

The Urgency of Regulating Asset Confiscation Without Conviction for Effective Corruption Eradication

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Abstract

This study examines the urgency of establishing legal regulations regarding non-conviction-based asset forfeiture, or the confiscation of assets without conviction, in the Indonesian legal system. This mechanism is seen as a step towards reforming economic criminal law to address the weaknesses of the system, which has so far focused solely on punishing perpetrators. Many corruption cases are not followed by the restitution of state losses because the assets obtained from the crime have been hidden, diverted, or are no longer accessible through conventional criminal mechanisms. This study aims to examine the philosophical, juridical, and sociological foundations of this concept and formulate an ideal design that aligns with the principles of the rule of law and the Indonesian constitution.

The research approach used is a juridical normative one, with a review of various laws and regulations, policy documents, and comparative practices from other countries such as the United Kingdom, the United States, and Singapore. The analysis shows that the basis for implementing asset confiscation without conviction has international legitimacy through the United Nations Convention against Corruption (UNCAC), which Indonesia ratified through Law Number 7 of 2006. At the national level, the draft law on Asset Forfeiture, which has been included in the National Legislation Program, is an important momentum to close the legal vacuum in recovering assets resulting from criminal acts. This study concludes that regulating asset confiscation without conviction is crucial for increasing the effectiveness of corruption eradication while strengthening social justice. With strict judicial oversight, proportional standards of proof, and protection for parties acting in good faith, this mechanism does not conflict with human rights. Instead, this policy emphasizes the role of law as a means of restoring state finances and public welfare, while also embodying Indonesia's commitment to the principles of good governance and clean governance.

Keywords : Asset Confiscation Without Conviction, Corruption Eradication, Asset Recovery, Social Justice.

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Introduction

Corruption remains a major problem in Indonesia's legal system and governance. Although various legal reform efforts have been undertaken since the reform era, the practice of abusing power for personal gain continues to adapt and evolve alongside technological and global economic developments [1]. This situation raises serious questions about the effectiveness of available criminal law instruments, especially when conventional approaches based on punishing perpetrators are insufficient to effectively recover state financial losses [2].

Data from Transparency International shows that Indonesia's Corruption Perception Index remains at a low level compared to countries in the Southeast Asian region [3]. Furthermore, a report by Indonesia Corruption Watch (ICW) confirms that the number of corruption cases handled each year is not comparable to the value of state losses recovered [4]. This means that, in addition to law enforcement aspects against perpetrators, there is an urgent need to strengthen asset recovery mechanisms so that state losses due to corruption can be quickly recovered.

In the context of international law, the global community has recognized the importance of asset forfeiture mechanisms that do not always rely on criminal convictions. The United Nations Convention against Corruption (UNCAC), through Article 54 paragraph (1) letter c, encourages each country to consider implementing a non-conviction-based asset forfeiture system as an effective effort to recover assets resulting from crime [5]. This provision is followed by various good practice guidelines issued by the World Bank and the United Nations Office on Drugs and Crime (UNODC) through the Stolen Asset Recovery (StAR) initiative [6]. These two international documents emphasize that the non-conviction-based asset forfeiture approach can still be implemented without sacrificing the principle of due process of law, as long as the country prepares a transparent judicial oversight mechanism. Indonesia itself has ratified the UNCAC through Law Number 7 of 2006, which means the government has a moral and legal obligation to develop national instruments that support cross-border asset recovery [7]. However, to date, there is no law that comprehensively regulates non-conviction-based asset forfeiture. Efforts to recover assets still depend on the criminal mechanism as regulated in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, which places corruption assets as evidence that can only be confiscated after a court decision has permanent legal force [8].

These limitations cause the asset recovery process to be very slow. In many cases, corruptors flee, die, or transfer their wealth abroad before the legal process is completed. As a result, assets obtained from crime are difficult to access because our legal system does not yet recognize the confiscation of assets independently without a criminal conviction [9]. This condition has driven the urgency of creating a Law on Asset Confiscation, which has been included in the priority National Legislation Program (Prolegnas) and has become a major concern for law enforcement agencies and academics [10].

