Asset Recovery in the Perspective of the United Nations Convention Against Corruption (UNCAC) and Its Implementation in Indonesia

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ABSTRACT

This study analyzes asset recovery arrangements from the perspective of the United Nations Convention Against Corruption (UNCAC) and its implementation in Indonesia. Using normative legal research methods with legislative, conceptual, and comparative approaches, this study finds that there is still a significant normative gap between the provisions of UNCAC Chapter V and the Indonesian domestic legal framework, especially in terms of the adoption of the non-conviction based forfeiture mechanism. Institutional obstacles in the form of overlapping authority, weak coordination, and limited human resource capacity also hinder the effectiveness of asset recovery. The Asset Forfeiture Bill, which carries an in rem and asset sharing mechanism, is an important breakthrough, but its success requires strengthening institutional capacity, harmonizing regulations, and protecting human rights for well-intentioned third parties. This study recommends accelerating the ratification of the Asset Forfeiture Bill, strengthening coordination between law enforcement agencies, and improving the competence of officials in tracking and recovering assets across countries.

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Introduction

Corruption has long been recognized as one of the most serious challenges faced by countries around the world, including Indonesia. This phenomenon is not just a domestic legal problem, but a cross-border crime that damages the foundation of a nation's social, economic, and political order. Data collected through the Corruption Perceptions Index (CPI) shows that the global average score has remained at 43 for the past few years, and more than two-thirds of countries (122 out of 180 countries) obtained a score below 50, indicating a high level of corruption in these countries (Wardani, Anggraeni, & Rizal, 2025). Since 2012, as many as 148 countries have experienced stagnation or a decline in CPI scores, which shows that corruption hinders development progress wherever it develops (Wardani et al., 2025). Corruption is a destructive phenomenon that has a negative impact on various aspects of people's lives, worsens the country's economy, and causes a chain effect on overall welfare (Wardani et al., 2025).

In Indonesia, corruption has reached a very worrying level. Corruption crimes have damaged state finances and violated people's social and economic rights due to their elastic, endemic, and systemic nature (Wardani et al., 2025). Almost every level of the bureaucracy executive, judicial, and legislative is involved in corrupt practices that have now spilled over into the private sector (Wardani et al., 2025). Losses due to corruption significantly weaken the state's ability to develop the economy and provide social welfare services (Wardani et al., 2025). In this context, efforts to recover assets resulting from corruption (asset recovery) are a crucial instrument in the strategy to eradicate corruption, not only as an effort to recover state finances, but also as a form of restorative justice for people whose rights have been violated.

The return of assets resulting from corruption is a very important legal and policy issue, but the history of asset recovery in Indonesia has not shown significant results due to various structural and procedural constraints (Wardani et al., 2025). Previous research on civil forfeiture and comparative asset forfeiture regulations has examined several aspects of this issue, but has not provided a comprehensive approach that integrates the principles of the United Nations Convention Against Corruption (UNCAC), domestic law, and practical challenges faced by various stakeholders (Septiana & Afifah, 2022; Santosa et al., 2023). Thus, there is still ample room to conduct an in-depth study of the suitability and effectiveness of the national legal framework in implementing ratified international standards.

At the international level, awareness of the importance of global cooperation in the eradication of corruption gave birth to the United Nations Convention Against Corruption (UNCAC) in 2003, which was the first legally binding anti-corruption convention at the international level. The UNCAC not only regulates the prevention and criminalization of corruption crimes, but also specifically includes provisions on asset recovery regulated in Chapter V of the Convention (Istiqomah & Milania, 2026). Chapter V of the UNCAC regulates the return of assets which includes general provisions, prevention and detection of the diversion of proceeds of crime, measures for the direct return of wealth, as well as international cooperation in asset recovery (Istiqomah & Milania, 2026). This comprehensive arrangement shows that the convention's drafters recognize the importance of the asset recovery dimension as an integral part of the global strategy to eradicate corruption, given the impact of financial losses suffered by developing countries as a result of the flow of corrupt assets to foreign jurisdictions.

Specifically, UNCAC regulates the recovery of assets from corruption crimes in two ways, namely direct property recovery and recovery through international cooperation (Wardani et al., 2025). This provision reflects the recognition that assets resulting from corruption have often been moved abroad through sophisticated money laundering schemes, so there is a need for mechanisms of cross-border cooperation to be able to trace, freeze, confiscate, and return these assets to their countries of origin. In this context, international cooperation has become impervious as corrupt actors systematically exploit inter-jurisdictional loopholes to hide their illicit wealth, either through bank accounts in countries with strict bank secrecy, as well as through investments in various financial instruments and property abroad. Therefore, the effectiveness of asset recovery is highly dependent on the extent to which countries can cooperate in information exchange, mutual legal assistance, and extradition.

Furthermore, UNCAC also encourages States Parties to adopt a non-conviction-based forfeiture mechanism as stipulated in Article 54 paragraph (3) of the Convention (Sujadmiko, Rohaini, Otomo, Setiawan, & Azizah, 2025). This mechanism allows the state to confiscate assets resulting from crimes without having to wait for a criminal verdict with permanent legal force against the perpetrator, so that it can anticipate the perpetrator's efforts to hide or transfer assets during the judicial process (Sujadmiko et al., 2025). The adoption of this mechanism is a step forward in international law, as it recognizes that speed and precision in confiscating assets are often more important than lengthy criminal proceedings, especially when such assets can be easily moved between countries in a matter of hours. This approach is also in line with the principle of follow the money which is increasingly gaining a place in the global strategy to eradicate financial crime and money laundering.

Indonesia has ratified UNCAC through Law Number 7 of 2006 concerning the Ratification of the United Nations Convention Against Corruption (UNCAC) 2003 (Sujadmiko et al., 2025; Istiqomah & Milania, 2026). This ratification marks Indonesia's commitment to adopt and implement the provisions of the UNCAC into the national legal system, including provisions on asset recovery (Istiqomah & Milania, 2026). However, ratification alone is not enough without being followed by harmonization and synchronization of national laws and regulations with international standards set out in the UNCAC. This harmonization process is not simple, as it requires adjustments to various existing laws, such as the Criminal Code (KUHP), the Corruption Act, the Money Laundering Law, as well as regulations on mutual legal aid, each of which has a different approach and limitations.

