

Rethinking Asset Recovery in Indonesia: The Urgency of Non-Conviction Based Forfeiture (NCBAF) within a Substantive Justice Framework

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Abstract: *This article critically examines the urgency of reforming the asset recovery policy and the restitution of state financial losses in corruption cases in Indonesia. Although asset recovery occupies a central position in the anti-corruption regime, the current positive legal framework remains fragmentary and incomprehensive, particularly due to a legal vacuum (vacuum of law) regarding a specific asset forfeiture law. At the practical level, the application of the safekeeping institution mechanism, which is rooted in civil law, into the realm of criminal proceedings has triggered structural disharmony between legal regimes. This condition undermines the principles of due process of law, the protection of property rights, and legal certainty, while also creating loopholes for abuse of power and the criminalization of corporations. Furthermore, the discourse on adopting the Non-Conviction Based Asset Forfeiture (NCBAF) instrument brings about a sharp intersection between the efficiency of law enforcement and the protection of constitutional rights. Through a normative legal research method combined with a socio-legal approach, this study analyzes statutory instruments, legal doctrines, and law enforcement practices to identify legal loopholes and disharmony within the national asset recovery system. The research findings indicate that the current legal construction is fraught with normative conflicts, regulatory vacuums, and weak institutional accountability, which in turn*

reduces the effectiveness and legitimacy of law enforcement. This article argues that asset recovery must be reconstructed so that it does not merely operate as a technical law enforcement instrument, but is repositioned into a paradigm of substantive justice. The research proposes a legal reform model that emphasizes the acceleration of NCBAF legislation enactment, accompanied by strict procedural safeguards, clear demarcation of institutional authority, and the practical integration of restorative and redistributive justice values. This research contributes to the discourse on asset recovery by offering a novelty perspective that elaborates on anti-corruption efforts through the rule of law principle and a justice-oriented governance approach.

Keywords: *Asset Recovery, Non-Conviction Based Asset Forfeiture (NCBAF), Substantive Justice*

Introduction

Background

The eradication of corruption in Indonesia is currently undergoing a fundamental paradigm shift. Initially, the primary orientation was to punish the physical body of the perpetrator (follow the suspect), but it is now shifting towards the tracking and confiscation of the proceeds of crime (follow the money) in the context of recovery. This paradigm shift is based on Indonesia's ratification of Chapter V Article 51 of the United Nations Convention Against Corruption (UNCAC) 2003. Asset recovery now occupies a central position because

corruption is not merely a moral crime that harms one or two individuals, but rather an extraordinary financial crime that independently damages the nation's economy and society at large. The legal regime has affirmed that recovering the proceeds of crime is a crucial instrument to cripple the roots of such financial crimes (Sutedi, 2010).

The concept of asset recovery as the main pillar in the positive legal framework in Indonesia has not been fully accommodated, as it still relies on the Conviction Based Asset Forfeiture approach. In current judicial practice, as last contained in Law Number 20 of 2025 concerning the Criminal Procedure Code (hereinafter referred to as the "KUHAP Law"), the state's authority to confiscate the wealth of corruptors depends on proving the guilt of the subject perpetrator. This mechanism requires a court decision that has obtained permanent legal force (*inkracht van gewijsde*) as a prerequisite for an asset to be executed. This approach demands an absolute standard of proof (beyond reasonable doubt), which is often difficult to prove in complex corruption cases (Atmasasmita, 2023).

The rigid regulation of asset recovery in corruption cases gives rise to juridical problems when law enforcement officials are faced with procedural obstacles during the criminal justice system process. A legal vacuum (*rechtsvacuum*) occurs, for instance, if the Suspect or Defendant dies before a court decision is handed down. Based on Article 132 paragraph (1) letter b of Law Number 1 of 2023 concerning the Criminal Code, the authority to prosecute is declared void by law, one of the reasons being the death of the suspect. This condition will definitively halt all coercive measures against the suspected perpetrator of corruption, causing the state to lose its formal footing to recover state losses through the mechanism of confiscating property allegedly derived from crime (Ilmi et al., 2022).