The concept of asset seizure without conviction is not new in international legal practice. The United Kingdom, for example, has implemented a civil recovery system through the Proceeds of Crime Act 2002, which allows the state to file a lawsuit against assets suspected of being derived from criminal acts without having to wait for the perpetrator's conviction [11]. In the United States, a similar system is known as civil forfeiture, regulated by 18 USC § 981 and 21 USC § 881, where authorities can seize property derived from crime based on civil evidence (preponderance of the evidence) [12]. In both countries, this mechanism has proven effective in recovering public assets without disregarding the rights of the rightful owner.

At the regional level, Singapore is also a successful example of implementing a similar mechanism through the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act which gives the courts broad powers to order the confiscation of proceeds of crime, even if the perpetrator is not present in court [13]. These countries emphasize that the

effectiveness of eradicating corruption depends not only on the punishment of the perpetrator, but also on the state's ability to remove the economic benefits from the crime itself [14].

In the Indonesian context, the discourse on non-conviction-based asset forfeiture has emerged since the publication of the Academic Paper on the Draft Law on Confiscation of Criminal Assets by the National Legal Development Agency (BPHN) in 2012 [15]. The academic paper emphasized that confiscation of assets without conviction is part of efforts to reform economic criminal law, as well as a strategy to close legal loopholes often exploited by perpetrators of corruption. This reform is considered urgent because existing legal instruments have not been able to provide an adequate deterrent effect against white collar crimes [16].

Philosophically, the concept of asset confiscation without conviction stems from the view that corruption is not only a matter for the individual perpetrator, but also a matter of distributive justice and restitution of state losses [17]. When assets resulting from crime remain in the hands of the perpetrator or a third party, the goal of substantive justice is not achieved. Therefore, asset confiscation is seen as a form of social restitution that restores the balance between the state and the injured community [18]. This perspective positions criminal law not merely as a means of retribution, but also as a means of reconstructing public economic justice.

However, the implementation of this mechanism must pay attention to the constitutional principles that guarantee the protection of citizens' property rights as regulated in Article 28H paragraph (4) of the 1945 Constitution [19]. Therefore, the confiscation of assets without a verdict must not be carried out arbitrarily. Clear regulations regarding evidentiary procedures, protection of third parties in good faith, and objection mechanisms against confiscation are absolute requirements so that this policy does not conflict with the principle of due process of law [20].

From a public policy perspective, asset confiscation without conviction also has strategic value in strengthening public trust in the state. Successful asset recovery will demonstrate the government's commitment to upholding social justice while simultaneously improving the morality of state administrators [21]. Furthermore, this policy can increase the state's fiscal capacity because the returned assets can be utilized for public purposes, such as education, health, and regional development [22].

Empirically, there are still a number of challenges in implementing this concept in Indonesia. First, our evidentiary system is still oriented towards proving the perpetrator's guilt, not the origin of the wealth [23]. Second, coordination between law enforcement agencies is not yet fully harmonious, so that the process of tracking and confiscating assets is often hampered by overlapping authorities [24]. Third, there is no transparent mechanism for managing assets after confiscation or seizure, which has the potential to give rise to new abuses [25]. All of this shows that the urgency of regulating confiscation of assets without a conviction lies not only in the legal substance, but also in the institutional governance that will implement it.

Considering these various factors, regulating asset confiscation without conviction is an urgent need for Indonesia to increase the effectiveness of corruption eradication. This regulation is not intended to replace the existing criminal justice system, but rather to complement it with legal instruments that are more adaptive to the complexities of modern economic crimes [26]. As proven in various countries, the existence of laws on asset confiscation without conviction can accelerate the recovery of public assets and strengthen the integrity of the legal system [27].

