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The Effectiveness of Returning Assets Resulting from Corruption Crimes After Court Decisions

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ABSTRACT

Asset return is a vital pillar in the eradication of profit-oriented corruption crimes, but executions after court decisions often fail to restore the state's finances significantly. This study examines the effectiveness of the return of assets resulting from corruption crimes after court decisions in Indonesia using normative-empirical legal research methods through normative and sociological juridical approaches. The results of the study show that the effectiveness of asset returns is still very low, where in 2022 the rate of return of state losses through additional penalties for compensation only reached 7.83% of the total losses which reached Rp48.786 trillion. The low recovery is caused by three main factors, namely structural constraints such as limited number of prosecutors and budget, juridical constraints in the form of unclear asset tracking authority and replacement confinement loopholes in Article 18, and technical obstacles such as poor inter-institutional coordination and limited access to banking data. The conviction-based forfeiture system currently adopted has proven to be ineffective because it gives time for the perpetrator to hide or transfer assets before the inkracht verdict. This study recommends urgent legal reform through the adoption of non-conviction based forfeiture and the application of the concept of Criminal Execution Investigation to accelerate the recovery of state losses, but must still be balanced with strong human rights protection and due process of law.

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Introduction

Corruption has long been one of the most fundamental problems that hinders the progress of the Indonesian nation. As a country that consistently faces very serious levels of corruption, Indonesia continues to grapple with the great challenge of eradicating this entrenched crime (Rahman, 2018). Corruption is not just a violation of administrative law or ordinary crimes; It is a crime that harms the state's finances in a very massive amount, as well as damages the joints of society, nation, and state. Corruption causes systemic injustice, hinders the pace of infrastructure and human resource development, widens socio-economic disparities, and undermines public trust in state institutions and law enforcement officials. Therefore, corruption is universally categorized as an extra ordinary crime or extraordinary crime that demands extraordinary handling, which is not only oriented towards punishing the perpetrators, but also on recovering losses suffered by the state and society (Rahman, 2018).

In the grand framework of corruption eradication, the return of assets resulting from corruption crimes or known as asset recovery is one of the strategic pillars that is no less important than the imposition of prison sentences on perpetrators. In fact, in the global trend of eradicating economic crime, asset returns are often seen as the main key to measuring the overall effectiveness of efforts to eradicate corruption. This is because corruption is essentially a profit-oriented crime, where the perpetrators commit criminal acts with the main motivation to acquire wealth illegally and abundantly. If only the perpetrators are imprisoned while the assets resulting from corruption are still enjoyed by the perpetrators or their families, then the goal of eradicating corruption has not been fully achieved and justice for the state and the people is only half-heartedly fulfilled. The recovery of state losses through confiscation and return of assets is a very important instrument in addition to imprisonment or fines, because it directly touches the material aspect that is at the core of the motive for the crime (Mokobimbing, 2015).

The process of returning assets resulting from corruption crimes is a complex and multidimensional cycle, which does not stop at the stage of investigation, prosecution, or even court decisions. Precisely after the court decision that has permanent legal force (inkracht van gewijsde) is handed down, the most crucial stage begins, namely the implementation of the execution of the judgment to return the corrupted assets to the state treasury. This post-decision stage is the critical point in determining whether asset returns are truly effective or just a normative discourse on paper. Unfortunately, the reality on the ground shows that this stage is often the most vulnerable weak point, where various legal, technical, and bureaucratic obstacles hinder the country's financial recovery (Mokobimbing, 2015).

Normatively, the legal framework for the return of assets resulting from corruption crimes in Indonesia has actually been regulated through various legal instruments, both material and formal. Materially, the provisions regarding the return of state losses are explicitly regulated in Article 18 of Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning the Eradication of Corruption. The article regulates additional penalties in the form of payment of compensation which amounts to a maximum amount equal to property obtained from corruption crimes. This provision provides a basis for the judge to impose financial sanctions on the convict, with the mechanism that if the convict does not pay the compensation within one month after the verdict has permanent legal force, then his property can be confiscated and auctioned to cover the compensation. However, this legal construction still holds loopholes, as the payment of substitute money is not absolutely obligatory and convicts often have the option of extending the substitute confinement period rather than returning the corrupted state money (Mokobimbing, 2015).

In addition to criminal remedies through replacement money, the return of assets can also be taken through civil channels. Article 38C of Law Number 31 of 1999 stipulates that if after the court decision has obtained permanent legal force but it is known that there is still the convict's property that is suspected to have been obtained from the proceeds of a corruption crime and has not been forfeited for the state, then the state can file a civil lawsuit against the convict or his heirs. However, this civil route has its own challenges that are not light. The evidentiary system used in the civil process is formal proof which in practice is more difficult than material proof in the criminal realm, and the main burden is that the State Attorney as the plaintiff must be able to prove conclusively that the assets really come from the proceeds of corruption. This condition often makes civil remedies an option that is rarely used and has minimal success in recovering state losses quickly (Marissa, 2020).

