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THE INDONESIAN CRIMINAL JUSTICE SYSTEM IN OPTIMISING THE RECOVERY OF STATE ASSETS: STRUCTURAL OBSTACLES AND THE URGENCY OF ADOPTING NON-CONVICTION-BASED ASSET FORFEITURE

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Abstract

This research analyzes the structural constraints within the Indonesian criminal justice system that hinder the optimization of state asset recovery and offers solutions through the adoption of the Non-Conviction Based Asset Forfeiture doctrine. The research findings indicate that the philosophical limitations of the KUHAP, disharmony in statutory regulations, conflicts with bankruptcy law, the standard of proof beyond a reasonable doubt, and the excessive protection of third parties systematically obstruct the forfeiture of assets derived from corruption. Although Indonesia has international obligations through the UNCAC and FATF, the Asset Forfeiture Bill remains stalled in the DPR. Amidst this deadlock, law enforcement officials have pursued alternative efforts through civil lawsuits, PERMA No. 1 of 2013, and the strengthening of the Prosecutor's Office's execution seizure authority; however, all these efforts remain limited in scope. This research recommends the ratification of the Asset Forfeiture Bill, equipped with a management mechanism for seized assets and the establishment of an Asset Recovery Center as a fundamental reform step.

Keywords: State Asset Recovery, Non-Conviction Based Asset Forfeiture, Structural Constraints, Asset Forfeiture Without Criminal Conviction, Criminal Procedure Law Reform.

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Introduction

The recovery of state assets derived from corruption is a key indicator of the effectiveness of a country's law enforcement. The larger the value of assets returned to the state treasury, the more effective anti-corruption efforts are considered (Tubalawony et al., 2025). However, the reality in Indonesia shows that asset recovery has yet to operate optimally, even after numerous major corruption cases have been prosecuted. This situation demands professional integrity from law enforcement officials in upholding ethical advocacy principles to ensure justice is maintained within an adversarial judicial system (Saktiawan et al., 2021).

Indonesia's criminal justice system is currently heavily influenced by the legacy of colonial criminal procedure law, as codified in the Criminal Procedure Code (KUHAP). This heritage brings a series of fundamental weaknesses when confronted with the complexities of modern corruption crimes that involve cross-jurisdictional financial transactions, money laundering, and the use of shell corporations (Silalahi, 2024).

There are at least three major structural obstacles hindering the optimization of state asset recovery. These include the philosophical limitations of the KUHAP in viewing seizure solely for the purpose of evidence, the disharmony between the KUHAP as general law and the Anti-Corruption Law and the Money Laundering Law as specialized laws, and the conflict between criminal seizure mechanisms and bankruptcy seizures (Latifansyah et al., 2024). This complexity is increasingly evident when legal positions clash between concurrent creditors, the limitations of rights protection, and the responsibilities of curators in the bankruptcy asset management system (Prabowo et al., 2024).

In addition to these three obstacles, the "beyond reasonable doubt" standard of proof applied in the Indonesian criminal justice system also serves as a serious barrier. Public prosecutors are burdened with the obligation to prove a direct causal link between the charged crime and the specific assets seized, while white-collar criminals continuously develop layered transaction schemes and transfer assets to third parties (Hutajulu et al., 2025).

Internationally, various countries have adopted the *Non-Conviction Based Asset Forfeiture* doctrine as a solution to break through the deadlock of conventional procedural law. This *in rem* doctrine does not require a final

and binding criminal verdict; it is sufficient to prove that the assets were derived from or used in a criminal act. Indonesia actually holds a legal obligation to consider this mechanism through the ratification of the United Nations Convention against Corruption (UNCAC) and compliance with Financial Action Task Force (FATF) standards (Hasibuan, 2025). In a broader framework, citizen political participation in electoral democracy and civil society movements is essential to safeguard the transparency of legislative policies related to asset forfeiture (Rojak et al., 2021).

