analysis and case studies, here are some recommendations:

- a. Encourage the acceleration of the ratification of the Asset Forfeiture Bill by paying attention to the principles of justice and human rights in its implementation.

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<sup>28</sup> Nasution, A. (2021). Criminal Procedure Reform and Economic Law Enforcement Challenges. *IUS Law Journal*, 9(1), 30–45.

<sup>29</sup> OECD. (2017). *The Detection of Money Laundering: Tools and Techniques*. Paris: OECD Publishing.

- b. Forming an integrated asset recovery unit consisting of cross-agencies: KPK, the Prosecutor's Office, PPATK, and the Police.
- c. Increase the technical capacity of law enforcement through training, regulatory strengthening, and international cooperation.
- d. Develop a national asset information system based on digital technology to facilitate the tracking and management of confiscated goods.
- e. Expand public education and public participation in monitoring and reporting of hidden crime assets.

With comprehensive reforms, Indonesia has a great opportunity to strengthen the asset recovery system and realize economic justice in a more substantive manner.

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