Procedurally, asset return through criminal channels is carried out through four main interrelated stages: asset tracing, asset freezing, asset seizure, and asset forfeiture. The asset tracking stage is a very important initial foundation to identify the existence of the asset, the location of the storage, proof of ownership, and the causal relationship between the asset and the criminal act committed by the perpetrator. Without accurate and comprehensive tracking, freezing and foreclosure efforts will miss the mark. Furthermore, the freeze is carried out as a temporary prohibition on transferring, converting, disposing, or transferring assets based on a court order or other authorized body, which aims to keep the assets intact until the judicial process is completed. Confiscation is then carried out on goods that are suspected of having been used to commit crimes or are the direct result of a criminal act of corruption, which is an order of a court or an authorized body. These four stages ideally run synergistically, but in practice there are often obstacles that make the asset successfully escape the legal trap before it is executed (Marissa, 2020).

Institutional strengthening has also been carried out through Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, which expressly strengthens the authority of the Prosecutor's Office in asset recovery as stipulated in Article 30A Paragraph (1). The return of assets resulting from criminal acts is carried out after a court decision with permanent legal force, so that the implementation of tracing, confiscation, and return of assets by the prosecutor is an inseparable part of the implementation of court decisions. However, it should be noted that the regulation of asset confiscation in Indonesia is still limited and fragmented, which is characterized by a rigid retributive paradigm, confiscation restrictions in the Criminal Procedure Code (KUHAP), a very high burden of proof, and the disharmony of norms between overlapping laws and regulations. Indonesia's legal system is still very conviction-based forfeiture-oriented, while the non-conviction-based (NCB) forfeiture model that has proven to be more effective in cutting off economic incentives for crime and accelerating the recovery of state losses has not been fully adopted. This shows that the existing legal framework has not fully supported the effectiveness of asset returns after a court ruling (Kusuma, 2025).

Although the legal framework has been formally available, the reality on the ground shows that the return of assets resulting from corruption crimes after a court decision is still far from optimal. Based on empirical data released by Indonesian Corruption Watch (ICW) in 2022, the amount of additional criminal compensation that was successfully returned to the state was only IDR 3.821 trillion, while the amount of state losses caused by corruption crimes in the same period reached a very fantastic figure, namely IDR 48.786 trillion. In other words, the rate of state loss return obtained from replacement money only reaches around 7.83 percent of the total losses incurred due to corruption. This alarming data clearly shows that the financial penalties imposed on corruption convicts tend to be suboptimal and much lower than the real losses suffered by the state and society. This wide gap between actual losses and assets successfully returned is a strong indicator of the weakness of the post-judgment execution system (Siregar, 2024).

Concrete case studies further reinforce the picture of the ineffectiveness of these asset returns. In the case involving the convicted Hasnaeni, the judge imposed an additional penalty in the form of payment of compensation of Rp17,583,389,175 which must be paid no later than one month after the verdict has permanent legal force. However, after six months have passed since the verdict has permanent force, Hasnaeni has not fulfilled his obligation to pay compensation for the classic reason that is often heard, namely that he does not have enough assets to pay. This case reflects a common pattern in many other corruption cases, where the amount of compensation charged to the convict is not proportional to the amount of state losses incurred, and executions of assets often fail completely because the assets have been transferred or concealed. What is even more worrying is that in many other cases, judges do not even give the punishment of paying compensation to the perpetrator for reasons that are sometimes less than rational, even though the amount of state losses caused by the perpetrators is quite large and proven. This phenomenon shows that the law enforcement system in Indonesia, both related to material law and procedural law, has not been able to optimize asset returns as an instrument for state financial recovery (Siregar, 2024).

One of the fundamental reasons for the low rate of state return through substitute money is because in the provisions of the current corruption crime, the payment of substitute money is not absolutely required as long as substitute imprisonment is still imposed for the defendant. This creates a great opportunity for the perpetrator to keep the stolen state assets and rationally choose to extend the prison sentence rather than having to return the money they have hidden. In the economic logic of criminals, the choice to enjoy the wealth of the proceeds of corruption after getting out of prison is often considered more advantageous than returning the money but still having to serve a sentence. This condition shows that there is a systemic loophole that allows corrupt perpetrators to continue to enjoy the results of their crimes even though they have been convicted by the court, so that the purpose of punishment to provide a deterrent effect and recover state losses is not optimally achieved (Siregar, 2024).

The Prosecutor's Office as the institution that is given the main authority to carry out the execution of court decisions faces various very complex obstacles in efforts to return assets. In-depth research on the Prosecutor's Office's policy in executing the assets of convicts in corruption cases shows that the return of state financial losses is still not optimal, especially when the convict's assets have been sold, transferred, or changed hands to third parties in good faith or even involved in money laundering efforts. In a situation like this, the execution of court decisions by the Prosecutor's Office is extremely difficult because the object of physical execution is no longer under the control of the convict. The current criminal law policy has not provided an effective legal instrument for the Prosecutor's Office in recovering state losses when convicted assets are no longer available, so that the implementation of additional crimes in the form of compensation has not reached the goal of recovery-oriented criminalization (Wijaya, 2026).

