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Corporate Seizure Related to Corruption and Money Laundering in Indonesia: Issues and Problems in Law Enforcement

Dita Veronika [a*], Bianglala Asmarasari [b]
[a] Faculty of Law, Universitas Slamet Riyadi, Surakarta, Indonesia
[b] Faculty of International Studies, Vietnam National University, Vietnam
* corresponding author: ditaveronika150897@gmail.com

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ABSTRACT

This publication analyzes the confiscation of business assets associated with money laundering offenses in Indonesia, emphasizing the challenges and opportunities in enforcement. Money laundering (TPPU) constitutes a grave offence that jeopardises the state's finances, undermines economic stability, and compromises the integrity of the financial system. Corporations frequently act as facilitators or agents in money laundering, rendering corporate asset confiscation a crucial tool in law enforcement initiatives. This study, informed by recent academic literature, concludes that although Indonesia possesses legal frameworks for asset seizure, their execution is obstructed by numerous hurdles, including regulatory, institutional, and inter-agency coordination issues. The asset recovery rate from corruption prosecutions is significantly low in relation to total state losses. This paper advocates for the fortification of regulations via the enactment of the Asset Forfeiture Bill, the augmentation of law enforcement capabilities, the establishment of specialised agencies, and the implementation of Non-Conviction Based Forfeiture (NCBF) mechanisms with suitable protections.

1. Introduction

This paper will examine the seizure of corporate assets associated with money laundering offenses in Indonesia, focusing on the potential outcomes and challenges in their implementation.[1] The act of money laundering constitutes a grave offence that

[1] Muhammad Bramantyo, '"Where Do You Hide Your Money?": The Explanation of Low Conviction in Money Laundering', *Journal of Economic Criminology*, 8 (2025), p. 100161, doi:https://doi.org/10.1016/j.jeconc.2025.100161.

not only inflicts financial harm upon the nation but also jeopardises economic stability and undermines the integrity of the financial system.[2] Corporations frequently serve as conduits or agents in money laundering offenses, thus rendering the seizure of corporate assets a crucial tool in law enforcement's endeavors.[3]

In contemporary society, corporations play a pivotal role in fostering the advancement of economic activities within communities. They serve as a conduit that facilitates entry into an increasingly globalised business landscape, characterised by expansive market opportunities.[4] Furthermore, corporations provide a platform for capital stakeholders to collaborate, leveraging their collective strengths to pursue shared objectives and maximise profitability. To establish and develop a corporation collaboratively, specific provisions or conditions must be fulfilled and met by the involved parties in accordance with the established agreements. These include capital, assets, and designated administrators, all of which are essential to achieving the foundational objectives of the corporation's formation.[5]

The proliferation of publicly traded corporations, which offer the potential for income and profit through share ownership, presents a compelling investment opportunity. The accessibility of these public entities to individuals undoubtedly enhances their appeal.[6] However, it is essential to consider the possibility that the capital employed in acquiring these shares may originate from illicit activities. According to the classification of money laundering, the proceeds derived from criminal activities are transformed into a format that eludes suspicion through various methods of integration into the financial system or transactions (placement stage).[7] For instance, the allocation of resources towards products deemed worthy of investment,

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[2] Fabian Teichmann, 'Recent Trends in Money Laundering', *Crime, Law and Social Change*, 73.2 (2020), pp. 237 – 247, doi:10.1007/s10611-019-09859-0.

[3] Anastasia Suhartati Lukito, 'Financial Intelligent Investigations in Combating Money Laundering Crime', *Journal of Money Laundering Control*, 19.1 (2016), pp. 92–102, doi:https://doi.org/10.1108/JMLC-09-2014-0029.

[4] Tania Murray Li, 'Commons, Co-Ops, and Corporations: Assembling Indonesia's Twenty-First Century Land Reform', *Journal of Peasant Studies*, 48.3 (2021), pp. 613 – 639, doi:10.1080/03066150.2021.1890718.

[5] Arie Afriansyah, Anbar Jayadi, and Angela Vania, 'Fighting the Giants: Efforts in Holding Corporation Responsible for Environmental Damages in Indonesia', *Hasanuddin Law Review*, 4.3 (2018), pp. 325 – 338, doi:10.20956/halrev.v4i3.1626.

