IJCLS Indonesian Journal of Criminal Law Studies

A peer-reviewed journal published by Faculty of Law Universitas Negeri Semarang, Indonesia. The title has been indexed by DOAJ, SINTA, GARUDA. ISSN 2548-1568 (Print) 2548-1576 (Online)
Online at https://journal.unnes.ac.id/nju/index.php/ijcls/index

Indonesia's Imperative Asset Forfeiture Bill to Combat Illicit Enrichment

Tri Indah Sakinah[1] ✉, Thoriq Ziyad Rahman[2], Alfarezi Setiawan[3]

[1] Faculty of Law, Universitas Negeri Semarang, Semarang, Indonesia
[2] Faculty of Journalism, Ankara University, Turkiye
[3] Faculty of Sharia, Yarmouk University, Jordan

✉ Corresponding Email: triindahsakinah@students.unnes.ac.id

Abstract

Corruption poses a severe threat to Indonesia's socio-economic development and political stability. Illicit enrichment, particularly prevalent among public officials and individuals in positions of power, perpetuates this issue by allowing for the unlawful accumulation of wealth through corrupt practices. The absence of comprehensive legislation targeting illicit enrichment has hindered effective deterrence and recovery efforts. The proposed Asset Forfeiture Bill emerges as a crucial initiative aimed at addressing these challenges. This paper underscores the pressing need for the Asset Forfeiture Bill within Indonesia's anti-corruption framework. By enabling the confiscation of assets acquired through corrupt means, the bill promises to disrupt the incentive structure that drives corruption. It fills existing legal gaps that have previously hindered asset recovery and underscores accountability among public officials. Moreover, the bill is poised to strengthen Indonesia's legal arsenal against corruption, signaling a commitment to transparency and governance reform. Implementation of the Asset Forfeiture Bill is expected to enhance public trust in governmental institutions and foster a more conducive environment for sustainable development. By deterring illicit enrichment and recovering misappropriated public resources, Indonesia can bolster its efforts towards achieving integrity in governance and fostering economic

growth. This paper advocates for the prompt adoption and effective implementation of the Asset Forfeiture Bill as a critical step towards combating corruption and promoting a fairer and more equitable society in Indonesia.

Keywords
Asset; Corruption; Illicit Enrichment

Introduction

Corruption remains a formidable impediment to Indonesia's socio-economic development, undermining governance efficacy, economic growth, and public trust. At its core, illicit enrichment persists as a critical facet of corruption, characterized by the illicit accumulation of wealth by public officials and individuals through nefarious means.[1] Despite concerted anti-corruption efforts, Indonesia continues to grapple with the challenge of effectively combating illicit enrichment due to deficiencies in existing legal frameworks.[2]

The introduction of an Asset Forfeiture Bill represents a pivotal legislative initiative poised to bolster Indonesia's anti-corruption framework. This proposed legislation seeks to empower authorities to confiscate assets acquired through illicit activities, thereby disrupting the

[1] Andrew White, "The Paradox of Corruption as Antithesis to Economic Development: Does Corruption Undermine Economic Development in Indonesia and China, and Why Are the Experiences Different in Each Country?." *Asian-Pacific Law and Policy Journal* 8, no. 1 (2006): 1-34; Yusuf Kurniawan, Ririn Tri Ratnasari, and Hindah Mustika. "The corruption and human development to the economic growth of OIC countries." *JEBIS: Jurnal Ekonomi dan Bisnis Islam* 6, no. 2 (2020): 189-200; Sc Skender Ahmeti, et al. "Corruption and Economic Development." ILIRIA International Review 2, no. 1 (2012): 91-102.

[2] Rob McCusker, *Review of anti-corruption strategies.* (Canberra: Australian Institute of Criminology, 2006); Ahmad Khoirul Umam, et al. "Addressing corruption in post-Soeharto Indonesia: The role of the corruption eradication commission." *Journal of Contemporary Asia* 50, no. 1 (2020): 125-143; Edward Aspinall, The state and illegality in Indonesia. (Leiden: Brill, 2011).

financial incentives driving corrupt practices.[3] By targeting the ill-gotten gains of corrupt actors, the Asset Forfeiture Bill not only serves as a deterrent against future malfeasance but also facilitates the recovery of misappropriated public resources.

In this context, corruption originates from the Latin word "*corruptio*" or "*corruptus*." Similarly, the term "*rot*" may trace its roots to an older word with Latin origins, which evolved into various European languages including English ("*corruption*"), French ("*corruption*"), and Dutch ("*corruptie*").[4] Defining corruption in Indonesia reveals it as a pervasive phenomenon ingrained in the culture and flourishing across various sectors of society. It is characterized as a crime typically perpetrated by government officials or ruling elites, constituting an act against the public interest and often involving the misuse of entrusted power for personal gain.[5]

The definition of corruption hinges on its consequences, involving the misappropriation or squandering of public finances or assets of public entities for personal gain or other illegitimate benefits. According to David M. Calmers, corruption encompasses issues of bribery, manipulation

---

[3] Odd-Helge Fjeldstad, and Jan Isaksen. "Anti-corruption reforms: challenges, effects and limits of World Bank support." *IEG Working Paper* (2008); Desi Fitriyani, "The Possibility of Implementing In-Rem Asset Forfeiture as an Asset Recovery Effort in Indonesia." *AML/CFT JOURNAL: The Journal of Anti Money Laundering and Countering The Financing of Terrorism* 1, no. 2 (2023): 205-219; Soren Davidsen, Vishnu Juwono, and David G. Timberman. "Curbing Corruption in Indonesia 2004–2006." *A Survey of National Policies and Approaches, CSIS and USINDO* (2006).

[4] Xizi Liu, "A literature review on the definition of corruption and factors affecting the risk of corruption." *Open Journal of Social Sciences* 4, no. 6 (2016): 171-177. *See also* John Gardiner, "Defining corruption." *Political Corruption.* (London: Routledge, 2017), pp. 25-40; Oskar Kurer, "Corruption: An alternative approach to its definition and measurement." *Political Studies* 53, no. 1 (2005): 222-239.

[5] J. Vernon Henderson, and Ari Kuncoro. "Corruption in Indonesia." *National Bureau of Economic Research Working Paper Series,* No. 10674 (2004): 1-36. Available online at <https://www.nber.org/papers/w10674>; Sofie Arjon Schütte, "The fight against corruption in Indonesia." *Südostasien Aktuell: Journal of Current Southeast Asian Affairs* 26.4 (2007): 57-66.

within economic realms, and impacts the public interest.[6] In Indonesia, corruption is categorized as an egregious crime due to its pervasive and systematic nature, resulting in substantial losses to the state. Artidjo Alkostar, a former Supreme Court Judge specializing in criminal cases, concurs that corruption is extraordinary in Indonesia, permeating the executive, legislative, and judicial branches. Numerous political figures have been convicted of corruption, leading to significant financial losses for the state, with the ultimate victims being the general populace.[7]

In Indonesia, the government's commitment to combating corruption is evidenced through the enactment of various policies directly aimed at addressing this pervasive issue. Key among these is Law No. 31 of 1999, amended by Law No. 20 of 2001 (hereinafter as Indonesian Anti-Corruption Act or *UU Tipikor*), which focuses on the eradication of

---

[6] In the literature on corruption, there are various interpretations depending on the emphasis or perspective. David M. Chalmers, in "The Corruption of Economics and the Law," defines corruption primarily in terms of bribery, focusing on its economic manipulation and impact on public interests. Chalmers also introduces the concept of political corruption, emphasizing the misuse of power to serve the interests of officials or politicians involved. Resy Canonica Walangitang, in "The Tradition of Corruption and the Challenge of Establishing a Clean Political Environment in Indonesia," similarly defines corruption as the misuse of public office for private gain. This misuse often manifests in budgetary deviations aimed at personal enrichment among public officials. In Indonesia, these practices have become pervasive, resulting in poor governance practices that contradict efforts to achieve social welfare. These definitions underscore corruption's detrimental effects on governance integrity and societal well-being, highlighting the urgent need for effective anti-corruption measures and governance reforms. *See also* William Dixon, and David Wilson. "Thomas Chalmers: The market, moral conduct, and social order." *History of Political Economy* 42, no. 4 (2010): 723-746; Ian Chalmers, and Budi Setiyono. "The struggle against corruption during the democratic transition: Theorising the emergent role of CSOs." *Development and Society* 41, no. 1 (2012): 77-102; Paul Heywood, "Political corruption: Problems and perspectives." *Political Studies* 45, no. 3 (1997): 417-435; Resy Canonica-Walangitang, "The 'Tradition' of corruption and the challenge of establishing a 'Clean' political environment in Indonesia." *Democracy in Indonesia: The Challenge of Consolidation.* (Nomos Verlagsgesellschaft mbH & Co. KG, 2007).