The cessation of the legal process due to death eliminates the state's authority to prosecute the suspect, which ultimately results in the loss of opportunity to effectively recover state financial losses. This implies the loss of authority to confiscate assets as stipulated in Article 18 paragraph (1) letter a of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption (hereinafter referred to as the "Anti-Corruption Law"). This condition creates a legal vacuum where assets successfully identified as proceeds of crime are forced to be left without a clear legal status and cannot be recovered. Ultimately, this will undermine the protection of the public, as the legal subject, namely the suspect, can no longer be held criminally liable, while the proceeds of the crime remain in the control of unauthorized parties (Adji, 2006).

Besides death, the criminal justice process is also frequently hindered when a suspect flees outside Indonesia's legal jurisdiction or is declared unfit to stand trial. Although an *in absentia* examination mechanism is currently included in the procedural law, in practice, its implementation is often obstructed by technical constraints such as the physical absence of the subject and limitations on cross-border evidence gathering. Under criminal law doctrine, criminal liability can no longer be demanded, while the property allegedly obtained from the crime remains in the control of heirs or third parties without the possibility of recovery by the state (Hamzah, 2014).

Based on Article 32 and Article 33 of the Anti-Corruption Law, it is stipulated that if a suspect who has clearly caused a loss to state finances dies during the investigation, the case file is transferred to the aggrieved agency to file a civil lawsuit against the heirs. Theoretically, this provision serves as a pragmatic step for law enforcement officials in

utilizing the civil law domain for the criminal domain. The intersection of these legal regimes presents a problem because the burden of proof and evidentiary procedures differ between the handling of civil cases and corruption cases. The use of formal civil instruments ultimately consumes more time and frequently lacks the coercive power of criminal law in securing evidence allegedly obtained from criminal acts (Garnasih, 2017).

The problems arising from the amalgamation of criminal and civil legal regimes are evident, for example, in the regulation regarding the handling of evidence through the safekeeping institution for confiscated assets. This occurs because the difference in legal domains results in the confiscation and storage of evidence being diverted to follow civil domain procedures. The practice of carrying out criminal coercive measures through civil mechanisms triggers disharmony that actually hinders legal certainty for stakeholders. On the other hand, confiscation without a clear decision for an extended period has the potential to diminish the value of the asset and harm the economic rights of the state that should be immediately recovered. This legal uncertainty ultimately not only harms the state but also has the potential to undermine the rule of law and the guarantee of due process of law (Harahap, 2012).

The Indonesian Constitution, in Article 28G paragraph (1) and Article 28H paragraph (4) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the "1945 Constitution"), absolutely guarantees the protection of private property rights. Viewed from the perspective of constitutional law, any deprivation of a citizen's property rights by the state must be based on clear reasons and legal grounds because it constitutes a limitation on human rights as regulated in Article 28J paragraph (2) of the 1945 Constitution (Asshiddiqie, 2014). Based on this, the absence of comprehensive regulations on asset forfeiture for the purpose of recovering state assets creates loopholes for the abuse of power by state instruments in executing citizens' property.

Non-Conviction Based Asset Forfeiture (NCBAF) is terminologically defined as the mechanism of confiscating the proceeds of crime through civil forfeiture without undergoing a full criminal trial process against the legal subject. Historically, this concept originated from the common law tradition, which focuses on the status of "tainted property" through an *in rem* lawsuit. In its development, NCBAF gained global legitimacy through Chapter V Article 54 paragraph (1) letter c of the 2003 UNCAC, which obliges state parties to consider enacting confiscation without conviction. This international legitimacy is further supported by the Financial Action Task Force (FATF) as a vital instrument in combating cross-border money laundering.