Therefore, this study seeks to examine in depth the urgency of regulating asset confiscation without conviction in Indonesia, by reviewing international practices, normative foundations, and implications for the national legal system. This study is expected to provide conceptual contributions to national criminal law reform and provide input for policymakers in formulating just and effective regulations in combating corruption [28].

Literature Review

The regulatory framework regarding asset confiscation in Indonesia is still scattered across various sectoral laws. Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption is the primary basis governing the confiscation and seizure of evidence in criminal proceedings [1]. Article 18 of the Corruption Law authorizes the court to order the confiscation of assets resulting from corruption after the perpetrator has been found guilty. However, this regulation is conviction-based, meaning that confiscation can only be carried out after a final and binding criminal decision [2].

In addition, Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (UU TPPU) authorizes investigators, prosecutors, and judges to freeze and confiscate assets suspected of originating from predicate crimes [3]. Although it appears to open up space for action without waiting for a verdict, the practice still requires proof of the predicate crime, thus not fully fulfilling the principle of non-conviction-based asset forfeiture [4]. In terms of international cooperation, Indonesia has a legal basis through Law Number 1 of 2006 concerning Mutual Legal Assistance. This regulation regulates the mechanism for requesting and providing assistance between countries in tracking, freezing, and confiscating assets resulting from cross-border crimes [5]. However, this provision is still procedural in nature and does not regulate the substantive mechanism for confiscating assets without a verdict at the national level [6].

Ratification of the United Nations Convention against Corruption (UNCAC) through Law Number 7 of 2006 is an important milestone for the harmonization of national law with international standards. Article 54 paragraph (1) letter c of the UNCAC confirms that state parties can take the necessary steps to enable the confiscation of assets without a criminal conviction if the perpetrator dies, flees, or cannot be found [7]. This provision constitutes international legal legitimacy for the development of a non-conviction based asset forfeiture system in Indonesia [8].

The National Legal Development Agency (BPHN) responded to this need by drafting an Academic Draft Law on Criminal Asset Confiscation (RUU Perampasan Aset) in 2012. The draft explains that asset confiscation without conviction is a form of civil forfeiture based on proof of the assets, not the perpetrator's guilt [9]. The 2022 update of the academic draft emphasizes the urgency of establishing this law to expedite the recovery of assets resulting from criminal activity and increase the deterrent effect against economic crime [10]. The Asset Confiscation Bill itself has now been included in the Priority National Legislation Program. In the draft, asset confiscation is defined as the state's takeover of assets that are reasonably suspected of originating from criminal activity, through an independent judicial mechanism [11]. This regulation also stipulates the establishment of a special institution to manage confiscated assets, so that the proceeds can be used for the public interest and to avoid the loss of the assets' economic value [12].

Comparatively, regulations in other countries demonstrate a more advanced legal model. The United Kingdom regulates a civil recovery mechanism through the Proceeds of Crime Act 2002 (POCA), which allows the National Crime Agency to file an application for asset forfeiture with the high court without waiting for the perpetrator to be convicted [13]. This mechanism is *in rem*, namely a lawsuit against the object or property itself, not against the individual owner, with a balance of probabilities standard of proof [14]. The United States implements a similar system through Civil Forfeiture, which is regulated by 18 USC § 981 and 21 USC § 881. These regulations authorize federal agencies to seize assets used or obtained from criminal acts without requiring a criminal conviction against the perpetrator [15]. The courts still play a supervisory role to ensure that good-faith owners have the opportunity to raise a defense (innocent owner defense) [16].

Meanwhile, Singapore has integrated asset confiscation without conviction into the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (CDSA). Through this regulation, the court can order the confiscation of assets related to serious crimes even before the perpetrator is tried, as long as there is strong evidence that the assets are the proceeds of crime [17]. This model has proven effective in suppressing financial crimes while maintaining legal certainty through strict judicial control [18]. At the normative level in Indonesia, the principles relevant to asset confiscation without conviction are also reflected in the Criminal Procedure Code (KUHP), specifically Article 46 which regulates the return of evidence, and Article 39 which contains the grounds for confiscation [19]. However, these provisions do not explicitly distinguish between criminal evidence and assets derived from crime, which can be confiscated separately, thus creating a legal vacuum in practice [20].