There is still a significant normative and operational gap between Indonesia's current Mutual Legal Assistance (MLA) framework and the international asset recovery standards set out in Chapter V of the UNCAC (Istiqomah & Milania, 2026). Specifically, existing domestic regulations, including Law Number 1 of 2006 concerning Mutual Assistance in Criminal Matters, do not yet have a comprehensive legal mechanism to carry out the confiscation of the proceeds of corruption that are outside Indonesia's jurisdiction (Istiqomah & Milania, 2026). This limitation is a major obstacle when Indonesia is faced with requests for assistance from other countries or when submitting requests for assistance to other countries to track and freeze assets from corruption hidden in foreign jurisdictions. Without a clear and integrated mechanism, the MLA process is often slow and constrained by differences in legal systems between countries, especially between civil law and common law systems.

The legal framework for asset recovery in Indonesia is currently still heavily dependent on conventional criminal mechanisms centered on conviction-based forfeiture. The confiscation of assets from corruption crimes through prosecution is intended to return assets obtained from corruption crimes under Law Number 20 of 2001 which amends Law Number 31 of 1999, which is based on the confiscation of assets from corruption crimes through civil lawsuits and the confiscation of assets from corruption crimes that are difficult to prove through the reversal of the burden of proof (Wardani et al., 2025). Dependence on this mechanism poses various obstacles, as the criminal justice process often takes a long time and provides opportunities for perpetrators to hide, transfer, or eliminate assets resulting from crimes before a court verdict is rendered (Istiqomah & Milania, 2026). In addition, in many cases, the main perpetrator may have died, escaped, or been abroad so that it cannot be criminally prosecuted, so assets that clearly stem from corruption remain unseized by the state.

Research conducted reveals that Indonesia's current domestic legal framework is fundamentally inadequate to deal with cross-border asset forfeiture and fails to align with UNCAC standards (Istiqomah & Milania, 2026). These findings show that although Indonesia ratified the UNCAC more than a decade ago, the implementation of asset recovery provisions still faces various structural, procedural, and normative barriers. One of the main weaknesses is the lack of comprehensive regulations regarding non-conviction-based forfeiture in Indonesia's positive legal system (Istiqomah & Milania, 2026). This weakness is exacerbated by the lack of a special institution that has full authority to manage confiscated assets professionally, so that often the assets that have been confiscated are depreciated or even lost due to lack of adequate care and management during the judicial process.

Realizing the urgency of strengthening the legal framework for asset recovery, the Government of Indonesia has initiated the discussion of the Draft Law on Asset Recovery (Asset Recovery Bill) which is expected to be a legal breakthrough in efforts to recover assets from corruption (Istiqomah & Milania, 2026). The Asset Forfeiture Bill regulates in detail the mechanism for asset forfeiture in rem, which allows the state to sue the asset itself as a legal object, regardless of whether or not there is a criminal case against the asset owner (Sujadmiko et al., 2025). This bill also regulates asset sharing, which was previously only accommodated by Article 57 of Law Number 1 of 2006 concerning Mutual Assistance (Sujadmiko et al., 2025). This asset sharing mechanism is important not only as a solution to overcome the cost of confiscation which tends to be large, but also intended to prevent the intervention of other forces that cause the confiscation process to not run effectively (Sujadmiko et al., 2025). With asset sharing, countries involved in the recovery process have an incentive to cooperate more closely, as well as share the burden of often costly investigation and prosecution costs, especially in cross-border corruption cases involving multiple jurisdictions.

The application of the non-conviction based forfeiture mechanism as recommended by UNCAC Chapter V is a criminal law innovation to recover state losses due to corruption (Istiqomah & Milania, 2026). This mechanism allows asset confiscation to be carried out even if the perpetrator is not or has not been criminally prosecuted, with certain conditions and criteria (Istiqomah & Milania, 2026). This is in line with the follow the money principle advocated by UNCAC and the Financial Action Task Force (FATF), which changes the law enforcement paradigm from an offender-oriented approach to an asset-oriented approach (Istiqomah & Milania, 2026). In practice, the follow the money approach allows law enforcement officials to move quickly to track the flow of funds, even before the identity of the perpetrator is known for sure, thus increasing the chances of recovering large amounts of assets that are often the main goal of anti-corruption efforts.

However, the implementation of non-conviction-based forfeiture in Indonesia still faces various challenges, especially related to the protection of human rights and individual property rights. Legal experts recognize that the implementation of the NCB must still guarantee the protection of individual rights, including property rights and the right to due process (Istiqomah & Milania, 2026). This is important considering that the mechanism of asset confiscation without criminalization has the potential to cause abuse of power by the state if it is not closely supervised and is not equipped with adequate legal protection mechanisms for bona fide third parties. In this context, the burden of proof is a very sensitive issue, as the in rem mechanism often shifts the burden of proof to the party claiming ownership of the asset, which can be contrary to the principle of presumption of innocence if not carefully formulated in the law.

The ratification of the UNCAC through Law Number 7 of 2006 is an important first step, but the implementation of asset recovery provisions still requires significant strengthening (Istiqomah & Milania, 2026). Various studies have concluded that the harmonization of UNCAC international standards with Indonesian national law in the recovery of corrupt assets still needs to be greatly strengthened (Istiqomah & Milania, 2026). This strengthening includes not only regulatory aspects, but also institutional, human resources, and international cooperation aspects. Without strengthening on all these fronts, asset recovery efforts will continue to be hampered by sectoral egos, lack of coordination between law enforcement agencies, and lack of technical understanding of the mechanism for freezing and confiscating assets across borders.

