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The Legal Politics of Establishing the Asset Seizure Law: A New Strategic Paradigm for Combating Corruption and Economic Crimes in Indonesia

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Original Article

Abstract

This study examines the legal politics underlying the formation of the Asset Seizure Law in Indonesia as a strategic initiative to combat corruption and other economic crimes. Employing library research methods and a juridical-normative approach, the study explores the background, legal concepts, and the impact of legal politics on the regulation's development. The primary focus is a comprehensive analysis of the paradigm shift from a criminal to a civil approach, emphasizing the application of the principle of non-conviction-based asset forfeiture to expedite asset seizure without requiring a criminal conviction. The findings indicate that this law addresses technical and administrative challenges in asset seizure while balancing state interests with the protection of individual rights. With transparent and accountable regulations, the Asset Seizure Law is anticipated to enhance the effectiveness of law enforcement and bolster public trust in Indonesia's legal system.

Keywords: *Legal Politics, Asset Seizure, Corruption, Economic Crime*

Abstrak

Penelitian ini membahas politik hukum dalam pembentukan Undang-Undang Perampasan Aset di Indonesia sebagai upaya strategis pemberantasan korupsi dan tindak pidana ekonomi lainnya. Dengan menggunakan metode penelitian pustaka dan pendekatan yuridis-normatif, penelitian ini mengkaji latar belakang, konsep hukum, serta pengaruh politik hukum terhadap regulasi tersebut. Fokus utama terletak pada analisis komprehensif terkait pergeseran paradigma hukum dari pendekatan pidana ke perdata, termasuk penerapan prinsip *non-conviction based asset forfeiture* untuk mempercepat proses penyitaan aset tanpa menunggu putusan pidana. Hasil penelitian menunjukkan bahwa UU ini mampu memberikan solusi terhadap kendala teknis dan administratif dalam perampasan aset, sekaligus menyeimbangkan kepentingan negara dan perlindungan hak individu. Dengan regulasi yang transparan dan akuntabel, UU Perampasan Aset diharapkan dapat meningkatkan efektivitas penegakan hukum serta kepercayaan masyarakat terhadap sistem hukum Indonesia.

Kata kunci: *Politik Hukum, Perampasan Aset, Korupsi, Kejahatan Ekonomi*

1. INTRODUCTION

Indonesia confronts significant challenges in combating corruption, money laundering, and other financial crimes that adversely affect the nation's economy and social welfare.¹ A primary concern is the possession of illicitly acquired assets, frequently derived from corrupt practices perpetrated by both government officials and private entities.² These illegally obtained assets encompass criminal proceeds concealed in various forms, including real estate, securities, overseas investments, and anonymous banking arrangements that frequently elude detection by law enforcement authorities.

The imperative for asset seizure has intensified amid escalating fiscal losses attributable to corruption and related offenses. Asset Seizure serves not only as a punitive mechanism but also as a preventive measure, disrupting illicit financial flows and facilitating the recovery of misappropriated state resources. While Indonesia's legislative framework provides an adequate legal foundation for these enforcement efforts, implementation faces numerous obstacles, including insufficient interagency coordination, ambiguous legal precedents, and the challenge of balancing state interests with individual rights.³

The legal framework governing asset Seizure reflects Indonesia's institutional commitment to anti-corruption initiatives, as the state endeavors to reconcile national imperatives with the protection of individual legal rights. Enhanced regulatory clarity and improved institutional harmonization could significantly augment law enforcement effectiveness in asset seizure proceedings.⁴ Furthermore, strengthening oversight institutions is essential to ensure both substantive and procedural justice throughout legal proceedings. Law enforcement capabilities in asset seizure require additional reinforcement, particularly regarding technical and administrative capacities.⁵ An efficacious legal framework would ensure that illicit assets can be systematically identified and seized in accordance with applicable statutes while providing legal certainty to all stakeholders. This judicial predictability is crucial for fostering public confidence in Indonesia's justice system and law enforcement institutions, while simultaneously ensuring that asset seizure procedures do not impinge upon the legitimate rights of innocent parties.