[6] Rian Saputra, Albertus Usada, and Muhammad Saiful Islam, 'Ecological Justice in Environmental Criminal Sanctions for Corporations in Indonesia: Problems and Solution', *Journal of Law, Environmental and Justice*, 2.1 (2024), pp. 1–17, doi:10.62264/jlej.v2i1.19.

[7] Benjamin Scott, 'Environmental Crime and Money Laundering in Australia', in Financial Crime, Law and Governance: Navigating Challenges in Different Contexts, ed. by Louis Goldbarsht Doron and de Koker (Springer Nature Switzerland, 2024), pp. 99–121, doi:10.1007/978-3-031-59547-9_5.

including time deposits, insurance policies, bonds, and stocks, which have been identified by the Financial Transaction Reporting and Analysis Centre as typologies associated with money laundering.[8]

A real-life example of crimes related to corporations occurred in Indonesia, specifically in relation to the disclosure of crimes from the results of an investigation into the Corruption and Money Laundering Case involving Investment Funds and Financial Management of PT. Asuransi Jiwasraya (Persero) for the period of 2008 - 2018, with Suspect Heru Hidayat, where the investigators of the Attorney General's Office obtained the facts of the investigation based on the evidence of letters and statements of witnesses, where one of the modus operandi was money/funds from PT. Asuransi Jiwasraya (Persero), which was invested in companies allegedly affiliated with Suspect Heru Hidayat, subsequently received funds from the investment in PT. The Jiwasraya Insurance (Persero) by Heru Hidayat and his 'accomplices' is reinvested by including capital / taking over, acquiring ownership of shares of companies/corporations that are considered to be produced and developed later, or companies related to Heru Hidayat's Holding company, namely PT. Maxima Integra Investama (PT. TRAM Tbk).[9]

Considering these facts and the stipulations outlined in article 18 paragraph (1) of the Corruption Crime Law, as well as article 7 of the Law on Prevention and Eradication of Acts. The investigation team has seized corporations implicated in corruption and money laundering offences associated with the suspect Heru Hidayat. The entities involved include PT. Inti Agri Resources Tbk (IIKP), Batutua Waykanan, PT. Gunung Bara Utama, and PT. SMR Utama Tbk (SMRU). Nonetheless, en route to the District Court trial concerning corruption crimes in Jakarta, the panel of judges determined that 'these corporations cannot be confiscated, as the corporation is a legal entity (rechtpersoon) regarded as a legal subject whose rights and obligations are equivalent to those of a natural person (natuurlijk persoon), based on the judge's interpretation of article 1 point (3) of Law No. 31 of 1999 regarding the Eradication of Criminal Acts.' Corruption and corruption. 20. Year 2001 regarding Amendments to Law Number 31 of 1999, as well as Article 7 of Law Number 8 of 2010 about the

[8] Delphine Defossez, 'The Current Challenges of Money Laundering Law in Russia', *Journal of Money Laundering Control*, 20.4 (2017), pp. 367–85, doi:https://doi.org/10.1108/JMLC-09-2016-0041.
[9] Januar Rahadian Mahendra, Edwin Setiawan, and Arbend Ficasso Van Hellend, 'Corruption Eradication in Four Asian Countries : A Comparative Legal Analysis', *Journal of Law, Environmental and Justice*, 2.2 (2024), pp. 162–84, doi:10.62264/jlej.v2i2.98.

Prevention and Eradication of Acts. The offence of money laundering.[10]

According to the journal "Law Enforcement on Confiscation of Corporate Assets as an Effort to Recover State Finances in Criminal Acts of Corruption" authored by Agnasia Marliana Tubalawony, Tofik Yanuar Chandra, and Kristiawanto, the confiscation of assets in cases of corruption, frequently associated with money laundering, serves a dual purpose: it seeks to penalise the offenders while simultaneously aiming to recuperate financial losses incurred by the state. While Indonesia has legal frameworks in place for asset confiscation, the execution of these laws continues to face numerous obstacles, including regulatory issues, institutional limitations, and a need for improved inter-agency collaboration. The evidence indicates that the proportion of assets recovered from corruption cases remains significantly low in relation to the overall losses incurred by the state.[11]

