

Reconstruction of Confiscation of Corruption Convicts' Assets in Restitution of State Financial Losses Islamic Law Analysis

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Abstract. *Corruption is an extraordinary crime that harms state finances and hinders national development. One of the main strategies in eradicating corruption is the confiscation of assets resulting from criminal acts to recover state losses. However, the implementation of asset confiscation in Indonesia still faces various obstacles, including ineffective regulations, complicated legal procedures, and weak coordination between law enforcement agencies. This study analyzes the main obstacles in the implementation of asset confiscation based on positive law and Islamic law and formulates a legal reconstruction that can increase the effectiveness of asset recovery from corruption. This study uses a normative legal method with a descriptive-analytical approach, comparing applicable regulations and their implementation in Indonesia. The results of the study indicate that asset confiscation is not optimal due to the difficulty of proving the origin of assets, the use of third parties in hiding assets, and the absence of a Non-Conviction Based Asset Forfeiture (NCB) mechanism. From an Islamic legal perspective, confiscation of assets resulting from crime is in line with the principles of justice and welfare, as emphasized in QS. Al-Baqarah: 188 and the hadith of the Prophet Muhammad SAW which requires the return of property resulting from injustice. As a recommendation, this study proposes the implementation of the NCB mechanism, strengthening international cooperation in asset tracking, reforming evidence by shifting the burden of proof, and optimizing the management of confiscated assets for the public interest according to the principle of maslahah in Islamic law. With this approach, it is hoped that asset confiscation can become a more effective instrument in eradicating corruption and restoring state finances.*

Keywords: *Asset; Islamic; Confiscation; Corruption.*

1. Introduction

The development of the era and globalization have driven changes in various aspects of life, including in the world of crime. Economic crimes, such as corruption and money laundering, have evolved with increasingly sophisticated modus operandi, utilizing

technology to hide and divert assets from crime. One of the main strategies in eradicating economic crimes is to cut off the perpetrator's financial sources through asset confiscation.(Edison 2023)Corruption in Indonesia has become a disease that is deeply rooted in the social and political system. Since the Old Order, New Order, to the Reformation era, various regulations and policies have been implemented, but corrupt practices continue to occur massively. MPR Decree No. XI/MPR/1998 emphasizes the importance of clean governance free from corruption, collusion, and nepotism (KKN).(Ronaldo Galang 2023)However, data from Indonesia Corruption Watch (ICW) shows that state financial losses due to corruption continue to increase from year to year, while the return figure for corrupted assets is far from optimal.

One of the main problems in recovering state assets from corruption cases is the difficulty in tracing and confiscating the proceeds of crime. The proceeds of corruption have often been transferred to third parties or hidden abroad, making them difficult for law enforcement to trace. As a result, even though many corruptors have been punished, the state still suffers huge losses because the corrupted assets have not been fully returned.(Sudarmanto, Chairilian, and Sukarna 2023)

In the context of positive law, Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption stipulates that corruptors must pay compensation in the amount of the state losses incurred. However, the effectiveness of this regulation is still questionable, because many corruption convicts are unable to pay compensation, and the legal system does not have an effective mechanism to ensure that the assets are actually confiscated and returned to the state.

In addition, Islamic law also has strong principles in dealing with corruption cases. In Surah Al-Baqarah verse 188, Allah says:

Do not consume the wealth between yourselves in a false way and (do not) take the matter of the property to the judge with the intention that you may consume some of the other person's property in a sinful way, even though you know. (QS. Al-Baqarah: 188)

This verse shows that taking other people's property illegally, including through corruption, is an act that is forbidden in Islam. Therefore, the mechanism for returning assets from corruption must also consider the principle of justice in Islamic law, namely ensuring that only property that truly comes from the proceeds of corruption can be confiscated by the state.

Based on the background above, this research is very important to discuss for several main reasons:

1. Corruption Damages the Economy and Society: Corruption causes social inequality, reduces public trust in the government, and hampers economic growth. Funds that should be used for the welfare of the people are instead misappropriated by a handful of people who abuse their power.
2. Ineffectiveness of Asset Confiscation in Positive Law: Currently, positive law in Indonesia does not have a strong mechanism to ensure that all assets resulting

from corruption are truly returned to the state. Article 18 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 only stipulates that corruption convicts are required to pay compensation, but does not regulate in detail the mechanism for asset confiscation if the convict is unable to pay compensation.