The legal foundation for the adoption of NCBAF in Indonesia normatively stems from Law Number 7 of 2006 concerning the Ratification of UNCAC 2003, which has adopted the principle of asset recovery as a pillar of international law. Although a comprehensive asset forfeiture law has not yet been enacted, these values have manifested in Article 67 of Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering (hereinafter referred to as the "TPPU Law"). The implementation of this regulation should also have been adopted by the Supreme Court through Supreme Court Regulation Number 1 of 2013 concerning Procedures for Settling Assets in Money Laundering Crimes or Other Crimes. This demonstrates that Indonesia has currently adopted the doctrine of non-conviction based asset forfeiture to overcome the deadlock of

conventional criminal procedure law, although it has not been able to fill all the existing legal vacuums (Yusmar et al., 2021).

Addressing these problems, the comprehensive institutionalization of the Non-Conviction Based Asset Forfeiture (NCBAF) instrument has become a legal necessity. The provisions currently found in several Indonesian regulations indicate that there are efforts to adopt these values, although this is not yet the final point. Through the adoption of a comprehensive and integrated in rem mechanism, the state can apply civil law that also considers the realm of anti-corruption criminal law. This instrument will serve as a solution to fill the legal vacuum and provide a legal basis for every action that has thus far hidden behind the secrecy of cross-border jurisdictions (Tantimin, 2023).

Based on this description, it can be seen that the current implementation of NCBAF still raises issues, namely the existence of a legal vacuum in realizing these principles, one of which is the potential for violations of human rights guarantees and the presumption of innocence principle. Therefore, a reconceptualization of asset recovery is required because it must not solely focus on the technical efficiency of confiscation but must also focus on legal protection for the legal subjects in order to manifest substantive justice. Substantive justice can be built by ensuring the realization of the recovery of social losses and also ensuring the enforcement of procedural safeguards to prevent arbitrary actions by state officials (Effendi et al., 2024). Therefore, this article aims to compile and dissect the juridical implications of NCBAF regulation in Indonesia and to reformulate the concept.

Problem Identification

Based on the background described, the research problem formulations can be formulated as follows:

1. How is the current Regulation and Implementation of Asset Recovery for Corruption Crimes regarding Legal Certainty and the Protection of Property Rights reviewed from Criminal Law and Civil Law?
2. How is the formulation of asset recovery policy reconceptualization through the Non-Conviction Based Asset Forfeiture (NCBAF) instrument based on the paradigm of substantive justice?

Methodology

In examining the issues investigated in this thesis, the author uses a normative juridical analysis research method, which is research focused on examining the application of rules or norms in positive law, and a doctrinal legal approach, namely legal theories and opinions of legal scholars, especially those related to the issues discussed (Soemitro, 1988). This method is carried out by researching library materials or secondary data containing literature rules, consisting of primary legal materials, secondary legal materials, and tertiary legal materials (Sugono, 2006), related to NCBAF, Eradication of Corruption Crimes, Money Laundering Crimes, and other provisions related to this research.

Result and Discussion

Juridical Review of the Implementation of Asset Recovery and the Implications of Legal Disharmony on Legal Certainty and Property Rights

The Limitations of the In Personam Approach in Criminal Procedure Law and the Legal Vacuum in Asset Execution

The criminal justice system in Indonesia is principally built upon the foundation of human rights protection. Current law enforcement practices, which are based on Law Number 20 of 2025 concerning the Criminal Procedure Code, place the protection of the Suspect or Defendant as the subject at the central point of the entire judicial process. This approach is known as the in personam doctrine, where all forms of coercive measures by the state must culminate in the proof of individual guilt in court (Mulyadi, 2007).

The establishment of the in personam doctrine results in a high burden of proof for law enforcement officials in proving whether someone is guilty or not guilty before ultimately being able to execute the assets resulting from the crime. Proof is extremely important to avoid punishing innocent individuals. The principle of prudence and the presumption of innocence must indeed be prioritized, but its application becomes quite problematic when faced with the urgency of recovering state financial losses (Huda, 2006).

In resolving legal issues in white-collar crime, a criminal conviction with permanent legal force is the primary determinant for the authority to confiscate assets. This absolute requirement is expressly regulated in Law Number 31 of 1999 juncto Law Number 20 of 2001 concerning the Eradication of Corruption Crimes. This renders the position of recovering state financial losses through asset forfeiture not as the primary goal, but merely as an additional penalty whose existence heavily relies on the imposition of the principal punishment (Wiyono, 2005).

