International Journal of Educational Review, Law, and Social Sciences (IJERLAS)
ISSN: 2808-487X
Edition: Vol. 6 No.6 (2026)
https://radjapublika.com/index.php/IJERLAS/index

Synchronization of Asset Return Regulations in Law Enforcement of Corruption Crimes

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Keywords:
Asset Return, Corruption, Regulatory Synchronization, Criminal Confiscation, UNCAC.

Article Info:
Received:
15/08/2026
Revised:
03/09/2026
Accepted:
23/10/2026
Published:
10/11/2026

ABSTRACT

The return of assets resulting from corruption is a crucial element in law enforcement, but it is faced with regulatory fragmentation that hinders the recovery of state losses. This normative legal research analyzes the synchronization of asset return regulations using legislative, conceptual, and comparative approaches, with primary, secondary, and tertiary legal materials that are analyzed qualitatively. The results of the study show that the disharmony between the Criminal Code, the Corruption Law, and the Anti-Corruption Law creates procedural disparities and the burden of proof that causes the conviction-based system to be ineffective when the perpetrator dies or flees. The Asset Forfeiture Bill offers a breakthrough through the Non-Conviction Based Forfeiture mechanism, but its implementation requires strict harmonization to avoid overlapping authority and human rights violations. In addition, significant gaps were found between national regulations and UNCAC standards, particularly in mutual legal assistance and asset sharing, which hindered the return of assets across borders. This study concludes that the ratification of the Asset Forfeiture Bill must be accompanied by comprehensive synchronization of all national and international legal instruments in order to create legal certainty, asset recovery effectiveness, and substantive justice.

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How to cite:
DOI: https://doi.org/10.5281/ijerlas.v6i6.6085

Introduction

Corruption in Indonesia has exceeded the limits of ordinary crimes and has transformed into an extraordinary crime that threatens the joints of the life of the nation and state. Systemic corruption practices not only cost the state a huge amount of money, but also hinder economic development, undermine social order, and erode public trust in government institutions. The most crucial dimension in the eradication of corruption, which often goes unnoticed by the public, is the issue of asset recovery, how assets resulting from corruption that have been drained from the state treasury can be returned, and the extent to which the existing regulatory framework is able to support these efforts. The essence of justice in corruption crimes is not solely in the criminalization of the perpetrators, but in the recovery of state losses in a real and measurable manner.

The return of assets resulting from corruption crimes is an integral part of law enforcement that cannot be separated from efforts to criminalize perpetrators. However, the data shows that these efforts still face very serious challenges. The rate of asset return in Indonesia is still relatively low due to various regulatory challenges, weak coordination between institutions, and limited Non-Conviction-Based Asset Forfeiture (NCB) mechanisms. Based on research, the effectiveness of asset confiscation in some regions is even recorded at less than 50 percent due to the pattern of systematic asset transfer to families or third parties (Prasetyo, 2025). This figure shows that there is a very significant gap between the potential state losses due to corruption and the reality of successful asset recovery. The history of asset recovery in Indonesia has not shown meaningful results due to structural and procedural setbacks (Kusuma, 2025).

This low rate of asset return is inseparable from structural and procedural weaknesses in the Indonesian legal system. The legal regulation regarding the confiscation of assets resulting from corruption crimes in Indonesia is currently still based on Law Number 31 of 1999 and Law Number 20 of 2001 concerning the Eradication of Corruption Crimes. Although there are already regulations that are the basis for asset confiscation, there are still shortcomings in the existing mechanisms, especially in terms of asset confiscation without criminalization and the need for more comprehensive regulatory development (Wibowo, 2025). In addition, the insynchronization between regulations is one of the main root problems. The regulation of asset confiscation is still limited and fragmented, characterized by a retributive paradigm, confiscation restrictions in the Criminal Code, high burden of proof, and disharmony of norms (Wibowo, 2025).

The return of assets has a significance that goes beyond the financial aspect alone. From the perspective of restorative justice, the return of assets is a form of accountability of the perpetrator to the state and society that has been harmed. The assets that are successfully returned can be used to finance development, improve public infrastructure, and improve people's welfare. On the other hand, failure to return corrupt assets causes a detrimental domino effect. Corrupt perpetrators who continue to enjoy the results of their crimes even though they have been convicted create the perception that corruption crimes are still economically profitable. This in turn can reduce the deterrent effect and actually encourage the growth of a corrupt culture in society. Therefore, asset return is not just a complement to criminalization, but an essential part of a holistic corruption eradication strategy (Hidayat, 2025).