3. The Need for an Islamic Law-Based Approach: Islam teaches that ill-gotten wealth must be returned to those who are entitled to it. In a hadith narrated by Abu Daud, the Messenger of Allah (PBUH) said:

Whoever takes someone else's rights unjustly, then on the Day of Resurrection he will bear them as a burden. (HR. Abu Daud)

Based on this principle, the Islamic legal approach can provide an alternative solution in the confiscation of assets resulting from corruption. One of the principles in Islamic law is that illicit assets must be returned to those entitled to them, in this case the state as the representative of the people.

4. Legal Reconstruction to Ensure Effective Asset Recovery One of the weaknesses in the current Indonesian legal system is the absence of clear standards in the process of confiscating corruptors' assets, especially in cases where the assets have been transferred to other parties. Legal reconstruction is needed to ensure that the asset confiscation mechanism runs effectively and does not violate human rights.

In positive law, the confiscation of corruptors' assets is regulated in several regulations, including:

1. Article 10 Paragraph (2) letter b of the Criminal Code → Regulates that confiscation of confiscated goods is an additional punishment determined by the court.
2. Article 39 of the Criminal Procedure Code → Regulates items that can be confiscated.
3. Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 → Article 18 regulates additional penalties in the form of confiscation of assets resulting from corruption.
4. Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering (TPPU) → Allows for the confiscation of assets resulting from criminal acts that have been laundered through various financial transactions.

However, in practice, this regulation has not been implemented effectively due to weak coordination between law enforcement agencies and difficulties in proving the origin of assets obtained from corruption. (Juliani and Lubis 2023) This study focuses on two main issues: first, identifying and analyzing obstacles in the implementation of corruption asset confiscation in Indonesia; second, formulating a legal reconstruction that allows for effective integration between positive law and Islamic law to strengthen the process of asset return and compensation for state financial losses. (Zebua, Jauhari, and Siregar 2008) Through this approach, it is hoped that this research can provide concrete and

practical recommendations to increase the effectiveness of corruption eradication in Indonesia, in line with the values of justice and economic sustainability.

2. Research Methods

Corruption in Indonesia has developed into a systemic problem that requires a comprehensive eradication approach, including through asset confiscation. Obstacles in the implementation of asset confiscation include complicated bureaucratic procedures and difficulties in executing decisions. In this study, a normative legal method is applied to analyze related legislation and examine legal doctrines relevant to the issue of asset confiscation. This analysis focuses on the return of corrupt assets that not only support the eradication of corruption but also restore state finances. This study also integrates positive legal views with Islamic legal principles, which consistently prohibit corruption, as a basis for increasing the effectiveness of asset confiscation in the context of Indonesian law.

This study uses a normative legal approach, with analytical descriptive analysis techniques to evaluate and compare the application of legal norms in corruption cases, and uses a comparative approach to gain an international perspective.(Indra Utama Tanjung 2024)Primary sources include national legislation, and secondary data includes academic literature and expert opinions, all of which are expected to produce operationalizable recommendations to strengthen the legal framework for recovering fraudulent assets and improve social justice and state finances.

3. Results and Discussion

3.1. Style and Model of Corruption Eradication in Indonesia

The Old Order era was the beginning of efforts to eradicate corruption in Indonesia. At this time, the regulations in the Criminal Code were considered insufficient to handle the increasingly rampant corruption cases. The first effort was made by issuing Regulation No. Prt/PM-06/1957, which was later updated through Regulation No. Prt/PM-08/1957, giving greater authority to the military to confiscate assets suspected of being the result of corruption.(Mustaghfirin and Efendi 2016)

The government then issued Law No. 74 of 1957 concerning the State of Emergency, which became the basis for the formation of the State Apparatus Retooling Committee (PARAN).(Ristamana 2022)This institution was led by AH Nasution and aimed to clean up the bureaucracy of corrupt officials, but faced resistance from various parties.

In 1960, the government issued Government Regulation in Lieu of Law (Perppu) No. 24 of 1960, which was later ratified as Law No. 1 of 1961, as an effort to overcome the weaknesses of the previous regulation. Furthermore, Operation Budhi was formed based on Presidential Decree No. 275 of 1963. However, political factors and government instability caused the effectiveness of corruption eradication efforts to be low.