The problem with this regulation is when law enforcement officials face a condition that causes a case to be halted. Corruption is an extraordinary crime that occurs systematically, structurally, and extensively, often experiencing difficulties in finding evidence. The prolonged duration of case handling increases the possibility of obstacles arising from the investigated party (Alkostar, 2004).

Furthermore, a situation that can cause procedural problems is the death of the Suspect/Defendant before the Panel of Judges finishes examining and handing down a decision. Based on Article 132 paragraph (1) letter b of the KUHAP Law, the state's authority to prosecute a person becomes void by law if the suspect or Defendant dies. This norm effectively shuts down the ongoing criminal case resolution process without providing an exemption clause for the fate of the evidence suspected to have been obtained from the criminal act (Arief, 2008).

The cessation of the investigation or prosecution process triggers a legal vacuum that limits law enforcement officials in recovering state assets. When the right to prosecute expires, the state loses its legitimacy to confiscate assets from the Defendant. This results in a problem where the proceeds of crime, which materially can be strongly presumed to be derived from losses to the livelihoods of many people, are forced to be unexecutable and left pending due to the absence of a convicted subject (Supardi, 2018).

The problem occurring in the settlement of assets resulting from crime does not only happen upon death, but there are also situations where the suspect flees from the territory

of Indonesia so that they cannot be found and tried. Although the current criminal procedure law system accommodates trials in absentia, in its field implementation, law enforcement officials often face difficulties due to limitations on cross-border evidentiary access. This problem demonstrates that the in personam approach is inadequate in resolving the complexities of fleeing corruptors' assets (Muhammad, 2007).

A solution regarding the settlement of property by suspected corruptors has actually been attempted to be accommodated in the provisions of Article 67 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering. It stipulates that in the event the suspect dies or flees, the investigator can file an application for civil asset forfeiture to the district court. This is further regulated in Supreme Court Regulation Number 1 of 2013 concerning Procedures for the Settlement of Assets in Money Laundering Crimes or Other Crimes. This mechanism becomes the foundation for the application of civil forfeiture regulated in the context of proportionately salvaging assets resulting from crime.

Nevertheless, in practice, the civil approach in money laundering crimes cannot run effectively and comprehensively in the law enforcement practice of corruption crimes. The provisions in the Supreme Court Regulation are strictly limited only to assets whose proof is absolutely linked to money laundering. This means Law Enforcement Officials will not be able to reach corruption crime assets that lack elements of money laundering. This limitation affirms that current regulations are not yet capable of comprehensively reaching asset forfeiture. Thus, a specific law regulating asset forfeiture is needed to fill the legal vacuum regarding such execution.

The Problematic Use of Civil Approaches in the Practice of Criminal Coercive Measures Facing a dead end in the pure criminal law regime

Law enforcement officials are often required to make pragmatic maneuvers to salvage state losses. The most common breakthrough taken is extracting civil instruments to be applied into the realm of settling corruption cases. The practice of borrowing these civil instruments was originally constructed as an emergency safety valve, but in its development, it has actually triggered systemic dogmatic confusion (Abdullah et al., 2021).

A concrete manifestation of the amalgamation of these instruments is the legalization of the use of unlawful act (tort) lawsuits against the heirs of a deceased suspect. This civil mechanism is explicitly facilitated through Article 32 and Article 33 of the Anti-Corruption Law, which provides room for state attorneys to sue for damages. This step assumes that the obligation to return state losses can be transferred civilly to the family members who enjoy the proceeds of the crime (Gultom, 2018).

This cross-practice of legal regimes is seen as highly problematic because civil law and public criminal law operate on opposing frameworks of rationality. Civil law is purely designed to unravel private disputes between individuals, placing the parties on an equal and balanced footing. Conversely, the eradication of corruption is the domain of public law where the state is present representing the general public's interest, bearing strong instruments of coercive power (Arief, 2008).