In addition to statutory regulations, the Supreme Court has also provided guidance through Supreme Court Circular Letter Number 1 of 2013 concerning Guidelines for Settling Requests for Confiscation of Evidence or Assets that Have Not Been Decided. This Circular Letter provides direction for judges to be able to consider requests for confiscation of assets even though the criminal case has not yet reached permanent legal force, as long as there is sufficient evidence [21]. Although it does not yet have the same force as a law, this policy shows a positive trend towards the implementation of the principle of non-conviction based asset forfeiture in national courts [22].

Regulations regarding the management of assets resulting from criminal acts are also strengthened by Presidential Regulation Number 75 of 2020 concerning the Management of State Property Originating from Confiscated State Goods and Gratuities. This Presidential Regulation assigns the Directorate General of State Assets to manage confiscated assets through auction mechanisms, grants, or direct use for the public interest [23]. Although it does not regulate aspects of determining confiscation, this regulation is important to ensure post-confiscation accountability [24]. In terms of oversight and accountability, the Asset Forfeiture Bill also includes provisions for the establishment of a special asset management unit under the Ministry of Finance and the Attorney General's Office. This is modeled on the systems implemented in the United States through the Asset Forfeiture Fund and in the United Kingdom through the Asset Recovery Incentivization Scheme, which guarantee the return of confiscated proceeds to the community [25]. Thus, the Indonesian draft regulation does not stand alone, but seeks to adapt to international best practices [26].

Research Methodology

This research uses a normative juridical approach, namely an approach that examines law as a written norm that applies in society and is used as a basis for analyzing a legal problem [28]. This approach is used to examine the synchronization between various laws and regulations related to the mechanism of asset confiscation without a verdict and its conformity with the principles of international law regulated in the United Nations Convention against Corruption (UNCAC) [29].

This type of research is descriptive qualitative, with the aim of describing and analyzing the concepts, principles, and legal regulations applicable in the Indonesian legal system compared to practices in other countries such as the United States, England, and Singapore [30]. A comparative law approach is used to assess the extent to which the non-conviction based asset forfeiture model can be adopted into the national legal system without violating constitutional principles, especially the protection of property rights and due process of law [31].

The legal materials used consist of primary legal materials, including laws, draft laws, international conventions, and court decisions; secondary legal materials, in the form of books, scientific journals, research results, and official reports from international and national institutions; and tertiary legal materials, in the form of legal dictionaries and encyclopedias

[32]. The legal materials collection technique is carried out through library research, while data analysis is carried out qualitatively by interpreting legal norms and linking them to general legal theories and principles. The results of the research are expected to provide strong legal arguments for lawmakers in formulating regulations on asset confiscation without a conviction in Indonesia [33].

Results

The Basis and Urgency of Regulating Asset Confiscation Without a Conviction in the Indonesian Legal System

Efforts to eradicate corruption in Indonesia face serious challenges when the prevailing legal mechanisms are solely oriented toward punishing perpetrators (conviction-based system) and have not yet made asset recovery a primary goal of law enforcement [1]. Many corruption cases that have gone through lengthy judicial processes have not resulted in the actual recovery of state losses because the assets resulting from the crime have been diverted, hidden, or released outside national jurisdiction [2]. In this context, the idea arose to establish a legal system that allows the state to seize assets resulting from crime even without a criminal verdict against the perpetrator. Legally, the concept of non-conviction-based asset forfeiture has not been explicitly regulated in Indonesian legislation. Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption only provides a basis for the court to order the confiscation of assets after the perpetrator has been found guilty through a final and binding decision [3]. This attachment to a criminal verdict often hinders the effectiveness of asset recovery because during the lengthy judicial process, assets have changed hands or their value has decreased drastically [4]. As a result, the goal of returning state finances is difficult to achieve, while the social burden of corruption continues to be borne by society.