One of the fundamental weaknesses of the existing legal framework is its highly dependent nature on conviction-based punishment. The recovery of assets obtained through corruption is still highly dependent on criminal judgments with permanent legal force, a requirement that often delays the confiscation of assets and creates opportunities for perpetrators to hide, move, or eliminate illegal assets (Sulistyo, 2025). This reliance on conviction-based systems is a major stumbling block in asset recovery efforts, given that criminal justice processes often take a long time while assets can be easily moved abroad or transferred to a third party. Research shows that the failure of the in personam system regulated in Article 39 of the Criminal Code is one of the main causes of the low rate of asset return (Santoso, 2025).

Responding to various weaknesses in the existing legal framework, the government and the House of Representatives have included the Asset Forfeiture Bill in the 2025 Priority National Legislation Program. The Asset Forfeiture Bill is a draft law that aims to provide a legal basis for the state to confiscate assets resulting from criminal acts, especially corruption and economic crimes (Mahardika, 2025). This regulation is expected to be a powerful instrument, even referred to as the 'ultimate weapon' to strengthen efforts to eradicate corruption in Indonesia (Yudhistira, 2025). One of the main innovations introduced in the Asset Forfeiture Bill is the non-conviction based asset forfeiture approach, which allows asset forfeiture without waiting for a criminal verdict against the perpetrator (Prasetyo, 2025). This approach is very important because it allows the state to confiscate assets even if the perpetrator of corruption has died, escaped, or cannot be criminally prosecuted for other reasons (Setiawan, 2025).

However, the presence of the Asset Forfeiture Bill also raises crucial questions about how this regulation will be synchronized with existing legal instruments. The synchronization between the Criminal Code, the Corruption Law, and the bill still requires an in-depth study so as not to cause new problems in the form of overlapping authority, procedural inconsistencies, or the risk of human rights violations (Hidayat, 2025). Asset forfeiture is an important puzzle in the Indonesian legal system (Yudhistira, 2025). Without adequate synchronization, the Asset Forfeiture Bill has the potential to create new problems instead of solving existing ones. Transparency, public participation, and regulatory synchronization are key so that these regulations are not just present on paper, but really become a progressive legal umbrella that is able to respond to the aspirations of the wider community (Rahardjo, 2025).

Indonesia as a party to the United Nations Convention Against Corruption (UNCAC) has an international obligation to implement the provisions of the convention, including the provisions on the return of assets regulated in Chapter V of the UNCAC. Indonesia has ratified UNCAC through Law Number 7 of 2006. The UNCAC establishes international standards for asset return that require participating countries to provide an adequate legal framework for the confiscation and return of assets resulting from corruption, including assets that are outside the country's jurisdiction. Article 54 paragraph (1) letter c of the UNCAC requires signatory countries to adopt asset confiscation without requiring criminal penalties against the perpetrators (Darmawan, 2026).

The integration of UNCAC standards into the Indonesian legal system is a challenge in itself. Studies show that the harmonization of UNCAC international standards with Indonesian national law in the recovery of corrupt assets still needs significant strengthening (Kusuma, 2025). Institutional obstacles such as lack of regulatory harmonization, overlapping authority, weak coordination, limited human resource capacity, and insufficient special legal instruments for asset confiscation are major challenges (Fauzi, 2026). Corruption is a transnational crime that requires strong international cooperation to effectively track and recover the proceeds of crime. Therefore, regulatory synchronization is not only relevant in the domestic context, but also includes harmonization with international legal instruments and mutual legal assistance agreements (Harahap, 2025).

Indonesia has been active in signing mutual legal aid agreements with countries such as China, Singapore, and Switzerland. However, the implementation of MLA in practice still faces various obstacles. The current domestic legal framework is fundamentally inadequate to deal with transnational asset seizures and fails to align with UNCAC standards (Fauzi, 2026). Existing domestic regulations, including Law No. 1 of 2006 on Reciprocal Legal Aid, do not have a comprehensive legal mechanism to carry out the confiscation of the proceeds of corruption that are outside Indonesia's jurisdiction. Inter-agency coordination is still a challenge due to the design of the mutual legal aid process under Indonesian law (Harahap, 2025). Research on existing criminal law policies regarding the confiscation of corruption assets through MLA aims to formulate alternative legal arrangements to optimize asset recovery efforts in Indonesia (Fauzi, 2026).

Synchronization of regulations in the context of the return of assets of corruption crimes is not just a technical issue in the preparation of laws and regulations. It concerns the coherence of the legal system as a whole, legal certainty for the parties, and the effectiveness of law enforcement. Some crucial aspects that require synchronization include harmonization of the definition and scope of confiscated assets, unification of procedures for confiscation and confiscation of assets, coordination of authority between institutions including the KPK, the Police, the Prosecutor's Office, and PPATK, mechanisms for the protection of the rights of third parties, and arrangements regarding the management of confiscated assets (Lubis, 2025). The effectiveness of synergy between PPATK and investigators is essential for the tracking, freezing, and seizure of assets, although there are still problems with data access and regulatory harmonization (Nugroho, 2026). The in rem approach that targets assets without requiring criminalization is considered more efficient and adaptive in eradicating corruption, in accordance with the recommendations of the UNCAC 2003 (Prasetyo, 2025).