This clash of paradigms becomes increasingly sharp when asset forfeiture disputes are forced to submit to civil evidentiary standards in court. The civil law process relies on

the balance of probabilities, which opens room for lengthy debates regarding the civil rights of heirs over inherited assets. The state's entrapment in the whirlpool of private disputes causes the asset recovery process to proceed very slowly, at a high cost, and prone to being defeated by the opposing party's legal argumentation skills.

Besides civil lawsuits, another very apparent anomaly from this legal fragmentation is the practice of the "safekeeping institution" in managing confiscated criminal evidence. Law enforcement often circumvents the deadlock of asset status post-expiration of prosecution by adopting the doctrine of unilateral safekeeping of goods. This practice generally occurs when investigators are reluctant to return high-value assets because they believe the assets originated from crime, even though the legal basis for their detention has vanished (Sasangka and Rosita, 2003).

Dogmatically, the safekeeping institution is rooted in civil contract law, which essentially requires voluntary consensus from the contracting parties. Forcing the doctrine of voluntary contract as camouflage to detain criminal evidence without a court decision is a fatal legal logical fallacy. This practice of cloaking public coercive measures under a civil veil clearly blurs the limitation boundaries of the authority possessed by law enforcement officials (Sjahdeini, 2004).

At its peak, continuous confiscation hiding behind the pretext of civil safekeeping actually undermines the main objective of state economic recovery. The lack of status clarity and adequate maintenance causes confiscated assets such as factories, vehicles, or properties to suffer drastic value depreciation. The accumulation of these inefficiencies proves that civil law instruments are not designed to bear the structural burden of eradicating corruption, hence this patchwork practice must be immediately ended (Hartanti, 2005).

Implications of Regulatory Disharmony on Legal Certainty and the Protection of Constitutional Property Rights

The normalization of law enforcement practices that rely on a patchwork of rules will slowly but surely erode the pillars of the rule of law. The ambiguity of the juridical foundation in executing corruption assets has a destructive impact on the principle of legal certainty, which is a pillar of societal stability. In a constitutional democracy, every form of state apparatus maneuver that restricts citizens' rights must have a rigid statutory basis, rather than merely resting on institutional discretion (Muladi and Arief, 1992).

The Indonesian Constitution has provided a very solid guarantee of protection over the existence of the private property rights of every citizen. This constitutional guarantee is explicitly mandated without ambiguity in Article 28G and Article 28H of the 1945 Constitution of the Republic of Indonesia. These basic norms affirm the principle that property rights may not be arbitrarily taken over by anyone, thus the state is also subject to procedural limitations when executing property (Asshiddiqie, 2014).

The procedural vacuum in the criminal regime, intertwined with the inaccurate use of civil instruments, opens a wide gap for abuse of authority. The actions of officials who leave asset status pending without clear operational time limits substantially constitute a denial of the principle of a fair legal process. The threat of silent deprivation of rights

through the hostage of assets is a form of human rights violation that injures constitutional supremacy (Asshiddiqie, 2014).

The real threat of this legal disharmony is most felt by third-party legal subjects acting in good faith in business transactions. In the state's aggressive efforts to recover losses, it is often the case that assets belonging to individuals or entities unaffiliated with the predicate crime get swept up in the confiscation net. The absence of a responsive and fair mechanism of resistance for these third parties triggers economic criminalization that destroys people's livelihoods (Husein and Santoso, 2018).

The complexity of property rights protection multiplies when the proceeds of crime are infiltrated and disguised within legitimate corporate accounting. The separate legal entity doctrine, which inherently protects business operations, is often breached by law enforcement without proportional material testing in court. This arbitrariness can paralyze the company's economic wheels, threaten the fate of workers, and ultimately damage the national investment climate (Tuahuns, 2021).

A juridical review of the architecture of current asset recovery implementation leads to the conclusion that a systemic overhaul is an urgency. The weaknesses of the conventional punitive approach and the failure of civil instruments to patch legal loopholes prove that Indonesia is in a crisis of anti-corruption instruments. The presence of an independent legal instrument, with a purely property-based character, and proportionality is needed to reunite this disharmony that damages substantive justice.