[7] *See* Artidjo Alkostar, "Korelasi Korupsi Politik dengan Hukum dan Pemerintahan di Negara Modern (Telaah Tentang Praktik Korupsi Politik dan Penanggulangannya)." *Jurnal Hukum Ius Quia Iustum* 16 (2009): 155-179

corruption crimes. This legislation defines corruption as the unlawful act of enriching oneself or others, whether individuals or corporations, which results in detrimental effects on the state's finances or the national economy.[8]

Under Article 2, Paragraph (1) of the amended law (*UU Tipikor*), corruption is penalized with severe punishments. Specifically, individuals found guilty of corrupt activities face imprisonment ranging from a minimum of four years to a maximum of life imprisonment. Additionally, fines are imposed, with minimums starting at Rp. 200,000,000 and reaching up to Rp. 1,000,000,000. This legal framework underscores the gravity with which corruption is viewed in Indonesia, aiming not only to punish offenders but also to deter future acts of corruption that undermine the nation's economic and financial stability.

The enforcement of the rule of law by the Attorney General's Office in combating corruption follows specific procedures aimed at ensuring a transparent, equitable, and legally certain process. According to Sudikno Mertokusumo, these procedures are crucial for resolving conflicts of human interest that arise in corruption cases. Essentially, Mertokusumo distinguishes between "law in books" (*Ius constitutum*), which refers to established rules and principles in legislation, and "law in idea" (*Ius constituendum*), which represents the ideal state of law that should be achieved.[9]

---

[8] Anastasia Suhartati Lukito, "Building anti-corruption compliance through national integrity system in Indonesia: A way to fight against corruption." *Journal of Financial Crime* 23, no. 4 (2016): 932-947; Natasha Hamilton-Hart, "Anti-corruption strategies in Indonesia." *Bulletin of Indonesian Economic Studies* 37, no. 1 (2001): 65-82; Sofie Arjon Schütte, "Against the odds: Anti-corruption reform in Indonesia." *Public Administration and Development* 32, no. 1 (2012): 38-48.

[9] "Ius constitutum" refers to the existing body of laws and legal principles that are formally established and enforceable within a legal system. These laws are codified in statutes, regulations, and judicial decisions, providing the framework for governance and regulating societal behavior. They represent the tangible rules that individuals and institutions must adhere to under penalty of law. For example, laws against theft or regulations governing environmental protection are clear manifestations of ius constitutum. On the other hand, "*ius constituendum*" represents the ideal or aspirational state of the law that society aims to achieve. It embodies ethical, moral, and philosophical ideals that guide legal reform efforts and

By adopting Mertokusumo's framework, it becomes evident that legal issues can arise from discrepancies between what the law prescribes (*das sollen*) and how it is implemented in reality (*das sein*). This dichotomy often leads to conflicts of human interest, particularly in corruption cases where the enforcement of laws must navigate complex legal landscapes to ensure fairness and justice.

In practice, the Attorney General's Office in Indonesia adheres to these principles to maintain integrity and credibility in law enforcement against corruption. By following rigorous procedural guidelines, the aim is to uphold the rule of law effectively, addressing corruption cases with clarity and adherence to legal standards, thereby safeguarding the public interest and promoting accountability within society.

This concept, as described by Kelsen, underscores the distinction between the actual state of the law and its ideal form.[10] In Indonesia, the incidence of corruption has shown a persistent upward trend, evident in rising case numbers, substantial financial losses to the government, and the increasingly systemic nature of these crimes.

Fundamentally, the investigation and prosecution of each corruption case are pivotal in combating this pervasive issue. However, challenges persist in ensuring effective recovery of state losses. In practice, corrupt officials convicted of corruption can opt for a substitute penalty (subsidiary punishment) if they claim not to possess sufficient assets. This loophole allows convicted individuals to retain assets obtained through corrupt means, circumventing their return to the state. Consequently,

---

shape public policy. Ius constituendum evolves through societal values, changing norms, and demands for justice and fairness. It often reflects goals such as equal access to justice, human rights protection, or environmental sustainability, which may not yet be fully realized in existing legal frameworks. *See* Sudikno Mertokusumo, *Penemuan Hukum: Sebuah Pengantar.* (Yogyakarta: Liberty, 2007).

[10] *See* Hans Kelsen, "On the Basis of Legal Validity." *American Journal of Jurisprudence* 26, no. 1 (1981): 178; Dhananjai Shivakumar, "The Pure Theory as Ideal Type: Defending Kelsen on the Basis of Weberian Methodology." *The Yale Law Journal* 105, no. 5 (1996): 1383-1414; Stanley L. Paulson, "Metamorphosis in Hans Kelsen's Legal Philosophy." *The Modern Law Review* 80, no. 5 (2017): 860-894.

despite receiving subsidiary penalties, the state, as the primary victim, continues to bear the financial burden of corruption.

This situation highlights a critical gap in Indonesia's anti-corruption efforts, where the efficacy of punitive measures in deterring corruption is compromised by inadequate asset recovery mechanisms. Addressing this issue is essential to strengthen the deterrent effect of anti-corruption laws and ensure that perpetrators do not evade full accountability for their actions, thereby safeguarding public resources and fostering a more transparent and accountable governance framework.

Since the inception of the Corruption Perception Index (CPI) in 1995, Indonesia has been closely monitored by international observers. According to Transparency International's survey findings, over two-thirds of the countries assessed scored below 50 on the CPI, with a global average of 43. The CPI indicates that 86 percent of nations have shown minimal or no improvement in combating corruption over the past decade.[11]

On March 20, 2006, Indonesia ratified the United Nations Convention Against Corruption (UNCAC 2003), underscoring its commitment to international anti-corruption efforts. This commitment was formalized through Law Number 7 of 2006, which ratified the UNCAC and obligated Indonesia to align its domestic laws with the convention's provisions. Despite this ratification, Indonesia has yet to criminalize unlawful self-enrichment, also known as illicit enrichment, under its domestic legislation, specifically Law Number 31 of 1999 concerning the Eradication of Corruption Crimes.[12]

This omission highlights a gap in Indonesia's anti-corruption legal framework, as illicit enrichment remains unaddressed as a specific criminal offense. The UNCAC mandates signatory states to criminalize illicit enrichment to effectively combat corruption and ensure the recovery of

[11] Min-Wei Lin, and Chilik Yu. "Can corruption be measured? Comparing global versus local perceptions of corruption in East and Southeast Asia." *Journal of Comparative Policy Analysis: Research and Practice* 16, no. 2 (2014): 140-157.

[12] Eddy Omar Sharif Hiariej, "United Nations Convention Against Corruption dalam Sistem Hukum Indonesia." *Mimbar Hukum* 31, no. 1 (2019): 112-125; Yenti Garnasih, "Paradigma Baru dalam Pengaturan Anti Korupsi di Indonesia Dikaitkan dengan UNCAC 2003." *Jurnal Hukum PRIORIS* 2, no. 3 (2009): 161-174.

illegally acquired assets.[13] Therefore, aligning Indonesian law with UNCAC provisions on illicit enrichment is crucial not only for fulfilling international obligations but also for enhancing the country's capacity to combat corruption comprehensively and uphold transparency and accountability in governance.