Overall, corruption eradication in this era was hampered by weak regulations, unpreparedness of the legal system, and political intervention that made law enforcement less than optimal. Entering the New Order era, President Soeharto

emphasized his commitment to eradicating corruption. The initial step was taken with Presidential Decree No. 28 of 1967, which formed the Corruption Eradication Team (TPK), with the Attorney General as chairman. The TPK was directed to prosecute corruption cases that occurred in BUMN such as Pertamina and Bulog.

However, the effectiveness of TPK was doubted when major cases, such as the alleged corruption in Pertamina by Ibnu Sutowo, were not followed up seriously. As a result, in 1970, there was a wave of massive demonstrations demanding legal reform against corruption. (Nurdin¹ et al., nd) The government responded with Law No. 3 of 1971 on the Eradication of Criminal Acts of Corruption, which strengthened the authority to confiscate assets resulting from corruption. In addition, Committee 4 was formed with members of senior figures such as M. Hatta, Prof. Johannes, and Mr. Wilopo. However, this Committee was unable to produce significant results due to strong political intervention and their weak legal position.

In 1977, the government formed Operation Tertib through Presidential Instruction No. 9 of 1977, led by Admiral Sudomo. However, this initiative also did not bring significant changes because corrupt practices had become entrenched in the government system. In general, the eradication of corruption in the New Order era failed to achieve significant results because the authoritarian political system tended to protect corruptors who were close to power.

The 1998 reformation was a turning point in the eradication of corruption in Indonesia. President BJ Habibie began the reform efforts by issuing MPR Decree No. XI/MPR/1998, which emphasized the importance of a government free from corruption, collusion, and nepotism. This was reinforced by Law No. 28 of 1999 which introduced the State Officials' Wealth Supervisory Commission (KPKPN) and the Ombudsman Institution.

However, the Habibie administration was criticized for failing to resolve major corruption cases, especially regarding the investigation into Soeharto which was stopped. This continued into the era of President Abdurrahman Wahid (Gus Dur), who formed the Joint Corruption Eradication Team (TGPTPK) through PP No. 19 of 2000. Unfortunately, this institution was dissolved by the Supreme Court because it was considered to be in conflict with Law No. 31 of 1999. (Hasibuan, Tanjung, and Panjaitan 2024) During Megawati Soekarnoputri's administration, the Corruption Eradication Commission (KPK) was established based on Law No. 30 of 2002, which became a major milestone in eradicating corruption in Indonesia. However, there are still many major cases that have not been resolved, especially related to conglomerates who have managed to avoid the clutches of the law for various reasons. (Mulkan and Aprita 2023)

In the era of Susilo Bambang Yudhoyono (SBY), corruption eradication gained new momentum with the issuance of Presidential Instruction No. 5 of 2004, which strengthened coordination between institutions in eradicating corruption. SBY also formed the Corruption Eradication Team through Presidential Decree No. 11 of 2005, which succeeded in saving a large amount of state finances. However, challenges such as political intervention and corruption in the judicial sector remain major obstacles.

SBY also launched the Presidential Instruction No. 9 of 2011 and Presidential Instruction No. 17 of 2011, which emphasize the prevention of corruption in various state institutions. Then, Presidential Regulation No. 55 of 2012 was issued to form a long-term

strategy for eradicating corruption until 2025, with a focus on prevention, law enforcement, and regulatory harmonization. In the process of eradicating corruption, one aspect that has caused controversy is the confiscation of assets resulting from corruption. In Article 18 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001, confiscation of assets is part of additional criminal penalties. However, this regulation contradicts Articles 3, 4, 5, and 8 of Law No. 39 of 1999 concerning Human Rights, which guarantee a person's right to ownership. In addition, this provision also contradicts Article 28 of the 1945 Constitution and Article 10 of the Criminal Code and Articles 38 and 46 of the Criminal Procedure Code.

The policy of confiscating assets that do not originate from criminal proceeds is considered to be able to create legal uncertainty and injustice in law enforcement practices in Indonesia. If the law is made the commander, then the procedure must still respect the principles of legal certainty and justice. The eradication of corruption in Indonesia has experienced significant developments from the Old Order, New Order, to the Reformation era. However, various obstacles such as ineffective regulations, political intervention, and weak law enforcement are still the main challenges. Legal reconstruction of the confiscation of assets from corruption needs to be carried out by paying attention to the principles of legal certainty, protection of human rights, and the effectiveness of returning state assets. In addition, efforts to eradicate corruption must include a preventive approach, firm law enforcement, and harmonization of national and international regulations in order to run more effectively.