From another positive legal perspective, Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering does indeed authorize law enforcement to freeze and confiscate assets suspected of originating from criminal acts. However, this mechanism still relies on proving the predicate offense and does not stand alone [5]. Therefore, the Indonesian legal system is still oriented towards proving the perpetrator's guilt, not the origin of the assets. From a constitutional perspective, the idea of confiscating assets without a conviction can actually be seen as in line with the mandate of the 1945 Constitution. Article 28D paragraph (1) guarantees fair legal certainty, and Article 33 paragraph (4) affirms the principles of justice and national economic efficiency [6]. A state that allows the proceeds of crime to remain in the hands of the perpetrator or other parties means failing to protect the rights of the community to obtain the economic benefits they deserve. Therefore, the regulation of confiscation of assets without a conviction is not a form of arbitrariness, but rather the implementation of the constitutional responsibility to uphold social justice.

Internationally, the legitimacy of this mechanism comes from the United Nations Convention against Corruption (UNCAC), which Indonesia has ratified through Law Number 7 of 2006. Article 54 paragraph (1) letter (c) of the UNCAC states that the state can implement asset confiscation without a criminal sentence if the perpetrator flees, dies, or cannot be tried [7]. The convention also requires state parties to develop an effective legal system to recover assets resulting from cross-border corruption. Thus, Indonesia is obliged to adjust its national regulations to align with international standards [8].

As a follow-up, the National Legal Development Agency (BPHN) in 2012 drafted an Academic Draft of a Draft Law on Confiscation of Criminal Assets, which was then updated in 2022 [9]. The draft emphasized that economic crimes require asset recovery instruments that do not always await a criminal verdict, considering that perpetrators often operate across borders and use complex financial structures. This bill also proposed the implementation of civil forfeiture or in rem proceedings, namely lawsuits against the object or property itself, not against the person [10]. Philosophically, confiscation of assets without a verdict is based on the

view that justice is not only measured by the punishment of the perpetrator, but also by the state's ability to eliminate the economic benefits arising from the crime [11]. The principle of crime should not pay serves as a moral basis for ensuring that all proceeds of crime are returned to the state for the welfare of society. In this case, asset recovery becomes part of the function of law as a means of social engineering to restore economic order and public morals [12].

From a sociological perspective, the presence of this mechanism is expected to restore public trust in the law. In many surveys, the public believes that law enforcement in corruption cases has not had a deterrent effect because perpetrators can still enjoy the fruits of their actions through family or third parties [13]. The policy of confiscating assets without conviction sends a strong message that the state not only punishes individuals but also eliminates the profits arising from the crime itself [14].

In terms of procedural law, confiscation of assets without conviction requires proportional rules of proof. This system can use civil standards of proof, namely preponderance of evidence, which is lighter than beyond reasonable doubt, but still requires logical and measurable evidence [15]. In addition, a protection mechanism is needed for legitimate owners who are not involved, for example through the right to object and the defense of good faith parties (innocent owner defense) so that the principle of due process of law is maintained [16]. Such regulations also do not conflict with the guarantee of property rights in Article 28H paragraph (4) of the 1945 Constitution, because property rights are not absolute rights and can be limited by law in the public interest. With strict judicial control, confiscation of assets without conviction actually strengthens the rule of law by ensuring that wealth derived from criminal acts is no longer circulating in society [17].