The development of legislation within any nation is inextricably linked to the political dynamics that influence its formation. Legal policy, which encompasses the fundamental directives reflecting governmental political intent in the creation, modification, or repeal of existing laws, plays a pivotal role in achieving national juridical objectives. Legal policy encompasses governmental initiatives and strategies designed to establish a legal

¹ Agus Supriyadi, *Korupsi Dan Kebijakan Hukum Di Indonesia* (Jakarta: PT. Gramedia Pustaka Utama, 2020).

² Ulang Mangun Sosiawan, "Peran Komisi Pemberantasan Korupsi (KPK) Dalam Pencegahan Dan Pemberantasan Korupsi," *Jurnal Penelitian Hukum De Jure* 19, no. 4 (2019): 517–38, <http://dx.doi.org/10.30641/dejure.2019.V19.517-538>.

³ Satjipto Rahardjo, *Hukum Dan Masyarakat* (Bandung: Sinar Baru, 2018).

⁴ Sigit Pranoto, "Peran Penegak Hukum Dalam Pemberantasan Tindak Pidana Pencucian Uang Di Indonesia," *Jurnal Hukum & Pembangunan* 38, no. 2 (2019): 14–25.

⁵ Ahmad Ismail, "Aspek Hukum Perampasan Aset Dalam Tindak Pidana Korupsi," *Jurnal Studi Hukum Dan Kebijakan* 5, no. 1 (2020): 45–53.

framework consonant with the sociocultural and economic conditions of Indonesian society.⁶

Law enforcement represents the systematic effort to implement rule of law within society to achieve desired social order. The efficacy of law enforcement is contingent upon multiple variables, including statutory clarity, law enforcement integrity, and public participation and legal consciousness.⁷ Within this framework, the equilibrium between justice and legal certainty emerges as a critical consideration. Legal certainty constitutes an essential component of an effective legal system, while justice must be manifested in every application of law.⁸

The asset seizure law emerges as a legislative mechanism to combat corruption, money laundering, and economic crimes that adversely affect state interests. Although asset seizure provisions currently exist within various statutes, including the Anti-Corruption Law and Anti-Money Laundering Law, comprehensive legislation specifically addressing asset Seizure remains imperative.⁹ The Asset Seizure Bill, initially proposed in 2012, introduces three significant paradigmatic shifts: expanding legal jurisdiction to encompass proceeds of crime, implementing civil judicial mechanisms, and emphasizing profit recovery over criminal sanctions. This legislative proposal demonstrates Indonesia's commitment to implementing the United Nations Convention Against Corruption (UNCAC), ratified through Law No. 7 of 2006, while simultaneously strengthening the legal framework for recovering criminal proceeds.

This research endeavors to present a jurisprudential analysis of Indonesia's Asset Seizure Law and examine its implications for the national legal framework. Through an investigation of the legislative context and political foundations underlying the enactment of the Asset Seizure Law, this study seeks to elucidate the formulation and implementation of regulations designed to strengthen anti-criminal initiatives, with particular emphasis on corruption-related offenses. Furthermore, this investigation aims to evaluate the legislation's impact on fundamental principles of legal certainty and justice within the Indonesian juridical system, while assessing the extent to which these regulatory measures enhance the institutional integrity of law enforcement agencies in addressing asset-based criminal activities.

2. RESEARCH METHODOLOGY

This investigation employs bibliographic research methodology to analyze the jurisprudential politics underlying Indonesia's Asset Seizure Law formation. The methodological framework involves collecting, examining, and analyzing diverse scholarly

⁶ Mohammad Mahfud Mahmodin, *Politik Hukum Di Indonesia*, 3rd ed. (Jakarta: Rajawali Pers, 2010).

⁷ Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum* (Jakarta: Rajawali Pers, 2016).

⁸ Albert Lodewyk Sentosa Siahaan et al., "Legal Certainty of Gustav Radbruch Based on Tax Imposition on Land Acquisition and Building Rights on Sale and Purchase of Land and Building in Medan City," *International Journal of Religion* 5, no. 11 (2024): 2900–2907, <https://doi.org/10.61707/gvzncp60>.

