

The Urgency of Enacting the Asset Confiscation Bill for the Eradication of Corruption and Money Laundering in Indonesia

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Abstract

Corruption and money laundering are classified as extraordinary crimes due to their significant impact on state finances and their potential to destabilize the national economy. These crimes not only result in the direct loss of public funds but also undermine trust in state institutions, obstruct development programs, and damage Indonesia's international reputation. Given the magnitude of these threats, there is an urgent need for effective legal mechanisms to recover stolen assets swiftly and efficiently. This study explores the urgency of ratifying the Asset Confiscation Bill as a critical step in enhancing Indonesia's legal framework for combating corruption and money laundering. Currently, Indonesia's asset recovery mechanisms are limited by procedural constraints embedded in existing laws on corruption and money laundering. These laws generally require a court decision with permanent legal force before any assets can be confiscated. Such a requirement often hampers swift action and allows perpetrators to conceal or transfer illicit assets during lengthy legal processes. This study, which uses a normative legal research method, relies on an analysis of laws, legal doctrines, relevant literature, and legal dictionaries to assess the shortcomings of current asset confiscation regulations. The findings suggest that the Asset Confiscation Bill holds great potential to fill these legal gaps. If enacted, the bill could provide a legal basis for the non-conviction-based confiscation of assets, enabling law enforcement to act more decisively in reclaiming assets suspected to be linked to corruption or money laundering. Such a reform would significantly bolster Indonesia's efforts to combat economic crimes and protect national financial integrity.

Keywords: Asset Confiscation Bill, Corruption, Money Laundering.



INTRODUCTION

The government's dedication to fighting corruption and money laundering is manifested in Law No. 31 of 1999¹ in conjunction with Law No. 20 of 2001 on the Eradication of Corruption² and Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering.³ Corruption and money laundering occur almost year after year in Indonesia.⁴ This shows the relationship between the two that corruption is a predicate crime while the money laundering as defined by the Money Laundering Criminal Act (TPPU) is a follow-up crime, which means a continuing criminal act after criminal corruption has been committed.

Corruption and money laundering are crimes that fall into the category of extraordinary crimes. Due to its highly destructive nature, corruption has been categorized as an extraordinary crime by various countries, including Indonesia. The serious nature of corruption includes:

- a. Corruption causes significant and widespread damage;
- b. Corruption is a systemic crime;
- c. Corruption violates human rights;
- d. Corruption threatens the world order; and
- e. Perpetrators of corruption can face the death penalty.

The qualification of corruption as an extraordinary crime is based on the landscape of efforts to eradicate corruption, which can be metaphorized in the Dutch expression "*Het recht hinkt achter de feiten aan.*" This means that the law always lags behind events that arise in society. In addition, the practical ins and outs of corruption illustrate three characteristics. First, corruption is a form of white-collar crime. Second, corruption is usually perpetrated by groups, so it is a form of

¹ Law No. 31 of 1999 on Eradication of Criminal Act of Corruption (Indonesia).

² Law No. 20 of 2001 on Eradication of Criminal Act of Corruption (Indonesia).

³ Law No. 8 of 2010 on the Prevention and Eradication of the Criminal Act of Money Laundering (Indonesia).

⁴ Meiryani et al., "Money Laundering in Corruption Cases in Indonesia," *Journal of Money Laundering Control* 27, no. 1 (2024): 127–38, <https://doi.org/10.1108/JMLC-05-2022-0069>.

organized crime. Third, corruption is generally perpetrated through a sophisticated *modus operandi*, making it difficult to prove.⁵

Because corruption is systemic and detrimental to sustainable development, it requires comprehensive, systematic, and continuous prevention and eradication measures at the national and international levels whereby perpetrators of corruption are also categorized as human rights violations. Human Rights are a set of rights inherent in the nature and existence of humans as creatures of God Almighty. They are His gifts that must be respected, upheld, and protected by the state, law, government, and every person for the honor and protection of human dignity.⁶

According to Sutan Remi Syahrani, money laundering comprises a series of activities that are processes carried out by a person or organization against illicit money, namely money that comes from crime, to hide data and disguise the origin of the funds from the government or authorities who are authorized to take action by infusing money into the financial system, either using bank or non-bank services. These institutions include stock exchanges, insurance, and foreign exchange trading, so the funds can be removed from the financial system as *halal* money.⁷

In Indonesia, money laundering is proscribed under Law No. 8 of 2010 on the Prevention and Eradication of the Criminal Act of Money Laundering.⁸ The acts that constitute the crime of money laundering according to Law No. 8 of 2010 are as follows:

1. Placing, transferring, diverting, spending, paying, granting, depositing, taking abroad, changing the form, exchanging with currency or securities, or other actions on assets that are known or reasonably suspected to be the result of a crime in an effort to hide or disguise the origin of the assets;

⁵ Mohammad Al Faridzi and Gunawan Nachrawi, "Kualifikasi Kejahatan Luar Biasa Terhadap Tindak Pidana Korupsi (Putusan Mahkamah Agung Nomor 301 K/Pid.Sus/2021)," *Jurnal Kewarganegaraan* 6, no. 2 (2022): 3014–19, <https://doi.org/10.31316/jk.v6i2.3244>.