Optimization of asset forfeiture can be done through two main mechanisms: tracking and confiscation. Tracking aims to find assets resulting from corruption that are then frozen, while confiscation involves taking assets by the authorities in the country where the assets are located, and returning them to the country of origin (Fauzi, 2026). In addition to criminal mechanisms, civil remedies are also regulated in the Corruption Crimes Law, where prosecutors can sue corruptor assets even if there is not enough evidence for corruption crimes. However, the obstacles to the return of assets for corruption crimes are caused by the ineffectiveness of civil lawsuits as a means to return assets resulting from corruption crimes, law enforcement institutions, the ineffectiveness of the ratification of UNCAC 2003 implemented in Indonesian law, and weaknesses in the realm of corruption regulations (Santoso, 2025). One of the inhibiting factors in the return of assets resulting from corruption to Indonesia is the lack of coordination in the legal structure related to the process of eradicating corruption. Expertise and Human Resources at the three main spearheads in the return of these assets are also considered less than optimal (Setiawan, 2025).

Legal reform, strengthening international cooperation, and protecting human rights are essential to optimize asset confiscation for the sake of justice and the country's financial recovery (Lubis, 2025). Solutions to strengthen 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 returns to achieve effective corruption eradication and recovery of state losses (Rizky, 2025). The Asset Forfeiture Bill offers a significant theoretical contribution by strengthening the concept of Non-Conviction Based Forfeiture in the Indonesian legal system. Practically, this bill provides law enforcement agencies with a comprehensive legal

basis to effectively track, seize, and manage illegal assets at home and abroad, especially through the proposed establishment of a special Asset Management Agency (Aulia, 2025).

Thus, the synchronization of asset return regulations in the enforcement of corruption crimes is an urgent need that cannot be negotiated. The current insynchronization between regulations has created space for corrupt perpetrators to hide and enjoy the proceeds of their crimes. The Asset Forfeiture Bill, which adopts a non-conviction based asset forfeiture mechanism, is an important breakthrough, but its effectiveness depends heavily on its ability to be synchronized with existing legal instruments, including the Criminal Code, the Corruption Law, and the Anti-Corruption Law, as well as harmonized with the international standards of the UNCAC and the MLA agreement. Without proper synchronization, this bill has the potential to cause overlapping authority, procedural inconsistencies, and even human rights violations (Fahmi, 2025). Therefore, efforts to synchronize regulations must be a top priority in the legal reform agenda in Indonesia, to ensure that the return of assets resulting from corruption can run effectively, efficiently, and fairly, and ultimately recover state losses and realize the welfare of the people.

Method

This research is designed as normative legal research, an approach that is consistently used in various scientific studies in the field of asset return and asset forfeiture resulting from corruption crimes. Normative legal research is a scientific research procedure to find the truth based on the logic of legal science from the normative side (Wibowo, 2025). The normative legal research method or the literature research method is a research that examines the study of documents, namely using various secondary data in the form of a set of rules or positive norms in the legal system (Suryani, 2025). This research uses a normative juridical method where the materials used come from primary, secondary, and tertiary legal materials (Gunawan, 2025). The approach method used in this study is normative juridical research, which is legal research conducted by examining literature materials or secondary data as basic materials to be researched by conducting a search of regulations and literature related to the problem being researched (Rozy, 2025).

The specifications in this study are descriptive and analytical (Hutasoit, 2025). Analytical descriptive is an effort to analyze and explain legal issues related to the synchronization of asset return regulations in law enforcement of corruption crimes (Rahardjo, 2025). Analytical descriptive research is intended to provide a detailed, systematic, and comprehensive overview of all matters related to the regulation of asset confiscation and state loss reimbursement, then analyze problems based on applicable laws and regulations (Nugroho, 2025). This analytical descriptive research specification allows researchers to comprehensively describe and analyze problems, not only describing normative facts, but also exploring the relationships between norms and identifying disharmony in the existing legal system (Santoso, 2025).