The experiences of several countries demonstrate the effectiveness of this mechanism. The United Kingdom, through the Proceeds of Crime Act 2002, implemented a civil recovery system that allows law enforcement agencies to file lawsuits for the confiscation of assets obtained from crime without waiting for the perpetrator to be convicted [18]. The United States regulates civil forfeiture in 18 USC § 981 and 21 USC § 881, giving the state the authority to seize assets related to crime while still guaranteeing the rights of third parties acting in good faith. Meanwhile, Singapore, through the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act, implemented a similar mechanism with strict court oversight [19]. These three models demonstrate that a non-conviction-based asset forfeiture system can operate effectively without violating human rights as long as it is designed with the principles of transparency and accountability. For Indonesia, the implementation of this mechanism has dual strategic value. First, as a means to accelerate asset recovery and close legal loopholes that have been exploited by perpetrators of economic crimes. Second, as a manifestation of commitment to clean and transparent governance [20]. With clear legal regulations, coordination between law enforcement agencies can be strengthened, and state confiscations can be managed professionally for the public interest.

Challenges, Implications, and Ideal Design of Asset Forfeiture Regulations Without Conviction in Indonesia

The implementation of the concept of non-conviction-based asset forfeiture (NCB-AF) in the Indonesian legal system faces a number of serious challenges, both from a legal, institutional, and national legal policy perspective [21]. The main challenge lies in how to balance the effectiveness of asset recovery and the protection of citizens' constitutional rights. This is because the mechanism of confiscation without a verdict essentially directly touches on ownership rights, the right to justice, and the principle of presumption of innocence, which are the foundations of modern criminal law [22]. From a normative perspective, the main problem arises from the absence of a law that explicitly regulates the procedures, standards of proof, and methods for implementing asset confiscation without a criminal court decision. Provisions in the Corruption Eradication Law and the Money Laundering Law are still limited, as they require

prior proof of the perpetrator's guilt [23]. This legal vacuum often causes efforts to confiscate or seize assets to be questioned because they are considered to exceed the authority of law enforcement, while also raising doubts among the authorities themselves about executing confiscation actions proactively [24].

Furthermore, conceptual problems also arise from the disharmony between the criminal and civil legal systems in Indonesia. In criminal law, the basis for proof is beyond reasonable doubt, whereas in civil forfeiture, proof is based on the balance of probabilities [25]. This difference in standards requires clear regulations to prevent conflicts of authority between institutions or confusion in the courts. The design of the new law needs to ensure that the process of asset confiscation without a conviction remains subject to judicial oversight and the principle of due process of law, so that legal legitimacy is maintained [26]. The next challenge lies in the institutional aspect. To date, the process of tracking, confiscating, and managing assets resulting from crime involves many institutions: the Police, the Prosecutor's Office, the Corruption Eradication Commission (KPK), and the Directorate General of State Assets (DJKN) of the Ministry of Finance [27]. This fragmentation of authority creates overlapping functions and slows down the management of confiscated assets. The Asset Forfeiture Bill, which has been included in the National Legislation Program, seeks to address this problem by establishing a special institution to manage state assets resulting from crime that is independent and directly responsible to the president [28]. This institution is expected to become a national coordination center in asset recovery management, starting from tracking, confiscation, to optimizing asset utilization for the public.

From a technical implementation perspective, challenges also arise in the ability of law enforcement to conduct financial investigations and asset tracing. Many cases indicate that assets obtained from corruption have been diverted abroad or disguised through business and property investments in the names of other parties [29]. Therefore, strong financial analysis capacity and cross-jurisdictional cooperation are needed. Strengthening the capacity of investigators, prosecutors, and auditors in tracing financial transaction traces is a crucial requirement to ensure that asset confiscation does not merely stop at the normative realm [30]. Beyond the institutional aspect, there is also the issue of legal culture. Indonesian legal culture tends to place criminal punishment as the highest form of justice, while restitution of state losses is not yet seen as an integral part of the justice process [31]. As a result, the concept of asset confiscation without conviction is often misinterpreted as authoritarian or contrary to human rights. However, if designed with strict judicial control, this mechanism actually strengthens substantive justice by eliminating the proceeds of crime that damage the moral foundations of the nation's economy [32]. The implications of implementing asset confiscation without conviction can be seen from three main dimensions: legal, economic, and social. From a legal perspective, this mechanism broadens the scope of the law enforcement system from focusing on the perpetrator to focusing on the proceeds of crime. Thus, the legal system moves from a retributive approach to a restorative approach that restores the rights of the state and society [33]. Economically, successful asset recovery contributes directly to state revenue and can be used to fund public programs. Socially, this policy reinforces public morale that corruption crimes will not provide any benefits, either to the perpetrator or his family [34].