The article "Corporate Criminal Liability in the Form of Asset Forfeiture in Law Enforcement of Money Laundering in Indonesia," authored by Jeni Lappy, elucidates the potential for corporate criminal liability within the framework of TPPU. Nevertheless, the appropriation of corporate assets and the oversight of corporate leadership have proven to be neither practical nor optimal. A legal framework is required that encompasses not only the examination of legal documents but also considers legal compliance, the pursuit of justice, and the advantages conferred upon society. This study aims to examine the perspective of legal positivism on the judgment of corruption. What is the perspective of economic analysis of law regarding corporate confiscation?

2. Research Method

This research employs a normative legal methodology, focusing on documented legal norms as the primary source for addressing the identified legal challenges.[12] This methodology is employed to analyse the sufficiency, deficiencies, and shortcomings of

[10] Kartini Laras Makmur, 'Why Only Scrutinise Formal Finance? Money Laundering and Informal Remittance Regulations in Indonesia', *Journal of Economic Criminology*, 6 (2024), p. 100111, doi:https://doi.org/10.1016/j.jeconc.2024.100111.

[11] Stephen P Ferris, Jan Hanousek, and Jiri Tresl, 'Corporate Profitability and the Global Persistence of Corruption', *Journal of Corporate Finance*, 66 (2021), p. 101855, doi:https://doi.org/10.1016/j.jcorpfin.2020.101855.

[12] John A Olayiwola, Adeola.A. Olalere, and Folorunsho M Ajide, 'Corporate Governance and Money Laundering in Nigerian Listed Companies', *Journal of Economic Criminology*, 8 (2025), p. 100154, doi:https://doi.org/10.1016/j.jeconc.2025.100154.

Indonesia's positive legal framework in guaranteeing the realisation of the rights of victims of environmental crimes. This research not only employs a normative approach but also integrates a conceptual framework to examine theoretical constructs related to victimology, human rights, and restorative justice, which collectively underpin the proposed legal reforms.[13] The examination is conducted through qualitative methods, employing legal interpretative techniques to discern the dynamic legal principles and norms that operate within society. This analytical process aims to develop legal arguments and propose essential legal reforms.[14]

3. Results and Discussion

Corruption Criminal Judgments in Indonesia: A Legal Positivism Paradigm Framework

Prior to engaging in a discourse regarding the district court's ruling on the corruption case in Jakarta, which pertains to the allegations of corruption and money laundering involving the investment and finance funds of PT. A Man (Sophia). In his verdict, Suspect Heru Hidayat dismissed the Public Prosecutor's requests concerning the seizure of corporations linked to him, asserting that these entities were not acquired through illicit means, as claimed by the Public Prosecutor. In light of the divergence between the views of the Public Prosecutor and the panel of judges, it is prudent for the researcher to initially elucidate the overarching principles of legal positivism as articulated by notable scholars, including Auguste Comte, John Austin, Gustav Radbruch, Hans Kelsen, and HLA Hart.[15]

Diagnosis entails the discernment of a disease through a comprehensive array of clinical evaluations and assessments. Auguste Comte (1798-1857), a prominent figure in the realm of positivism, introduced a notable doctrine referred to as the law of three stages. A. Comte posited that humanity progresses through three distinct stages: the theological phase, characterised by fiction; the metaphysical phase, defined by abstraction; and the positive phase, which is grounded in reality and scientific understanding. The rise of the positivist school of law represented a response to the deficiencies inherent in the preceding

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[13] Randikha Prabu Raharja Sasmita, Sigid Suseno, and Patris Yusrian Jaya, 'The Concept of Reasons for Eliminating Corporate Crime in Criminal Law in Indonesia', *Heliyon*, 9.11 (2023), p. e21602, doi:https://doi.org/10.1016/j.heliyon.2023.e21602.

[14] Daswanto Daswanto and others, 'Authority of the Ministry of Environment in the Investigation of Money Laundering from Environmental Crimes', *Journal of Law, Environmental and Justice*, 3.2 (2025), pp. 309–41, doi:10.62264/jlej.v3i2.134.