3.2. Obstacles in the Implementation and Enforcement of Asset Confiscation for Corruption Crimes in Indonesia

Economically motivated crimes, including corruption, are increasingly developing in more complex forms. These crimes not only involve individuals in the national scope, but also have a transnational dimension. (Mulkan and Aprita 2023) Therefore, eradicating criminal acts of corruption is not sufficient by merely imposing corporal punishment, but must also be accompanied by confiscation of assets obtained from the proceeds of the crime.

Asset confiscation in Indonesian law has been regulated in several laws and regulations. One of them is the Criminal Code (KUHP), which in Article 10 letter b states that one of the additional penalties that can be imposed is the confiscation of certain goods.

Furthermore, Article 39 paragraph (1) of the Criminal Code states:

Items that have been used to commit a crime or obtained from a crime may be confiscated.

Meanwhile, in the Criminal Procedure Code (KUHP), Article 39 paragraph (2) regulates:

Confiscation can also be carried out on goods obtained from crime even though the perpetrator cannot be punished.

Confiscation of assets resulting from criminal acts of corruption is specifically regulated in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the

Eradication of Criminal Acts of Corruption (Corruption Law). Article 18 paragraph (1) letter a states:

Confiscation of movable or immovable property obtained from criminal acts of corruption, including companies owned by convicts, can be carried out as part of additional criminal sanctions.

In addition, Article 38 paragraph (5) of the Corruption Eradication Law states:

Confiscation of assets can still be carried out even if the defendant dies before a court decision is made, as long as there is sufficient evidence that the assets originate from criminal acts of corruption.

In the context of money laundering, Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (UU TPPU) gives investigators the authority to freeze and seize assets suspected of originating from crime. Article 67 paragraph (1) states:

PPATK has the authority to temporarily stop transactions that are known or suspected to be related to the proceeds of criminal acts.

Meanwhile, Article 67 paragraphs (2) and (3) regulate the mechanism for submitting an application to the district court to declare the asset as state property. (Prasetyo 2024) The government has drafted the Asset Confiscation Bill (RUU), which aims to accelerate and strengthen the mechanism for confiscating assets from corruption crimes. Article 1 number 3 of the Asset Confiscation Bill defines that:

Asset Confiscation is a coercive effort carried out by the state to confiscate criminal assets based on a court decision without being based on a punishment of the perpetrator.

The bill also adopts the concept of Non-Conviction Based Asset Forfeiture (NCB), whereby asset confiscation can be carried out even if there is no criminal verdict against the perpetrator. Article 14 states that:

Asset confiscation is carried out if the suspect dies, runs away, or his whereabouts are unknown.

In addition, assets that can be confiscated according to Article 2 of the Asset Confiscation Bill include:

1. Assets obtained directly or indirectly from criminal acts.
2. Assets that are used or have been used to commit a crime.
3. Replacement assets for criminal assets.
4. Assets that are found goods suspected of originating from criminal acts.

This bill is a progressive step in law enforcement, as it allows the state to follow up on asset seizures without having to wait for a lengthy criminal process that is often hampered by various factors. Although regulations are in place, the implementation of asset seizures still faces a number of obstacles, including:

a. Legal Obstacles

1. Long and complicated judicial process – In the Indonesian legal system, asset confiscation still has to go through a lengthy criminal justice process.
2. Complex evidence – Proving assets as proceeds of crime is often challenging, especially if the assets have been transferred or disguised through money laundering.

b. Political Obstacles

1. Legislative resistance – The Asset Forfeiture Bill has been proposed since 2012 but has not been passed, allegedly due to conflicts of interest among members of parliament potentially affected by the policy.
2. Lack of political support – Many officials have a vested interest in maintaining the status quo, so legal reform efforts are often hampered.

c. Technical Barriers

1. Difficulty in asset tracing – Many corruptors have already moved their assets abroad before being arrested, thus complicating the asset recovery process.
2. Lack of international cooperation – The seizure of assets held abroad is often hampered by differences in legal systems and a lack of bilateral cooperation.