Illicit enrichment refers to the unlawful accumulation of significant wealth or assets by government officials, where the increase in wealth cannot be justified by their legitimate sources of income. The concept of illicit enrichment, or Illicit Enrichment (IE), originated in 1936 when Rodolfo Corominas Segura, a member of the Argentinian Parliament, encountered a state official displaying extravagant wealth that seemed disproportionate to their official income. This incident spurred Segura to advocate for legislation targeting government officials who acquire wealth without a clear legal basis.[14]

In 1964, Argentina and India became pioneers in criminalizing illicit enrichment, marking a significant step towards holding officials accountable for unexplained wealth. This legislative approach aims to address the disparity between the assets owned by government employees and their lawful earnings. It emphasizes the need for public officials to substantiate the origins of their wealth, ensuring transparency and accountability in governance.[15]

---

[13] Marfuatul Latifah, "Urgensi Pembentukan Undang-Undang Perampasan Aset Hasil Tindak Pidana di Indonesia (The Urgency of Assets Recovery Act in Indonesia)." *Negara Hukum: Membangun Hukum untuk Keadilan dan Kesejahteraan* 6, no. 1 (2016): 17-30; Fikry Latukau, and Widati Wulandari. "Pengadopsian UNCAC Mengenai Pengembalian Aset Hasil Korupsi Yang Dibawa atau Disimpan ke Luar Negeri dalam Penegakan Hukum Indonesia." *Jurnal Belo* 5, no. 1 (2019): 10-31.

[14] Jeffrey R. Boles, "Criminalizing the Problem of Unexplained Wealth: Illicit Enrichment Offenses and Human Rights Violations." *New York University Journal of Legislation and Public Policy* 17, no. 4 (2014): 15-057.

[15] Maziyar Ghiabi, ed. *Power and Illicit Drugs in the Global South.* (London: Routledge, 2020); Noratikah Binti Muhammad Azman Ng,Zainal Amin Bin Ayub, and Rohana Binti Abdul Rahman. "The Legal Aspect of Illicit Enrichment in Malaysia: Is it a crime to be rich?." *UUM Journal of Legal Studies* 13, no. 2 (2022): 267-293.

In Indonesia, the application of illicit enrichment rules began with the enactment of Law Number 19 of 2019 concerning the Corruption Eradication Commission. This law grants the Corruption Eradication Commission the authority to register and scrutinize the asset declarations of state officials (LKPHN), thereby laying the groundwork for detecting and investigating instances of illicit enrichment. By enforcing such regulations, Indonesia aims to strengthen its anti-corruption framework, deter corrupt practices, and promote integrity in public office.[16]

The report serves as a crucial gateway for enforcing regulations on the illicit acquisition of assets by public officials. The Periodic Wealth Report of Public Officials (LHKPN) is fundamental for effectively implementing provisions against illicit enrichment. In Indonesia, this requirement is implicitly mandated by Law Number 28 of 1999 concerning Clean and Free Public Administration from Corruption, Collusion, and Nepotism. However, the effectiveness of this requirement is compromised by the fact that non-compliance only leads to administrative sanctions, rendering the obligation to submit LHKPN reports legally toothless.[17]

This loophole undermines efforts to prevent unjustified accumulation of wealth by public officials. Law enforcement faces numerous challenges in combating corruption, notably in the restitution of embezzled assets. Returning stolen assets remains a formidable obstacle due to various legal, logistical, and procedural complexities.

Efforts to strengthen the anti-corruption framework in Indonesia must address these challenges comprehensively. Reforming legislation to impose meaningful consequences for failing to submit LHKPN reports is essential. Moreover, enhancing mechanisms for asset recovery and ensuring the effective prosecution of corrupt officials are imperative steps towards fostering transparency, accountability, and integrity in public

[16] Juang Intan Pratiwi, and Arief Fahmi Lubis. "The Urgency of Implementing Illicit Enrichment Regulations in Eradicing Corruption in Indonesia." *West Science Law and Human Rights* 1, no. 1 (2023): 8-14.

[17] Herlambang Herlambang, Zico Junius Fernando, and Helda Rahmasari. "Kejahatan Memperkaya Diri Sendiri Secara Melawan Hukum (Illicit Enrichment) dan Aparatur Sipil Negara: Sebuah Kajian Kritis." *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 11, no. 2 (2022): 247-264.

administration. By addressing these issues, Indonesia can fortify its stance against corruption and uphold public trust in governance.[18]

Corrupt individuals often conceal assets acquired through corruption abroad, presenting challenges for law enforcement in their detection and seizure. Mahfud MD emphasized the importance of the asset confiscation bill as a means to legally enable the state to seize assets derived from corrupt activities. He highlighted that such legislation not only serves as a deterrent against corruption but also provides a framework for the systematic confiscation of corruptors' assets.

The essence of the Asset Confiscation Bill lies in its procedural guidelines for the seizure of assets acquired through corrupt means. Mahfud MD addressed concerns about the potential confiscation of assets, stating that such measures are necessary to prevent illicit enrichment and ensure accountability. This initiative is supported by the Financial Transaction Analysis Reporting Center (PPATK), which aids in identifying suspicious financial transactions linked to corruption.

The urgency of ratifying and legislating the draft asset confiscation law is underscored by its alignment with international standards, particularly those outlined in the United Nations Convention Against Corruption (UNCAC). While illicit enrichment is recognized under UNCAC, it has yet to be fully incorporated into Indonesian law. Thus, the proposed asset confiscation legislation represents a critical step in bridging this gap and enhancing Indonesia's legal framework to combat corruption effectively.[19]

By enacting comprehensive asset confiscation laws, Indonesia aims not only to recover stolen assets but also to strengthen its capacity to deter

---

[18] Vita Mahardhika, "Strengthening LHKPN: Prevention of Illicit Enrichment in Efforts to Eradicate Corruption." *Audito Comparative Law Journal (ACLJ)* 2, no. 2 (2021): 66-73.

[19] Philippa Webb, "The United Nations convention against corruption: Global achievement or missed opportunity?." *Journal of International Economic Law* 8, no. 1 (2005): 191-229; Jan Wouters, Cedric Ryngaert, and Ann Sofie Cloots. "The fight against corruption in international law." *Leuven Centre for Global Governance Studies Working Paper* 94 (2012); Muhammad Rustamaji, and Bambang Santoso. "The Study of Mutual Legal Assistance Model and Asset Recovery in Corruption Affair." *Indonesian Journal of Criminal Law* 4, no. 2 (2019): 155-160.

corrupt practices, uphold transparency, and safeguard public resources. This legislative effort signifies a proactive stance in aligning national anti-corruption measures with global standards, thereby bolstering integrity in governance and restoring public trust.

This paper critically examines the urgent imperative for enacting the Asset Forfeiture Bill within Indonesia's legal and institutional contexts. It assesses the current landscape of corruption and illicit enrichment, identifies shortcomings in existing legislative measures, and underscores how the proposed bill could significantly enhance Indonesia's anti-corruption landscape. Moreover, the introduction considers the potential impact of the Asset Forfeiture Bill on promoting transparency, bolstering accountability, and fortifying governance standards, thereby fostering a more equitable and sustainable socio-economic milieu.

Through a thorough analysis of the Asset Forfeiture Bill's implications for corruption eradication, this paper advocates for its expeditious adoption and rigorous implementation as a pivotal stride toward fortifying Indonesia's governance structures and reinstating public faith in its institutions.

Method

The research method employed in this study is normative legal research. Normative legal research involves a thorough examination and analysis of legal principles derived from statutory regulations through literature review and library research. The data utilized in this study consist of secondary sources, including legal texts and various references such as scholarly articles and books that address illicit enrichment and the legal consequences in the context of asset forfeiture and corruption issues. This research is inherently tied to existing legal frameworks concerning Illicit Enrichment and the Asset Forfeiture Bill in Indonesia, focusing on their roles in combating corruption.