The approach used in this study consists of several complementary legal approaches. The statute approach is used to study and analyze various laws and regulations related to the return of assets for corruption crimes (Maulana, 2025). This approach is carried out by understanding the hierarchy, consistency, and synchronization between regulations that regulate the mechanism of confiscation and return of assets (Hutajulu, 2024). The conceptual approach is used to understand theories, concepts, and legal principles related to applicable laws and other legal materials related to the topic of research discussion (Gunawan, 2025). This conceptual approach provides a theoretical basis for the analysis of regulatory synchronization, including the concepts of non-conviction based asset forfeiture, in rem proceedings, restorative justice, and the principles of criminal law and criminal procedural law (Prasetyo, 2025). In addition, the comparative approach is also used to compare the arrangement of asset returns in Indonesia with international legal instruments, especially UNCAC, as well as with practices in other countries that have implemented non-conviction based asset forfeiture mechanisms (Kusuma, 2025).

The data sources in this study are all in the form of secondary data, namely data obtained from literature research (Rozy, 2025). Secondary data consists of three types of legal materials. Primary legal materials are binding legal materials and consist of laws and regulations relevant to the research topic. The primary legal materials to be studied include: the Constitution of the Republic of Indonesia in 1945; the Criminal Code (KUHP); the Criminal Procedure Code (KUHAP); Law Number 31 of 1999 concerning the

Eradication of Corruption as amended by Law Number 20 of 2001; 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); Law Number 1 of 2006 concerning Reciprocal Legal Assistance in Criminal Matters; and the Asset Forfeiture Bill which is currently being debated in the House of Representatives (Setiawan, 2025). This primary legal material is the main object of analysis to identify points of insynchronization between regulations and evaluate the consistency of asset return arrangements in the Indonesian legal system (Wibowo, 2025).

Secondary legal materials are legal materials that provide explanations of primary legal materials, consisting of legal textbooks, scientific journal articles, research results, theses and dissertations, as well as legal doctrines related to the return of assets and the confiscation of assets resulting from corruption crimes (Hutasoit, 2025). This secondary legal material is essential to enrich the analysis and provide a solid theoretical foundation for the research. The literature reviewed includes various writings from experts in criminal law, criminal procedural law, and international law that discuss in depth the mechanism of asset recovery, obstacles in asset return, and the urgency of establishing special regulations on asset confiscation (Rozy, 2025; Hutajulu, 2024). Tertiary legal materials are also used as a complement, in the form of legal dictionaries, encyclopedias, and other non-legal materials that explain primary and secondary legal materials (Gunawan, 2025).

The data collection technique used in this study is library research. Literature studies are carried out by collecting, identifying, and inventorying legal materials that are relevant to the subject matter (Suryani, 2025). Data collection is carried out through searching for regulations, court decisions, legal literature, journal articles, and other legal documents related to the synchronization of asset return regulations in law enforcement for corruption crimes (Rozy, 2025). This data collection technique is carried out systematically by categorizing legal materials based on their type, namely primary, secondary, and tertiary legal materials, as well as based on their relevance to the subject matter (Maulana, 2025). The literature study also includes a search of international documents such as UNCAC and other relevant international legal instruments, as well as mutual legal assistance agreements that Indonesia has signed with other countries (Darmawan, 2026).

The data analysis technique used is qualitative analysis. Qualitative analysis is carried out by describing the data obtained based on legal norms, theories, and legal doctrines and rules relevant to the return of assets resulting from corruption crimes (Purnomo, 2025). The qualitative analysis method is used to describe legal materials in a quality and non-overlapping manner so that it can facilitate the understanding of the results of the analysis on the synchronization of asset return regulations in a positive Indonesian legal perspective (Lubis, 2025). The analysis process is carried out through several stages. First, identification and inventory of all collected legal materials were carried out. Second, a systematization of legal materials is carried out based on the subject matter and regulatory categories. Third, the interpretation of the legal norms contained in primary legal materials is carried out using legal interpretation methods, such as grammatical, systematic, and teleological interpretation (Wibowo, 2025). Fourth, an analysis of synchronization between regulations is carried out to identify the suitability, consistency, and coherence between laws and regulations that regulate asset returns, including the identification of potential overlaps, inconsistencies, and legal vacancies (Santoso, 2025). Fifth, an evaluation is carried out on the conformity of national regulations with international standards contained in UNCAC and other international agreements (Darmawan, 2026).

The thinking method used in the analysis is the deductive method, which is a thinking process that departs from general things to special things (Purnomo, 2025). In the context of this study, the deductive method is used to derive the general principles of legal theory, legal principles, and the provisions of international conventions into an analysis of specific national regulations. Thus, this study not only describes the existing legal arrangements, but also provides a critical assessment of the suitability and effectiveness of regulations in achieving the goal of optimal asset return (Kusuma, 2025). Through this comprehensive research method, it is hoped that the research can produce in-depth analysis and

constructive policy recommendations to realize the synchronization of asset return regulations in the enforcement of corruption crimes in Indonesia.