4. Opportunities in Eradicating Corruption

Despite the challenges, there are several opportunities that can be exploited to increase the effectiveness of asset forfeiture:

1. Enhancing international cooperation – Implementation of Chapter V of the United Nations Convention Against Corruption (UNCAC) can be a basis for Indonesia in establishing cooperation with other countries in terms of asset tracking and confiscation.
2. Leveraging technology – The use of technologies such as blockchain and data analytics can help in tracking criminal assets more effectively.
3. Legal reform – By passing the Asset Forfeiture Bill, Indonesia can strengthen regulations and accelerate the recovery of assets resulting from corruption.

4. Increasing transparency and accountability – Strengthening anti-corruption institutions such as the KPK and increasing public oversight of law implementation can help ensure the effectiveness of asset forfeiture policies.

Asset confiscation is an important instrument in eradicating corruption. Although there are various regulations governing this mechanism, its implementation still faces various legal, political, and technical obstacles.(Saputro and Chandra 2021)The ratification of the Asset Confiscation Bill can be a solution to strengthen state asset recovery efforts. By leveraging international cooperation, technology, and legal reform, Indonesia can increase the effectiveness of asset confiscation as a key strategy in eradicating corruption.

In addition, the Islamic legal approach can also be integrated into the asset confiscation mechanism, emphasizing the principles of justice and restoration of public rights. Thus, asset confiscation is not only a means of punishment, but also a means to ensure that crimes do not provide economic benefits to the perpetrators.

3.3. Legal Reconstruction of the Confiscation of the Assets of Corruption Convicts in the Return of State Financial Losses in the Analysis of Positive Law and Islamic Law

Corruption is an extraordinary crime that has a major impact on the economic, political, and social welfare stability of a country. Indonesia as a country of law has implemented various regulations to eradicate corruption, including through Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, which regulates various forms of sanctions, including additional penalties in the form of confiscation of assets resulting from crime.(Laia et al. 2024)

However, the effectiveness of asset confiscation in recovering state financial losses still faces various obstacles, such as difficulties in providing evidence, the use of third parties in hiding assets, and limited regulations related to the mechanism of confiscation without criminal penalties (non-conviction based asset forfeiture/NCB).(Main 2022)In Islamic law, the concept of confiscation of property obtained through unlawful means is in line with the principles of justice and welfare, as emphasized in QS. Al-Baqarah [2]: 188:

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْخُلُوا بِهَا إِلَى الْحُكَّامِ لِتَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ

Do not consume the wealth between you in a false way and (do not) bring (the affairs of) the wealth to the judges with the intention that you can consume some of other people's wealth in a sinful way, even though you know.

In addition, the hadith of the Prophet Muhammad SAW states that the proceeds of crime must be returned to their rightful owners or used for the public good. Therefore, legal reconstruction in the confiscation of assets from corruption needs to consider a more comprehensive approach, both from positive law and Islamic law.

In the Indonesian legal system, confiscation of assets resulting from crime is regulated in various regulations, including:

1. Criminal Code Article 10 letter b: Regulates additional penalties in the form of confiscation of goods.

2. Law No. 31 of 1999 in conjunction with Law No. 20 of 2001: Affirms that the court may impose additional penalties in the form of payment of compensation and confiscation of assets of those convicted of corruption.
3. Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (TPPU): Regulates the mechanism for confiscating assets suspected of originating from economic crimes.
4. Supreme Court Regulation (Perma) No. 1 of 2013 concerning Procedures for Settlement of Applications for Confiscation of Evidence in Corruption and Money Laundering Cases.

Despite having sufficient legal basis, the implementation of asset confiscation still faces various obstacles such as:

- Complex evidentiary process: Proving the link between assets and criminal acts requires in-depth investigation and is often hampered by formal regulations.
- Increasingly sophisticated modus operandi: Corruptors often use the names of third parties, hide assets abroad, or use financial transactions that are difficult to trace.
- Lack of NCB Asset Forfeiture Regulation: Indonesia does not yet have a strong mechanism to seize assets resulting from corruption without waiting for a criminal verdict, unlike several countries that have implemented this approach to accelerate the return of assets to the state.