Result and Discussion

A. Asset Forfeiture Legal Policy

In relation to the assets of state administrators, there are already provisions for confiscation of assets resulting from corruption as stipulated

in several articles in the Law of the Republic of Indonesia Number 20 of 2001 concerning amendments to Law of the Republic of Indonesia Number 31 of 1999 concerning Eradication of Corruption Crimes. Law plays an important role in upholding justice and the governance of the state. The number of rubber clause or not being firm in adjudicating a case causes multiple interpretations from various groups. This is what causes the law in Indonesia to be weak.[20] Debates about legal or statutory or judicial matters add to the problem and further complicate the judicial process. Corruption cases are one of the criminal offenses sectors that have many rubber articles. So that the sentencing is not appropriate and is felt by the people of Indonesia to be unfair and gives the impression that there is a game behind the case.

In the context of law enforcement as part of the corruption eradication agenda, UNCAC Chapter 3 on Criminalization and Law Enforcement contains 11 acts that are considered corruption, one of which

[20] For instance, the controversy surrounding Article 3 of Law No. 31 of 1999 on Corruption Crimes revolves around the subjective determination of malicious intent and self-enrichment motives for perpetrators of corruption offenses. This provision often sparks debate due to its subjective nature in defining malicious intent (*mens rea*) and the motive to enrich oneself, leading to varying interpretations and challenges in securing concrete evidence to substantiate these elements in corruption cases. As a result, the application of Article 3 can impact the fairness and legal certainty of the judicial process concerning corruption in Indonesia. *See* Berlian Tarigan, "Polemik Pasal 3 Uu No. 31 Tahun 1999 Tentang Tipikor Mengenai Unsur Niat Jahat dan Memperkaya Diri Bagi Pelaku Tindak Pidana Korupsi." *Jurnal Justiqa* 2, no. 1 (2020): 27-39; Dadin E. Saputra, and Afif Khalid. "Implikasi Hukum Atas Putusan Mahkamah Konstitusi Nomor 25/PUU-XIV/2016 Terhadap Pemberantasan Tindak Pidana Korupsi." *Syariah: Jurnal Hukum dan Pemikiran* 18, no. 1 (2018): 1-18. Furthermore, the term "rubber clause" in English refers to a provision in a law or regulation intentionally designed to be interpreted or applied flexibly depending on specific circumstances. Typically, a rubber clause grants broad authority or discretion to law enforcement or regulatory authorities to address situations not explicitly covered by other provisions. *See* Mochammad Helmy Fikri, Rakan Yuris Fatah Magister, and Aloysius Mario Threciano Rozari. "Critical Perspective Analysis in the Implementation of "Rubber Article" ITE Law Phenomenon in the Context of Spreading the Ferdy Sambo Case." *Annual International Conference on Social Science and Humanities (AICOSH 2022)*. Atlantis Press, 2022.

is illicit enrichment. The concept contained in Article 20 of the UNCAC is a provision that can enable each participating country to formulate national regulations that can criminalize illicit enrichment. This provision itself is used to identify the ownership of public officials' assets that are improperly obtained and whose origins cannot be explained legally. Furthermore, these unexplained assets should be suspected as the proceeds of crime and through the illicit enrichment mechanism an attempt can be made to confiscate these assets.[21]

Indonesia as a country that has signed the UNCAC through the establishment of Law No. 7 of 2006 has actually implemented the concept of illicit enrichment in a limited way in the Corruption Law and Money Laundering Law (TPPU), but according to the authors the provisions in these regulations have not been harmonized in accordance with the recommendation articles from UNCAC. This can at least be seen from the international spotlight and assessment. When viewed from the results of the first round of UNCAC review in 2012, the UK and Uzbekistan as the assessor or reviewer countries still advised Indonesia to adopt or criminalize 4 offenses in the UNCAC provisions. Apart from illicit enrichment provisions, there are several other provisions such as bribery in the private sector, bribery in foreign public officials, and trading in influence.

The concept of wealth, as stipulated in Article 2(d) of the United Nations Convention against Corruption (UNCAC), encompasses assets of various types: material or immaterial, movable or immovable, tangible or intangible, along with any related documents or legal instruments demonstrating ownership rights or interests in these assets.

The definition of assets in Indonesian law has been regulated in the civil law system in Indonesia as outlined in the second book of the Civil Code (KUHPer) concerning property. It is said that what is called material is every item and every right that can be controlled by property rights.

---

[21] Lindy Muzila, et al. *Illicit Enrichment.* (StAR, The World Bank-UNODC, 2011); Aleksandar Stevanović, and Laura Maria Stănilă,(2021) *Illicit Enrichment as a Criminal Offense: Possibility of Implementation in the National Criminal Legislations.* In: VI international scientific thematic conference Institutions and prevention of financial crime, Belgrade, December 2021. Institute of Comparative Law; Institute of Criminological and Sociological Research, Belgrade, pp. 205-218.

From this definition it can be seen that the meaning of objects is anything that can be claimed or used as a property object, so its scope is very broad because in the definition of objects (*zaak*), it includes the terms goods (*goed*) and rights (*recht*). The meaning of the term object is still abstract because it includes not only tangible objects but also intangible objects. Goods have a narrower and more concrete meaning and are tangible, meaning that they can be seen and touched, which means referring to tangible objects, while rights refer to the meaning of immaterial objects, such as accounts receivable or billing. The KUHAP in its provisions does not state assets in its arrangements, however the KUHAP provides a definition similar to the meaning of assets by using the term "*object*". This is formulated in Article 1 point 16, namely confiscation is a series of actions by investigators to take over and or keep under their control movable or immovable, tangible or intangible objects for the purposes of evidence in investigations, prosecutions and trials.

The meaning of the term criminal act assets is that criminal act assets are seen as subjects and objects of criminal law. What is meant by assets as subjects of criminal law are assets that are used as a means to commit criminal acts or that have assisted or supported the preparatory and planning activities of a crime, while what is meant by assets as objects of criminal law are assets that are the proceeds of a crime. The juridical aspect regarding the term "*criminal assets*" carries legal consequences in which criminal assets are seen as "*abandoned*" by their owners (perpetrators of crimes) who have controlled (not owned) the assets in question. Separation of the relationship between "*assets*" and "*asset owners*" in the context of confiscation of criminal acts of assets through civil means, legally means that "*assets*" are equivalent to criminal offenders. The term deprivation can be equated with confiscation and forfeiture. In UNCAC there is a definition of confiscation in article 2 letter g, namely "*confiscation*" which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority, article 2 letter g is translated by UNODC as following: "*Forfeiture*" which includes the imposition of a fine where applicable, means the permanent deprivation of property by order of a court or other competent authority.

Brenda Grantland defines asset forfeiture as a process in which the government permanently takes property from the owner, without paying fair compensation, as punishment for violations committed by the property or owner. From this definition it can be seen that confiscation of assets is a permanent act so it is different from confiscation which is a temporary act, because the goods confiscated will be determined by a decision whether to be returned to those who are entitled, confiscated for the state, destroyed or remain under the power of the prosecutor. Meanwhile, in confiscation of assets, it means that there has been a decision stating taking the property from the owner without paying compensation that occurred due to a violation of the law.[22]

Confiscation is different from forfeiture and the definition of confiscation is taking goods or objects from the authority of the holder of the object for the purposes of examination and evidence. Confiscation only transfers ownership of goods and there has been no transfer of ownership, while forfeiture revokes the right of someone's ownership of an object. The Indonesian Criminal Code has regulated the confiscation of assets, the confiscation is carried out based on a decision or determination from a criminal judge, on certain items. The confiscation was carried out in a limited manner in accordance with what was determined by the Criminal Code, namely goods belonging to the convict obtained from a crime or intentionally used to commit a crime (Article 39 paragraph (1) of the Criminal Code). Confiscation can be replaced by imprisonment if the confiscated goods are returned to the convict (Article 41 paragraph (1) of the Criminal Code), the duration of the imprisonment is at least 1 (one) day and a maximum of 6 (six) months (Article 41 paragraph (1) 2) Criminal Code).