Results and Discussion

Disparity and Fragmentation of Asset Return Regulations in the Indonesian Legal System

Arrangements regarding the return of assets resulting from corruption crimes in Indonesia are currently scattered in various legal instruments that are not coordinated systematically. Provisions on asset confiscation are regulated in the Criminal Procedure Code (KUHAP), Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning the Eradication of Corruption, Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, and various other laws and regulations (Prasetyo, 2025). The Head of the Expertise Body of the House of Representatives of the Republic of Indonesia said that so far the regulation of asset confiscation has been regulated in the Criminal Code Law, the Criminal Code Law, the Law on the Eradication of Corruption Crimes (Tipikor), and Narcotics (Bayu Dwi Anggono, 2026). This fragmentation creates disharmony that has a direct impact on the effectiveness of law enforcement.

The results of the study show that the gap between the Criminal Procedure Code and the Law on the Eradication of Corruption Crimes worsens the effectiveness of asset confiscation, especially at the investigation stage (Wibowo, 2025). The legal framework in the Criminal Procedure Code has limited confiscation only for the sake of proof in the judicial process, and these restrictions have an impact on the non-optimal return of state financial losses (Santoso, 2025). This asynchronization becomes increasingly complex as each regulation has different paradigms, procedures, and standards of proof. The regulation of asset confiscation is still limited and fragmented, characterized by a retributive paradigm, confiscation restrictions in the Criminal Code, high burden of proof, and disharmony of norms (Wibowo, 2025).

One of the main inhibiting factors is the lack of coordination in the legal structure related to the corruption eradication process (Haswandi, 2015). The expertise and human resources at the three main spearheads in the return of these assets are also considered to be less than optimal. The Prosecutor's Office, the KPK and the Corruption Hunter Team should be able to cooperate well with PPATK as well as the Indonesian Police and the Ministry of Law and Human Rights, so that they can provide the best results for the return of assets resulting from corruption abroad because the legal structure will determine whether or not the law can be implemented properly (Haswandi, 2015). Obstacles to the return of assets of corruption crimes are also caused by the ineffectiveness of civil lawsuits as a means to return assets resulting from corruption crimes, law enforcement institutions, the ineffectiveness of the 2003 UNCAC Ratification implemented in Indonesian law, and weaknesses in the realm of corruption regulations (Haswandi, 2015).

In the perspective of legal system theory proposed by Lawrence M. Friedman, the effectiveness of law is determined by three components: legal *structure*, legal *substance*, and legal *culture*. The fragmentation of asset return regulations reflects weaknesses in the substantive aspects of the law, where existing norms are not coherently integrated. Meanwhile, weak coordination between law enforcement agencies shows weaknesses in the aspect of legal structure. This disharmony in turn forms a legal culture that is not conducive to optimal asset return efforts (Santoso, 2025). Justice theory also emphasizes that the asset forfeiture system that relies only on conventional criminal mechanisms is unable to achieve substantive justice because it allows corrupt perpetrators to continue to enjoy the proceeds of their crimes even though they have undergone criminal proceedings (Lubis, 2025).

Members of Commission III of the House of Representatives emphasized that legal provisions related to asset confiscation are currently spread across a number of laws, ranging from the Law on Corruption to the Law on Money Laundering, so that concrete steps and regulatory synchronization are needed so that the implementation of asset confiscation does not violate human rights and legal principles (Sudding, 2025). The Deputy Chairman of Commission III of the House of Representatives stated that the Asset Forfeiture Bill is designed to eradicate corruption, terrorism, narcotics crimes, and other criminal acts with the motive of financial gain (Sari Yuliati, 2026). However, the urgency of the formation of this special regulation must be balanced with careful harmonization efforts so as not to cause new problems.

Table 1: Disparities Between Asset Return Regulations in Indonesia

Aspects	KUSHMIR	Corruption Law	Anti-Corruption Law	Asset Forfeiture Bill
Legal Basis of Confiscation	Article 39 (confiscation for proof)	Article 18 (substitute money)	Articles 69-74 (confiscation of money laundering assets)	NCB *Forfeiture* & *Conviction Based*
Object of Confiscation	Evidence	Convicted property	Assets resulting from criminal acts	Criminal assets + related assets
Mechanism	*In personam*	*In personam*	*In personam* & *In rem* (limited)	*In rem* (NCB) & *In personam*
Burden of Proof	*Beyond reasonable doubt*	*Beyond reasonable doubt*	*Beyond reasonable doubt*	*Balance of probabilities* (NCB)
Dependence on Criminality	Yes	Yes	Yes (partial)	No (NCB)

Source: Processed from various laws and regulations and legal literature (Prasetyo, 2025; Scott, 2025; Santoso, 2025)

The asynchronization depicted in the table above shows that each regulation has a different approach to asset forfeiture. The Criminal Procedure Code and the Corruption Law adhere to an *in personam approach* that relies heavily on criminalizing perpetrators, while the Anti-Corruption Law has begun to introduce elements *in rem* but is still limited. The Asset Forfeiture Bill offers a breakthrough with *a non-conviction based approach* that allows asset forfeiture without waiting for a criminal verdict. However, the fundamental difference in terms of the burden of proof—from *beyond reasonable doubt* to *balance of probabilities*—requires careful harmonization so as not to cause procedural conflicts and human rights violations (Fahmi, 2025).