[15] Itok Dwi Kurniawan and others, 'Formal Requirements for Class Action Lawsuits in Environmental Cases in Indonesia : Problems and Solutions', *Journal of Law, Environmental and Justice*, 3.1 (2025), pp. 79–103, doi:10.62264/jlej.v3i1.114.

natural law theory, often referred to as theological law.[16]

This earlier framework exhibited two notable weaknesses: firstly, the comprehension of natural law was not subject to objective verification, and secondly, it failed to provide a means of deriving normative conclusions from objective occurrences or facts. Nevertheless, the primary flaw inherent in natural law theory lies in its claim that positive law possesses legitimacy solely when it corresponds with the principles established by natural law. The inherent vagueness of the notion of natural law inevitably results in a corresponding vagueness within positive law.[17]

Positive law is defined by an authorised institution, with its validity established by such authority. The essence of positive law is not contingent upon the principles of natural law; instead, the criteria for justice within positive law are self-contained, devoid of external measures of justice. The concept of legal positivism was further advanced by notable thinkers, including John Austin (1790-1859), Gustav Radbruch (1878-1949), Hans Kelsen (1881-1973), and H.L. Hart. John Austin's philosophy is renowned for its contribution to analytical jurisprudence, positing that law constitutes an order emanating from an authoritative figure or lawful ruler, encapsulated in legal regulations, with command serving as the fundamental element. Consequently, the law operates within a framework that is rational, definitive, and self-contained.[18]

Subsequently, another prominent thinker in the positivist tradition, Gustav Radbruch, articulated three fundamental values that are essential in the realm of law: the value of justice, which pertains to the philosophical dimension; the value of certainty, associated with the legal framework; and the value of utility, linked to sociological considerations (Gustav Radbruch, 1961). Legal norms ought to be grounded in their validity with respect to these essential values. G. Radbruch articulated a conception of law as an amalgamation of values that must be actualised, alongside the reality that is constrained from infringing upon those values, with justice being the central value at stake.[19]

Hans Kelsen is renowned for his theory of grundnorm, positing that law constitutes a

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[16] Robert Alexy, 'Gustav Radbruch's Concept of Law', *Law's Ideal Dimension*, 26.1946 (2021), pp. 107–18, doi:10.1093/oso/9780198796831.003.0008.

[17] Mohammad Muslih, 'Negara Hukum Indonesia Dalam Perspektif Teori Hukum Gustav Radbruch', *Legalitas*, 4.1 (2013), pp. 130–52.

[18] E. Fernando M. Manullang, 'Misinterpretasi Ide Gustav Radbruch Mengenai Doktrin Filosofis Tentang Validitas Dalam Pembentukan Undang-Undang', *Undang: Jurnal Hukum*, 5.2 (2022), pp. 453–80, doi:10.22437/ujh.5.2.453-480.

[19] Björn Hoops, 'Legal Certainty Is Yesterday's Justification for Acquisitions of Land by Prescription. What Is Today's?', *European Property Law Journal*, 7.2 (2018), pp. 182–208, doi:10.1515/eplj-2018-0008.

system of rules (norms) grounded in necessity, where principles of integrity or virtuous values shape this system.[20] The foundational principle in question is metalegal in nature, attaining the status of law when it reflects the collective will of the community, is formally codified in a written format established by the appropriate authority, and encompasses directives. According to the perspectives of these legal positivist figures, one can discern that law constitutes a specific or codified rule that operates within society, embodying prohibitions or directives accompanied by sanctions, and established by legitimate authorities who are anticipated to fulfil the objectives of justice, utility, and certainty.[21]

The perspective of legal positivism regarding the judgment of corruption offences underscores adherence to the established law (ius constitutum), disregarding moral principles, substantive justice, or the socio-political contexts that inform it.[22] This methodology emphasizes adherence to formal legality—evaluating whether a decision aligns with established legal principles that are explicitly applicable. The positivistic approach frequently faces criticism for yielding formalistic decisions and exhibiting a deficiency in the sense of justice.[23] Within the framework of corruption, this methodology may serve to advantage wrongdoers who exploit legal ambiguities or legislative formulation deficiencies. Legal positivism similarly fails to inspire judges to adopt a forward-thinking approach in addressing systemic corruption.[24]