Asset Return is an official translation of the meaning of the term Asset Recovery which is regulated in Chapter V of UNCAC which is specifically aimed at the procedure for returning the proceeds of corruption placed in other countries through international cooperation. Chapter V of the UNCAC provides a very broad interpretation of the notion of Asset Recovery, starting from the prevention and detection of

[22] Brenda Gartland, *Asset Forfeiture: Rules and Procedures*. (Washington DC: Forfeiture Endangers American Rights (FEAR), 2009).

criminal asset transfers, direct legal steps to return criminal assets, mechanisms for returning criminal assets through international cooperation in confiscation, international cooperation for the purpose of confiscation. and Return and Search for Criminal Acts of Assets. In general, there are two types of confiscation that are used internationally to return and as a means of handling proceeds of crime, namely criminal forfeiture or *in personam* forfeiture. and civil forfeiture (civil forfeiture, NCB asset forfeiture or in rem forfeiture). They share the same goal, namely the appropriation by the state of the proceeds/means of crime.

B. Confiscation of Assets with *In Personam* Mechanisms

In person confiscation of assets or criminal forfeiture or conviction based is a judgment in person against the defendant, which means that the deprivation is closely related to the conviction of a convicted person. individual person, therefore it requires proof of the defendant's guilt first before seizing assets from the defendant. The public prosecutor must first prove the crime committed by the defendant and the relationship between the crime committed by the defendant and assets that are the result or instrument of a crime that is controlled by the defendant. If it has been proven, then a court decision that has legal force remains the legal basis for seizing the assets of the defendant.

The standard burden of proof for carrying out criminal confiscation of assets is higher than for confiscating assets with a civil law mechanism. In the common law system, criminal confiscation of assets requires a standard of proof beyond a reasonable doubt or intimate conviction. This means that there should be no doubt and it is believed that there was a mistake on the part of the defendant and the status of the assets which are the result or instrument of the criminal act committed by the defendant. In person confiscation of assets is generally carried out through criminal law mechanisms. At the criminal trial there are formal requirements to convict the defendant and also to confiscate the defendant's assets, the following are the characteristics of imposing decisions in criminal law as shown on Table 1.

TABLE 1. Steps for confiscating assets with an *in personam* mechanism

Asset Tracking	Asset Freezing	Asset Forfeiture	Asset recovery
The purpose of this investigation or tracking of assets is to identify assets, locations for storing assets, evidence of ownership of assets and their relationship to the crime committed.	According to article 2 letter f of the UNCAC, the definition of freezing or confiscation is a temporary prohibition of the transfer, conversion, transfer or transfer of property or temporary takeover of responsibility or control of property based on an order issued by a court or other competent authority is the police, prosecutors or state agencies that are given the authority to carry out such actions, for example the Corruption Eradication Commission (KPK) in Indonesia.	According to article 2 letter f of the UNCAC, the definition of confiscation is the revocation of wealth forever based on a court order or other authorized body.	Returning and handing over assets to victims of asset confiscation in person has limited reach because attempts to seize assets which are the proceeds and instruments of crime can only be carried out if the perpetrator of the crime has been proven guilty and has committed a crime by the court.

The concept of in rem asset confiscation uses the principle that object holders do not have the right to control assets obtained from unlawful acts. In the *in rem* confiscation of assets, the allegation that the assets originated from an unlawful act is completely neutral from the actions committed by the holder/controller of the said assets.

This happens because in rem asset confiscation focuses on the origin of assets, therefore asset confiscation will not depend on unlawful acts committed by the right holders of said assets or not due to mistakes attached to assets involved in a crime. In rem confiscation of assets uses a legal fiction that makes it appear as if the object was "*guilty*" when it was used or how it was obtained against the law. Because it focuses on "*mistakes*" of objects, in rem asset confiscation can still be carried out even though the objects obtained from the unlawful act have been transferred to a third party in good faith, because there is no legal property right that can be recognized for the ownership of the object. obtained against the law.

The purpose of in rem forfeiture of assets is to determine the status of the assets rather than to prove guilt in a crime. This is not a punishment, but rather a mechanism to ask the court to determine the ownership status

of the assets. The purpose of in rem forfeiture of assets is to determine the status of the assets rather than to prove guilt in a crime. This is not a punishment, but rather a mechanism to ask the court to determine the ownership status of the asset. law and if the asset is used illegally the plaintiff must prove that the use occurred without the knowledge and consent of the owner. Confiscation of assets is a restitution (penalty) and not a punishment (punishment) because in rem asset confiscation only ensures that the perpetrator of a crime will not benefit from the unlawful act he committed. Confiscation of assets in rem has more in common with compensation in civil law (civil restitution) than with punishment.

1. Criminal Forfeiture

Is part of the punishment for a crime, which is usually said that criminal forfeiture is *in personam* action against the defendant, not an in brake action against the property involved in the offense. This shows that the criminal forfeiture model is carried out in connection with the sentencing of a convict who is sentenced based on a criminal court decision that has permanent legal force (*in kracht van gewijsde*), not on a claim for assets related to a crime. Usually, the court in criminal forfeiture cases will ask the convicted party to pay replacement money or seize assets belonging to the convict as a substitute if directly the assets that can be confiscated have been lost or cannot be found. Provisions regarding variants of criminal forfeiture in the legal system in Indonesia can be seen in the application of Article 10 letter b number 2 of the Criminal Code, which is applied as an additional punishment in the crime of money laundering where in fact the object of the offense is proceeds of crime (proceeds of crime). In criminal forfeiture, confiscation of assets is an additional punishment, in which the additional punishment is used to add to the main punishment, so that it is impossible to be imposed singly/alone.

The assets that were decided to be confiscated were only assets that had been previously confiscated by investigators. As for the case that during the examination process at the Court, the Panel of Judges considers that there are still assets that need to be confiscated after there is sufficient evidence, the Panel of Judges before the trial may order the public prosecutor to confiscate said assets. As for the assets that have been

confiscated, in the end, simultaneously with the pronouncement of the Verdict, in the event that the perpetrator is proven guilty, the Panel of Judges also decides as an additional punishment for, confiscates for the state, in the event that the predicate crime is delicts that harm state or there are no direct victims, such as corruption, narcotics, gambling, etc. and are confiscated to be returned to those who are entitled, in the event that the predicate crimes are offenses where there are direct victims, such as embezzlement, fraud, theft, etc. Specifically in the handling of money laundering offenses, assets that are suspected of being proceeds of crime are given the obligation for the defendant to prove that assets declared as proceeds of crime are not proceeds of crime. This is conceptually referred to as the shifting burden of proof (reversal of the burden of proof) as contained in Articles 77-78 of Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering. In this case, the defendant is asked to prove that the assets that have been confiscated by the investigator or presented by the public prosecutor in the case file, are not originating from or related to the crime as charged by the public prosecutor by submitting sufficient evidence regarding the assets.

As for reversing the burden of proof (shifting the burden of proof) is not a means to prove that guilty is innocent, but only a means to optimize the confiscation of assets for the proceeds of crime that have been obtained by arrest which if guilty is able to prove that of the confiscated assets there is assets originating from legal origins, does not mean that there are no characteristics of 2010 concerning the prevention and eradication of ML. In this case, it is required to prove that the assets that have been submitted by investigators or submitted by the public prosecutor in the case file, do not originate from or are related to criminal acts as demanded by the public prosecutor by submitting sufficient evidence regarding these assets. As for reversing the burden of proof (shifting the burden of proof) is not a means to prove that guilty is innocent, but only a means to optimize the criminal action that has been obtained by punishment. Which if the guilty is able to prove that from the existing assets there are assets originating from legal origins, it does not mean that there is no guilt from guilt, because what is proven by the defense is not against the elements of the offense, but against the legitimacy of assets confiscated. Except in the event that it turns out that all the assets that are suspected of

being the object of the criminal act of money laundering are from punishment or all that has been confiscated, all of which can be proven by the defense that originate from legal origins, then the said assets are placed back on the postulate in the money laundering offense if there are no proceeds of crime that are hidden or disguised, then mutatis mutandis the crime of money laundering also does not exist. The concept of reversing the burden of proof is actually an instrument that is commonly used in the context of in rem asset forfeiture, and not in the context of criminal forfeiture. Meanwhile, even though Indonesia does not have laws that specifically regulate asset confiscation through civil asset forfeitures that use the *in rem* approach as in the United States and Europe, the application of the shifting burden of proof can be found in the Corruption Law and the Money laundry Law which included as an inclusive part of criminal forfeiture.