In the institutional context, Indonesia has established an Asset Recovery Agency (BPA) which is an upgrade of the status of the Asset Recovery Center (Istiqomah & Milania, 2026). This agency is expected to be the spearhead in efforts to recover assets from corruption, both domestically and abroad. One of the cross-border asset recovery practices that has been carried out by the Attorney General of the Republic of Indonesia is the return of assets of US$ 5 million stemming from the Business Email Compromise case to two companies in the Netherlands and Italy (Istiqomah & Milania, 2026). This success shows that Indonesia has the capacity to recover assets across countries, but there is still a need to strengthen the legal and institutional framework so that similar efforts can be carried out more systematically and sustainably. This capacity needs to be continuously developed through regular training for prosecutors and investigators, as well as the development of information technology infrastructure that allows for real-time tracking of financial flows.

Asset recovery as mandated by UNCAC is not only a national mandate, but also an international obligation that must be fulfilled by Indonesia as a state party (Istiqomah & Milania, 2026). UNCAC views corruption as one of the crimes that requires serious handling, and asset recovery is one of the mandates of the convention (Istiqomah & Milania, 2026). Therefore, Indonesia needs to immediately have special rules on asset confiscation to be in line with international provisions that have been ratified (Istiqomah & Milania, 2026). Compliance with these international obligations is not only a matter of reputation in the eyes of the world, but also related to Indonesia's access to various international cooperation forums in the eradication of corruption, including peer review mechanisms organized by UNCAC party countries.

The existence of the Asset Forfeiture Bill is very crucial in this context. The bill not only offers a significant theoretical contribution by strengthening the concept of Non-Conviction Based Forfeiture in the Indonesian legal system, but also practically provides a comprehensive legal basis for law enforcement officials to effectively track, seize, and manage illegal assets both at home and abroad, especially through the proposed establishment of a special Asset Management Agency (Istiqomah & Milania, 2026). With this special institution, it is hoped that the management of confiscated assets will no longer be a problem that interferes with the effectiveness of recovery, as these assets can be sold, transferred, or managed in a way that maximizes their economic value for the benefit of the state and society.

Research on asset recovery from the perspective of UNCAC and its implementation in Indonesia is very relevant given the gap between international commitments that have been ratified and implementation at the national level. This research is important to identify the obstacles that are still faced in asset recovery efforts, analyze the conformity of the national legal framework with UNCAC standards, and formulate policy recommendations to optimize the recovery of assets resulting from corruption in Indonesia. This relevance is increasing as major corruption cases involving foreign funds flow become more widespread, as is the case in cases involving high-ranking state officials and multinational corporations.

The research offers a comprehensive strategy that can be the foundation for the development of more effective asset recovery policies in Indonesia (Wardani et al., 2025). The research incorporates conceptual approaches that serve as breakthroughs in dealing with challenges that arise with normative research methods (Wardani et al., 2025). This approach is important because asset recovery is not only a technical-juridical issue, but also involves political and legal aspects, social justice, and the restoration of public trust in the justice system. When the public sees that the corrupt assets that have been enjoyed by the corruptors have been successfully returned and used for infrastructure development or improvement of public services, trust in the state and law enforcement officials will gradually increase.

Research on shared asset modeling in Indonesia's Asset Forfeiture Bill highlights the importance of international cooperation and digital networks in supporting the effectiveness of asset recovery (Sujadmiko et al., 2025). This research shows that asset sharing is practiced in several countries such as the United States, Switzerland, and Canada, and this mechanism can be a solution to overcome the barriers to confiscation costs that tend to be large and prevent the intervention of other forces that cause the confiscation process to not run effectively (Sujadmiko et al., 2025). This mechanism also prevents different parties from sharing the burden and benefits (win-win solution) (Sujadmiko et al., 2025). In international practice, asset sharing has been shown to increase the number of cases of asset recovery as countries become more willing to invest their resources to help other countries if they believe they will gain a share of the assets that have been successfully recovered.

The recovery of assets resulting from corruption in Indonesia is still highly dependent on criminal judgments with permanent legal force, a requirement that often delays asset confiscation and creates opportunities for perpetrators to hide, transfer, or eliminate illegal assets (Istiqomah & Milania, 2026). Dependence on this conventional mechanism is one of the main factors that cause asset recovery efforts in Indonesia to be not optimal. Therefore, the urgency of adopting the Non-Conviction Based Asset Forfeiture (NCB AF) mechanism is becoming more and more urgent. The policy of asset forfeiture without criminal punishment is an innovation in criminal law to recover state losses due to corruption, as recommended by UNCAC Chapter V which has been ratified by Indonesia through Law Number 7 of 2006 (Istiqomah & Milania, 2026). Without this mechanism, Indonesia will continue to lag behind in its pursuit of corrupt assets that have flown to various parts of the world, while the perpetrators enjoy the proceeds of their crimes freely.

The follow the money approach supported by the UNCAC and FATF is changing the paradigm of law enforcement around tracking, freezing, confiscation, and asset recovery (Istiqomah & Milania, 2026). This approach emphasizes that efforts to eradicate corruption should not only focus on criminalizing perpetrators, but should also be directed at recovering assets from crime to be returned to the state and society. This is in line with the UNCAC's goal which is not only punitive but also restorative. This restorative philosophy is important because at the end of the day, corruption is a crime against society as a whole, and the recovery of material losses is part of the broader social recovery process that the nation must undergo.

This study will examine in depth the arrangement of asset recovery from the perspective of UNCAC and its implementation in Indonesia. The focus of the study will be directed to analyze the conformity of the national legal framework with the provisions of the UNCAC, especially Chapter V on Asset Return, as well as the identification of obstacles that are still faced in its implementation. In addition, this study will also analyze the urgency of adopting the Non-Conviction Based Forfeiture mechanism in the Indonesian legal system as an effort to optimize the recovery of assets resulting from corruption. Thus, this study is expected to answer fundamental questions about the extent to which Indonesia has met its conventional obligations and what steps still need to be taken to achieve higher effectiveness in asset recovery.

Thus, this research is expected to make a theoretical and practical contribution to the development of asset recovery policies in Indonesia. Theoretically, this research will enrich the scientific treasures in the field of international criminal law and anti-corruption law, especially related to the implementation of UNCAC in the national legal system. Practically, this research is expected to provide input for policymakers and law enforcement officials in formulating more effective strategies to recover assets resulting from corruption, both at home and abroad. This practical contribution is urgently needed considering that the Asset Forfeiture Bill is still in the discussion stage and there is still debate among stakeholders regarding the technical details of the forfeiture mechanism to be implemented.