In Islamic law, the concept of confiscation of property obtained through unlawful means has a strong basis, both in the Qur'an, Hadith, and the opinions of Islamic jurisprudence scholars. Some of the main principles in Islamic law regarding confiscation of assets include:

1. Wealth obtained illegally has no legal protection.
 - QS. Al-Baqarah [2]: 188 → Prohibition of consuming wealth through vanity.
 - HR. Bukhari and Muslim → Prophet Muhammad SAW emphasized that wealth obtained through illegal means must be returned or used for the welfare of the community.
2. Concept of Ghashb (Unlawful Control of Property)
 - Imam Syafi'i and Imam Malik stated that the proceeds of crime must be returned to those who are entitled. If there is no legitimate owner, then the property must be used for social interests, such as infrastructure development or assistance to the poor.
 - Ibn Taimiyyah stated that the state leader (*ulil amri*) has the authority to confiscate and manage illegally obtained assets for the public good.
3. The Concept of *Ta'zir* in Corruption Punishment
 - In Islamic law, judges have the freedom (*ijtihad*) to impose punishment (*ta'zir*) on perpetrators of economic crimes. Punishment can be in the form of confiscation of assets, fines, or other forms in accordance with the principles of justice.
 - In practice, several countries that implement Islamic law, such as Saudi Arabia and Iran, use asset confiscation mechanisms as a form of *ta'zir* for perpetrators of corruption.

Based on the analysis of positive law and Islamic law, the reconstruction of the law on the confiscation of assets resulting from corruption can be directed at the following aspects:

1. Implementation of NCB Asset Forfeiture in National Regulations

- Indonesia needs to adopt a mechanism for asset confiscation without a criminal conviction (Non-Conviction Based Asset Forfeiture/NCB Asset Forfeiture) as implemented in the United States, United Kingdom, and Australia.
 - This regulation allows assets suspected of originating from corruption to be confiscated more quickly without having to wait for a lengthy judicial process.
2. Strengthening International Cooperation in Asset Recovery
 - Referring to the United Nations Convention Against Corruption (UNCAC) 2003, Indonesia needs to strengthen cooperation with other countries to track and recover assets hidden abroad.
 3. Application of the Maslahah Concept in the Management of Confiscated Assets
 - Assets that have been confiscated can be used for public benefit, such as education, health, or infrastructure development, in accordance with the principle of Maslahah Murlah in Islamic law.
 - This concept is supported by the views of Imam Al-Ghazali and Asy-Syatibi, who emphasize that the law must be directed towards achieving public welfare.
 4. Reform in Proving Corrupt Assets
 - There needs to be a shift in the burden of proof (reverse burden of proof) as implemented in countries such as Singapore and Hong Kong, where suspects are required to prove that their assets were obtained legally.
 5. Integration of Islamic Legal Sanctions in Positive Law
 - The concept of *ta'zir* in Islam can be used as a reference in imposing sanctions on perpetrators of corruption, especially in the form of confiscation of assets and their use for social interests.

Confiscation of assets from corruption is an important instrument in recovering state financial losses and providing a deterrent effect for perpetrators of crimes. However, its implementation still faces various obstacles in the Indonesian positive legal system.(Wijaya 2023)From an Islamic legal perspective, the confiscation of assets obtained illegally is part of the principles of justice and welfare.(Perdana, Aurellia, and Faridz 2024)Therefore, it is necessary to reconstruct the law that integrates the NCB Asset Forfeiture mechanism, strengthening international cooperation, reforming evidence, and implementing the principle of maslahah in managing assets resulting from corruption to increase the effectiveness of returning state losses.

4. Conclusion

The implementation of asset confiscation in corruption crimes in Indonesia faces various legal, institutional, and social obstacles. The main obstacles include complicated legal procedures, weak coordination between law enforcement agencies, and internal corruption within institutions that are supposed to eradicate corruption. In addition, a slow judicial system, lack of training for officers, and political and social pressure on investigators worsen the effectiveness of asset recovery efforts. Many cases show that assets resulting from corruption are difficult to confiscate because they have been transferred to third parties or hidden abroad, so that the process of returning state losses is not optimal. Therefore, regulatory improvements and more systematic strategies in asset confiscation are needed to increase the effectiveness of corruption eradication. As

a solution, replacement money must be made the main sanction, not just an additional one, to accelerate the recovery of state losses. The principle of joint liability needs to be applied more strictly so that all actors involved are held proportionally responsible. In addition, optimization of the role of prosecutors in the execution of asset confiscation must be strengthened, including through strict monitoring by the BPK and the use of information technology to increase transparency. Revision of the Corruption Law or the issuance of more detailed technical guidelines is also needed so that the asset confiscation process can run more effectively, provide legal certainty, and create a deterrent effect for perpetrators of corruption.

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