⁹ Lily Solichul Mukminah et al., "The Importance of Regulating Non-Concivtion Based Forfeiture in Corruption Cases in Indonesia," *Iblam Law Review* 3, no. 2 (2023): 31–45, <https://doi.org/10.52249/ilr.v3i2.125>.

sources, including academic literature, peer-reviewed journals, statutory provisions, articles, and official documentation addressing asset Seizure legislation and legal policy frameworks in Indonesia. The research adopts a normative-juridical approach, emphasizing the analysis of legal concepts, regulatory principles, and political influences on policy formulation. This research seeks to identify the theoretical constructs, implementation challenges, and legal implications of the Asset Seizure Law within the national juridical framework. Data derived from diverse bibliographic sources undergo descriptive-analytical examination to provide comprehensive and thorough insights into the subject matter under investigation.

3. RESEARCH RESULT AND DISCUSSION

3.1. The Political and Legal Background of the Asset Seizure Law Formation

The formation of the Asset Seizure Law in Indonesia is closely related to the government's efforts to strengthen the legal enforcement system. This initiative is particularly aimed at addressing corruption and money laundering, which have proven to cause significant financial losses to the state. Such efforts underscore the government's commitment to combating crimes that have systemic impacts on the national economy.

Asset seizure goes beyond merely punishing criminals; it serves as a strategic approach with dual objectives: acting as a deterrent for offenders and providing a mechanism to recover state losses. By implementing asset seizure, it is expected to sever the chain of profits gained from illegal activities. Preventive aspects are also a primary focus in the application of asset seizure. When offenders are unable to enjoy the proceeds of their illegal actions, it creates a psychological effect, discouraging them from committing crimes.¹⁰ This approach has been proven effective in various countries as part of strategies to combat organized crime.

Currently, the implementation of asset seizure in Indonesia is based on two primary legal frameworks. The first is the Law on Corruption Crimes, which specifically regulates the handling of corruption cases. This law provides a legal basis for law enforcement agencies to seize assets connected to corruption offenses. In addition, the Law on Money Laundering Crimes serves as an equally significant legal foundation in the process of asset seizure. This law offers a broader legal framework, particularly for addressing cases involving the concealment or disguising of proceeds of crime through financial systems. Together, these two laws complement each other in providing the necessary legal instruments for effective asset seizure practices.

The current regulatory framework for asset seizure in Indonesia faces numerous obstacles in its implementation. This is evident in the ineffective handling of various issues related to assets derived from criminal activities. Such shortcomings highlight the urgent need for more comprehensive regulations, particularly those enabling asset Seizure without the necessity of awaiting the completion of criminal proceedings. Efforts to draft the Asset

¹⁰ Ismail, "Aspek Hukum Perampasan Aset Dalam Tindak Pidana Korupsi."

Seizure Law in Indonesia are closely tied to the country's international commitments.¹¹ A key foundation in this regard is Indonesia's participation in the United Nations Convention Against Corruption (UNCAC), which was formally ratified through Law No. 7 of 2006.

UNCAC strongly encourages participating nations to develop and adopt progressive regulatory measures. One of its significant recommendations is the establishment of mechanisms for asset Seizure that do not always rely on criminal convictions, commonly referred to as non-conviction-based asset forfeiture.¹² This approach provides greater flexibility in the enforcement process, enabling law enforcement agencies to confiscate assets strongly suspected of being derived from criminal activities without requiring a prior conviction. Such flexibility is particularly critical in cases where suspects attempt to destroy or conceal evidence. This tactic is frequently employed in major cases where perpetrators possess the resources and means to manipulate or erase incriminating evidence.

Additionally, non-conviction-based forfeiture is indispensable in situations where suspects flee abroad. In these cases, traditional criminal proceedings often encounter significant obstacles, while the need to confiscate illicit assets remains pressing. Such mechanisms ensure that state losses can be recovered and prevent perpetrators from benefiting further from the proceeds of their crimes. The enactment of the Asset Seizure Law represents a significant milestone for Indonesia's legal system, introducing a transformative paradigm shift. This change signifies an important evolution in how the legal system perceives and addresses crime, particularly with respect to assets derived from criminal activities.