⁶ Irwan Sapta Putra, "Tindak Pidana Korupsi Ditinjau dari HAM di Indonesia," *Jurnal Res Justitia: Jurnal Ilmu Hukum* 2, no. 1 (2022): 87–105, <https://doi.org/10.46306/rj.v2i1.27>.

⁷ Sutan Remy Sjahdeini, *Seluk Beluk Tindak Pidana Pencucian Uang Dan Pembiayaan Terorisme*, 1st ed. (Jakarta: Pustaka Utama Grafiti, 2007).

⁸ Law No. 8 of 2010 on the Prevention and Eradication of the Criminal Act of Money Laundering (Indonesia).

2. Hiding or disguising the origin, source, location, designation, transfer of rights, or actual ownership of assets known or reasonably suspected to result from a crime; and/or
3. Receiving and controlling placement, transfer, payment, grant, donation, deposit, exchange, or using assets known or reasonably suspected to result from a crime.

If, in the past, someone who committed a narcotics or corruption crime, law enforcement could only focus on the individual criminal act. Now, with the existence of a global anti-money laundering regime, Indonesia has adopted the same perspective that when a crime occurs, the ill-gotten gains, or the “fruits” of the criminal act are the primary focus of the anti-money laundering regime. Accordingly, people who violate money laundering law are said to have committed dual criminality.⁹ Article 75 in Law No. 8 of 2010 was promulgate, which reads, “if investigators find sufficient preliminary evidence of the occurrence of Money Laundering crimes and predicate crimes, investigators combine the investigation of predicate crimes with the investigation of Money Laundering crimes and notify the Financial Transaction Reports and Analysis Center (PPATK).”¹⁰

This study examines the urgency of enacting the Asset Confiscation Bill in enforcing the law against criminal acts of corruption and money laundering in Indonesia, regarding the weaknesses in the asset confiscation mechanism regulated in the corruption law and the money laundering law.

METHODOLOGY

This study used normative legal research, namely, research conducted on legal principles and rules in terms of legal norms related to the research material. The

⁹ Ilham Ramadhan et al., “Studi Analisis Terhadap Urgensi Dan Implementasi Undang-Undang Nomor 8 Tahun 2010 Tentang Tindak Pidana Pencucian Uang,” *Mandub: Jurnal Politik, Sosial, Hukum Dan Humaniora* 2, no. 3 (2024): 376–89, <https://doi.org/10.59059/mandub.v2i3.1502>.

¹⁰ Dewi Ervina Suryani, “Penerapan Undang-Undang No 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang (TPPU) Terhadap Penegakan Hukum Pidana Pencucian Uang (Money Laundering) Terhadap Tindak Pidana Kehutanan (Illegal Logging),” *Jurnal Hukum Kaidah: Media Komunikasi Dan Informasi Hukum Dan Masyarakat* 19, no. 3 (2020): 499–508, <https://doi.org/10.30743/jhk.v19i3.2827>.

approaches used in this research were statutory and conceptual. The research data was gathered through a literature review, in which data was collected using secondary data as the primary material for research by searching for regulations and other literature related to the problem being researched. The analysis used is qualitative, including highlighting the problem-solving efforts, in the sense that the data has been analyzed and arranged systematically, which in turn was used as the basis for the conclusions of this paper.

RESULTS AND DISCUSSION

The Urgency of the Enactment of the Asset Confiscation Bill in Eradicating Corruption and Money Laundering in Indonesia

Eradication of corruption and money laundering has become a national priority of the Indonesian legal system. This is because both types of crimes damage the social and economic order, cause injustice, and weaken public trust in state institutions. Corrupt acts are often a precursor to or origin of money laundering (predicate crime), which diverts state funds into personal income by previously laundering the money to disguise their origins as legitimate so that law enforcement cannot detect them. However, as a crime flowing from corruption does not require proof of the original crime in a prosecution for money laundering. The Decision of the Constitutional Court No. 90/PUU-XII/2015¹¹ emphasizes that the law enforcement process against money laundering does not need to wait long until the corruption crime is proven or has permanent legal force. This means that the charge of the predicate crime with the crime of money laundering must be viewed as two distinct crimes, even though, from the chronology of the actions, there can't be a crime of money laundering without a predicate crime.¹²

¹¹ Decision of the Constitutional Court of the Republic of Indonesia No. 90/PUU-XII/2015' (n.d.).

¹² Pusat Pelaporan dan Analisis Transaksi Keuangan, "Laporan Kinerja Tahun 2018: Pusat Pelaporan Dan Analisis Transaksi Keuangan," (Jakarta Pusat: Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), February 2019), https://www.ppatk.go.id/backend/assets/images/publikasi/1557368838_.pdf.

The crime of money laundering, which is the process of disguising wealth obtained from corruption, usually uses several methods, including:

- a. Placement, which is the initial stage of the money laundering process, involves depositing large amounts of cash into a bank account to be comingled with finances obtained from business or operating legitimately;
- b. Layering, which involves a series of complex financial transactions, both transferring money to other accounts at home and abroad, using shell companies, and even buying or selling real and personal property assets as well as securities;
- c. Integration is the final stage of money laundering. After the money has been successfully laundered, it is put into the legitimate financial system to look like money obtained through a legal process.