However, to date, the Asset Forfeiture Bill remains stalled in the House of Representatives (DPR). This legislative stagnation has prompted law enforcement officials to pursue alternative efforts, including civil lawsuits under the Civil Code (KUHPerdata), the issuance of Supreme Court Regulation (PERMA) Number 1 of 2013, and the strengthening of executive seizure authority by the Attorney General's Office. These efforts, while demonstrating juridical creativity, remain fundamentally limited because they are not based on a specialized law (Arjunanda et al., 2025). Such efforts should be accompanied by a better understanding of procedural justice so that the restitution rights of crime victims are not overlooked during the asset recovery process (Prasetyo et al., 2024).

Furthermore, the aspect of managing seized assets while legal proceedings are underway remains a blind spot in the national asset recovery system. The absence of mechanisms governing how productive assets such as stocks, mutual funds, or operational companies should be managed, maintained, and value-enhanced during trial leads to significant asset depreciation. Juridically, the state may win the case, but economically, it suffers losses due to the mismanagement of seized assets (Mardiyati & Mardiyati, 2025). The effectiveness of this management depends heavily on change management and robust legal compliance within public sector organizations handling these assets (Darmawan et al., 2024). In the day-to-day relationships between leaders and subordinates within law enforcement organizations, procedural justice and healthy negotiation are essential prerequisites to ensuring adherence to the principle of good faith in contract performance or asset management (Gani, 2022; Irfansyah et al., 2024). Additionally, approaches to diversification and social reintegration must be considered as part of legal protection, both for the perpetrators and for recovering from the social impacts of the crimes (Utama et al., 2024).

Based on that background, this research aims to identify and analyze structural obstacles within the Indonesian criminal justice system that hinder state asset recovery, examine the urgency of adopting the Non-Conviction Based Asset Forfeiture doctrine, and formulate legal reform recommendations that encompass not only the aspect of asset seizure but also the management of confiscated assets while the legal process is ongoing.

Method

This research employs a normative legal approach with descriptive-analytical research specifications. The sources of legal materials used include primary, secondary, and tertiary legal materials. Primary legal materials consist of the Criminal Procedure Code (KUHAP), Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning Corruption Crimes, Law Number 8 of 2010 concerning Money Laundering Crimes, Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, Law Number 7 of 2006 concerning the Ratification of the United Nations Convention Against Corruption (UNCAC), as well as the Asset Forfeiture Bill. Secondary legal materials consist of literature, scientific journals, and relevant legal doctrines, while tertiary legal materials consist of legal dictionaries and encyclopedias.

The technique for collecting legal materials is conducted through library research of laws and regulations, court decisions, and various scientific publications related to asset recovery and non-conviction based asset forfeiture. The collected legal materials are then analyzed qualitatively using systematic and comparative legal interpretation methods (Ranjan & Singh, 2025). The analysis is performed by reviewing the Indonesian legal system regarding the management of confiscated assets. The results of the analysis are presented descriptively in the form of a systematic narrative to address the research problems.

Result and Discussion

The criminal procedure law legacy from the colonial era continues to limit the effectiveness of Indonesia's criminal justice system, particularly in handling modern corruption cases and state asset recovery. The structural constraints currently faced by the system originate directly from this colonial inheritance, which was never designed to address large-scale,

organized financial crimes. Specifically, three primary issues consistently hinder the optimization of state asset recovery. First, there is a philosophical limitation in the Criminal Procedure Code (KUHAP) that views seizure solely as a tool for evidence gathering rather than as an instrument for economic asset recovery. Second, there is disharmony among sectoral regulations, such as the tension between the KUHAP as general law and the Anti-Corruption Law and the Money Laundering Law as specialized laws. Third, there is a deadlock in the court's evidentiary process resulting from the "beyond reasonable doubt" standard, which is difficult to satisfy in modern corruption crimes involving layered, cross-jurisdictional transactions. Without resolving these three structural constraints, state asset recovery efforts will continue to face systemic obstacles rather than mere technical, procedural ones. It is important to remember that the effectiveness of a law enforcement system relies heavily on its capacity to adapt to the dynamics of social change and increasingly complex criminal threats (Suhartono et al., 2024).