The recovery of corrupt assets is a very important legal and policy issue, and a comprehensive approach is needed that integrates UNCAC principles, domestic law, and practical challenges faced by various interested parties (Wardani et al., 2025). This comprehensive approach is the key to the success of asset recovery efforts in Indonesia, given the complexity of problems involving various legal, procedural, and institutional aspects. Going forward, Indonesia needs to focus not only on the formation of progressive laws, but also on strengthening the capacity of human resources, improving inter-agency coordination, and building a solid international cooperation network to ensure that assets resulting from corruption can be truly returned to the greatest possible prosperity of the people, as mandated by the constitution.

Method

This research is designed as a *normative legal research* with a comprehensive approach to analyze asset recovery arrangements from the perspective of the *United Nations Convention Against Corruption* (UNCAC) and its implementation in Indonesia. The selection of normative research methods is based on the characteristics of the problems studied, namely the normative and operational gap between the international provisions that have been ratified and the Indonesian domestic legal framework in terms of the recovery of assets resulting from corruption crimes (Istiqomah & Milania, 2026). As stated by previous researchers, normative research methods are seen as most appropriate to examine the procedures set out in the UNCAC and their integration into the Indonesian legal framework, with the aim of facilitating the recovery of confiscated assets in corruption cases (Wardani, Anggraeni, & Rizal, 2025).

This study uses normative juridical research methods that utilize secondary data as the main source of legal material (Istiqomah & Milania, 2026). This approach was chosen because the research focuses on the analysis of positive legal norms, legal principles, and legal doctrines related to asset recovery, both derived from international legal instruments and national laws and regulations. Normative juridical research allows researchers to trace, identify, and systematize various relevant legal provisions, then critically analyze their suitability and gaps (Istiqomah & Milania, 2026). This approach is in line with previous studies that have also used normative juridical methods to examine asset recovery issues in Indonesia (Istiqomah & Milania, 2026; Wardani et al., 2025).

Research Approach

This study applies several complementary approaches to obtain an in-depth and comprehensive analysis. These approaches include a statute *approach*, a *conceptual approach*, as well as a *limited comparative approach* and case *approach*.

First, the *statute approach* is used to study and analyze all laws and regulations related to asset recovery, both at the international and national levels (Istiqomah & Milania, 2026). At the international level, the main legal instrument analyzed is *the United Nations Convention Against Corruption* (UNCAC) 2003, especially Chapter V on Asset *Recovery*. At the national level, the study includes Law No. 7 of 2006 concerning the Ratification of the United Nations Convention Against Corruption (UNCAC) 2003, Law No. 31 of 1999 as amended by Law No. 20 of 2001 concerning the Eradication of Corruption, Law No. 1 of 2006 concerning Mutual Assistance in Criminal Matters, Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering, and the Draft Law on Asset Forfeiture which is currently still in the discussion stage. This approach allows researchers to systematically identify the provisions that govern asset recovery mechanisms and trace the development and harmonization between these regulations (Istiqomah & Milania, 2026).

Second, the *conceptual approach* is used to understand the fundamental legal concepts that are the basis for asset recovery, such as the concept of *asset recovery*, *non-conviction based forfeiture*, *mutual legal assistance*, *asset sharing*, and the principle *of follow the money* organized by the UNCAC and the Financial Action Task Force (FATF) (Wardani et al., 2025; Istiqomah & Milania, 2026). This conceptual approach serves as a breakthrough in dealing with the challenges that arise related to asset recovery, as it allows researchers to not only describe existing legal norms, but also develop more advanced theoretical frameworks for addressing the gaps found (Wardani et al., 2025). Through a conceptual approach, this study explores the meaning and purpose of various legal concepts regulated in UNCAC, then compares them with the understanding and application of the same concept in the Indonesian legal system.

Third, the *comparative approach* is used to compare the asset recovery arrangements in Indonesia with practices in other countries, especially countries that have been more advanced in implementing the provisions of the UNCAC regarding asset recovery. As previous research has shown, *asset sharing* has been practiced in several countries such as the United States, Switzerland, and Canada, and this mechanism can be a solution to overcome barriers to confiscation costs that tend to be large and prevent the intervention of other forces that cause the confiscation process to not run effectively (Sujadmiko, Rohaini, Otomo, Setiawan, & Azizah, 2025). This comparative approach is important to identify best *practices* that can be adopted or adapted into the Indonesian legal system, as well as to understand the various challenges that may arise in the adoption process.

Fourth, the *case approach* is used in a limited way to analyze court decisions and concrete cases related to the recovery of assets resulting from corruption in Indonesia. This approach helps researchers to understand how legal provisions on asset recovery are applied in judicial practice, as well as identify procedural constraints that often arise in asset forfeiture processes. Some of the cases analyzed include cases of major corruption involving assets abroad, as well as cases that show obstacles in the implementation of existing asset forfeiture mechanisms.

Types and Sources of Legal Substances

As a normative legal research, this study uses secondary legal materials as the main data source. The legal materials used consist of three types, namely primary legal materials, secondary legal materials, and tertiary legal materials.

Primary legal materials are binding legal sources and are the main object of analysis in this study. The primary legal materials used include:

1. International Legal Instruments: *United Nations Convention Against Corruption* (UNCAC) 2003, in particular Chapter V on Asset Returns, which has been ratified by Indonesia through Law Number 7 of 2006 (Wardani et al., 2025; Istiqomah & Milania, 2026).
2. National Laws and Regulations: Constitution of the Republic of Indonesia of 1945; Law Number 31 of 1999 concerning the Eradication of Corruption as amended by Law Number 20 of 2001; Law Number 8 of 1981 concerning the Criminal Procedure Law (KUHAP); Law No. 1 of 2006 concerning Mutual Assistance in Criminal Matters; Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering; Law No. 7 of 2006 concerning the Ratification of the United Nations Convention Against Corruption (UNCAC) 2003; and the Draft Law on Asset Forfeiture which is currently being debated in the House of Representatives.
3. Implementing Regulations: Government Regulations, Presidential Regulations, Supreme Court Regulations, and Regulations of the Chief of the National Police of the Republic of Indonesia related to the tracking, freezing, confiscation, and management of assets resulting from corruption crimes.