The government system should be focused on improving the welfare of the community. Instead, there seems to be a perception that this focus has changed to improving the welfare of certain elites, and this perception is increasingly present in the public eye.

The data from Transparency International shows that Indonesia is ranked 5th in Southeast Asia with a GPA of 37 and is ranked 99th out of 180 countries. This figure is based on the TI report from a survey conducted in 2023, where Indonesia was ranked 34th in terms of GPA score 34.¹³ However, Indonesia is still perceived as a country with a very high level of corruption because it obtained a CPI score of 37.¹⁴ This should compel Indonesia to work harder to eradicate corruption by strengthening regulations. However, what is happening now is the opposite. In early 2025, all of Indonesia was shocked by a series of mega corruption cases that robbed from state finances on a large scale. For example, the corruption case of the state-owned enterprise (BUMN), PT Pertamina, adds to the long list of the nation's biggest corruption cases, with a fantastic amount of almost IDR 1 Quadrillion because it was carried out from 2018 to 2023 with a gasoline blending scheme (mixing) by

¹³ Transparency International Indonesia, "Indeks Persepsi Korupsi 2024: 'Korupsi, Demokrasi, Dan Krisis Lingkungan,'" ti.or.id, 11 February 2025, <https://ti.or.id/indeks-persepsi-korupsi-2024-korupsi-demokrasi-dan-krisis-lingkungan/>.

¹⁴ Transparency International Indonesia.

diluting the more expensive Pertamina gasoline with the cheaper Peralite version.¹⁵ Additionally there was the corruption case of the Tin Company, revealed at the end of 2024, which involved the partner of the famous actress Sandra Dewi, namely Harvey Moeis, in which the state saw financial losses of up to IDR 300 (three hundred) trillion.

Although not an official list, the public calls it the “Indonesian Corruption League,” containing a list of mega corruption cases in Indonesia. This term highlights the magnitude of state losses caused by criminal acts of corruption, reaching trillions of Rupiah.¹⁶ Seeing the many ranks listed in the table, it seems that the Corruption Perception Index, which still presents Indonesia as the country with a terrible corruption problem, has not changed. The public is now questioning how the government and related institutions have failed to eradicate corruption and why corruption seems to be increasingly ingrained and commonplace in Indonesia. Indonesia may drop to the bottom of the Corruption Perception Index Report by TI in 2025.

Corruption cases, apart from causing inflation and economic instability, increase social conflict related to social disparities, which also triggers political instability.¹⁷ Corruption results in the loss of state funds, which would otherwise be allocated for infrastructure development, education, health, and public welfare. Misused funds can hinder economic growth and reduce investment within and outside the country.¹⁸

The “Indonesian Corruption League” demonstrates a serious problem that continues to hinder the country's progress and harm society. Therefore, effectively eliminating

¹⁵ "Dugaan Korupsi Pertamina Rugikan Negara Capai Rp1 Kuadriliun, Inilah 9 Pemain Di Klasemen Skandal Korupsi Terbesar Indonesia," [riaupos.jawapos.com](https://riaupos.jawapos.com/nasional/2255706194/dugaan-korupsi-pertamina-rugikan-negara-capai-rp1-kuadriliun-inilah-9-pemain-di-klasemen-skandal-korupsi-terbesar-indonesia), March 1, 2025, <https://riaupos.jawapos.com/nasional/2255706194/dugaan-korupsi-pertamina-rugikan-negara-capai-rp1-kuadriliun-inilah-9-pemain-di-klasemen-skandal-korupsi-terbesar-indonesia>.

¹⁶ "Dugaan Korupsi Pertamina Rugikan Negara Capai Rp1 Kuadriliun, Inilah 9 Pemain Di Klasemen Skandal Korupsi Terbesar Indonesia."

¹⁷ Lamijan and Mohamad Tohari, "Dampak Korupsi Terhadap Pembangunan Ekonomi Dan Pembangunan Politik," *J-PeHI: Jurnal Penelitian Hukum Indonesia* 3, no. 2 (2022): 40–59, <https://doi.org/10.61689/jpehi.v3i02.381>.

¹⁸ Lamijan and Tohari, "Dampak Korupsi."; Dodik Setiawan Nur Heriyanto, 'Diplomation as One of the Alternatives to Returning Corruption Assets Abroad', *Journal of Legal, Ethical and Regulatory Issues* 24, no. 1 (2021): 1–5.

corruption and money laundering is crucial to creating a more just, prosperous, and civilized Indonesia. One way to eradicate this crime is to enact the Asset Confiscation Bill (RUU), which could be a powerful tool for recovering state losses and provide a deterrent for prospective perpetrators of corruption and money laundering by following up on the criminal law process against the perpetrators and ensuring that they cannot profit from their crimes.¹⁹ This clarifies the urgency of the Asset Confiscation Bill because it provides a strong legal basis for confiscating ill-gotten assets, which can be put to use for the benefit of the state and society.