2. *Civil Forfeiture*

Civil Forfeiture is a model of confiscating assets that is not a case being tried in a criminal court. In civil forfeiture, the party who is the subject does not need to be proven to have committed a crime, if it is suspected that the proceeds of the money is a crime, the State can already confiscate it by filing a lawsuit against the assets or in rem lawsuit to the Court or it does not need to be proven beforehand that he committed the crime. criminal. Civil Forfeiture is also an important instrument when the State finds the assets of a fugitive perpetrator or a defendant who has died, to be confiscated or assets that can be proven as assets related to crime, but cannot be proven who the perpetrators are. In international practice, civil forfeiture is usually carried out with the "*in rem forfeiture*" approach as it is known in several countries such as the United States. This effort is a state lawsuit against assets that are suspected of being the result of a crime. However, if further examined in positive law in Indonesia, then apart from the *in rem* approach, there should also be an asset confiscation model that can be carried out through an in person approach, namely through a

lawsuit filing a civil lawsuit directly to the 'persona' of the person suspected of controlling the illegal assets.[23]

3. *Administrative Forfeiture*

One of the fundamental issues that still raises problems and controversies around administrative forfeiture is that there is a possibility for parties who carry cross-border cash that is suspected of being carried out to prevent the transaction from being reported by the authorities (customs) to PPATK as a Report on the Carrying of Money. Cross-Border Cash. Legal policies related to asset confiscation are contained in the regulations on the criminal act of corruption, the existence of criminal sanctions for confiscation of assets as part of additional crimes in the Indonesian criminal system, as the name implies is an addition to the main crime and the imposition of the crime is optional, so its application or whether or not additional punishment will be imposed in the form of payment of replacement money, is left to the consideration of the Panel of Judges.

With its non-imperative nature, there is no obligation for law enforcers to apply criminal provisions for confiscation of assets against perpetrators of corruption. Based on the description above, it is concluded that viewed from the perspective of the most essential goal of law enforcement against criminal acts of corruption, namely ensuring the recovery of state losses, the formulation of sanctions for confiscation of assets in the Corruption Crime Eradication Law is a very strategic criminal law policy. However, the placement of criminal sanctions for confiscation of assets as an additional punishment, actually weakens law enforcement against criminal acts of corruption, because it is only an option, not an order that inevitably must be applied, so it cannot guarantee that in every occurrence of a criminal act of corruption, there will be returns. state loss.

---

[23] *See* Isnaini Nur Fadilah, "In Rem Asset Forfeiture dalam Bandul Asset Recovery dan Property Rights." *AML/CFT Journal: The Journal of Anti Money Laundering and Countering The Financing of Terrorism* 1.1 (2022): 87-99; Ridwan Arifin, Indah Sri Utari, and Herry Subondo. "Upaya Pengembalian Aset Korupsi Yang Berada di Luar Negeri (Asset Recovery) Dalam Penegakan Hukum Pemberantasan Korupsi di Indonesia." *Indonesian Journal of Criminal Law Studies* 1, no. 1 (2016): 105-137.

C. Illicit Enrichment Regulation Through of Asset Forfeiture Bill to Corruption Eradication

Corruption has become endemic and has become a very dangerous disease in many countries that undermines democracy, the rule of law, violates human rights, organized crime, and threatens human security. The effect on the state is very damaging because it weakens the ability of the state to fulfill the basic rights of its citizens, thus creating poverty. In order to obscure wealth and avoid entanglement under national law, these corruptors often divert funds into shares, property and other forms abroad. The transfer of funds and changing forms abroad is a crime against humanity because it has deprived other people of their basic rights of fulfillment which has come to the attention of the international community to consider the existence of UNCAC. It is therefore no exaggeration if the international community declares to be committed to preventing, tracking and deterring in a more effective way international transfers of assets. obtained illegally, and to strengthen international cooperation in asset recovery. in 2000, the United Nations initiated the establishment of an ad hoc commission to formulate the terms of reference for negotiating an international legal instrument in eradicating corruption.

Pursuant to resolution 55/188 of 20 December 2000, this commission established an intergovernmental team of experts to begin reviewing illegal fund transfers and refunds to countries of origin. This was the beginning of the formulation of an anti-corruption convention. In 2003 a United Nations Convention Against Corruption was born which was ratified in Merida Mexico13. Indonesia is one of the state parties that has signed and ratified the UNCAC through Law no. 7 of 2006 concerning Ratification of the UNCAC. As a participating country, Indonesia has a variety of obligations. Specifically, regarding Illicit Enrichment (Unreasonable Wealth) regulated in article 20 of the UNCAC, Indonesia's obligation is seen in the following phrase: *"… each party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offense …"* The phrase "*each party shall consider adopting*" has the meaning of having mandatory provisions at the level of orders. Setting illicit enrichment as an instrument for preventing

and prosecuting corruption is a necessity. Types of action against perpetrators of illicit enrichment include criminal sanctions (prison confinement and fines) as well as administration.[24]

Illicit enrichment arrangements in the three regional conventions at a glance will not show any fundamental differences. However, when examined more deeply, it turns out that there are very basic differences and have very different meanings. The UNCAC regulations regulate in great detail and are broader about illicit enrichment. The definition of illicit enrichment in this Convention is not only aimed at conventional public officials but broadly covering every public employee broadly in order to explain the significant increase in assets from all income (whether in the form of salary or not) whose wealth has been reported to the State. So here the subject is every public official including public employees whose assets have increased from all income whose assets have been reported to the State. Then, the IACAC more specifically regulates every government official, excluding other employees, to explain the increase in assets from the mere salary that has been reported to the tax office while he is in office. AUCPCC arrangements are addressed to Public Officials including public employees and everyone to explain the significant increase in all of their assets from their Income (before reporting to the State).

Of the 193 countries in the world, there are at least 44 countries that have law-level legal instruments regarding illicit enrichment. A total of 39 countries out of 44 imposed confinement or prison sanctions, such as China, India, Malaysia, Brunei, Macau, Bangladesh and Egypt. Sentences ranged from 14 days to 20 years in prison. The average setting is 2-5 years and some impose minimum sanctions.

There is a connection between the magnitude of the sanction and the amount of unnatural wealth. There are 26 of the 39 countries that apply various fines, for example 50-100% or twice the value of illicit investment, USD 5,00,000-1,000,000. There are nine countries that impose administrative sanctions, for example the Philippines, Argentina,

[24] Ridwan Arifin, et al. "A Discourse of Justice and Legal Certainty in Stolen Assets Recovery in Indonesia: Analysis of Radbruch's Formula and Friedman's Theory." *Volksgeist: Jurnal Ilmu Hukurn dan Konstitusi* 6, no. 2 (2023).

Chile, Colombia, El Salvador and Uganda. Administrative sanctions can take the form of dismissal, prohibition of holding certain positions and revocation of voting rights. When combined, the meaning of illicit enrichment is that the formulation of illicit enrichment above must be further explained in its explanation in order to prove a significant increase in the income of each public official to ensure that the income is legitimate. The proof can be through reporting such as LKHPN as in Indonesia. An important element of illicit enrichment is that the subject is a public official/civil servant/state administrator, enriches himself or has significantly increased/increased wealth, he cannot explain it reasonably (increased wealth), the increase in wealth occurs as a result of his actions, actions it was done on purpose.