The Formulation of Asset Recovery Reconceptualization through Non-Conviction Based Asset Forfeiture Based on Substantive Justice

Juridical Legitimacy of the Paradigm Shift in Asset Recovery Towards the In Rem Lawsuit Mechanism

Facing the deadlock of the conventional punitive approach, the reconceptualization of asset recovery policies absolutely requires a fundamental paradigm shift. This shift is manifested through the adoption of the Non-Conviction Based Asset Forfeiture (NCBAF) instrument, which is purely characterized as a property lawsuit or in rem. Through this special civil mechanism, the state is given room to execute crime proceeds without having to wait for or prove the guilt of the perpetrator subject in the realm of criminal justice (Tantimin, 2023).

The juridical legitimacy for this paradigm shift is intrinsically very strong and has a foundation recognized by the global legal community. This is based on the mandate of the United Nations Convention Against Corruption 2003, which requires every state party to provide alternatives to asset forfeiture outside conventional criminal channels. The implementation of this in rem mechanism is a manifestation of the national legal system's compliance with international standards in breaking the economic chains of cross-border organized crime.

Philosophically, this property lawsuit approach operates based on the doctrine of legal fiction that places the asset as the disputing party in court (guilty property). This construction strictly separates personal criminal liability from the property status of assets strongly suspected of being tainted by crime proceeds. The separation of these domains

becomes the main key that allows the state to continue confiscating state assets even if the suspect dies, flees, or cannot be tried medically (Bureni, 2016)

Within the national legal architecture, the legitimacy for applying the *in rem* mechanism actually has embryonic roots that are dogmatically tested. Partial regulation regarding asset forfeiture without conviction has been accommodated and practiced in a limited manner in the enforcement of money laundering laws. This empirical fact proves that the legal system and judicial institutions in Indonesia are actually ready to assimilate object-based confiscation procedures into formal legal practice (Hafid, 2021).

Although the embryonic regulation exists, the sectoral mechanism is inadequate to handle the complexities of corruption crimes comprehensively. Therefore, this paradigm shift must be fully institutionalized through the enactment of a specific law (*lex specialis*) concerning asset forfeiture. This comprehensive regulatory codification will provide absolute legal grounds for state officials, while simultaneously eliminating the practice of mixing criminal and civil legal instruments that has thus far triggered disharmony..

The Construction of Procedural Safeguards in the Application of the Reversed Burden of Proof for the Non-Conviction Based Asset Forfeiture Instrument

The transition towards a property-based confiscation mechanism brings implications of a highly significant expansion of state authority in executing property. This expansion of coercive power has the potential to raise the risk of arbitrariness by law enforcement officials if not accompanied by measurable and rigid juridical boundaries. Therefore, the reconceptualization of the NCBAF instrument must be equipped with layered procedural safeguards to prevent erroneous asset forfeiture (Danil, 2012).

The central point of these procedural safeguards lies in the engineering of evidentiary standards applied in court. Considering that this instrument runs on a special civil track, the court no longer uses the standard of absolute certainty (beyond reasonable doubt), but rather uses the standard of balance of probabilities. This lowering of the evidentiary burden is designed solely to prove the anomaly of the asset's origin, and must absolutely not be used to ensnare the liberty of individual legal subjects (Eddy, 2014).

The logical consequence of applying the balance of probabilities standard is the recognition of a proportional reversed burden of proof mechanism during the trial. In this construction, the state is only burdened with the obligation to prove a strong presumption that the asset is affiliated with a criminal act or is inconsistent with the perpetrator's legitimate income profile. Subsequently, the burden of proof shifts to the respondent to refute the state's arguments by presenting transparent evidence of the legality of the asset's acquisition.

To ensure that the reversed burden of proof does not result in law enforcement tyranny, the forfeiture instrument must provide absolute protection for third parties acting in good faith. The law must facilitate objection mechanisms or lawsuits of resistance for individuals or business entities whose assets are confiscated but lack any correlation with the predicate crime. This guarantee of the right to rebut is a conditional requirement so that aggressive efforts to save state finances do not conversely damage the investment climate and the certainty of civil property rights (Nugroho, 2012).