Introduced by the Government and the Indonesian House of Representatives in 2008, the Asset Confiscation Bill (RUU) has not been signed into law until now. This bill seems to have only entered and exited the list of the National Legislation Program (*Prolegnas*).²⁰ Even in 2025, the Asset Confiscation Bill has been thrown far from the list of priority programs for the 2025-2029 term of the government led by President Prabowo Subianto. Amid the polemic of major corruption cases that have occurred in Indonesia, such as the series of cases in the "Indonesian Corruption League," the Indonesian House of Representatives has instead set aside the Asset Confiscation Bill, which is considered very important to law enforcement efforts against these cases and has instead drawn public opposition to the ratification of the revised TNI Bill. This clearly shows that there is no seriousness in efforts to eradicate corruption. Rather, the Asset Eradication Bill seems to frighten corrupt actors, who are often those public officials charged with fighting corruption and preserving the state's resources.²¹

Although the Asset Confiscation Bill has long been awaited by the people demanding justice, it seems useless if the authorized institution obstructs the bill under the pretext of needing further study of the substance of the bill. If examined further, the entry and exit of the Asset Confiscation Bill have been the priority of the

¹⁹ Sri Warjiyati, "Urgensi RUU Perampasan Aset: Strategi Baru Dalam Pemberantasan Korupsi Menuju Sistem Hukum Yang Lebih Adil," *Https://Uinsa.Ac.Id/Blog* (blog), June 10, 2024, <https://uinsa.ac.id/blog/urgensi-ruu-perampasan-aset-strategi-baru-dalam-pemberantasan-korupsi-menuju-sistem-hukum-yang-lebih-adil>.

²⁰ "Korupsi 'Menggila,' Apa Kabar RUU Perampasan Aset?," www.alinea.id, March 20, 2025, <https://www.alinea.id/peristiwa/korupsi-menggila-apa-kabar-ruu-perampasan-aset-b2nk29RsH>.

²¹ 'Korupsi "Menggila," Apa Kabar RUU Perampasan Aset?'

national legislative program since 2008. The Indonesian House of Representatives have had more than enough time to study this bill in depth. Moreover, during the previous administration led by President Jokowi, the Indonesian House of Representatives was asked to discuss the Asset Confiscation Bill as a top priority through Presidential Letter²² No. R22/Pres/05/2023.²³ However, it is unfortunate that, until 2025, the discussion of the bill has not produced any good news. Along with the mega corruption cases by state-owned companies such as PT Pertamina, PLN, and Antam, which have eroded state finances with losses of trillions of rupiah, this should have been enough momentum to pursue the discussion of the Asset Confiscation Bill.

Another reason the Asset Confiscation Bill is very important in eradicating corruption and money laundering in Indonesia is that it addresses problems related to the misuse of assets.²⁴ Corruption and money laundering crimes often involve a large flow of cash, which is frequently disguised by converting the cash into various assets. These assets include real estate, stocks, and other valuables. The perpetrators usually try to find a way to hide these assets, both domestically and abroad,²⁵ to make them difficult for the authorities to track. Without a clear legal basis for seizing these assets, efforts to recover state losses will be difficult and may even fail. With the Asset Confiscation Bill, the authority of law enforcement officers to seize and confiscate assets obtained through corruption or money laundering would be clearer.²⁶ In line with that, the state can also have a greater probability of recovering wealth amassed through corrupt practices while preventing perpetrators from enjoying the proceeds of their crimes. This regulation would also provide a more

²² Presidential Letter No. R22/Pres/05/2023 (Indonesia).

²³ Zilmi Haridhi, "RUU Perampasan Aset: Revolusi Penegakan Hukum Melalui Pemulihan Aset Yang Disalahgunakan," *antikorupsi.org*, October 2023, <https://antikorupsi.org/id/ruu-perampasan-aset-revolusi-penegakan-hukum-melalui-pemulihan-aset-yang-disalahgunakan>.

²⁴ Haridhi, "RUU Perampasan Aset."; Asmarani Ramli et al., 'The Importance of Non-Conviction Based (NCB) Regulations for Asset Confiscation in Illegal Investment', *Journal of Law and Legal Reform* 5, no. 1 (31 January 2024): 1–26, <https://doi.org/10.15294/jllr.vol5i1.2089>.

²⁵ Muhyi Mohas Mohas et al., "The Indonesia Government's Strategy in Arrest and Confiscation of Criminal Corruption (Corruptor) Assets Abroad," *Jurnal Dinamika Hukum* 21, no. 3 (2022): 432, <https://doi.org/10.20884/1.jdh.2021.21.3.2882>.