The first root of this constraint is the KUHAP's failure to view assets as economic value rather than mere physical evidence. Article 39 of the KUHAP defines seizure exclusively for evidentiary purposes. Consequently, seized items are treated merely as evidentiary tools, not as valuable assets intended for return to the state treasury. Post-verdict, the fate of seized goods is limited to three outcomes: forfeiture to the state, return to the rightful party, or destruction. The KUHAP fails to provide mechanisms for tracking depreciating assets, managing commercial assets during legal proceedings, or seizing substitute assets (Sundari et al., 2025). Law enforcement officials often hesitate to seize high-value assets such as mutual funds or operating businesses, causing potential recovery of state losses to be lost during lengthy trials. In strategic decision-making regarding assets, psychological and behavioral factors often influence how an organization or individual perceives value and risk within an economic instrument (Mardikaningsih & Darmawan, 2011).

The second confusion arises from the unresolved jurisdictional struggle between general and specialized laws. Conflict frequently occurs between the KUHAP and the Anti-Corruption and Money Laundering Laws. Article 18, paragraph 1, letter b of the Anti-Corruption Law grants the state the authority to seize assets derived from corruption, including

restitution payments; however, the procedures for seizure and execution remain subject to the KUHAP, which does not accommodate the executive seizure of restitution payments at the investigation stage. This vacuum creates legal uncertainty, pretrial lawsuits, and varying interpretations among investigators, prosecutors, and defense attorneys (Fonda & Riswadi, 2025). Such administrative and procedural issues often hinder operational efficiency across various public service sectors and organizational management (Firdaus et al., 2022).

The third source of deadlock is the diametrical clash between the logic of state asset recovery and the logic of bankruptcy, which prioritizes distribution to creditors. When a company is declared bankrupt, all its assets become subject to a general seizure managed by a curator for distribution among creditors pursuant to the Bankruptcy Law. Conversely, Anti-Corruption and Money Laundering laws mandate that investigators or prosecutors seize the same assets to recover state losses. The absence of clear rules regarding priority between criminal seizure and bankruptcy seizure triggers prolonged horizontal conflicts between law enforcement officials and curators. Consequently, this results in legal uncertainty, disrupts the investment climate, and potentially harms the state as the victim of the crime (Veronika & Asmarasari, 2025).

This accumulation of structural constraints is not merely a technical issue, but evidence of a systemic failure that can only be addressed through comprehensive reform. These structural barriers prove the necessity of a fundamental overhaul in the Indonesian criminal justice system to ensure that state asset recovery is optimal, equitable, and legally certain. Without such reform, anti-corruption efforts will only result in custodial sentences that lack any significant deterrent effect on perpetrators of state asset crimes (Anas & Redi, 2024). Moreover, the lack of legal certainty in asset recovery undermines public and investor trust in the integrity of the national legal system. Moving forward, the utilization of modern technology is expected to bring significant change in creating a more transparent and efficient system for the benefit of the wider community (Darmawan & da Silva, 2025).

The provisions regarding the burden of proof in the Indonesian criminal justice system represent one of the most significant obstacles to state asset recovery. The current system mandates that the public

prosecutor meet the "beyond reasonable doubt" standard. In the context of seizure and forfeiture, this obligation requires the prosecutor to convincingly prove a direct causal link between the material act of corruption charged and the specific assets intended for seizure. This legal prerequisite is an extremely difficult challenge to meet because the characteristics of modern corruption are no longer simple or transparent. White-collar criminals employ *modi operandi* consisting of layered transactions, rapid international fund transfers, the establishment of shell companies to hide ownership, and the commingling of criminal proceeds with funds from legitimate business activities. Due to the complexity of these *modi operandi*, the causal relationship between a crime and a specific asset is often difficult, if not impossible, to prove in court, causing efforts to forfeit corruption proceeds to fail even when the crime itself is proven (Arjunanda et al., 2025). Adequate literacy in understanding financial risks is required so that individuals can make appropriate decisions in their various economic activities (Mardikaningsih & Darmawan, 2023).