The obstacles faced in returning assets resulting from corruption crimes can be categorized into three main interrelated factors, namely legal factors, law enforcement factors, and cultural factors. The legal factor is related to the disharmony and limitations of the regulation of asset confiscation which is still fragmented among various legal products, where there is an overlap of different authorities and procedures between the Criminal Code, the Corruption Crime Law, and the Money Laundering Law. Law enforcement factors are related to the capacity of human resources, budgets, and coordination between institutions such as the

Prosecutor's Office, the Police, and the Financial Transaction Reporting and Analysis Center (PPATK) in tracking, freezing, confiscating, and confiscating assets quickly and on target. Cultural factors are related to the attitude of the community and law enforcement officials who have not fully supported efforts to return assets to the maximum, and there is still a view that imprisonment is the most important form of punishment, so that the aspect of asset recovery is often ignored. Tracking and asset confiscation is an important aspect in recovering state losses, but practices in various District Attorney's Offices in Indonesia show that effectiveness is not optimal because these three factors often work simultaneously to hinder the execution process (Haryanto, 2019).

One of the central issues that has become a hot debate in the effectiveness of asset return is the asset forfeiture model adopted by the Indonesian legal system. Indonesia currently still adheres to the conviction-based forfeiture model, which is that asset confiscation can only be carried out after a court decision with permanent legal force that declares a person legally and convincingly guilty of committing a criminal act of corruption. This model has a very significant fundamental flaw because criminal justice processes in Indonesia often take very long, months or even years, while assets resulting from corruption can be quickly transferred to offshore accounts, hidden in the form of crypto assets, or transferred to the names of other people or shell companies. In practice, clever corrupt perpetrators will take advantage of the time gap between the investigation and the final verdict to drain and transfer all their assets, so that when the inkracht verdict is handed down, there are no more assets left to be executed by the Prosecutor's Office (Budiman, 2026).

The non-conviction-based (NCB) forfeiture model is considered much more effective in cutting off economic incentives for crime and accelerating the recovery of state losses. In this model, the state can confiscate assets that are strongly suspected of being derived from criminal acts without having to wait for a criminal verdict against the perpetrator, which of course takes years. It is enough to prove civilly or through a special mechanism that the property is not proportional to the legitimate income of the owner, then the state can immediately commit confiscation. This approach is essential to prevent the perpetrator from enjoying the proceeds of his crime, while also sending a strong signal that economic crime will not provide material benefits to the perpetrator. In fact, in some cases where the perpetrator dies, flees abroad, or suffers from a permanent illness so that he cannot be criminally prosecuted, NCB forfeiture is the only way for the state to still be able to seize these illegal assets without having to abort the process of recovering state losses (Putrie, 2020).

The concept of asset forfeiture without criminalization has long been discussed through the Asset Forfeiture Bill which is still rolling in parliament to this day. In addition, at the level of academic thought, the concept of Criminal Execution Investigation (CEI) or asset recovery after a court decision or asset recovery after a verdict with permanent legal force was also developed. In the CEI concept, after the injunction is issued, it does not just stop, but is continued with a follow-up investigation which includes more in-depth asset tracking, confiscation of newly revealed assets, and confiscation of these assets even though they are not explicitly mentioned in the initial judgment. The concept of CEI has proven to be very effective in improving the performance of the Openbaar Ministerie (Dutch Prosecutor's Office) in returning assets resulting from criminal acts at the international level, and is believed to be a relevant model to be adopted in Indonesia to close the gap in the ineffectiveness of sentence execution (Adhyaksana, 2020).

The establishment of the Asset Forfeiture Law is considered to fill a very crucial legal void for corruption cases that cannot be tried for various legitimate reasons, including when the defendant dies in the middle of the judicial process, flees abroad so that he cannot be extradited, suffers from a permanent illness that hinders the trial process, or a case that lacks evidence so that criminally it cannot be prosecuted but materially There are strong indications of the existence of illegal assets. With the existence of the law, the state will not lose its right to recover losses just because of these procedural factors. However, the effort to pass the Asset Forfeiture Bill has also attracted fierce debate regarding potential human rights violations, especially regarding the balance between the effectiveness of aggressive corruption eradication and the protection of citizens' property rights. Criminal asset forfeiture has a significant potential to prevent state losses, but there are complex issues related to usefulness and efficiency that need to be carefully addressed, while ensuring a tight balance between the need for robust law enforcement and the protection of fundamental human rights. The Asset Forfeiture Bill can be a milestone in progressive legal reform that brings Indonesia into a new era of corruption eradication, or it can actually become a tool of repressive power if it is not balanced with adequate supervision (Kusuma, 2025).

The reality of ineffective asset returns after a court decision demands a new, more comprehensive and restorative approach. Various studies have emphasized the need for a more comprehensive and asset-recovery-oriented criminal law policy reform to ensure the effectiveness of the execution of corruption cases. The formulation of provisions for the return of assets resulting from corruption crimes in the future is inseparable from more advanced thinking regarding the recovery of state financial losses. This thinking can be manifested in various forms of policies, such as diluting or aligning the elements of state financial losses with the elements in the 2003 United Nations Convention Against Corruption (UNCAC), where in UNCAC 2003 the elements are not narrow state financial losses, but damage to state assets, so that the scope becomes broader and includes potential losses and economic opportunities lost in the return of assets. In addition, so far the eradication of corruption has only been fixated on the pursuit of state losses quantitatively, while future formulations need to be developed towards the broader loss of the people's economy, which includes the social and macroeconomic impacts caused by corrupt practices. Efforts to maximize the return of state financial losses should also not be calculated statically at the time of corruption, but should take into account the state's financial losses in terms of value or value development, including potential profits lost due to the unavailability of funds for development (Toegarisman, 2020).