²⁶ Widyarti Adam, "Pentingnya Pengesahan Rancangan Undang-Undang Perampasan Aset Oleh Dewan Perwakilan Rakyat Republik Indonesia," *Akademik: Jurnal Mahasiswa Humanis* 5, no. 1 (2025): 151–61, <https://doi.org/10.37481/jmh.v5i1.1139>.

significant preventive effect corrupt officials who intend to hide or move assets that they have obtained illegally.²⁷

Although the criminal acts of corruption and money laundering have been regulated by specific legislation, namely Law No. 20 of 2001 on the Eradication of Criminal Acts of Corruption²⁸ and Law No. 8 of 2010 on the Prevention and Eradication of Criminal Acts of Money Laundering, law enforcement efforts against perpetrators of these crimes are not sufficient, simply imposing prison sentences or fines.²⁹ If only relying on these punishments, the perpetrators who only get a slap on the wrist compared to the state losses that have been incurred, and the perpetrators who have been released from serving their sentences, are able to go back out and enjoy their illegally-obtained wealth obtained illegally. This, of course, reduces the effectiveness and purpose of the legal process itself because perpetrators do not pay for the crimes that they committed. Through the Asset Confiscation Bill, not only would the perpetrators receive criminal penalties, but their assets obtained through illegal means would also be forfeited to the state.³⁰ This would strengthen the deterrent effect and provide an increased sense of justice for the community. Suppose the perpetrators could no longer bask in the wealth from the proceeds of their corruption. In such cases, they would have less incentive to commit crimes, which would more effectively prevent similar crimes in the future.

Indonesia, as a state party to the United Nations Convention Against Corruption (UNCAC) through Law No. 7 of 2006 on the Ratification of UNCAC 2003,³¹ can utilize this Convention to resolve corruption and money laundering, which often involves trans-boundary transactions. UNCAC can help extradite corrupt officials who hide assets from the proceeds of their crimes abroad. In Article 54 Paragraph (1)

²⁷ Adam, "Pentingnya Pengeahan."

²⁸ Law No. 20 of 2001 on Eradication of Criminal Act of Corruption (Indonesia).

²⁹ Putu Darmayasa, "Mekanisme Perampasan Aset Dalam Peraturan Perundang-Undangan Di Indonesia," pahamhukum.id, October 21, 2024, <https://pahamhukum.id/konten/artikel/mechanisme-perampasan-aset-dalam-peraturan-perundangundangan-di-indonesia/50>.

³⁰ Anna Maria Salamor, "Penegakan Hukum Terhadap Asset Recovery Tindak Pidana Korupsi Di Indonesia," *MataKao: Corruption Law Review* 1, no. 2 (2023): 116–22, <https://doi.org/10.47268/matakao.v1i2.11309>.

³¹ Law No. 7 of 2006 on the Ratification of the United Nations Convention Against Corruption, 2003 (Indonesia).

(C)³² of this Convention can be the basis for the Asset Confiscation Bill in terms of filling the legal gap in the Corruption Law, namely regarding the anticipatory mechanisms that must be carried out in cases where the suspect dies without heirs to continue a civil lawsuit, becomes insane, or flees the jurisdiction during the examination process.³³ Therefore, the Asset Eradication Bill adopts the civil forfeiture model as a mechanism for asset confiscation independent of criminal proceeding through the *in rem* approach. Fletcher N. Baldwin argues that the implementation of civil forfeiture, later known as non-conviction-based asset forfeiture (NCB asset forfeiture), is very important in Indonesia because it shifts the burden of proof onto the asset owner and focuses on assets suspected of being related to criminal acts.³⁴ This method also brings claims against assets so that it can be interpreted that even though the perpetrator has not been convicted, the seizure of assets suspected of being the result of a crime can be seized and confiscated first, even if the perpetrator has died, as stated in Article 7 Paragraph (1) of the Asset Confiscation Bill.³⁵

Another important point contained in the Asset Confiscation Bill is Article 5 Paragraph (2)(A), which explains that confiscation can be carried out on assets that are not commensurate with income or do not correspond to the source of the increase in wealth, where the assets cannot be proven to have been obtained legally by the accused.³⁶ Furthermore, Article 6 Paragraph (1) explains again that assets worth at least one hundred million Rupiah or assets related to the threat of a criminal act punishable by a prison sentence of four years or more are meant to be

³² United Nations Convention Against Corruption, 2003, Art. 54, Par. 1 (C).

³³ Law No. 7 of 2006 on the Ratification of the United Nations Convention Against Corruption, 2003.

³⁴ Tantimin, "Penyitaan Hasil Korupsi Melalui Non-Conviction Based Asset Forfeiture Sebagai Upaya Pengembalian Kerugian Negara," *Jurnal Pembangunan Hukum Indonesia* 5, no. 1 (2023): 85–102, <https://doi.org/10.14710/jphi.v5i1.85-102>.

³⁵ Pusat Perencanaan Pembangunan Hukum Nasional, Badan Pembinaan Hukum Nasional, Kementerian Hukum dan Hak Asasi Manusia R.I., "Laporan Akhir Naskah Akademik Rancangan Undang-Undang Tentang Perampasan Aset Tindak Pidana," (Jakarta: Badan Pembinaan Hukum Nasional, October 2012), https://bphn.go.id/data/documents/na_ruu_tentang_perampasan_aset.pdf.