The paradigm introduced by this law substantially broadens the scope of legal subjects it can address. Unlike earlier approaches, which primarily focused on individual criminal perpetrators, the new framework emphasizes the importance of targeting assets linked to criminal activities. This expanded scope empowers law enforcement to more effectively trace and confiscate criminally derived assets, irrespective of who currently possesses them.¹³

This approach stands in stark contrast to the traditional criminal law system previously implemented in Indonesia. Under the traditional framework, law enforcement efforts centered on punishing offenders through various criminal sanctions. While punitive measures are essential, they have often proven insufficient in addressing the critical issue of recovering losses caused by criminal acts.

A key innovation introduced by the Asset Seizure Law is the incorporation of a civil justice mechanism into the asset Seizure process. This represents a fundamental paradigm shift, as it reduces reliance on the criminal justice system, which is often rigid and time-consuming. The inclusion of civil mechanisms allows for a more flexible, efficient, and

¹¹ Ferry Agus Sianipar, Nandang Sambas, and Oksidelfa Yanto, "The Indonesian Arrangement of Asset Forfeiture Draft as Reform Efforts in Recovering State Losses Due to Corruption: A Comparative Study of United States Code," *Journal of Court and Justice* 3, no. 2 (2024): 29–46, <https://doi.org/10.56943/jcj.v3i2.509>.

¹² Dwi Widodo, *Peran Indonesia Dalam Kerangka UNCAC* (Yogyakarta: Gadjah Mada University Press, 2019).

¹³ Agus Supriyadi, *Reformasi Sistem Hukum Di Indonesia: Upaya Membangun Kepercayaan Publik* (Jakarta: PT Gramedia Pustaka Utama, 2020).

effective approach to asset recovery, ultimately enhancing the legal system's ability to mitigate the impact of crime on the state and society.

The shift toward a civil mechanism introduces a more flexible and efficient approach to handling asset Seizure cases. This method emphasizes civil resolutions and the recovery of profits obtained from criminal activities, ultimately accelerating the process of recovering state losses and preventing criminals from benefiting from their illegal actions. The urgency for an Asset Seizure Law stems from the recognition that the current legal framework lacks the capacity to provide adequate legal certainty. Challenges remain in ensuring transparency, particularly in the management of confiscated assets, underscoring the need for a stronger and more comprehensive legal framework.

The enactment of the Asset Seizure Law is expected to enhance the professionalism and accountability of law enforcement in Indonesia. This law is envisioned as a vital instrument for building public trust in the legal system. Professionalism in its implementation will be pivotal in fostering a sense of justice and security within society. Restoring public confidence in Indonesia's legal system is one of the primary goals of this legislation. Transparency in managing confiscated assets will serve as a critical measure of the law's effectiveness. By establishing stringent and clear legal guidelines, the law is anticipated to improve the legal system's reputation and its perception by the public.

The development of stricter and more structured laws represents a strategic step toward ensuring successful implementation. The Asset Seizure Law is designed not only to safeguard state interests but also to maintain a balance by respecting the legal rights of individuals. This balanced approach seeks to achieve justice for all parties involved. While the law aims to provide robust protection for state interests, particularly in combating harmful criminal activities, it must not undermine the individual rights guaranteed by law. Thus, this legislation is expected to address complex legal challenges effectively, creating a fairer, more transparent legal system that upholds justice and equity for all stakeholders.

3.2. The Role of Legal Politics in the Implementation of the Asset Seizure Law in Indonesia

Legal politics plays a pivotal role in the implementation of the Asset Seizure Law in Indonesia. This legislation is designed to prioritize principles of justice and effectiveness in combating corruption and other economic crimes. With sound legal political direction, the formulation and enactment of this law are anticipated to serve as a strategic measure to address persistent challenges that have undermined the legal system. The drafting and implementation of the Asset Seizure Law demonstrate the Indonesian government's strong commitment to addressing financial crimes, which often result in substantial state losses. The enactment of this law underscores the government's dedication to resolving cases of corruption and economic crimes that harm the national economy.