The restorative justice approach is also beginning to be seriously considered in the context of recovering state financial losses. Restitution of state financial losses can be realized in the case settlement process through a restorative approach at the High Prosecutor's Office as an alternative to imprisonment, especially for cases with losses that are not too large and the perpetrator is willing to return assets voluntarily. However, the application of restorative justice in corruption cases requires extra caution so as not to weaken law enforcement in general and encourage impunity where major perpetrators actually escape the shackles of the law by returning only a small part of their assets. Therefore, the parameters for the application of restorative justice in corruption cases must be strictly limited to only certain cases and still prioritize the interest of recovering state losses as a top priority (Santoso, 2025).

Based on all the background descriptions that have been comprehensively presented above, research on the effectiveness of returning assets from corruption crimes after court decisions is very urgent and has high relevance to the needs of the nation. This study specifically aims to analyze in depth and critically the extent to which the return of assets resulting from corruption crimes after a court decision is really effective in recovering state losses, given the very wide gap between legal norms and execution practices. Furthermore, this research also aims to systemically identify various concrete obstacles faced by law enforcement officials, especially the Prosecutor's Office, in the process of executing court decisions, as well as formulate policy recommendations that are applicable and evidence-based to improve the effectiveness of asset returns in the future.

The significance of this research lies in several very strategic aspects. First, theoretically, this research is expected to make a meaningful contribution to the development of legal science, especially in the field of criminal law and criminal procedural law related to asset confiscation and recovery of state losses, by offering new concepts that are more adaptive to the dynamics of modern economic crimes. Second, practically, this research is expected to provide constructive input for policy makers, including legislative institutions in formulating laws, the executive in designing national strategies for corruption eradication, and the judiciary in issuing decisions that are more oriented towards asset recovery. Third, socially, this research is expected to increase wider public awareness about the importance of asset return as an integral and inseparable part of the eradication of corruption, so that the public can also oversee the decision execution process.

This research also has strong relevance to Indonesia's efforts to fulfill international commitments in the eradication of corruption, especially those contained in the UNCAC 2003 which has been ratified through Law Number 7 of 2006. Articles 51 and 53 of the UNCAC expressly require participating countries to provide the widest possible legal assistance to each other in terms of tracking, freezing, confiscating, and confiscating assets resulting from corruption crimes, including those in the jurisdiction of other countries. The effectiveness of asset returns at the national level will greatly determine Indonesia's credibility and capacity in cooperating with other countries in efforts to return assets that are currently largely stored abroad, such as in Singapore, Switzerland, or other tax haven countries. Without an effective asset return system at home, efforts to repatriate assets from abroad will be difficult to realize due to the lack of trust from partner countries in the Indonesian legal system. Thus, research on the effectiveness of returning assets resulting from corruption crimes after a court decision is not only an academic study limited to lecture halls, but also has very broad and urgent practical implications for efforts to eradicate corruption in Indonesia holistically. This research is expected to provide a comprehensive, honest, and in-depth picture of the gap between existing legal norms and the reality that occurs on the ground, as well as formulate concrete, measurable, and systematic measures to bridge these gaps. Ultimately, the effectiveness of asset returns will greatly determine the overall success of corruption eradication, because without significant state redress, prison sentences for corrupt perpetrators will only be half of the justice that should be upheld, and public trust in state institutions will continue to be eroded by the inability of law enforcement to return stolen people's money.

Method

This research is designed as an in-depth scientific study to comprehensively answer the problem of the effectiveness of returning assets resulting from corruption crimes after a court decision. To achieve this goal, an appropriate and systematic research method is needed, which is able to explore both the normative aspects of laws and regulations and the empirical reality in the field. Therefore, this study uses a type of legal research that combines normative and empirical approaches, which in the legal literature is known as normative-empirical legal research or non-doctrinal legal research. This type of research was chosen because the object of study is not only limited to the text of the law, but also includes the implementation and practice of law enforcement in the community, so that it can provide a complete picture of the effectiveness of a legal policy (Haryanto, 2019). As emphasized in a study on the state loss reimbursement system, the normative-empirical approach examines laws and regulations, legal implementation, and practices in the field simultaneously (Wijaya, 2026).

The main approach used in this study is the normative juridical approach combined with an empirical (or sociological) juridical approach. The normative juridical approach is carried out by examining normative legal materials, such as laws and regulations, legal principles, doctrines, and court decisions related to the return of assets resulting from corruption. This approach is important to understand the formal legal framework that governs the mechanisms for tracking, freezing, confiscating, forfeiture, and execution of assets, as well as to identify gaps or inconsistencies in existing regulations. As explained in various legal studies, this approach uses a statute approach, a conceptual approach, and a case approach to examine legal materials in depth (Maulana, 2025). This normative juridical approach is commonly used in research that aims to analyze legal rules and find solutions to legal problems (Handono, 2025).