The illicit enrichment setting places more emphasis on assets. Although this hard work should be appreciated, the use of the Law on Money Laundering and the Law on Corruption Eradication still has complex proofs, such as the need to prove "efforts to hide the origin of wealth" as stipulated in the Law on Money Laundering. This is usually evidenced by not reporting. Although currently the regulation of the wealth of public officials in an unreasonable amount has not been regulated in the provisions of the laws and regulations in Indonesia. Against Illicit Enrichment violations, UNCAC regulates to be criminalized. For violations of the law governing illicit enrichment, will they be subject to criminal or administrative sanctions without sentencing. Punishment can be in the form of imprisonment or confinement or fines.

In Australia and several other countries, illicit enrichment is known as "*unexplained wealth*" without being prosecuted, but the assets that the accused cannot prove (by reversing the burden of proof) will be confiscated by the state.[25] In other countries there are criminal witnesses and there are also administrative sanctions. Of the 44 countries that already have illicit enrichment laws, 39 of them impose prison or prison sanctions, such as China, India, Malaysia, Brunei, Macau, Bangladesh and Egypt. Sentences

[25] Lorana Bartels, "Unexplained wealth laws in Australia." *Trends and Issues in Crime and Criminal Justice* 395 (2010): 1-6; Gray, Anthony. "The compatibility of unexplained wealth provisions and 'civil' forfeiture regimes with kable." *Law and Justice Journal* 12, no. 2 (2012): 18-35.

ranged from 14 days to 20 years. The average setting is 2-5 years and some impose minimum sanctions. There is a connection between the magnitude of the sanctions and the amount of unnatural wealth. Twenty-six of the 39 countries apply various fines, for example 50-100% or twice the value of illicit investment, USD 5,00,000-1,000,000. There are nine countries that impose administrative sanctions, for example the Philippines, Argentina, Chii, Columbia, El Salvador and Uganda. Administrative sanctions can take the form of dismissal, prohibition of holding certain positions and revocation of voting rights.

In order to apply illicit enrichment properly, several prerequisites are needed, namely improvements to: administration of State Officials' Wealth Reports (LHKPN) and taxation (related to tax returns) with the population administration system and land administration. Without strengthening and improving the system, it will be very difficult to implement the law on illicit enrichment. Administration and database of financial transactions, both cash transactions and suspicious transactions must be enriched and made accessible to law enforcement. Checking the lifestyle of public officials needs to be done by examining their assets, activities and expenses. Guidelines need to be made in carrying out this lifestyle check.

Conclusion

Prohibited enrichment arrangements put more emphasis on assets. Although this hard work should be appreciated, the use of the Law on Money Laundering and the Law on Corruption Eradication still has complex proofs, such as the need to prove "efforts to hide the origin of wealth" as stipulated in the Law on Money Laundering. This is usually evidenced by not reporting. Although currently the regulation of the wealth of public officials in an unreasonable amount has not been regulated in the provisions of the laws and regulations in Indonesia. . Based on that, the offer of legal norms will be included if the advocacy strategy is to include the Illicit Enrichment provisions in the Asset Confiscation Bill. In the proposed norms for illicit enrichment articles, there must be a clear definition of who is the subject, object, mechanism of the evidentiary process and sanctions to be regulated.

References

Ahmeti, Sc Skender, et al. "Corruption and Economic Development." ILIRIA International Review 2, no. 1 (2012): 91-102.

Alkostar, Artidjo. "Korelasi Korupsi Politik dengan Hukum dan Pemerintahan di Negara Modern (Telaah Tentang Praktik Korupsi Politik dan Penanggulangannya)." *Jurnal Hukum Ius Quia Iustum* 16 (2009): 155-179.

Arifin, Ridwan, et al. "A Discourse of Justice and Legal Certainty in Stolen Assets Recovery in Indonesia: Analysis of Radbruch's Formula and Friedman's Theory." *Volksgeist: Jurnal Ilmu Hukurn dan Konstitusi* 6, no. 2 (2023).

Arifin, Ridwan, Indah Sri Utari, and Herry Subondo. "Upaya Pengembalian Aset Korupsi Yang Berada di Luar Negeri (Asset Recovery) dalam Penegakan Hukum Pemberantasan Korupsi di Indonesia." *Indonesian Journal of Criminal Law Studies* 1, no. 1 (2016): 105-137.

Aspinall, Edward. The state and illegality in Indonesia. (Leiden: Brill, 2011).

Bartels, Lorana. "Unexplained wealth laws in Australia." *Trends and Issues in Crime and Criminal Justice* 395 (2010): 1-6.

Boles, Jeffrey R. "Criminalizing the Problem of Unexplained Wealth: Illicit Enrichment Offenses and Human Rights Violations." *New York University Journal of Legislation and Public Policy* 17, no. 4 (2014): 15-057.

Canonica-Walangitang, Resy. "The 'Tradition' of corruption and the challenge of establishing a 'Clean' political environment in Indonesia." *Democracy in Indonesia: The Challenge of Consolidation*. (Nomos Verlagsgesellschaft mbH & Co. KG, 2007).

Chalmers, Ian, and Budi Setiyono. "The struggle against corruption during the democratic transition: Theorising the emergent role of CSOs." *Development and Society* 41, no. 1 (2012): 77-102.

Davidsen, Soren, Vishnu Juwono, and David G. Timberman. "Curbing Corruption in Indonesia 2004–2006." *A Survey of National Policies and Approaches, CSIS and USINDO* (2006).

Dixon, William, and David Wilson. "Thomas Chalmers: The market, moral conduct, and social order." *History of Political Economy* 42, no. 4 (2010): 723-746.

Fadilah, Isnaini Nur. "In Rem Asset Forfeiture dalam Bandul Asset Recovery dan Property Rights." *AML/CFT Journal: The Journal of Anti Money Laundering and Countering The Financing of Terrorism* 1.1 (2022): 87-99.

Fikri, Mochammad Helmy, Rakan Yuris Fatah Magister, and Aloysius Mario Threciano Rozari. "Critical Perspective Analysis in the Implementation of "Rubber Article" ITE Law Phenomenon in the Context of Spreading the Ferdy Sambo Case." *Annual International Conference on Social Science and Humanities (AICOSH 2022)*. Atlantis Press, 2022.

Fitriyani, Desi. "The Possibility of Implementing In-Rem Asset Forfeiture as an Asset Recovery Effort in Indonesia." *AML/CFT JOURNAL: The Journal of Anti Money Laundering and Countering The Financing of Terrorism* 1, no. 2 (2023): 205-219.

Fjeldstad, Odd-Helge, and Jan Isaksen. "Anti-corruption reforms: challenges, effects and limits of World Bank support." *IEG Working Paper* (2008).

Gardiner, John. "Defining corruption." *Political Corruption*. (London: Routledge, 2017), pp. 25-40.

Garnasih, Yenti. "Paradigma Baru dalam Pengaturan Anti Korupsi di Indonesia Dikaitkan dengan UNCAC 2003." *Jurnal Hukum PRIORIS* 2, no. 3 (2009): 161-174.

Gartland, Brenda. *Asset Forfeiture: Rules and Procedures*. (Washington DC: Forfeiture Endangers American Rights (FEAR), 2009).

Ghiabi, Maziyar, ed. *Power and Illicit Drugs in the Global South*. (London: Routledge, 2020).

Gray, Anthony. "The compatibility of unexplained wealth provisions and 'civil' forfeiture regimes with kable." *Law and Justice Journal* 12, no. 2 (2012): 18-35.

Hamilton-Hart, Natasha. "Anti-corruption strategies in Indonesia." *Bulletin of Indonesian Economic Studies* 37, no. 1 (2001): 65-82.