The largest loophole lies in the excessive protection afforded to third parties who receive assets derived from corruption. This absolute evidentiary requirement renders the judicial process subject to overly rigid procedural protections. Corruption defendants can easily break the trail of financial evidence by transferring assets either fictitiously or legally to third parties such as family members, colleagues, or affiliated corporations well before an investigation begins. Under civil law, third-party recipients often hide behind the principle of the "good faith purchaser." The law protects these transactions unless the prosecutor can prove that the third party knew, had malicious intent, or reasonably should have suspected that the goods originated from official misconduct. The extreme difficulty of performing a reverse burden of proof without specialized legislative instruments consistently leads to the rejection of asset forfeiture by judges (Huda et al., 2025). On a broader economic scale, the stability of monetary policy and the ability to analyze financial ratios are decisive for success and security in capital and investment management (Mardikaningsih et al., 2020; Sinambela & Mauliyah, 2018). Therefore, the ability of individuals to continue learning and adapting to environmental changes—both legal and economic—is vital capital for future success (Kurniawan & Darmawan, 2021). Consistent with this, the principle of justice must be enforced

equally across all aspects of social life to create balance in a better urban order (Martono et al., 2025). The careful management of resources is heavily influenced by how individuals or groups respond to fluctuating market conditions (Sinambela & Mauliyah, 2017).

The sequence of structural failures within the current punitive regime which has proven incapable of breaking the chains of corruption and money laundering because it focuses solely on custodial punishment rather than asset recovery urges Indonesia to go beyond mere procedural improvements. A revolutionary leap is required: the adoption of new legal instruments, such as *non-conviction based asset forfeiture*, which has proven effective in various advanced jurisdictions. This paradigm shift toward optimizing asset recovery is not merely a pragmatic necessity to refill the state treasury depleted by corruption; it is the manifestation of the state's moral obligation to uphold justice for harmed communities, its philosophical duty to restore the essence of law in favor of material truth, and its economic imperative to protect the foundations of national development from systemic damage. Concrete and strategic steps are indeed essential to face the increasingly complex challenges of anti-corruption efforts in the present day (Rizki et al., 2023).

Custodial punishment without asset forfeiture has proven ineffective in delivering a deterrent effect in every major corruption case in this country. Modern law enforcement regarding economic and organized crime has shifted from merely imprisoning perpetrators toward tracing the "money trail" and criminal assets (Fuady & Muin, 2025). This paradigm posits that the forfeiture of the instruments and proceeds of crime is more effective in crippling a syndicate's economic motives, providing a massive deterrent, and restoring the state's economic balance. Imprisoning a corruptor for several years while allowing their family to enjoy the stolen proceeds is viewed as illogical and unjust. In this context, strengthening internal audit obligations and corporate legal responsibility is crucial to minimizing the risk of asset misappropriation within corporations (Fajarudin et al., 2024).

The solutions that were previously hindered by rigid proceduralism are now available in the form of doctrines tested in various developed nations. The doctrine of *Non-Conviction Based Asset Forfeiture* (NCB) is internationally recognized as a cutting-edge solution to break through the deadlock of

conventional procedural law (Kaban & Kholiq, 2025). Unlike traditional criminal systems that focus on proving the guilt of a subject (*in personam*), this concept is *in rem* a direct claim against the asset itself. Its urgent application in Indonesia rests on three fundamental pillars. The first pillar provides certainty that assets acquired unlawfully can still be forfeited even if the primary perpetrator cannot be criminally prosecuted due to technical reasons, such as death, flight, or mental illness. This mechanism does not depend on the criminal guilt of the subject because it does not require a final and binding criminal verdict. The basis for forfeiture is the objective determination of the asset's illegal status the fact that it was derived from or related to a criminal act, rather than the degree of the perpetrator's individual guilt. Thus, procedural weaknesses in the conventional criminal justice system that often hinder asset forfeiture can be overcome more effectively. Optimizing risk management in every entity is essential to prevent financial loss and maintain systemic stability (Irfan & Al Hakim, 2022).