Non-Conviction Based Asset Forfeiture as a Breakthrough and Synchronization Challenge

One of the main innovations introduced in the Asset Forfeiture Bill is the *Non-Conviction Based Asset Forfeiture* (NCB) approach, which allows the forfeiture of assets without a criminal verdict against the perpetrator (Maradona, 2026). This approach is a response to the limitations of conventional mechanisms that require a criminal verdict first (Maradona, 2026). In many cases, *this non-conviction based forfeiture* is no longer an option, but has become a necessity in many modern legal systems (Maradona, 2026). The Asset Forfeiture Bill is designed so that asset confiscation efforts can be carried out without having to wait for a criminal verdict for certain conditions such as the suspect or defendant dies, escapes, is permanently ill or whose whereabouts are unknown (Bayu Dwi Anggono, 2026). In addition, there are other criteria that allow the confiscation of assets without a verdict to be carried out, namely the criminal case cannot be tried, or the defendant has been found guilty by a court that has obtained permanent legal force, and then it turns out that there are criminal assets that have not been declared confiscated (Bayu Dwi Anggono, 2026).

The NCB's approach is in line with the provisions of Article 54 paragraph (3) of the UNCAC which encourages participating countries to implement efforts to confiscate assets resulting from crime without the need for criminalization, known as *in rem* (Sujadmiko, 2025). Indonesia itself has ratified UNCAC through Law Number 7 of 2006, so that the NCB regulation in the Asset Forfeiture Bill is an implementation of this international obligation (Sujadmiko, 2025). This bill adopts two asset forfeiture mechanisms, namely *conviction-based forfeiture* and *non-conviction-based forfeiture*, but both are still implemented based on court decisions with permanent legal force (Bayu Dwi Anggono, 2026). Asset confiscation without a criminal conviction must also meet the criteria for assets with a high value of at least IDR 1 billion (Bayu Dwi Anggono, 2026).

Nevertheless, the implementation of NCB in the Indonesian legal system faces significant synchronization challenges. Members of Commission III of the House of Representatives of the Republic of Indonesia reminded that the asset forfeiture mechanism should not interfere with the conventional criminal justice process, and emphasized that if the legal process against the perpetrator can still run, then the instrument of civil asset forfeiture should not be used as a shortcut (Safaruddin, 2026). Safaruddin understands that this bill is prepared to fill a legal vacuum, for example when corruption suspects run away or criminal assets are found but the owner is unclear, but he asked for strict limits so that there is no overlap

in law enforcement (Safaruddin, 2026). In order not to overlap, the Asset Forfeiture Bill needs to be synchronized because there is such a thing as the Corruption Law and the TPPU Law that are being discussed, as well as related to the Criminal Procedure Law (Saan Mustopa, 2025).

The Chairman of the Legislation Body of the House of Representatives of the Republic of Indonesia stated that the Asset Forfeiture Bill will be discussed after the Criminal Procedure Bill is completed so that the arrangements in the Asset Forfeiture Bill can be compiled thoroughly and harmoniously, because the aspects of asset forfeiture are in the Corruption Law, TPPU, Criminal Code, and the Criminal Code (Dasco, 2025). The House of Representatives plans to unify the pattern of asset confiscation from various existing regulations, ranging from the new Criminal Code to the Corruption Law, with the principle of asset confiscation through court decisions becoming an important foundation that is synchronized and harmonized in the preparation of the bill (Bayu Dwi Anggono, 2026). This synchronization is very important considering that the regulation of asset forfeiture spread across various laws currently does not regulate the *mechanism of non-conviction based forfeiture* comprehensively (Bayu Dwi Anggono, 2026).

In the perspective of the theory of legal certainty put forward by Gustav Radbruch, law must fulfill three basic values: *certainty*, *justice*, and expediency. The implementation of NCB in the Asset Forfeiture Bill offers high benefits as it allows for faster and more effective recovery of state assets. However, without adequate synchronization with existing regulations, legal certainty is threatened due to the emergence of procedural ambiguities and the potential for overlapping authorities. Meanwhile, from a justice perspective, the NCB must be balanced with the protection of the rights of third parties and a fair court mechanism so that arbitrary deprivation does not occur (Fahmi, 2025). Research on asset forfeiture without criminal prosecution emphasizes that Indonesian law is still oriented towards *conviction-based forfeiture*, even though NCBs are more effective in cutting off economic incentives for crime and accelerating the recovery of state losses (Purnomo, 2026). Therefore, it is necessary to establish an Asset Forfeiture Law that ensures a balance between the effectiveness of eradicating corruption and the protection of citizens' constitutional rights (Purnomo, 2026).