Law No. 8 of 2010, which addresses the Prevention and Eradication of Money Laundering Crimes, delineates a corporation as an assembly of individuals and/or assets that are systematically arranged, regardless of their legal status. Corporations may incur criminal liability, despite lacking a physical embodiment akin to individuals, as they are recognized as legal entities capable of "taking action" through their executives or representatives. Article 20, Paragraph (1) of Law No. 31 of 1999, in conjunction with No. 20 of 2001 regarding the Eradication of Corruption, permits the initiation of criminal proceedings against corporations as offenders.

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[20] Han Qin and Li Chen, 'Virtual Justice, or Justice Virtually: Navigating the Challenges in China's Adoption of Virtual Criminal Justice', *Computer Law & Security Review*, 56 (2025), p. 106112, doi:https://doi.org/10.1016/j.clsr.2025.106112.

[21] John McMillan and Tony Hope, 'Justice-Based Obligations in Intensive Care', *The Lancet*, 375.9721 (2010), pp. 1156–57, doi:https://doi.org/10.1016/S0140-6736(10)60503-X.

[22] Stefano Anastasia, 'From the Bottom of the Bottle: Justice, Prison and Social Control in the Italian Transition', *Journal of Modern Italian Studies*, 20.2 (2015), pp. 213 – 227, doi:10.1080/1354571X.2015.997494.

[23] Ronald van den HOOGEN, 'Will E-Justice Still Be Justice? Principles of a Fair Electronic Trial', *International Journal For Court Administration*, 18.January (2008), pp. 65–73.

[24] Caroline Gratia Sinuraya and Tutik Rachmawati, 'Does Icts Matters for Corruption?', *Asia Pacific Fraud Journal*, 1.1 (2017), p. 49, doi:10.21532/apfj.001.16.01.01.04.

Corporate Seizure Related to Corruption and Money Laundering: Framework Analysis of Economic Law

The decision rendered by the panel of judges in the corruption trial at the Jakarta TPK District Court, case number 30/Pid.Sus/Tpk/2020/PN. Jkt.Pst. pertains to the allegations of Corruption and Money Laundering involving the Investment Funds and Financial Management of PT. Jiwasraya (Persero) during the period from 2012 to 2018. The suspect, Heru Hidayat, received a verdict that dismissed the public prosecutor's request for the confiscation of corporations associated with him, including PT. IIKP, PT. Right Hand Mine, and PT. GBU. The judges reasoned that these companies, as legal entities, cannot be subjected to confiscation, necessitating the return of any prior confiscations conducted by investigators to the respective entities from which they were seized.

In light of the decision, when analysed through the lens of legal positivism, the judge's ruling is misaligned with the principles of justice. This is due to the investigator's adherence to the relevant legal statutes, specifically Article 18 of the Corruption Law and Article 7 of the Money Laundering Crime Law, which guided the seizure process. Furthermore, this action was substantiated by the factual findings obtained during the investigation concerning the ownership of the company, which can be traced back to Heru Hidayat.[25] The principle of legal positivism outlined previously, which has not been adhered to by the panel of judges and is deemed unsuitable, aligns with the legal maxim "Interpretatio Cessat in Claris" ("if the text or wording of the regulation is clear, then there is no room for personal interpretation, as interpreting already clear terms leads to distortion"). The matter pertains to the panel of judges' failure to accommodate the Public Prosecutor's demands; however, the rationale behind this decision remains unclear. The judges' considerations do not explicitly elucidate whether there was an error in the formal procedures undertaken by the investigator or if the judges' own reasoning, which asserts that the Corporation is a legal subject and thus immune to confiscation, solely influenced the outcome.[26]

The confiscation of assets in cases of corruption and money laundering serves as an essential tool for law enforcement agencies. Article 18 of Law No. 31 of 1999 jo. No. 20 of 2001 outlines supplementary offences related to the confiscation of both movable and

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[25] Stephan J Hauser and others, 'Early Knowledge but Delays in Climate Actions: An Ecocide Case against Both Transnational Oil Corporations and National Governments', *Environmental Science & Policy*, 161 (2024), p. 103880, doi:https://doi.org/10.1016/j.envsci.2024.103880.