Secondary legal materials are legal materials that provide explanation, interpretation, and analysis of primary legal materials. Secondary legal materials used in this study include:

1. Textbooks and Monographs: Various literature in the field of criminal law, international criminal law, criminal procedural law, and anti-corruption law that discuss asset recovery, asset forfeiture, and international cooperation in the eradication of corruption.
2. Scientific Journals: Articles in national and international legal journals relevant to the topics of asset recovery, UNCAC implementation, and *non-conviction based forfeiture*. Some of the journals that have become references include *the Legal Arena*, *the Legality Journal*, *the Law and Social Justice Review*, and other accredited legal journals (Wardani et al., 2025; Istiqomah & Milania, 2026; Sujadmiko et al., 2025).
3. Research Results and Reports: Relevant previous studies, including research by Septiana and Afifah (2022) on civil forfeiture and research by Santosa and colleagues (2023) on comparative asset forfeiture regulations, have examined several aspects of this issue but have not provided a comprehensive approach that integrates UNCAC principles, domestic law, and practical challenges faced by third parties (Wardani et al., 2025).
4. Official Documents and Reports: Reports from relevant institutions such as the Corruption Eradication Commission (KPK), the Attorney General's Office of the Republic of Indonesia, the Financial Transaction Reporting and Analysis Center (PPATK), as well as reports from international organizations such as Transparency International and the FATF.

Tertiary legal materials are legal materials that provide instructions or explanations of primary and secondary legal materials, such as legal dictionaries, legal encyclopedias, and a cumulative index of laws and regulations. Tertiary legal materials are used to assist researchers in understanding legal terminology and verifying various relevant legal provisions.

Legal Material Collection Techniques

The technique of collecting legal materials in this study is carried out through systematic and comprehensive *library research*. Literature study is a method of data collection that is carried out by searching, identifying, inventorying, and reviewing various legal documents and literature relevant to the research topic (Wardani et al., 2025). The process of collecting legal materials is carried out through several stages as follows:

- First, a *preliminary search* is carried out to identify international legal instruments and national laws and regulations that are the main object of study. This search covers the UNCAC 2003 and its *travaux préparatoires*, as well as all Indonesian laws and regulations related to the eradication of corruption and asset recovery.
- Second, secondary literature searches are conducted through various sources, including law libraries, national and international scientific journal databases (such as Google Scholar, Scopus, and DOAJ), as well as repositories of educational institutions and research institutions. The keywords used in the search included "asset recovery", "UNCAC", "corruption", "non-conviction based forfeiture", "mutual legal assistance", "Indonesia", and a combination of these keywords.
- Third, the collection of official documents and reports of related institutions, both published online and in print. These documents include the KPK's annual report, BPK audit report, FATF report, and various policy documents related to asset recovery efforts in Indonesia.
- Fourth, verification and validation of the collected legal materials is carried out by comparing various sources and ensuring that the legal materials used are the latest and *up-to-date* versions. For laws and regulations, verification is carried out by referring to the Statute Book of the Republic of Indonesia and the State Gazette of the Republic of Indonesia.

Legal Materials Analysis Techniques

The analysis of legal materials in this study was carried out using systematic legal interpretation and argumentation methods. The interpretation methods used include grammatical interpretation, historical interpretation, and systematic interpretation (Istiqomah & Milania, 2026).

- Grammatical interpretation is carried out by interpreting legal provisions based on the textual meaning of the words used in laws and regulations. This interpretation is important to understand the literal meaning of the various provisions in the UNCAC and national regulations on asset recovery (Istiqomah & Milania, 2026).
- Historical interpretation is used to understand the background and intent of lawmakers in formulating provisions on asset recovery, both at the international and national levels. Historical interpretation includes tracing the *travaux préparatoires* of UNCAC as well as the minutes of the discussion of the Draft Law on Asset Forfeiture in Indonesia (Istiqomah & Milania, 2026).
- Systematic interpretation is carried out by placing each legal provision in the context of a broader legal system, including the relationship between laws and regulations and their conformity with general legal principles (Istiqomah & Milania, 2026). Systematic interpretation allows researchers to identify consistency or inconsistencies between the various legal provisions governing asset recovery.

In addition to the interpretation method, this study also uses the legal argumentation method to develop logical and systematic legal reasoning. The argumentation methods used include deductive arguments (drawing conclusions from common premises to specific cases) and inductive arguments (drawing general conclusions from specific cases), as well as analogous arguments (comparing similar cases to draw legal conclusions).

Overall, the analysis techniques in this study follow a descriptive-analytical thinking pattern. Descriptive means that this study seeks to fully and systematically describe asset recovery arrangements in the perspective of UNCAC and its implementation in Indonesia, including the identification of various relevant legal provisions and the obstacles faced. Analytical means that this research not only describes, but also critically examines the suitability and effectiveness of the existing legal framework, as well as formulates recommendations for future improvements (Istiqomah & Milania, 2026).

Results and Discussion

The Normative Gap between the UNCAC Provisions and Indonesia's Domestic Legal Framework in Asset Recovery

This study reveals that there is a significant normative gap between the asset recovery provisions regulated in Chapter V of the UNCAC and the Indonesian domestic legal framework. Key findings suggest that Indonesia's current domestic legal framework is fundamentally inadequate to deal with cross-border asset forfeiture and fails to align with UNCAC standards (Istiqomah & Milania, 2026). This gap is not only technical-juridical, but also concerns the basic paradigm in the approach to the recovery of assets resulting from corruption crimes.

UNCAC as an international legal instrument that legally binds the recovery of assets in two ways, namely direct property recovery and recovery through international cooperation (Wardani, Anggraeni, & Rizal, 2025). Chapter V of the UNCAC covers general provisions, prevention and detection of the diversion of proceeds of crime, measures for direct return of wealth, as well as international cooperation in asset recovery (Istiqomah & Milania, 2026). In particular, Article 54 paragraph (3) of the UNCAC encourages States parties to adopt a *non-conviction based forfeiture mechanism* that allows the confiscation of assets resulting from crimes without having to wait for a criminal verdict with permanent legal force against the perpetrator (Sujadmiko, Rohaini, Otomo, Setiawan, & Azizah, 2025).