Meanwhile, an empirical or sociological juridical approach is used to observe and analyze the implementation of the law in the field, especially related to the implementation of court decisions by the Prosecutor's Office and the various obstacles faced. This approach seeks to study and research the reciprocal relationship between applied law and empirical reality in society and law enforcement institutions, so that an accurate picture can be obtained of the effectiveness of the law in real terms (Santoso, 2020). The merging of these two approaches allows research to not only get stuck at the level of das Sollen (what should be according to law), but also to be able to uncover das Sein (what happens in reality), so that the gap between the two can be identified and critically analyzed.

Judging from the specifications, this research is descriptive and analytical. Descriptive nature means that this study aims to provide a systematic, factual, and accurate picture of the effectiveness of asset return after a court decision, including the applicable mechanisms, obstacles faced, and achievements that have been achieved. The analytical nature means that the data and information collected are not only presented rawly, but critically analyzed to find their patterns, cause-and-effect relationships, and legal implications. Analytical descriptive research is particularly suitable for examining complex legal issues such as asset returns, where a deep understanding of various factors that affect the effectiveness of a policy is needed (Handono, 2025). This research is also prescriptive, because in addition to describing and analyzing, this research aims to provide recommendations or policy inputs in the form of steps that can be taken to overcome the identified problems, especially in order to increase the effectiveness of asset returns (Maulana, 2025).

The source of data in this study is entirely secondary data, namely data obtained from literature research and not from direct observation in the field. This secondary data consists of three main legal materials, namely primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials are binding legal materials and are the main authorities, which include relevant laws and regulations such as the Constitution of the Republic of Indonesia in 1945, the Criminal Code (KUHP), the Criminal Procedure Code (KUHAP), Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, Law Number 8 of 2010 concerning the Prevention and Eradication of Acts Money Laundering Crime, Law Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of

Indonesia, as well as various other implementing regulations such as Government Regulations and Attorney General Regulations. In addition, primary legal materials also include court decisions that have permanent legal force (inkracht van gewijsde) in cases of corruption crimes relevant to the object of study, which are analyzed to see how the judge imposes additional penalties in the form of substitute money and how the execution is carried out (Handono, 2025). Secondary legal materials are legal materials that provide explanations or analyses of primary legal materials, such as criminal law textbooks and criminal proceedings, scientific journals, legal articles, research results of scholars, and legal doctrines that discuss asset confiscation and the return of state losses. This secondary legal material is very important to enrich the analysis and provide a strong theoretical foundation for research (Handono, 2025). Meanwhile, tertiary legal materials are legal materials that provide instructions or explanations of primary and secondary legal materials, such as legal dictionaries and encyclopedias (Handono, 2025).

To complement the normative secondary data, this study will also use empirical secondary data, namely in the form of official reports, statistical data, and documents published by relevant institutions such as Indonesian Corruption Watch (ICW), the Corruption Eradication Commission (KPK), the Attorney General's Office, the Supreme Court, and the Financial Transaction Reporting and Analysis Center (PPATK). These data provide a quantitative and qualitative picture of the rate of return on assets, the amount of state losses, and the various operational constraints faced in the execution process. Thus, although the study did not conduct interviews or direct field observations, the collection of comprehensive secondary data from various credible sources still allowed the researcher to obtain a picture that was close to empirical reality. As mentioned in a study, data collection techniques in a normative-empirical approach are carried out through legal studies to analyze applicable regulations, as well as observations on the application of laws related to the return of state losses (Wijaya, 2026).

The data collection techniques used are library research and document studies. Literature studies are carried out by collecting, identifying, and systematically reviewing various primary, secondary, and tertiary legal materials relevant to the research topic. These materials are obtained from physical and digital libraries, including scientific journal portals, university repositories, and official websites of state institutions. Document studies are carried out by collecting and analyzing official documents, such as annual reports of anti-corruption agencies, court decisions, and statistical data related to asset returns. These two techniques allow researchers to collect rich and diverse data, which will then be processed and analyzed qualitatively (Handono, 2025).

The data analysis in this study is carried out qualitatively, namely by processing and interpreting the collected data not in the form of statistical figures, but in the form of narrative descriptions and logical arguments. The data that has been collected from literature studies and document studies will be selected, classified, and systematized based on the main problems that have been formulated. Furthermore, the data was analyzed using inductive and deductive thinking methods. The inductive method is used to draw general conclusions from specific facts or data found in the field, for example from concrete cases of failed or successful asset returns. The deductive method is used to derive specific conclusions from general premises, such as from applicable legal norms. This qualitative analysis aims to find the meaning, patterns, and causal relationships underlying the phenomenon of asset return effectiveness, as well as to formulate logical and evidence-based policy recommendations (Handono, 2025). As explained in a study, the data obtained is researched and analyzed in a qualitative inductive manner so that it is able to answer the problems posed (Pratama, 2020).

By using this comprehensive research method, it is hoped that research on the effectiveness of returning assets from corruption crimes after court decisions can produce valid, reliable, and useful findings. This research will not only map the normative and empirical conditions of the asset return system in Indonesia, but will also identify the root causes of the low rate of state loss recovery, as well as offer concrete solutions that can be implemented by stakeholders. Thus, this research is expected to make a significant contribution to efforts to eradicate corruption in Indonesia, especially in the aspect of asset recovery which has been a weak point in the criminal justice system.