A primary objective of the asset seizure law is to address deficiencies in the existing legal framework, particularly the inability to confiscate assets without first completing a criminal process. By addressing these legal gaps, the law aims to enhance the effectiveness

of law enforcement in tackling economic crimes. The approach adopted in the Asset Seizure Law aligns with Indonesia's national legal policy, which prioritizes the eradication of corruption as a cornerstone of its agenda.¹⁴ Within this context, the law functions as a critical instrument to safeguard the national economy and promote public welfare. Consequently, the law holds not only legal but also strategic significance for the nation.

As part of national legal policy, the prioritization of corruption eradication is essential to protecting the economy and ensuring public welfare. The Asset Seizure Law serves as a highly effective tool to achieve these objectives. With a robust and targeted design, it is expected to contribute significantly to strengthening and enhancing the fairness of Indonesia's legal system. Legal policy also drives a paradigm shift in law enforcement practices in Indonesia. This shift is exemplified by the adoption of a civil justice mechanism in the Asset Seizure Law to manage assets derived from criminal activities. This innovative approach represents a significant advancement in the legal system, offering more effective solutions to challenges that have proven difficult to address through conventional methods.

The proposed Asset Seizure Bill introduces a civil approach, enabling the state to seize assets suspected of originating from criminal activities without requiring a criminal conviction. This represents a significant breakthrough in the legal system, addressing the lengthy timelines often associated with criminal verdicts. By prioritizing efficiency, this approach ensures that the legal process focuses on safeguarding state assets promptly and effectively. This innovative measure underscores the state's legal policy, which prioritizes the swift recovery of state losses while preventing criminals from evading asset seizure. It serves as a tangible demonstration of the government's commitment to protecting state assets against the threat of economic crimes.

This flexible approach has the potential to significantly expedite legal proceedings. By reducing reliance on lengthy criminal procedures, it minimizes obstacles in asset recovery, allowing the law to deliver timely and tangible results for both the state and society.¹⁵ The civil approach embedded in the Asset Seizure Bill is designed to reduce dependence on protracted criminal procedures, which often hinder the resolution of major cases. This paradigm shift enhances the responsiveness of Indonesia's legal system, aligning it with the country's evolving needs and the challenges of contemporary legal issues.

Indonesia's legal policy reflects its commitment to combating cross-border crime and aligning domestic regulations with global standards. As an active member of the international community, Indonesia continually updates its legal framework to address transnational crimes effectively, including corruption. This effort underscores the country's active participation in international cooperation to address crimes with far-reaching

¹⁴ Andri Andri and Supanto Supanto, "Pembuktian Terbalik Terhadap Perampasan Aset Dalam Perkara Tindak Pidana Pencucian Uang Hasil Kejahatan Narkotika," *Jurnal Hukum Dan Pembangunan Ekonomi* 5, no. 1 (2017): 59–68.

¹⁵ Refki Saputra, "Tantangan Penerapan Perampasan Aset Tanpa Tuntutan Pidana (Non-Conviction Based Asset Forfeiture) Dalam RUU Perampasan Aset Di Indonesia," *Integritas: Jurnal Antikorupsi* 3, no. 1 (2017): 115–130, <https://doi.org/10.32697/integritas.v3i1.158>.

impacts. As a signatory to the United Nations Convention Against Corruption (UNCAC), Indonesia is obligated to align its regulations with international norms. One of the key principles adopted is non-conviction-based asset forfeiture, which permits the seizure of assets without requiring a criminal conviction. This principle represents a transformative shift in law enforcement, emphasizing the recovery of state assets over the sole punishment of offenders. By adopting this approach, Indonesia demonstrates its commitment to strengthening its legal system while contributing to global anti-corruption efforts.