The second pillar serves to close legal loopholes that have been exploited by perpetrators of corruption and money laundering to avoid asset forfeiture. This mechanism acts as an alternative instrument when conventional criminal law cannot proceed due to factual conditions, such as a suspect dying before a verdict, fleeing abroad, suffering from mental disorders, or when assets have been controlled by third parties who are not legitimate civil heirs. Since the focus of this mechanism is on the object or asset itself, not on the perpetrator, the process of tracing and pursuing assets can continue in court even if the criminal is absent or their whereabouts are unknown. Consequently, the failure of a criminal case against the perpetrator does not automatically result in the failure to forfeit the proceeds of the crime. In practice, adherence to the principle of good faith in every contract performance serves as an initial bulwark to prevent acts of corruption (Irfansyah et al., 2024).

The third pillar introduces a fundamental change to the standard of proof, which has been one of the primary obstacles to state asset recovery. This mechanism does not require the public prosecutor to meet the "beyond reasonable doubt" standard required in conventional criminal procedural law; instead, it utilizes a "balance of probabilities" standard—a lighter threshold or applies a full reverse burden of proof scheme. Under the reverse burden of proof scheme, the burden shifts to the party

controlling the asset; the individual or corporation holding the asset is obligated to prove transparently that the source of the asset was legally obtained. If the asset holder is unable to prove the legality of their assets before a judge, the assets may be forfeited to the state. This principle of reverse burden of proof is explicitly included in the Asset Forfeiture Bill currently being pushed by the government and civil society coalitions for legislative enactment. With this reformulation of the evidentiary standard, the procedural barriers that have historically caused asset forfeiture failures can be significantly reduced. The importance of competence and independence in conducting verification or audit processes strongly influences the quality of examination results to ensure that no assets are misappropriated (Darmawan et al., 2016).

Indonesia is technically bound by international law to implement asset forfeiture mechanisms, yet implementation has been significantly delayed. The adoption of such mechanisms is a form of compliance with international legal commitments already ratified by the state. Article 54, paragraph 1(c) of the 2003 UN Convention against Corruption (UNCAC), which was enacted via Law Number 7 of 2006, mandates that each state party consider legislative measures to enable the seizure and forfeiture of assets without a criminal conviction (Ashalirrohman et al., 2024).

Warnings from global institutions have been clear and repeatedly communicated, yet they have not been followed by adequate legislation. Furthermore, the standards of the Financial Action Task Force (FATF) demand similar capacity. Based on the FATF 2025 mutual evaluation report, Indonesia received a "largely compliant" rating for Recommendation 4 regarding confiscation and provisional measures. However, the evaluation board consistently warned Indonesia to urgently enact a solid law to provide prosecutors with the legitimacy to execute asset forfeiture quickly, efficiently, and independently, without relying on protracted criminal verdicts. The absence of an Asset Forfeiture Law leaves a major structural gap in Indonesia's legal architecture, which is continually exploited by money launderers and cross-border corruption syndicates as a "safe haven" (Pranata et al., 2025).

Amidst the legislative stalemate of the Asset Forfeiture Bill in the House of Representatives, law enforcement agencies have not remained passive, but have instead pursued various efforts through legal

breakthroughs within the existing framework. Authorities utilize judicial maneuvers and discretion in legal discovery as instruments to maximize state asset recovery despite the lack of a comprehensive specialized law. A strategic alternative path currently being developed is the use of civil lawsuits based on Article 1365 *juncto* Article 1372 of the Civil Code regarding torts. Through this mechanism, state attorneys holding special power of attorney from the government can act on behalf of the state's civil interests to file direct claims for material damages against convicts or corruption suspects for the losses incurred (Sasongko et al., 2025). Thus, while the Asset Forfeiture Bill remains unrealized, the civil lawsuit path serves as a legal instrument that remains available for recovering state losses, although its effectiveness is limited compared to non-conviction-based forfeiture mechanisms. This approach is highly necessary, especially in investigating embezzlement *modi operandi* in the government procurement sector, which has long been a loophole for corruption (Firdaus et al., 2021).

However, this civil path possesses procedural weaknesses that render it non-ideal as a primary instrument for asset recovery. Such lawsuits may potentially bypass the limitations of criminal procedural law, particularly when a suspect dies or absconds. Nevertheless, its field effectiveness is dubious. Civil litigation in Indonesia is lengthy, complex, susceptible to intervention, and places the entire burden of proving damages on the state as the plaintiff. Therefore, this Civil Code mechanism is merely supplementary, not a permanent solution, especially compared to specialized asset forfeiture regulations. Law enforcement efforts through the appropriate instruments are crucial to ensure that business practices remain within the applicable legal corridors and are free from corruption loopholes (Saputra et al., 2021).