In designing the ideal design for asset confiscation without conviction, there are several principles that need to be used as a reference. First, the principle of proportionality and legality, namely that confiscation can only be carried out based on law with a legitimate purpose and commensurate with the severity of the violation of the law. Second, the principle of accountability and transparency, which requires that all acts of confiscation, seizure, and management of assets be supervised by the courts and independent public institutions. Third, the principle of protecting the rights of third parties acting in good faith, through objection and appeal mechanisms in court so that confiscation does not extend to legally acquired assets [35]. The fourth principle is institutional effectiveness, which requires the establishment of a

confiscated asset management unit with full authority and professional capacity. This institution not only functions administratively, but also has the legal authority to follow up on the results of cross-agency financial investigations. With a special institution, confiscated assets can be immediately utilized, auctioned, or returned to the state without waiting for a lengthy bureaucratic process. In addition, management results must be reported periodically to the public to ensure public trust in the system [21].

Based on international experience, several principles can be adapted to the Indonesian system. The United Kingdom, for example, implements a civil recovery mechanism with evidence presented in a high court and very strict judicial oversight. The United States separates criminal forfeiture from civil forfeiture, with the confiscated proceeds being deposited into an Asset Forfeiture Fund for the public benefit. Singapore, meanwhile, emphasizes multi-layered oversight by both the courts and anti-corruption agencies to ensure that no violations of citizens' property rights occur. These practices demonstrate that the success of the NCB-AF depends on a balance between effectiveness and the protection of legal rights [22]. In the context of national legal policy, the establishment of a law on asset forfeiture without conviction would be an important step towards a modern and adaptive legal system. Indonesia needs to position asset recovery as the third pillar in eradicating corruption, alongside prosecution and prevention. This approach will not only accelerate the recovery of state losses but also improve the legal image in the eyes of the public and international community. Through a transparent, just, and accountable mechanism, the law will truly serve as a means of restoring economic and social justice to the nation.

Conclusion

This study shows that non-conviction-based asset forfeiture regulations or the confiscation of assets without conviction are an urgent need in the Indonesian legal system. This mechanism emerged because the existing law enforcement system still relies on criminalizing perpetrators, while the recovery of state losses is often hampered by the lengthy judicial process and the limited authority of law enforcement agencies [23]. With the concept of confiscation of assets without conviction, the state can eliminate the economic benefits of crime and ensure that the proceeds of corruption are no longer enjoyed by perpetrators or other parties [24]. Legally, the basis for the formation of this law is in line with the constitutional mandate and Indonesia's international commitment as a state party to the United Nations Convention against Corruption (UNCAC). Article 54 paragraph (1) letter c of the convention provides legal legitimacy to confiscate assets resulting from criminal acts without waiting for a criminal verdict, provided that the process is supervised by an independent court and guarantees the protection of the property rights of parties acting in good faith [25]. From a philosophical and sociological perspective, confiscation of assets without conviction reflects the state's efforts to restore the balance of social justice by restoring the economic rights of people who have been robbed by corruption. On the other hand, institutionally, this regulation will strengthen coordination between law enforcement agencies and ensure transparent and accountable management of confiscated assets. With a proportional legal design that combines effective law enforcement with the protection of citizens' rights, asset confiscation without conviction can be a crucial instrument in building a national legal system that is firmer, fairer, and oriented toward the public good.

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