³⁶ Aviva Khalila, "Rejuvenasi KPK: Urgensi Pemberlakuan Rancangan Undang-Undang Perampasan Aset Dengan Pendekatan In Rem Dan Tinjauan Pendekatan Serupa Pada Regulasi Unexplained Wealth Di Australia," <https://lk2fhui.law.ui.ac.id/>, 2023, <https://lk2fhui.law.ui.ac.id/portfolio/rejuvenasi-kpk-urgensi-pemberlakuan-rancangan-undang-undang-perampasan-aset-dengan-pendekatan-in-rem-dan-tinjauan-pendekatan-serupa-pada-regulasi-unexplained-wealth-di-australia/>.

confiscated.³⁷ Following the NCB asset forfeiture concept, investigators or prosecutors can conduct direct tracing of assets strongly suspected of originating from corruption to obtain strong evidence about their origin and then immediately issue a blocking order followed by confiscation by an authorized institution.

The application of the NCB asset forfeiture mechanism in the Asset Confiscation Bill follows the concept of Unexplained Wealth, which has been accommodated in other developed countries.³⁸ This concept can make it easier for the state to recover losses. Because the lawsuit emphasizes assets, assets can be said to be the subject of the lawsuit and not the perpetrator. This also allows for the expansion of subjects that are targeted not only at public officials who are strongly suspected of committing corruption and money laundering but also can be used to review the origin of the wealth of family members or relatives of the public official.³⁹

The Asset Confiscation Bill could form the main legal framework for the state to strengthen efforts to eradicate corruption and money laundering crimes by confiscating assets obtained as a result of both crimes without having to wait for a final criminal decision. This is important to ensure that state losses as a result of corruption and money laundering crimes that are increasingly high can be returned⁴⁰ and utilized for the benefit of the community and provide a deterrent effect to the perpetrators. Through the enactment of this bill, the public hopes for a fairer government system that provides legal certainty for law enforcement officers to confiscate assets, especially in dealing with mega corruption cases that involve many important figures. The decision to immediately ratify this bill can pave the way for the government to increase transparency and accountability in the management of state finances, so that public trust will be restored to the government system that is run because it prioritizes justice by making efforts to impoverish corrupt actors.

Although the House of Representatives' (DPR) political elites have always dashed the public's hopes for the passage of the Asset Confiscation Bill, it is important to

³⁷ Khalila, "Rejuvenasi KPK."

³⁸ Khalila, "Rejuvenasi KPK."

³⁹ Khalila, "Rejuvenasi KPK."

⁴⁰ Heriyanto, 'Diplomation as One of the Alternatives to Returning Corruption Assets Abroad'.

increase collaboration between law enforcement agencies and civil society organizations, such as Indonesia Corruption Watch (ICW), to voice their voices to continue to urge the DPR as a legislative body and the government, which tends to ignore the public's requests to ratify this bill.⁴¹

Effectiveness of the Asset Confiscation Bill in Efforts to Eradicate Corruption and Money Laundering

Concerning the Asset Confiscation Bill, which has a very high urgency in the context of eradicating corruption and money laundering, considering that Indonesia is currently facing major problems related to large-scale corruption practices and money laundering involving international networks, this bill offers solutions to both of these problems.⁴² This bill can be evidence of the enforcement of the 2nd and 5th principles of Pancasila, which are used as the basis of Indonesian law, namely, just and civilized humanity, and the importance of justice for all Indonesian people.⁴³ Basically, the confiscation of assets obtained from criminal acts will provide a stronger deterrent effect and reduce the motivation for perpetrators to commit similar crimes in the future.⁴⁴ That way, Indonesia will be free from corruption cases so that it can focus existing resources on economic development for the welfare of society.

The enactment of the Asset Confiscation Bill at the right momentum in 2025 can certainly increase the effectiveness of law enforcement in efforts to eradicate corruption and money laundering. One of the main problems in mega corruption cases that have cost the state trillions of rupiahs is the difficulty in finding and tracing assets obtained illegally by the perpetrators. Through the Asset Confiscation

⁴¹ Pusat Pelaporan dan Analisis Transaksi Keuangan, 'Kolaborasi Perpustakaan PPAK Dan ICW Bahas Pentingnya RUU Perampasan Aset', [ppatk.go.id/news](https://www.ppatk.go.id/news), 21 November 2024, <https://www.ppatk.go.id/news/read/1417/kolaborasi-perpustakaan-ppatk-dan-icw-bahas-pentingnya-ruu-perampasan-aset.html>.

⁴² Ahmad Sofian, Bambang Pratama, and Hanifah Azizah, 'Mechanism for Asset Forfeiture in the Money Laundering Criminal Law and Asset Forfeiture Bill (Law Comparison with the United States)', *Journal of Law and Sustainable Development* 11, no. 12 (5 December 2023): 1–33, <https://doi.org/10.55908/sdgs.v11i12.1712>.

⁴³ Ady Thea DA, 'RUU Perampasan Aset Tindak Pidana Instrumen Pemberantasan Korupsi dan Kejahatan Ekonomi', [hukumonline.com](https://www.hukumonline.com/berita/a/ruu-perampasan-aset-tindak-pidana-instrumen-pemberantasan-korupsi-dan-kejahatan-ekonomi-lt64337ed81a442/), 10 April 2023, <https://www.hukumonline.com/berita/a/ruu-perampasan-aset-tindak-pidana-instrumen-pemberantasan-korupsi-dan-kejahatan-ekonomi-lt64337ed81a442/>.