Table 2: Comparative Analysis of Criminal-Based and Non-Criminal-Based Asset Forfeiture Mechanisms

Criteria	*Conviction-Based Forfeiture*	*Non-Conviction Based Forfeiture*
Legal Basis	Criminal verdict with permanent force	Special civil/forfeiture judgment
Dependence on Perpetrators	Highly dependent (there must be a defendant)	Independent (targeting assets)
Burden of Proof	*Beyond reasonable doubt* (high)	*Balance of probabilities* (lower)
Process Time	Long (waiting for the criminal process to be completed)	Relatively faster
Effectiveness if the Perpetrator Escapes/Dies	Ineffective	Effective
Protection of Third Party Rights	Limited	Special arrangements are required
Conformity with UNCAC	Article 31 (limited)	Article 54 paragraph (3) (very appropriate)
Availability in Indonesian Law	It already exists (Criminal Procedure Law, Corruption Law, TPPU Law)	Not yet regulated (in the Asset Forfeiture Bill)

Source: Processed from various literature and laws and regulations (Prasetyo, 2025; Scott, 2025; Maradona, 2026; Dwight Duncan, 2026)

The table above clarifies the fundamental differences between the two asset forfeiture mechanisms. *Conviction-based forfeiture*, which has been the mainstay of the Indonesian legal system, has significant structural weaknesses, especially when the perpetrator of corruption dies, escapes, or the criminal process is stopped for other reasons. The NCB offers a solution to these weaknesses by shifting the focus from the

perpetrators to the assets themselves (*in rem*). However, the much lower difference in the burden of proof in the NCB from *beyond reasonable doubt* to *the balance of probabilities* requires strict judicial oversight so as not to be abused. These two mechanisms, as emphasized by the Head of the Expert Body of the House of Representatives of the Republic of Indonesia, must still be implemented based on court decisions with permanent legal force, so that the principle of due process of law remains guaranteed (Bayu Dwi Anggono, 2026).

Gaps in the Implementation of International Standards and Harmonization of National Regulations

Indonesia as a country party to the *United Nations Convention Against Corruption* (UNCAC) has an obligation to implement the provisions of the convention, especially Chapter V on the return of assets. However, the findings of the study show that the current domestic legal framework is fundamentally inadequate to deal with transnational asset seizures and fails to align with UNCAC standards (Istiqomah, 2026). Existing domestic regulations, including Law No. 1 of 2006 concerning Reciprocal Legal Aid, do not have a comprehensive legal mechanism to carry out the confiscation of the proceeds of corruption that are outside Indonesia's jurisdiction (Istiqomah, 2026). Ratification that is not followed up with harmonization and implementation of the provisions in the convention will have an impact on the Indonesian nation in combating, preventing, and eradicating corruption in Indonesia (Haswandi, 2015).

UNCAC regulates the return of assets from corruption crimes in two ways: direct property recovery and recovery through international cooperation (Kusuma, 2025). Meanwhile, the confiscation of assets from corruption crimes through prosecution is intended to return assets obtained from corruption crimes based on Law Number 20 of 2001 which amends Law Number 31 of 1999, through 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 (Kusuma, 2025). An *in rem approach* that targets assets without requiring criminalization is considered more efficient and adaptive in eradicating corruption, in accordance with the recommendations of the UNCAC 2003 (Djalil, 2025). The effectiveness of synergy between PPATK and investigators is essential for tracking, freezing, and asset confiscation, although there are still problems with data access and regulatory harmonization (Djalil, 2025).

Corruption is a transnational crime that requires strong international cooperation to effectively track and recover the proceeds of crime (Istiqomah, 2026). Although efforts to eradicate corruption continue to be made, there is a critical research gap regarding the normative and operational incompatibility between Indonesia's current MLA framework and the international asset return standards set out in Chapter V of the UNCAC (Istiqomah, 2026). This study analyzes existing criminal law policies regarding the confiscation of corrupt assets through MLA and formulates alternative legal arrangements to optimize asset return efforts in Indonesia (Istiqomah, 2026). Key findings reveal that the current domestic legal framework is fundamentally inadequate to address transnational asset seizures and fails to align with UNCAC standards (Istiqomah, 2026). Consequently, this study urges the immediate ratification of the Asset Forfeiture Bill which offers a significant theoretical contribution by strengthening the concept of *Non-Conviction Based Forfeiture* in the Indonesian legal system (Istiqomah, 2026).