Indonesia has ratified UNCAC through Law Number 7 of 2006 concerning the Ratification of the United Nations Convention Against Corruption (UNCAC) 2003 (Sujadmiko et al., 2025; Istiqomah & Milania, 2026). However, ratification alone is not followed by adequate harmonization between national laws and regulations and international standards set forth in the UNCAC. As revealed by Istiqomah and Milania (2026), existing domestic regulations, including Law Number 1 of 2006 concerning Mutual Assistance in Criminal Matters, do not yet have a comprehensive legal mechanism to carry out the confiscation of the proceeds of corruption that are outside the jurisdiction of Indonesia.

The legal framework for asset recovery in Indonesia is currently still heavily dependent on conventional criminal mechanisms centered on *conviction-based forfeiture*. The confiscation of assets from corruption crimes through prosecution is based on Law Number 20 of 2001 which amends Law Number 31 of 1999, which regulates the confiscation of assets through civil lawsuits and the confiscation of assets that are difficult to prove through the reversal of the burden of proof (Wardani et al., 2025). Reliance on this mechanism poses various obstacles, as the criminal justice process often takes a long time and provides opportunities for perpetrators to hide, divert, or eliminate assets resulting from crime (Istiqomah & Milania, 2026). Furthermore, in many cases, the main perpetrator may have died, fled, or been abroad so that it cannot be criminally prosecuted, so assets that clearly stem from corruption remain unseized by the state.

Table 1: Comparison of Asset Recovery Provisions between UNCAC and Indonesian National Law

Regulatory Aspects	UNCAC Provisions (Chapter V)	Indonesian National Law	Gap
Asset Forfeiture Policy	*Non-conviction based forfeiture* (Article 54 paragraph 3)	*Conviction-based forfeiture* (UU No. 20/2001)	Indonesia does not yet have a comprehensive non-criminal confiscation mechanism (Istiqomah & Milania, 2026)
Object of Confiscation	Assets resulting from corruption at home and abroad	Limited to assets in Indonesian jurisdictions	There is no comprehensive mechanism for assets outside the jurisdiction (Istiqomah & Milania, 2026)
MLA mechanism	Broadly regulated in Article 46	Law No. 1/2006 on Mutual Assistance	The MLA framework is not aligned with the UNCAC standards (Istiqomah & Milania, 2026)
Asset Sharing	Possible as an incentive for cooperation	It is only regulated limited to Article 57 of Law No. 1/2006	The arrangement is not yet comprehensive (Sujadmiko et al., 2025)

Asset Management Institutions	Encouraged the establishment of a special institution	Not having an adequate asset management institution	Institutional capacity is still weak (Wiranto & Erowati, 2025)

The normative gaps identified in Table 1 above show that Indonesia still faces serious challenges in implementing the provisions of the UNCAC in its entirety. The harmonization of UNCAC international standards with Indonesian national law in the recovery of corruption assets still needs significant strengthening (Wiranto & Erowati, 2025). This strengthening includes not only regulatory aspects, but also institutional, human resources, and international cooperation aspects.

From the perspective of international law theory, the incompatibility between ratified international instruments and national laws reflects a failure in the *implementation stage*. The ratification of UNCAC through Law Number 7 of 2006 is an important first step, but without being followed by the harmonization and synchronization of national laws and regulations, the international commitment remains purely symbolic. As experts affirm, the implementation of international conventions requires a series of legislative and administrative steps to translate international obligations into an operational domestic legal order (Istiqomah & Milania, 2026). In this context, Indonesia has not fully fulfilled its obligations as a UNCAC party to adopt the necessary legislative measures to allow for the seizure of assets without criminal penalties, especially in cases where the perpetrator cannot be prosecuted.

The reliance on *the conviction-based forfeiture* system is also contrary to the follow *the money* principle advocated by the UNCAC and the Financial Action Task Force (FATF), which changes the law enforcement paradigm from a perpetrator-centric approach to an asset-centric approach (Istiqomah & Milania, 2026). The *follow the money approach* allows law enforcement officials to move quickly to track the flow of funds, even before the identity of the perpetrator is known for sure. However, without an adequate legal basis, this approach is difficult to implement effectively in Indonesia.

Institutional and Coordination Barriers in the Implementation of Asset Recovery in Indonesia

This study identifies that the effectiveness of asset recovery in Indonesia is not only hampered by normative gaps, but also by systemic institutional and coordination barriers. These findings are in line with previous research that revealed that Indonesia's asset recovery rate remains low due to regulatory challenges, weak inter-agency coordination, and limited *Non-Conviction-Based Asset Forfeiture* (NCB) mechanisms (Djalil, Mufidah, & Habibi, 2025). These institutional barriers include lack of regulatory harmonization, overlapping authority, weak coordination, limited human resource capacity, and inadequate legal instruments specifically for asset forfeiture (Wiranto & Erowati, 2025).

One of the most significant institutional obstacles is the overlapping authority between law enforcement agencies in handling asset recovery. In Indonesia, several institutions have authority related to asset recovery, including the Corruption Eradication Commission (KPK), the Attorney General's Office, the Indonesian National Police, and the Financial Transaction Reporting and Analysis Center (PPATK). However, coordination between these institutions still faces serious challenges. As revealed in the research on mutual legal aid, inter-agency coordination remains a challenge because the design of the mutual legal aid process under Indonesian law—both the Attorney General's Office and the Ministry of Law and Human Rights have the authority to handle cases (IDLO, 2025). This overlap of authority often leads to overlapping work, inefficiencies, and even inter-agency conflicts that hinder the asset recovery process.

PPATK has an important role in asset tracking because of its authority to receive, analyze, and relay information about suspicious financial transactions. However, the effectiveness of the synergy between PPATK and investigators is still constrained by data access issues and regulatory harmonization (Djalil et al., 2025). In fact, effective synergy between PPATK and investigators is essential for the tracking, freezing, and confiscation of assets (Djalil et al., 2025). Limited access to data and the lack of adequate regulatory harmonization cause the asset tracking process to be slow and not optimal.