Results and Discussion

The Normative Effectiveness and Empirical Reality of Post-Judgment Asset Return

The return of assets resulting from corruption crimes after a court decision is a stage that has been clearly regulated normatively in various legal instruments. Article 18 of Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning the Eradication of Corruption Crimes regulates additional penalties in the form of payment of compensation money which is at most equal to property obtained from corruption crimes (Mokobimbing, 2015). This provision provides a strong legal basis for judges to impose financial sanctions on convicts, with an execution mechanism involving confiscation and auction of assets if the convict does not pay within one month after the verdict has permanent legal force.

However, empirical reality shows that the effectiveness of asset returns through this route is still very far from optimal. Based on data compiled by Indonesian Corruption Watch (ICW), in 2022 the amount of additional criminal compensation that was successfully returned to the state was only IDR 3.821 trillion, while state losses caused by corruption crimes reached IDR 48.786 trillion, so the rate of return was only around 7.83 percent of the total losses (Siregar, 2024). This figure indicates that there is a very wide gap between what is mandated by law and what is actually happening on the ground.

Research conducted at the Pontianak District Attorney's Office in the 2020-2024 period provides a more concrete picture of this low effectiveness. Of the 34 corruption cases handled, there were 7 cases with state losses of IDR 23.49 billion that could not be recovered because the convict's assets were not tracked (Simamora, 2025). This fact shows that even though the court decision that has the force of law still provides a basis for execution, Article 18 of the Law on the Eradication of Corruption still allows imprisonment in lieu of the obligation to pay compensation, thus creating a normative and practical dilemma because the recovery of state losses is not always achieved even if there is a formal legal basis (Simamora, 2025).

One of the fundamental causes of this low rate of return is the existence of a loophole in the legal construction that allows convicts to choose to serve substitute confinement rather than return assets that have been hidden. As emphasized in a study, the existing criminal law policy has not provided an effective instrument for the Prosecutor's Office in recovering state losses when convicted assets are no longer available, so that the implementation of additional penalties in the form of compensation has not reached the goal of recovery-oriented criminalization (Wijaya, 2026). This condition is exacerbated by the fact that in practice, many convicts deliberately move, conceal, or transfer their assets to a third party before the court decision is executed, so that when the execution is carried out, there are no assets left to confiscate.

From the perspective of the theory of legal effectiveness put forward by Soerjono Soekanto, the effectiveness of a law is determined by five factors: the legal factor itself (the law), the law enforcement factor, the facility or facility factor, the community factor, and the cultural factor (Soekanto, 1983). In the context of the return of assets after a court decision, these five factors show significant weaknesses. Legal factors are hampered by the disharmony of norms between laws and regulations and the existence of alternative confinement options. Law enforcement factors are hampered by the limited number of prosecutors and institutional capacity. The means factor is hampered by limited access to financial information and an integrated asset tracking system. The community factor is hampered by weak participation and coordination with community leaders in providing information about the existence of assets. Cultural factors are hampered by the view that imprisonment is the most important form of punishment, so that the aspect of asset recovery is often ignored (Simamora, 2025).

Table 1. Comparison of State Losses and Return of Assets through Replacement Money

Year	State Loss (Rp)	Refundable Refund (Rs)	Rate of Return (%)	Source
2022	48.786.000.000.000	3.821.000.000.000	7,83%	ICW (in Siregar, 2024)
2020-2024 (Pontianak)	23,490,000,000 (7 items)	0 (untracked)	0%	Simamora, 2025

Based on the above description, it can be concluded that there is a very significant gap between the normative effectiveness regulated in laws and regulations and the empirical reality in the field. The current asset return system has not been able to optimally recover state losses caused by corruption. The existence of Article 18 allowing substitute confinement has created an incentive for perpetrators to hide their assets and opt for prison sentences rather than returning state money. This shows that a reformulation of criminal law policy is needed that is more oriented towards asset recovery rather than just *offender oriented punishment*.

Structural, Juridical, and Technical Obstacles in the Execution of Decisions by the Prosecutor's Office

The Prosecutor's Office as an institution authorized to carry out the execution of court decisions faces various complex obstacles in efforts to return assets resulting from corruption crimes. These constraints can be categorized into three main dimensions, namely structural constraints related to institutions and resources, juridical constraints related to the ambiguity and limitations of legal norms, and technical constraints related to operational procedures in the field.

Structurally, the limited number of prosecutors and institutional support are serious obstacles. Research at the Pontianak District Attorney's Office revealed that one of the main obstacles in tracking and confiscating assets is the limited number of prosecutors and institutional support in the legal structure (Simamora, 2025). This condition results in the executing prosecutor not having adequate capacity to conduct in-depth and comprehensive asset tracking, especially in corruption cases involving large amounts of assets and locations spread across various regions. Other research also confirms that prosecutors still face obstacles in terms of budget and operational availability, which further exacerbates their limited capacity to track and confiscate assets (Putra, 2020).

Juridically, the main obstacle lies in the uncertainty of legal substance related to the prosecutor's authority in tracking and confiscating assets. Research conducted through a normative juridical approach identified a fundamental gap in the existing legal framework, namely the absence of explicit and comprehensive legal authority for the *follow the money* approach and asset tracking in asset recovery operations by the prosecutor's office (Nugroho, 2025). The main findings of the study reveal that the absence of clear legal norms governing this method of investigation significantly weakens the effectiveness of asset returns from corruption crimes (Nugroho, 2025). Other empirical barriers include poor inter-agency coordination, limited access to financial information and banking data, and the absence of a cross-jurisdictional tracking framework that hinders comprehensive asset identification (Nugroho, 2025).