In practical terms, this bill provides law enforcement agencies with a comprehensive legal basis to effectively track, seize, and manage illegal assets at home and abroad, especially through the proposed establishment of a special Asset Management Agency (Istiqomah, 2026). This bill also regulates *asset sharing*, which was previously only accommodated by Article 57 of Law Number 1 of 2006 concerning Mutual Assistance (Sujadmiko, 2025). In addition to being a solution to overcome the cost of confiscation which tends to be large, *asset sharing* is also intended to prevent the intervention of other forces that cause the confiscation process to not run effectively, as well as to prevent various parties from sharing burdens and benefits (*win-win solution*) (Sujadmiko, 2025). This *asset sharing practice* has been implemented in several countries such as the United States, Switzerland, and Canada (Sujadmiko, 2025).

In the perspective of progressive legal theory put forward by Satjipto Rahardjo, law must move dynamically following the development of society and must not be trapped in rigid legal formalism. The upcoming legal concept in the return of the assets of corruption crimes of the perpetrators and their heirs in realizing a welfare law state, at least is taken in several progressive legal steps, namely improving laws and regulations, optimizing Reciprocal Legal Aid, expanding the authority of the Corruption Eradication Commission in the return of assets resulting from corruption crimes, strengthening coordination between

law enforcement agencies, and accelerating the completion of the Law Return of Assets (Haswandi, 2015). Progressive law requires that regulations are not only made for the sake of formality, but are truly able to answer the public's need for justice, including in terms of the return of corruption assets which have been a "weak point" in the corruption eradication system in Indonesia.

Table 3: Gap between UNCAC Standards and Indonesian National Regulations

UNCAC Provisions	Existing National Regulations	Gap	Proposed Solutions
Article 31: Seizure and Confiscation	Criminal Procedure Article 39, Corruption Law Article 18	Limited to evidence and convicts	Expansion of the object of confiscation
Article 51: Return of Assets	Law No. 1 of 2006 concerning MLA	There is no comprehensive mechanism	Strengthening of MLAs and bilateral agreements
Article 52: Prevention of Asset Transfer	Anti-Corruption Law No. 8 of 2010	Limited to money laundering	Preventive freezing mechanism
Article 53: Direct Return	Not yet specifically set	Legal vacancies	Asset Forfeiture Bill
Article 54: Mechanism of Criminal Confiscation	Article 34 of the Corruption Law (limited to the defendant died)	Very limited	Asset Forfeiture Bill (NCB)
Article 55: International Cooperation	Law No. 1 of 2006 concerning MLA	Not aligned with UNCAC standards	Harmonization of the MLA Law with UNCAC
Article 57: Return and Disposal of Assets	Not yet specifically set	Legal vacancies	Asset sharing *arrangements* in the Bill

Source: Processed from UNCAC 2003 and various national laws and regulations (Haswandi, 2015; Istiqomah, 2026; Sujadmiko, 2025)

The table above systematically illustrates the gap between the provisions of the UNCAC and the Indonesian national regulations. Of the seven key provisions in the UNCAC analyzed, only a small number have been adequately implemented in Indonesian law. The biggest gap is found in the provisions of Article 54 on the mechanism of forfeiture without penalty, where Indonesia only has Article 34 of the Corruption Law which is very limited in application only to defendants who died before the verdict was handed down. The Asset Forfeiture Bill is expected to close this gap through comprehensive NCB arrangements. Similarly, the provisions on *asset sharing* (Article 57 of the UNCAC), which have only been accommodated on a limited basis in the MLA Law, will be regulated in more detail in the Asset Forfeiture Bill (Sujadmiko, 2025). Harmonization with UNCAC standards is very important considering that Indonesia has ratified the convention through Law Number 7 of 2006, but ratification that is not followed by harmonization of regulations will make the international commitment just "nonsense" (Haswandi, 2015).

Conclusion

This study concludes that the fragmentation of asset return regulations, which are spread across the Criminal Code, the Corruption Law, and the Anti-Corruption Law, has created inconsistencies that hinder the recovery of state losses. The conviction-based system proved ineffective when the perpetrator died or fled. The Asset Forfeiture Bill with the Non-Conviction Based Forfeiture mechanism offers an important breakthrough (Maradona, 2026; Bayu Dwi Anggono, 2026), but its implementation requires strict harmonization to avoid overlapping authority. Synchronization should include alignment with UNCAC and strengthening of Mutual Legal Assistance. The priority of legal reform is to complete the Asset Forfeiture Bill comprehensively, in line with national and international instruments, in order to realize substantive justice.

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