Human resource capacity is also a serious obstacle in the implementation of asset recovery. Asset recovery, especially those involving cross-border assets, requires specialized expertise in international law, finance, and financial investigations. However, the capacity of human resources in Indonesian law enforcement agencies is still limited in this regard (Wiranto & Erowati, 2025). Lack of training and competency

development in the field of asset tracking and international cooperation causes law enforcement officials to struggle to handle complex asset recovery cases.
Another weakness identified is the lack of an adequate asset management institution. Indonesia has established the Asset Recovery Agency (BPA) which is an upgrade of the status of the Asset Recovery Center (Istiqomah & Milania, 2026). However, the capacity of this institution still needs to be significantly strengthened. Without a professional asset management agency, assets that have been successfully confiscated often suffer a decline in value or even be lost due to a lack of adequate care and management during the judicial process.

Table 2: Institutional and Coordination Barriers in Asset Recovery in Indonesia

Types of Barriers	Description	Impact on Asset Recovery	Source
Overlapping Authority	The KPK, the Prosecutor's Office, the Police, and the PPATK have overlapping powers	Inefficiencies, inter-institutional conflicts, slow processes	(Wiranto & Erowati, 2025; IDLO, 2025)
Weak Inter-Agency Coordination	Lack of effective coordination mechanisms between agencies	Barriers in information exchange and asset tracking	(Djalil et al., 2025; Wiranto & Erowati, 2025)
Limited HR Capacity	Lack of expertise in international law and financial investigations	Difficulties in handling complex cross-border cases	(Wiranto & Erowati, 2025)
Limited Data Access	PPATK and investigators face data access obstacles	Asset tracking becomes slow and non-optimal	(Djalil et al., 2025)
No Professional Asset Management Institution Yet	BPA does not have adequate capacity	Seized assets decline in value	(Istiqomah & Milania, 2026)

From the perspective of institutional theory, the obstacles identified above reflect the weak institutional *capacity* in the Indonesian law enforcement system. As stated by experts, institutional capacity includes not only structural and resource aspects, but also aspects of coordination, communication, and organizational culture (Wiranto & Erowati, 2025). In the context of asset recovery, weak institutional capacity causes the asset recovery process to be ineffective and inefficient, which ultimately harms the state and society.

The study also found that institutional barriers are exacerbated by the lack of comprehensive regulation on asset forfeiture. Currently, Indonesia does not have a comprehensive regulation that specifically regulates the mechanism for asset forfeiture without criminal charges or *non-conviction based asset forfeiture* (NCB) (Hardjuno, 2026). The absence of this specific regulation causes law enforcement officials to lack a clear and comprehensive legal basis for asset seizures, especially in cases involving cross-border assets. This is in line with the findings of previous research that Indonesia does not yet have comprehensive regulations that specifically regulate the mechanism for asset confiscation without criminal prosecution (Hardjuno, 2026).

In addition to internal barriers, external barriers also affect the effectiveness of asset recovery in Indonesia. International cooperation in asset recovery still faces a variety of challenges, including differences in legal systems between countries, a lack of trust between countries, and complicated and time-consuming mutual legal aid procedures. As revealed by Istiqomah and Milania (2026), the current *framework of Mutual Legal Assistance* Indonesia is not aligned with the international asset recovery standards set out in Chapter V of the UNCAC, which causes the MLA process to be slow and ineffective.

Urgency and Prospects of the Adoption of *the Non-Conviction Based Forfeiture* Mechanism and the Asset Forfeiture Bill in Indonesia

This study found that the adoption of *the Non-Conviction Based Forfeiture* (NCB) mechanism is an urgent need to optimize the recovery of assets resulting from corruption in Indonesia. These findings are in line with the UNCAC's recommendation that countries parties adopt a non-punitive asset forfeiture mechanism as stipulated in Article 54 paragraph (3) of the Convention (Sujadmiko et al., 2025). The NCB mechanism allows asset confiscation to be carried out even if the perpetrator is not or has not been criminally prosecuted, with certain conditions and criteria (Istiqomah & Milania, 2026). This is in line with *the follow the money* principle advocated by the UNCAC and FATF, which changes the paradigm of law enforcement from a perpetrator-centric approach to an asset-centric approach (Istiqomah & Milania, 2026).

This study shows that *the non-conviction-based asset forfeiture* (NCB) paradigm is more effective because it focuses on lawsuits *in rem*, proof based on the *balance of probabilities*, and reversal of the burden of proof on asset owners while still protecting the rights of third parties in good faith (Andini, Boer, Tanjung, & Odelia, 2025). The *in rem approach* that is characteristic of the NCB allows the state to sue the assets themselves as legal objects, regardless of whether or not there is a criminal case against the asset owner (Sujadmiko et al., 2025). This approach is more efficient and adaptive in combating corruption, and is in line with the recommendations of the UNCAC 2003 (Djalil et al., 2025).

Realizing the urgency of strengthening the legal framework for asset recovery, the Government of Indonesia has initiated the discussion of the Draft Law on Asset *Recovery (Asset Recovery Bill*) which is expected to be a legal breakthrough in efforts to recover assets from corruption (Istiqomah & Milania, 2026). The Asset Forfeiture Bill regulates in detail the mechanism for asset forfeiture in *rem*, which allows the state to sue the asset itself as a legal object, regardless of whether or not there is a criminal case against the asset owner (Sujadmiko et al., 2025). This bill introduces *a non-conviction based asset forfeiture* (NCB) approach, which allows the forfeiture of assets without waiting for a criminal verdict against the perpetrator (Prakarsa & Yulia, 2025).