Henderson, J. Vernon, and Ari Kuncoro. "Corruption in Indonesia." *National Bureau of Economic Research Working Paper Series,* No.

10674 (2004): 1-36. Available online at <https://www.nber.org/papers/w10674>.

Herlambang, Herlambang, Zico Junius Fernando, and Helda Rahmasari. "Kejahatan Memperkaya Diri Sendiri Secara Melawan Hukum (Illicit Enrichment) dan Aparatur Sipil Negara: Sebuah Kajian Kritis." *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 11, no. 2 (2022): 247-264.

Heywood, Paul. "Political corruption: Problems and perspectives." *Political Studies* 45, no. 3 (1997): 417-435.

Hiariej, Eddy Omar Sharif. "United Nations Convention Against Corruption dalam Sistem Hukum Indonesia." *Mimbar Hukum* 31, no. 1 (2019): 112-125.

Kelsen, Hans. "On the Basis of Legal Validity." *American Journal of Jurisprudence* 26, no. 1 (1981): 178.

Kurer, Oskar. "Corruption: An alternative approach to its definition and measurement." *Political Studies* 53, no. 1 (2005): 222-239.

Kurniawan, Yusuf, Ririn Tri Ratnasari, and Hindah Mustika. "The corruption and human development to the economic growth of OIC countries." *JEBIS: Jurnal Ekonomi dan Bisnis Islam* 6, no. 2 (2020): 189-200.

Latifah, Marfuatul. "Urgensi Pembentukan Undang-Undang Perampasan Aset Hasil Tindak Pidana di Indonesia (The Urgency of Assets Recovery Act in Indonesia)." *Negara Hukum: Membangun Hukum untuk Keadilan dan Kesejahteraan* 6, no. 1 (2016): 17-30.

Latukau, Fikry, and Widati Wulandari. "Pengadopsian UNCAC Mengenai Pengembalian Aset Hasil Korupsi Yang Dibawa atau Disimpan ke Luar Negeri dalam Penegakan Hukum Indonesia." *Jurnal Belo* 5, no. 1 (2019): 10-31.

Lin, Min-Wei, and Chilik Yu. "Can corruption be measured? Comparing global versus local perceptions of corruption in East and Southeast Asia." *Journal of Comparative Policy Analysis: Research and Practice* 16, no. 2 (2014): 140-157.

Liu, Xizi. "A literature review on the definition of corruption and factors affecting the risk of corruption." *Open Journal of Social Sciences* 4, no. 6 (2016): 171-177.

Lukito, Anastasia Suhartati. "Building anti-corruption compliance through national integrity system in Indonesia: A way to fight against corruption." *Journal of Financial Crime* 23, no. 4 (2016): 932-947.

Mahardhika, Vita. "Strengthening LHKPN: Prevention of Illicit Enrichment in Efforts to Eradicate Corruption." *Audito Comparative Law Journal (ACLJ)* 2, no. 2 (2021): 66-73.

McCusker, Rob. *Review of anti-corruption strategies.* (Canberra: Australian Institute of Criminology, 2006).

Muzila, Lindy, et al. *Illicit Enrichment.* (StAR, The World Bank-UNODC, 2011).

Ng, Noratikah Binti Muhammad Azman, Zainal Amin Bin Ayub, and Rohana Binti Abdul Rahman. "The Legal Aspect of Illicit Enrichment in Malaysia: Is it a crime to be rich?." *UUM Journal of Legal Studies* 13, no. 2 (2022): 267-293.

Paulson, Stanley L. "Metamorphosis in Hans Kelsen's Legal Philosophy." *The Modern Law Review* 80, no. 5 (2017): 860-894.

Pratiwi, Juang Intan, and Arief Fahmi Lubis. "The Urgency of Implementing Illicit Enrichment Regulations in Eradicing Corruption in Indonesia." *West Science Law and Human Rights* 1, no. 1 (2023): 8-14.

Rustamaji, Muhammad, and Bambang Santoso. "The Study of Mutual Legal Assistance Model and Asset Recovery in Corruption Affair." *Indonesian Journal of Criminal Law* 4, no. 2 (2019): 155-160.

Saputra, Dadin E., and Afif Khalid. "Implikasi Hukum Atas Putusan Mahkamah Konstitusi Nomor 25/Puu-Xiv/2016 Terhadap Pemberantasan Tindak Pidana Korupsi." *Syariah: Jurnal Hukum dan Pemikiran* 18, no. 1 (2018): 1-18.

Schütte, Sofie Arjon. "Against the odds: Anti-corruption reform in Indonesia." *Public Administration and Development* 32, no. 1 (2012): 38-48.

Schütte, Sofie Arjon. "The fight against corruption in Indonesia." *Südostasien Aktuell: Journal of Current Southeast Asian Affairs* 26.4 (2007): 57-66.

Shivakumar, Dhananjai. "The Pure Theory as Ideal Type: Defending Kelsen on the Basis of Weberian Methodology." *The Yale Law Journal* 105, no. 5 (1996): 1383-1414.

Stevanović, Aleksandar and Stănilă, Laura Maria (2021) *Illicit Enrichment as a Criminal Offense: Possibility of Implementation in the National Criminal Legislations.* In: VI International Scientific Thematic Conference Institutions And Prevention of Financial Crime, Belgrade, December 2021. (Institute of Comparative Law; Institute of Criminological and Sociological Research, Belgrade), pp. 205-218.

Sudikno Mertokusumo, *Penemuan Hukum: Sebuah Pengantar.* (Yogyakarta: Liberty, 2007).

Tarigan, Berlian. "Polemik Pasal 3 Uu No. 31 Tahun 1999 Tentang Tipikor Mengenai Unsur Niat Jahat dan Memperkaya Diri Bagi Pelaku Tindak Pidana Korupsi." *Jurnal Justiqa* 2, no. 1 (2020): 27-39.

Umam, Ahmad Khoirul, et al. "Addressing corruption in post-Soeharto Indonesia: The role of the corruption eradication commission." *Journal of Contemporary Asia* 50, no. 1 (2020): 125-143.

Webb, Philippa. "The United Nations convention against corruption: Global achievement or missed opportunity?." *Journal of International Economic Law* 8, no. 1 (2005): 191-229.

White, Andrew. "The Paradox of Corruption as Antithesis to Economic Development: Does Corruption Undermine Economic Development in Indonesia and China, and Why Are the Experiences Different in Each Country?." *Asian-Pacific Law and Policy Journal* 8, no. 1 (2006): 1-34.

Wouters, Jan, Cedric Ryngaert, and Ann Sofie Cloots. "The fight against corruption in international law." *Leuven Centre for Global Governance Studies Working Paper* 94 (2012).

***

"Integrity, transparency and the fight against corruption have to be part of the culture. They have to be taught as fundamental values."

Angel Gurría
OECD Secretary General

DECLARATION OF CONFLICTING INTERESTS

The authors state that there is no conflict of interest in the publication of this article.

FUNDING INFORMATION

None

ACKNOWLEDGMENT

The authors sincerely acknowledge the invaluable contributions and support from the following institutions in the preparation of this paper titled "Urgency of Regulate Illicit Enrichment Through of Asset Forfeiture Bill to Corruption Eradication in Indonesia": Faculty of Law, Universitas Negeri Semarang, Semarang, Indonesia; Faculty of Journalism, Ankara University, Turkey; and Faculty of Sharia, Yarmouk University, Jordan. We would like also to thank to Indonesian Corruption Watch, Center for Anti-Corruption Universitas Negeri Semarang, especially Dr. Indah Sri Utari, and Mr Ridwan Arifin. Their expertise and insights greatly enriched the discussion on the pressing need for legislation to combat illicit enrichment and enhance corruption eradication efforts in Indonesia. The authors also extend their appreciation to their respective institutions for providing the necessary resources and support for this scholarly endeavor.

HISTORY OF ARTICLE

Submitted : December 15, 2022
Revised : February 23, 2023; April 18, 2023
Accepted : May 15, 2023
Published : May 31, 2023