In addition to fulfilling the right of rebuttal, procedural safeguards also demand information transparency through a highly accountable public notification mechanism. The state is obliged to announce the status of asset confiscation widely to the public before the court issues a final forfeiture order. The principle of the right to be heard ensures that the *in rem* judicial process runs openly, respects the principles of due process of law, and does not silently deprive citizens of their rights (Kennedy, 2017).

The Integration of Restorative Values and Fulfillment of Human Rights as a Manifestation of Substantive Justice in Asset Recovery Policy

The success of reconceptualizing the NCBAF instrument cannot solely be measured by how much technical efficiency it offers in netting crime proceeds. The design of this policy must transcend the rigid positivistic paradigm and be strongly rooted in philosophical values that humanize the justice system. Therefore, the asset forfeiture instrument must be pulled into the orbit of substantive justice that harmonizes state interests with the guarantee of citizens' constitutional protection (Yanuar, 2003).

In the landscape of financial crimes, corruption is not merely a violation of legal norms, but a social crime that systematically deprives the broader community of their basic economic rights. The integration of restorative justice values into NCBAF requires that every confiscated asset is not merely deposited into the state treasury, but redistributed to restore the structural damage caused by corruption. Through this social return scheme, the law rediscovers its essence as a social engineering instrument oriented towards the general welfare of the community (Hamzah, 2014).

Along with these restorative efforts, the fulfillment of human rights must be positioned as a non-negotiable limiting variable. The implementation of civil forfeiture is often criticized as being perceived to threaten the applicability of the presumption of innocence principle and constitutional property rights. Addressing this clash, substantive justice formulates the boundary that a valid asset forfeiture is one that purely executes objects derived from crime without diminishing the slightest bit of the individual's civil rights outside the disputed object (Alkostar, 2004).

The NCBAF instrument must absolutely not be reduced or abused as a shortcut by state apparatus to evade a strict and complex criminal trial. The use of this instrument is absolutely justified only if the conventional criminal trial has been objectively obstructed by conditions of procedural deadlock that are legally valid. This strict implementation boundary is a manifestation of the state's compliance with the supremacy of law, which prevents the asset recovery instrument from turning into a tool for judicial bureaucratic oppression (Moeljatno, 2008).

As a final conclusion, the formulation of an ideal asset recovery policy reconceptualization is a design capable of achieving the equilibrium point of judicial justice. NCBAF, based on substantive justice, offers a precise synthesis between the speed of recovering state losses, the implementation of rigid procedural safeguards, and absolute respect for constitutional guarantees. Through the adoption of this comprehensive legal framework, the disharmony between the criminal and civil regimes can be glued together,

simultaneously restoring the dignity and integrity of the anti-corruption law enforcement system in Indonesia (Waluyo, 2008).

Conclusion

Based on the results of the theoretical discussion and the analysis of the problem formulations presented, the following conclusions can be drawn:

1. The implementation of asset recovery in the Indonesian criminal justice system currently still heavily relies on an in personam approach, which culminates in execution deadlocks and legal vacuums when a suspect dies or flees. This deadlock encourages law enforcement officials to force the use of civil instruments into the realm of public criminal law, which in practice actually gives rise to structural disharmony and logical legal flaws. The intermingling of these legal regimes has substantially damaged the principle of legal certainty and threatened constitutional property rights protection, especially for third parties acting in good faith, due to the absence of measurable limits on coercive authority.
2. The reconceptualization of asset recovery must absolutely be formulated through a paradigm shift towards the Non-Conviction Based Asset Forfeiture (NCBAF) instrument, which possesses a property-based (in rem) character. The implementation of this mechanism demands the institutionalization of a specific law equipped with strict procedural safeguard constructions, including the application of the balance of probabilities standard of proof, a proportional reversed burden of proof mechanism, and absolute protection for third parties. The formulation of this instrument, drawn into the orbit of substantive justice, will become a precise synthesis to marry the effectiveness of restorative state loss recovery with complete respect for human rights and the principle of due process of law.

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