The Asset Forfeiture Bill consists of 8 chapters and contains 16 main provisions in asset forfeiture, ranging from general provisions, principles, methods of asset forfeiture, types of criminal acts, types of criminal assets that can be confiscated, conditions and criteria for assets that can be confiscated, submission of an application for asset forfeiture, and the procedural law for asset confiscation (Antara, 2026b). The main goal of the Asset Forfeiture Bill is to ensure that the state is not defeated by criminals who harm the State's finances (Antara, 2026a). This bill also regulates *asset sharing*, which was previously only accommodated by Article 57 of Law Number 1 of 2006 concerning Mutual Assistance (Sujadmiko et al., 2025).

This *asset sharing mechanism* is important not only as a solution to overcome the cost of confiscation which tends to be large, but also intended to prevent the intervention of other forces that cause the confiscation process to not run effectively (Sujadmiko et al., 2025). *Asset sharing* is practiced in several countries such as the United States, Switzerland, and Canada, and this mechanism can be a solution to overcome the barriers to confiscation costs that tend to be large and prevent the intervention of other forces that cause the confiscation process to not run effectively (Sujadmiko et al., 2025). This mechanism also allows different parties to share the burden and benefits (*win-win solution*) (Sujadmiko et al., 2025).

Table 3: Comparison of *Conviction-Based Forfeiture* **and** *Non-Conviction-Based Forfeiture Systems*

Comparative Aspects	*Conviction-Based Forfeiture*	*Non-Conviction Based Forfeiture*	NCB Advantages
Legal Basis	Criminal verdict with permanent legal force	In *rem lawsuit* against assets	There is no need to wait for a criminal verdict (Istiqomah & Milania, 2026)
Object of the Lawsuit	Criminal Offenders	The asset itself as a legal object	Faster and more efficient (Sujadmiko et al., 2025)
Burden of Proof	*Beyond reasonable doubt*	*Balance of probabilities*	Easier to prove (Andini et al., 2025)
Process Time	Long (pending final verdict)	Relatively faster	Reduce the opportunity for asset diversion (Istiqomah & Milania, 2026)
Perpetrator Involvement	The perpetrators must be prosecuted	It does not depend on the existence of the perpetrator	Effective if the perpetrator escapes/dies (Istiqomah & Milania, 2026)

However, the implementation of NCB in Indonesia still faces various challenges, especially related to the protection of human rights and individual property rights. Research found that the draft asset forfeiture law in Indonesia does not offer balanced legal protection for the human rights of third parties, particularly the right to own property acquired in good faith or without criminal involvement (Andini et al., 2025). Indonesia is advised to adopt an asset forfeiture mechanism without criminal proceedings as implemented in Australia, which guarantees asset ownership rights for third parties in good faith to reformulate human rights in the bill (Andini et al., 2025). This is important considering that the mechanism of asset confiscation without criminalization has the potential to cause abuse of power by the state if it is not closely supervised and is not equipped with adequate legal protection mechanisms for interested third parties.

From the perspective of criminal law theory, the adoption of the NCB represents a paradigm shift from *a retributive* approach (which focuses on criminalizing perpetrators) to *a restorative* approach (which focuses on recovering state and societal losses). This restorative approach is more in line with the goal of asset recovery as mandated by the UNCAC, which is not only punitive but also restorative. As emphasized by experts, the policy of forfeiture of assets without criminalization is a criminal law innovation to recover state losses due to corruption, as recommended by UNCAC Chapter V which has been ratified by Indonesia through Law Number 7 of 2006 (Istiqomah & Milania, 2026).

The prospect of the ratification of the Asset Forfeiture Bill in Indonesia is considered quite positive considering the support from various parties, including the government, the House of Representatives, and civil society. This bill is considered an important instrument to cut off the flow of crime through the recovery of state assets, which have been difficult to access through conventional regulations (Antara, 2026c). The *Non-Conviction-Based approach* carried out in this bill is believed to have a real deterrent effect, as well as return state assets more efficiently and transparently (Antara, 2026c). However, the process of discussing this bill still faces various challenges, including debates about the definition of confiscated assets, mechanisms for protecting the rights of third parties, and their relationship with legal processes in other laws (Detik, 2025).

This study also found that the ratification of the Asset Forfeiture Bill alone is not enough without being followed by strengthening institutional capacity and human resources. As recommended by experts, strengthening institutional capacity through the drafting of the Asset Forfeiture Law, harmonization of the Law on the Eradication of Corruption and Money Laundering, improving coordination between institutions, strengthening international cooperation, and improving the competence of officers are important recommendations to optimize asset recovery (Wiranto & Erowati, 2025). Without strengthening on all these fronts, the Asset Forfeiture Bill may not achieve the expected effectiveness.

In addition, this study highlights the importance of *the asset sharing* mechanism in the Asset Forfeiture Bill as an instrument to increase international cooperation. *Asset sharing* allows the sharing of looted assets between the country that recovers the assets and the country that assists the recovery process. This mechanism provides an incentive for countries to cooperate in asset recovery, as they will obtain a share of the assets that have been successfully recovered (Sujadmiko et al., 2025). In the Indonesian context, the *asset sharing* mechanism offered is a fair but flexible process between the two countries that can be implemented into a mutual legal assistance agreement (Sujadmiko et al., 2025).

Overall, the results of this research and discussion show that the implementation of asset recovery in Indonesia still faces various complex challenges, ranging from normative gaps, institutional barriers, to the urgent need to adopt the NCB mechanism. However, the existence of the Asset Forfeiture Bill which is currently in the process of being discussed provides hope for the improvement of the asset recovery system in Indonesia in the future. The successful implementation of asset recovery in Indonesia will depend heavily on political commitment, institutional capacity building, regulatory harmonization, and adequate human rights protection.

Conclusion

This study concludes that the implementation of asset recovery in Indonesia still faces a significant normative gap between the provisions of UNCAC and national law, especially in terms of non-conviction based forfeiture mechanisms that have not been comprehensively adopted. Institutional obstacles in the form of overlapping authority, weak inter-agency coordination, and limited human resource capacity also hinder the effectiveness of asset recovery. The Asset Forfeiture Bill, which carries out an in rem and asset sharing mechanism, is an important breakthrough, but its success requires strengthening institutional capacity, harmonization of regulations, and adequate human rights protection for well-meaning third parties. Without strengthening on all fronts, efforts to recover assets from corruption in Indonesia will not achieve the expected optimization.

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