⁴⁴ Hudjolly et al., 'Establishment of the Asset Confiscation Law to Minimize Corruption in Indonesia', *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga* 6, no. 2 (7 May 2024): 1724–30, <https://doi.org/10.47467/as.v6i2.6569>.

Bill, the authorities are given the freedom to confiscate and seize assets related to corruption, even though the assets have been moved or hidden with various further crimes⁴⁵, namely money laundering. In addition, investigators can also freeze assets to return and recover state financial losses. Thus, the money follows the asset effort, which emphasizes efforts to pursue the proceeds of crime, which will be much more effective.⁴⁶ Assets that were previously difficult to access will become easier to find because law enforcement officers will have more freedom to carry out asset-tracking mechanisms related to criminal acts, allowing them to act more quickly and efficiently.⁴⁷

The Asset Confiscation Bill can also serve to provide much heavier punishments than prison sentences or fines. This bill proposes efforts to impoverish corruptors by seizing their illegally obtained wealth. This will certainly have a frightening effect on the actors, as their lives, which are usually presented with luxurious things, will suddenly turn difficult.⁴⁸ The impact of this fear can then be an example for public officials who often stumble upon similar cases to think twice about committing corruption crimes or money laundering crimes.

This Asset Confiscation Bill will be a good thing for the government system, which is often touted as siding with the corruptors. Bypassing the Asset Confiscation Bill amidst the momentum of mega corruption that was revealed in early 2025, the government could show its seriousness and commitment to fighting corruption more openly and responsibly. This not only reduces the opportunity for public

⁴⁵ Mahdavika Arsy Mubarak and Ayu Izza Elvany, 'Confiscation of Assets Laundered through Cryptocurrency Transactions in Indonesia: A Regulatory Framework', *Contemporary Issues in Criminal Law* 1, no. 1 (30 June 2024): 37–62, <https://doi.org/10.20885/CICL.vol1.iss1.art3>.

⁴⁶ Desi Fitriyani and Muthi'ah Maizaroh, 'Possibility of Implementing In-Rem Asset Forfeiture as an Asset Recovery Effort in Indonesia', *AML/CFT Journal: The Journal of Anti Money Laundering and Countering the Financing of Terrorism* 1, no. 2 (14 June 2023): 205–19, <https://doi.org/10.59593/amlcft.2023.v1i2.62>.

⁴⁷ Yoserwan and Fausto Soares Dias, 'Implementing the Anti-Money Laundering Law: Optimizing Asset Recovery in Corruption Cases in Indonesia', *Jurnal Hukum Dan Peradilan* 13, no. 2 (31 July 2024): 227, <https://doi.org/10.25216/jhp.13.2.2024.227-250>.

⁴⁸ Ramli et al., 'The Importance of Non-Conviction Based (NCB) Regulations for Asset Confiscation in Illegal Investment'.

officials to be involved in crimes but also increases public trust in the government and the welfare of the people from the perspective of Islamic criminal law.⁴⁹

The Asset Confiscation Bill is seen from the perspective of Islamic criminal law (*fiqh al-jinayah*) as the confiscation of assets without a criminal determination taken through civil channels⁵⁰, including *ta'zir* crimes with the category of *fi'il al-darar* or unlawful acts. The legal qualification that is close to Confiscation of Illegal Property is *ghasab*, so that the return of assets and property is highly emphasized in the return of property that is *ghasab*.

Ta'zir is interpreted as an unspecified punishment (form and amount), which must be carried out for all forms of immorality that do not include *hudud* or *kafarat*, whether the violation concerns the rights of Allah SWT or personal rights.⁵¹ *Ta'zir* crimes, when viewed from the rights violated, are divided into two categories, namely:

- a. *Ta'zir* crimes that offend the rights of Allah, namely, all acts related to the public interest.⁵² For example, causing damage on earth, theft that does not meet the requirements, kissing a woman who is not his wife, hoarding basic goods, and smuggling; and
- b. *Ta'zir* crimes that offend individual rights, namely every act that results in loss to a certain person, are limited.

The scope of *ta'zir* crimes is divided into four, namely:⁵³

- c. *Hudud* or *qisash-diyat* crimes, for example, parents cannot be sentenced to *qisas* punishment for killing their child;

⁴⁹ Deby Rinaldi, Watni Marpaung, and Arifuddin Muda Harahap, 'Criminal Punishment in the Concept of Non-Conviction Based on Asset Forfeiture (Analysis of Islamic Criminal Law)', *Jurnal Akta* 12, no. 1 (7 February 2025): 60–71, <https://doi.org/10.30659/akta.v12i1.43728>.

⁵⁰ M Dani Fariz Amrullah D, Dora Mustika, and Ari Priyanto, 'Review of Islamic Law Regarding on Confiscation of Assets Resulting from Criminal Acts of Corruption', *Pranata Hukum: Jurnal Ilmu Hukum* 20, no. 1 (31 January 2025): 1–12, <https://doi.org/10.36448/pranatahukum.v20i1.378>.

⁵¹ Misran, 'Kriteria Jarimah Takzir', *Jurnal Justisia: Jurnal Ilmu Hukum, Perundang-Undangan Dan Pranata Sosial* 2, no. 1 (13 February 2018): 1–13, <https://doi.org/10.22373/justisia.v2i1.2648>.