Another juridical obstacle is related to the implementation of Article 18 paragraph (3) of the Law on the Eradication of Corruption, which stipulates that if the convict does not pay the compensation within one month, then his property can be confiscated and auctioned. However, in practice, this provision is often unenforceable because assets have been transferred or transferred before the inkracht judgment is rendered. Research on the execution of evidence resulting from corruption crimes that have been used as collateral for banking institutions shows that the prosecutor's office experiences various obstacles so that it cannot execute these assets because there are conflicting public and private interests (Santoso, 2026). The case at the Bantul District Attorney's Office, for example, shows that evidence in the form of land cannot be executed because it has been collateralized at a banking institution by the defendant, so that there is a conflict between the state's interest to recover losses and the interests of creditors who have collateral rights to these assets (Santoso, 2026).

Technically, the obstacles faced include weak coordination with the community which results in the loss of valuable local information about the existence of convicted assets (Simamora, 2025). In fact, the participation of the public, especially community leaders at the RT/RW level, is very important in providing information about the existence of assets that may be hidden by convicts or their families. In addition, technical obstacles also arise in the form of slow asset valuation processes and lack of access to integrated auction information systems, as revealed in the case studies of BLBI, Bank Bali, and Jiwasraya which show weak coordination, slow asset valuation, and lack of access to auction information systems (Indrianto, 2025).

From the perspective of legal system theory proposed by Lawrence M. Friedman, the effectiveness of a legal system is determined by three components, namely legal *structure*, legal *substance*, and legal *culture* (Friedman, 1975). In the context of asset returns after a court decision, these three components show interrelated weaknesses. The legal structure (the prosecutor's office as an executing institution) is limited in human resources and budget. The substance of the law (laws and regulations) experiences unclear authority and disharmony of norms. The legal culture (attitude of the apparatus and the community) still does not fully support efforts to return assets to the maximum. These three weaknesses work simultaneously creating a vicious circle that hinders the effectiveness of asset returns.

Table 2. Obstacles to the Execution of Court Decisions by the Prosecutor's Office

Constraint Dimensions	Types of Constraints	Impact on Effectiveness	Source
Structural	Limited number of prosecutors and institutional support	Limited asset tracking capacity	Simamora, 2025

Structural	Operational budget limitations	Tracking and execution are hampered	Son, 2020
Juridical	Uncertainty of asset tracking authority	There is no legal basis to *follow the money*	Nugroho, 2025
Juridical	Conflict of interest with the rights of third parties (banking collateral)	Assets cannot be executed	Santoso, 2026
Juridical	Alternative confinement options in Article 18	Perpetrators choose confinement over paying	Simamora, 2025
Technical	Weak coordination with the community	Loss of local information about assets	Simamora, 2025
Technical	Slow asset valuation and lack of auction information system	The asset recovery process slows down	Intrianto, 2025
Technical	Limited access to banking and financial data	Asset tracking is not optimal	Nugroho, 2025

Based on the above description, it can be concluded that the obstacles faced by the Prosecutor's Office in executing court decisions for asset return are very complex and multidimensional. Structural, juridical and technical constraints are intertwined with each other, creating a situation in which state loss recovery efforts become extremely difficult to optimize. The Prosecutor's Office not only needs additional human resources and budget, but also requires clearer legal certainty regarding the authority to track assets, wider access to financial information, and more effective coordination mechanisms with various stakeholders. Without comprehensive improvements to these three dimensions of constraints, the effectiveness of asset returns after a court decision will continue to be at a low level.

The Urgency of Legal Reform: Non-Conviction Based Asset Forfeiture as an Alternative

One of the central issues that has become a debate in an effort to increase the effectiveness of asset return is the asset forfeiture model adopted by the Indonesian legal system. Indonesia currently still adheres to the *conviction-based forfeiture* model, which is that asset confiscation can only be carried out after a court decision with permanent legal force that declares a person guilty of committing a crime of corruption (Putro & Bawono, 2025). This model has a fundamental weakness because the criminal justice process often takes a long time, while assets resulting from corruption can be quickly moved, hidden, or diverted. Research shows that the recovery of assets obtained through corruption in Indonesia is still highly dependent on final and binding criminal verdicts, a requirement that often delays asset confiscation and creates opportunities for perpetrators to hide, transfer, or eliminate illegal assets (Putro & Bawono, 2025).

The *non-conviction-based* (NCB) forfeiture model is considered much more effective in cutting off economic incentives for crime and accelerating the recovery of state losses. In this model, asset confiscation is carried out with an *in rem approach*, where the asset itself is the main object of the legal process, so that confiscation can be carried out without depending on the criminalization of the perpetrator (Putro & Bawono, 2025). This approach also accommodates the reversal of the burden of proof and minimizes legal loopholes that may be exploited to avoid liability (Putro & Bawono, 2025). As emphasized in the research on the urgency of NCB forfeiture, regulatory reconstruction is needed to adopt a mechanism of forfeiture of assets without criminalization that offers an alternative paradigm by positioning the assets themselves as the main object of the legal process, thereby allowing forfeiture without dependence on the criminalization of the perpetrator (Putro & Bawono, 2025).