The adoption of the non-conviction-based asset forfeiture principle in Indonesia underscores the influence of global norms on national legal policy. While adapting to international demands is essential, maintaining national sovereignty remains a priority. Indonesia strives to balance the application of international standards, such as those outlined in the United Nations Convention Against Corruption (UNCAC), with domestic legal needs to ensure effective law enforcement.

The adoption of progressive regulations aligned with international standards offers significant benefits for Indonesia. Incorporating frameworks like UNCAC bolsters the country's standing in the global community, reflecting its serious commitment to combating corruption and economic crimes. This commitment, in turn, enhances international trust in Indonesia's legal system and strengthens its global reputation.¹⁶

Aligning national policies with international standards not only enhances law enforcement domestically but also elevates Indonesia's image on the world stage. This initiative demonstrates that Indonesia is dedicated not only to internal legal reform but also to fostering global cooperation. As a result, the country's legal policies are well-positioned to address both local and international challenges effectively. One of the most significant challenges in legal policy is maintaining a balance between eradicating corruption and safeguarding human rights. In the context of the Asset Forfeiture Law, this balance is particularly critical, as asset seizure processes often intersect with individual property rights. Consequently, a legal approach that simultaneously prioritizes the fight against corruption and respects human rights principles is essential.

Transparent and accountable procedures are key to upholding individual rights during the implementation of the Asset Forfeiture Law. Legal processes must be meticulously designed to adhere to the principles of justice. By ensuring that each step in asset forfeiture follows established procedures, the legal system can mitigate potential rights violations and foster public confidence in government actions.

The greatest challenge for legal policymakers is crafting strategies that respond to public interest demands while respecting individual rights. In the case of the Asset Forfeiture Law, legal policy must address the urgent need to protect state assets without compromising the rights of asset owners. Achieving this goal requires a well-conceived

¹⁶ H. Deniz Genç, "International Organisations and Norm Diffusion: The Case of UNODC in Central Asia," in *The Political Economy of Central Asian Law. International Political Economy Series*, ed. Timothy M. Shaw (Cham: Palgrave Macmillan, 2024), 79–111, https://doi.org/10.1007/978-3-031-55341-7_4.

strategy and rigorous oversight to prevent the misuse of authority and ensure fairness in implementation.

Ideal regulations must simultaneously provide legal certainty and justice. The Asset Seizure Law aims to meet this dual need by establishing clear and equitable procedures.¹⁷ Furthermore, effective regulations must include safeguards against abuse of power during the asset Seizure process, ensuring that the law is implemented professionally and responsibly.

Through a comprehensive legal framework, the political strategy underlying the Asset Seizure Law seeks to foster a conducive legal environment. By instituting transparent and well-defined regulations, public trust in the justice system can be bolstered. Ultimately, this policy not only supports the eradication of corruption but also lays the groundwork for a more professional, equitable, and accountable legal system.

CONCLUSION

The formation of the Asset Seizure Law in Indonesia is driven by the need to strengthen law enforcement in addressing corruption and money laundering, both of which severely harm the state. This law is designed not only to penalize perpetrators but also to recover state losses and prevent individuals from benefiting from illicit gains. Existing legal frameworks have proven inadequate, highlighting the need for more comprehensive regulations that enable asset Seizure without requiring the completion of the criminal process. Indonesia's adherence to international commitments, such as the United Nations Convention Against Corruption (UNCAC), serves as a pivotal influence in formulating this law, which introduces the principle of civil-based asset forfeiture.

Indonesia's legal politics play a critical role in shaping the implementation of the Asset Seizure Law by harmonizing domestic regulations with international standards while maintaining a balance between eradicating crime and protecting human rights. This political strategy supports a paradigm shift from a criminal to a civil approach in asset forfeiture, facilitating expedited asset recovery without the necessity of a criminal verdict. The application of the non-conviction-based asset forfeiture principle reflects Indonesia's legal response to global challenges while preserving national sovereignty in combating corruption. Nevertheless, a significant challenge lies in balancing the public interest with the protection of individual rights throughout the asset forfeiture process. Transparency and accountability in implementing this law are crucial to building public trust and reinforcing confidence in Indonesia's legal system.

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