The Supreme Court has attempted to provide solutions through the issuance of internal regulations, although this effort leaves unresolved issues regarding the hierarchy of laws and regulations. As an additional step to address the legal vacuum, the Supreme Court issued Supreme Court Regulation (PERMA) Number 1 of 2013 concerning procedures for handling assets in money laundering or other criminal cases. This regulation is considered progressive because it provides a specific procedural legal umbrella for handling high-value assets strongly suspected to be the proceeds of money laundering, particularly in situations where the perpetrator cannot

be identified, captured, or located (Trissetianto et al., 2025). Nevertheless, as a regulation ranked below a law, this PERMA faces juridical limitations, as regulations concerning the deprivation of citizens' property rights should be enacted through instruments at the level of a law, in accordance with the principle of the hierarchy of laws and regulations.

The fatal weakness of the aforementioned Supreme Court Regulation (PERMA) lies in its constitutionally invalid position to regulate the deprivation of citizens' property rights. The forfeiture of property involves restrictions on fundamental economic human rights, which are far too broad and essential to be regulated solely by sub-statutory regulations. As a *Rechtsstaat* (state governed by law), Indonesia requires a specialized law resulting from parliamentary consensus to legitimize, oversee, and guarantee legal protection over the restriction of citizens' property rights in the interest of legal certainty (Effendy et al., 2025). The importance of compliance with rules and change management remains a key factor for modern organizations in navigating the dynamics of evolving regulations (Darmawan et al., 2024).

Beyond legal instruments, the dispute over jurisdiction between law enforcement agencies has become an equally intense arena of debate. Optimal state asset recovery requires sophisticated legal instruments and the harmonization of authority among law enforcement institutions. Consequently, strengthening the Attorney General's Office as the sole executor of criminal verdicts has become a priority. Recently, constitutional debates have emerged regarding the prosecutor's authority to conduct executive seizures of corruptors' assets to pay restitution for state losses (Santoso et al., 2025).

The debate regarding the prosecutor's authority to execute seizures of a convict's assets for the purpose of restitution has reached the Constitutional Court. This challenge was initiated through a material review filed by parties claiming to be harmed by the exercise of such authority. The petitioners officially requested the Constitutional Court to annul the provisions of Article 18, paragraph 2 of the Anti-Corruption Law, along with the expansion of prosecutorial authority provided for in Article 30A and Article 30C, letter g of the Prosecutor's Office Law. The petitioners' primary argument is that unilateral executive seizure by the Attorney General's Office conducted without a prior re-verification procedure through a new court

seizure warrant or a civil ruling from a panel of judges constitutes an arbitrary act. According to the petitioners, such actions carry a significant risk of violating and damaging the constitutionally guaranteed property rights of third parties who may hold legal interests in the seized assets (Khotynska-Nor et al., 2025). Evaluating the effectiveness of investigation and prosecution processes is indeed essential to improve the integrity of law enforcement institutions in Indonesia (Saktiawan et al., 2025).

The government and the Constitutional Court, however, hold the opposite view: that the prosecutor's authority is a mandate derived from a final and binding court verdict. The government strongly rejects the petitioners' arguments, asserting that the prosecutor's authority to conduct executive seizure is a logical derivative of final and binding court rulings, as seen in the *Jiwasraya* case. The Constitutional Court has also affirmed that prosecutors act in the public interest for state asset recovery. Adding layers of bureaucracy for new seizure warrants would only hinder execution and provide loopholes for corruptors. Seized assets are subsequently auctioned and deposited into the state treasury as non-tax state revenue (PNBP), the management of which is governed by Government Regulation Number 37 of 2024 (Irmawaty & Yandi, 2024).