The establishment of the Asset Forfeiture Law is considered to fill a legal void for corruption cases that cannot be tried for various reasons, including the defendant's death, escape, permanent illness, or a case that lacks evidence so that it cannot be criminally prosecuted (Putrie, 2020). In situations like this, NCB forfeiture is the only way for the state to still be able to seize illegal assets without having to abort the process of recovering state losses. Research on the role and function of the Prosecutor's Office in asset forfeiture also recommends the implementation of *non-conviction-based asset forfeiture* and simplification of the auction process to maximize the return of state losses (Indrianto, 2025).

However, the effort to pass the Asset Forfeiture Bill has also sparked debate related to potential human rights violations, especially regarding the balance between the effectiveness of eradicating corruption and the protection of citizens' property rights. Asset forfeiture has significant potential in preventing state losses, but there are complex issues related to usefulness and efficiency that need to be addressed, while ensuring a balance between law enforcement needs and human rights (Kusuma, 2025). The Asset Forfeiture Bill can be a milestone in progressive legal reform, or even become a tool of repressive power if it is not balanced with adequate supervision (Kusuma, 2025). Therefore, the application of NCB forfeiture must be accompanied by strong due process of law protections, including the right to self-defense, the right to information, and the right to file a lawsuit against deems unlawful.

In addition to NCB forfeiture, the concept *of Criminal Execution Investigation* (CEI) or asset recovery after a court decision is also an interesting alternative to consider. In the concept of CEI, after the injunction is issued, it does not just stop, but is continued with a follow-up investigation that includes more in-depth asset tracking, confiscation of newly revealed assets, and confiscation of these assets even though they are not explicitly mentioned in the initial decision (Adhyaksana, 2020). The CEI concept has proven to be very effective in improving the performance of *the Openbaar Ministerie* (Dutch Prosecutor's Office) in returning assets resulting from criminal acts at the international level, and is believed to be a relevant model to be adopted in Indonesia (Adhyaksana, 2020).

From the perspective of the theory of legal certainty put forward by Gustav Radbruch, law must fulfill three basic values, namely *certainty*, *justice*, and expediency (Radbruch, 1950). In the context of asset return, the *current conviction-based forfeiture* system may provide procedural certainty because confiscation is only carried out after a court decision, but it fails in terms of justice and utility because many assets never return to the state and the perpetrator continues to enjoy the proceeds of his crimes. In contrast, the NCB forfeiture system offers higher benefits as it accelerates the recovery of state losses, but requires careful arrangements to ensure legal certainty and human rights protection.

Table 3. Comparison of Asset Forfeiture Models: Conviction-Based vs Non-Conviction Based

Comparative Aspects	Conviction-Based Forfeiture	Non-Conviction Based Forfeiture	Source
Legal Basis	The court's decision	Proof that assets originate from a criminal act	Putro & Bawono, 2025
Legal Object	Perpetrator (in personam)	Assets (in brake)	Putro & Bawono, 2025
Dependence on Crime	Highly dependent	Independent	Putro & Bawono, 2025
Process Speed	Slow (pending a verdict)	Fast (can be done immediately)	Putro & Bawono, 2025
Asset Recovery Effectiveness	Low (assets often lost)	High (assets can be secured early)	Putro & Bawono, 2025
Application for Death/Escape Perpetrators	Not applicable	Applicability	Putrie, 2020
Risk of Human Rights Violations	Low	Higher potential, needs supervision	Kusuma, 2025
Status in Indonesia	Current	Still in the discourse of the bill	Intrianto, 2025

Based on the above description, it can be concluded that legal reform towards the adoption of *non-conviction-based asset forfeiture* is an urgent need to increase the effectiveness of returning assets resulting from corruption crimes after court decisions. The current *conviction-based forfeiture* system has proven ineffective in recovering state losses because it gives enough time for the perpetrator to hide or transfer his assets. NCB forfeiture offers a new paradigm that is more oriented towards asset recovery with an *in rem approach* that allows forfeiture without having to wait for a lengthy criminal process. However, the implementation of NCB forfeiture must be carried out carefully and accompanied by adequate due process of law protection to ensure a balance between the effectiveness of corruption eradication and the protection of human rights. In addition, the concept *of Criminal Execution Investigation* can also be a complementary alternative to increase the effectiveness of post-court executions. With comprehensive legal reform and asset recovery, it is hoped that the rate of return on state losses can increase significantly and the goal of eradicating corruption can be achieved more fully.

Conclusion

This study concludes that the effectiveness of returning assets resulting from corruption after court decisions in Indonesia is still relatively low, as evidenced by the rate of return which only reaches 7.83% of the total state losses. This low recovery is due to structural, juridical, and technical obstacles faced by the Prosecutor's Office, such as the unclear authority to track assets and the gap in substitute confinement in Article 18. The conviction-based forfeiture system is considered ineffective because it provides opportunities for asset forfeiture. Therefore, legal reform through the adoption of non-conviction-based forfeiture and the concept of Criminal Execution Investigation is urgent to accelerate the recovery of state losses, but must be balanced with strict human rights protections to maintain a balance between effectiveness and justice.

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