⁵² Nurul Irfan and Masyrofah, *Fiqh Jinayah*, 1st ed. (Jakarta: Amzah, 2013), <https://repository.uinjkt.ac.id/dspace/bitstream/123456789/51021/1/FIQIH%20JINAYAH.pdf>.

⁵³ Irfan and Masyrofah, 158.

- d. *Hudud* or *qisash-diyat* crimes that do not meet the requirements will be subject to *ta'zzir* sanctions, for example, attempted theft and attempted murder;
- e. Crimes that the Qur'an and hadith determine, but the sanctions are not defined, for example, insults, usury, and false testimony;
- f. Crimes that are determined by the *ulil-amri* (those in authority) for the benefit of the community, for example, fraud, pickpocketing, pornography, corruption, and money laundering.

Islamic law is not a positive law that applies absolutely in Indonesia because Indonesia is a country based on Pancasila and the 1945 Constitution. However, the majority of Indonesians adhere to Islam, so when imposing punishments, they can refer to the provisions contained in Islamic jurisprudence to benefit the people.

The ineffectiveness of sanctions for corruption and money laundering convicts and the large state losses caused by these crimes requires law enforcers to find solutions to have a deterrent effect on corruptors and perpetrators of money laundering. *Usul fiqh* experts agree that every law prescribed by Allah is contained in it for the benefit of humans, both worldly and hereafter, and also the problem is something that must be realized for the common good.⁵⁴

The confiscation bill is a legal solution to cover legal loopholes for perpetrators of criminal acts. This bill contains the benefits of the people included in the provisions of the articles discussed previously. The Asset Confiscation Bill should serve as a legal framework to mitigate state losses for the benefit of the nation and its government. Therefore, the urgency of asset confiscation, as outlined in Islamic jurisprudence, aligns with the objectives underlying the introduction of this bill.

In Indonesia, although many cases of corruption and money laundering have been uncovered, the public often feels that the punishments given are not strong enough to provide a deterrent effect to the perpetrators. In addition, many also believe that the perpetrators can still enjoy the wealth obtained illegally. This can then lower the

⁵⁴ Moh. Khasan and Ja'far Baehaqi, *Perampasan Aset Terpidana Korupsi Dalam Kajian Hukum Pidana Dan Fiqh Jinayah*, 1st ed. (Semarang: Alinea Media Dipantara, 2021), https://eprints.walisongo.ac.id/id/eprint/19623/1/1a-Buku%20Perampasan%20aset%20terpidana%20korupsi_pressed.pdf.

government's image in the eyes of the public regarding the existing legal system. With the presence of the Asset Confiscation Bill, the state guarantees that wealth obtained illegally will be confiscated and returned to the state. Clear and transparent legal procedures regarding asset confiscation will strengthen the sense of justice in society because they can witness that the law not only imposes prison sentences on perpetrators but also ensures that perpetrators cannot enjoy the proceeds of their crimes. The success in taking over these assets will then lead to increased public trust in the legal system and law enforcement institutions in Indonesia.

The effectiveness of the Asset Confiscation Bill is influenced by the ability to improve law enforcement related to corruption and money laundering. This bill can strengthen law enforcement by giving law enforcement officers broader authority to confiscate and seize assets obtained from these crimes. By confiscating and seizing assets, the state can certainly return state losses and provide a deterrent effect to perpetrators. In addition, asset confiscation can also reduce the ability of perpetrators to continue their crimes. The success of implementing this bill also depends on the system in place in the investigation and inquiry process.

Amid the rampant mega corruption cases in 2025, the Asset Confiscation Bill has certainly experienced major polemics. However, its implementation has great potential to increase the effectiveness of efforts to eradicate corruption and money laundering. For this reason, strict supervision is needed in the process of asset confiscation by authorized institutions so that there is no abuse of power and the transfer of these assets to other irresponsible hands. These assets must be ensured to enter the state treasury as a replacement for losses from corruption and money laundering committed by the perpetrators. This is done so that the rights of the community can be restored immediately when corruption has occurred.⁵⁵ Confiscated assets must be shown to the wider public through transparency in the investigation process as proof that the assets have indeed entered the state treasury

⁵⁵ Ady Thea DA, "Barang Sitaan Hasil Tindak Pidana Harus Dikelola Unit Manajemen Aset," HukumOnline, June 21, 2023, <https://www.hukumonline.com/berita/a/barang-sitaan-hasil-pidana-harus-dikelola-unit-manajemen-aset-lt649313610cdel/>.

to cover losses incurred as a result of criminal acts of corruption and money laundering.

CONCLUSION

Based on the results of the research and discussion, it can be concluded that enacting the Asset Confiscation Bill could be the main legal framework for the state to strengthen efforts to eradicate corruption and money laundering crimes by confiscating assets obtained as a result of both crimes without having to wait for a final criminal decision. The confiscation bill is a legal solution to cover legal loopholes for perpetrators of criminal acts; by confiscating and seizing assets, the state can certainly return state losses and provide a deterrent effect to the perpetrators.

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