Amidst the tension between the need to enhance the effectiveness of state asset recovery and the state's obligation to protect human rights, a balance must be struck and cannot be ignored in legal policymaking. Strengthening government authority in seizure and asset forfeiture must not disregard the protection of human rights—specifically property rights and the right to obtain justice for third parties who are in good faith and substantively uninvolved in criminal acts. Therefore, the Asset Forfeiture Bill must provide a clear, structured, and transparent corridor for legal protection for third parties who might be affected by forfeiture policies. Third parties harmed by misdirected seizures must be granted the constitutional right to file objections or lawsuits, defend their civil rights, and obtain a hearing before a court that is open, fair, balanced, and adequate in terms of evidentiary standards. The existence of such balancing mechanisms is vital to ensure that the application of criminal law as *ultimum remedium* (the last resort) can proceed in harmony and simultaneously with efforts to reform state financial governance. Thus, the effectiveness of asset recovery is not achieved at the expense of the

fundamental rights of innocent citizens (Haritsah et al., 2025). The principles of procedural justice and transparency are the primary foundations for creating healthy communication and interaction between leaders and those they lead (Gani, 2022).

The establishment of a clear demarcation between legally acquired assets and those obtained illegally serves as the foundation for legal certainty while simultaneously strengthening enforcement against organized economic crime. This separation would provide essential legal certainty for the business climate, enhance national economic competitiveness as investors gain guarantees of legal protection for legitimate asset ownership, and reduce the economic incentives for organized crime syndicates, as illicit proceeds can be forfeited even when the primary perpetrator cannot be criminally prosecuted. In essence, implementing non-conviction-based forfeiture mechanisms, coupled with more rational evidentiary standards, will suppress the economic motives underlying corruption and money laundering more effectively than conventional punitive systems that focus solely on custodial sentences. The implementation of Good Corporate Governance (GCG) is crucial in increasing business transparency and sustainability in the global market (Rojak & Al Hakim, 2023).

One of the fundamental weaknesses of Indonesia's criminal procedure system is the lack of attention given to the economic value of assets during the judicial process. A blind spot rarely mentioned in the discourse on asset recovery is the fate of seized goods throughout the legal process, from investigation to the final, binding (*inkracht*) verdict. Although the Criminal Procedure Code (KUHAP) recognizes the institution of seizure, it lacks detailed mechanisms for how seized assets should be managed, maintained, or value-enhanced. Consequently, high-value economic assets such as stocks, mutual funds, commercial property, or motor vehicles are often left abandoned, suffer from depreciation, or even physical damage before they can be forfeited to the state (Santoso et al., 2025). Regarding the protection of victims' rights, it is essential to ensure that judicial procedures are comprehensible to the general public as part of the restitution process (Prasetyo et al., 2024).

Without legal certainty regarding the status and management of seized assets, law enforcement officials face a dilemma that ultimately harms the state. The lack of clarity regarding the legal status of seized assets

during the trial process traps officials: on one hand, they are obligated to safeguard evidence from damage, loss, or transfer; on the other, no legal umbrella permits them to manage productive assets professionally—for instance, by leasing buildings, selling volatile stocks, or operating ongoing businesses. This void causes the value of assets that should be returnable to the state to be eroded by time.

The greatest irony occurs when the state wins a case legally but suffers a loss economically due to the death of productive assets. Practice shows that seized assets consisting of operating companies often become "brain-dead" during protracted legal proceedings. Employees go unpaid, business relationships are severed, and corporate reputations are destroyed before a court verdict is ever reached. When the judge finally orders the forfeiture, the remaining economic value is merely that of obsolete physical assets, while the business value as a *going concern* has vanished entirely. The state wins legally but loses economically. The use of effective contract instruments is essential to ensure business legal stability and prevent disputes that harm the involved parties (Wibowo et al., 2021).

Indonesia could learn from the best practices of various developed nations that have already established professional seized-asset management systems. Unlike Indonesia, some developed countries possess independent and professional asset management agencies. The United States has a *Seized Asset Management Unit* tasked with managing, leasing, or even early liquidation of assets that are perishable or prone to value depreciation. Australia maintains a *Criminal Assets Confiscation Trust* that acts as a receiver. These institutions are authorized to make rational business decisions while legal proceedings are ongoing, while still safeguarding the legal rights of asset owners.

The concept of forming an asset management agency is already present in the draft Asset Forfeiture Bill, but legislative stagnation keeps this idea in the realm of discourse. The current stalled draft envisions an *Asset Recovery Center* as the managing body. This institution is planned to have the authority to manage, secure, and optimize the value of seized assets prior to a final court verdict (Veronika & Asmarasari, 2025). However, without valid legislation, this idea remains theoretical, while state losses due to the mismanagement of seized assets repeat in every major corruption case.

The absence of asset management is not only detrimental in terms of asset value but also burdens the state treasury through unnecessary maintenance costs. Seized goods that are not properly cared for require significant storage, maintenance, and security costs (Amir et al., 2024). A seized luxury car left for years requires a garage, routine maintenance, and insurance. A seized ship or aircraft requires docking fees and technical care. All these costs are borne by the state budget (APBN), even though if the assets were managed productively or sold earlier, these costs could be avoided and could even generate revenue. Clear legal construction, including the regulation of fiduciary guarantees and warehousing, is essential to maintain the accountability of parties in utilizing assets as financing collateral (Sularno et al., 2024).

The balance between optimizing asset value and protecting the rights of *bona fide* third parties is a prerequisite for any seized-asset management scheme. From the perspective of legal certainty, management must also consider the protection of third-party rights. Not all seized assets are ultimately forfeited to the state. If the court rules that an asset legally belongs to a suspect or a third party, unprofessional management could trigger new civil lawsuits. Therefore, a balanced mechanism between asset optimization and the protection of legitimate ownership is required, which can only be comprehensively regulated in a specialized law. In economic transactions, the principle of good faith must always be upheld in contract performance to prevent violations that could trigger acts of corruption (Irfansyah et al., 2024).

The architecture of state asset recovery reform will be incomplete without including seized-asset management as a component equal in importance to forfeiture regulations. Asset recovery reform must regulate not only forfeiture but also asset management throughout the legal process. Without a professional management mechanism, asset recovery efforts will lose their economic substance even if they succeed legally. Therefore, regulating an *Asset Recovery Center* with the authority to manage, maintain, and optimize seized assets is an inseparable component of the grand architecture for reforming Indonesia's criminal justice system. A deep understanding of the creditor's position and rights protection within the bankruptcy system is required to ensure that every legal process is fair to all involved parties (Prabowo et al., 2024).

Conclusion

The Indonesian criminal justice system is currently still influenced by the legacy of colonial criminal procedure law. This influence is reflected in three aspects, namely the philosophical limitations of the KUHAP, disharmony between laws and regulations, as well as conflicts with bankruptcy law. These structural obstacles are further reinforced by the application of the proof beyond a reasonable doubt standard and the broad legal protection afforded to third parties. Consequently, efforts toward state asset recovery face systematic hindrances.

One solution to overcome these obstacles is the implementation of the Non Conviction Based Asset Forfeiture doctrine. This doctrine is in rem in nature, does not depend on a final and binding criminal conviction, fills legal vacuums in certain conditions, and applies a reverse burden of proof mechanism. Indonesia has international legal obligations through UNCAC and FATF to implement such a mechanism. However, the Asset Forfeiture Bill has not yet been ratified by the House of Representatives.

In the midst of this legislative stalemate, law enforcement agencies have carried out sectoral efforts through civil lawsuits, the issuance of PERMA Number 1 of 2013, and the strengthening of seizure execution authority by the Prosecutor's Office. However, these various efforts have limitations and cannot replace the existence of a specific law. In addition, the management aspect of confiscated assets while the legal process is ongoing has not yet received adequate attention, thus potentially causing state economic losses even if the state legally wins the case.

Based on that description, a fundamental reform of the Indonesian criminal justice system is required. The ratification of the Asset Forfeiture Bill, equipped with a management mechanism for confiscated assets and the establishment of an Asset Recovery Center, is a step that needs to be considered so that state asset recovery can proceed optimally, fairly, and with legal certainty. Without such measures, anti-corruption efforts tend to only result in physical imprisonment without meaningful asset recovery for the state.

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