[26] Qingjie Du and Yuna Heo, 'Political Corruption, Dodd–Frank Whistleblowing, and Corporate Investment', *Journal of Corporate Finance*, 73 (2022), p. 102145, doi:https://doi.org/10.1016/j.jcorpfin.2021.102145.

immovable assets, including enterprises owned by individuals convicted of corruption. It underscores that addressing corruption extends beyond merely penalising individuals; it also involves the imperative of recuperating state losses via asset recovery.[27] Lawrence Meir Friedman articulates three fundamental components of law enforcement theory: the framework of the law, the essence of the law, and the societal context within which the law operates. The legal structure pertains to the framework that establishes the enforceability of a law. Legal substance constitutes a creation of individuals operating within the legal framework, encompassing novel decisions and regulations. The legal culture encompasses the societal attitudes and values that shape perceptions of the law. Within the framework of Indonesia, which operates under the Civil Law system, the efficacy of law enforcement is significantly reliant on codified statutes. This indicates that a particular action may incur legal penalties solely if it has been explicitly addressed within the framework of the law.

The process of confiscation about corporations fundamentally encompasses two methodologies: the confiscation of corporate assets, which seeks to impose criminal liability on corporations, and the confiscation of the Corporation itself. In practice, numerous instances of corporate asset confiscation have occurred, encompassing both assets registered under the company's name and obligations imposed as a manifestation of the Corporation's criminal liability.[28] Regarding corporate confiscation, there remains a notable lack of practical examples, whether concerning the ownership of shares within the confiscated Corporation or the Corporation itself, which is legally established through a deed of incorporation or amendment registered with the Directorate General of General Legal Administration. This deed may subsequently be subject to confiscation based on a judicial determination, after which the AHU will record the status of the Corporation. The absence of a standardised rule persists, as there is no legal framework governing this issue from the Police, the Prosecutor's Office, or the Supreme Court. This lack of regulation may influence the judge's decision to reject the Public Prosecutor's requests, potentially due to a procedural error in the confiscation of the Corporation.

A primary avenue for advancement lies in the fortification of regulations via the ratification of the Asset Forfeiture Bill. This legislation is anticipated to establish a more robust and thorough legal framework for the confiscation of assets, encompassing corporate assets, in instances of Money Laundering offences. The scope of the seizure of

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[27] Selina Keesoony, 'International Anti-Money Laundering Laws: The Problems with Enforcement', *Journal of Money Laundering Control*, 19.2 (2016), pp. 130–47, doi:https://doi.org/10.1108/JMLC-06-2015-0025.

[28] Anusha Aurasu and Aspalella Abdul Rahman, 'Forfeiture of Criminal Proceeds under Anti-Money Laundering Laws', *Journal of Money Laundering Control*, 21.1 (2018), pp. 104–11, doi:https://doi.org/10.1108/JMLC-04-2017-0016.

non-criminal assets will also be broadened, which is significant for the recovery of assets that do not have a direct connection to criminal activities. Enhancing the proficiency of law enforcement officials in comprehending the intricacies of corporate crime and money laundering is of paramount significance.[29] Training and professional development will enhance their ability to identify, track, and capitalise on assets associated with Money Laundering Crimes with greater efficacy. The creation of a dedicated institution responsible for the professional and transparent management of asset confiscation has the potential to enhance the effectiveness of the asset recovery process. This institution is well-equipped to serve as a facilitator among the diverse agencies involved in enforcing laws related to Money Laundering Crimes.[30]

The confiscation of corporate shares will undoubtedly influence the ownership structure of the corporation. Upon examining the stipulations outlined in Article 1, number (1) and Article 31, paragraph (1) of Law Number 40 of 2007 regarding Limited Liability Companies, one can discern that shares constitute a component of the Company's authorised capital. The text of the article states: First, Article 1 of the 1st paragraph: A Limited Liability Company, henceforth referred to as the Company, is a legal entity characterised as a capital partnership, established through an agreement, engaging in business activities with authorised capital that is wholly divided into shares and adheres to the requirements delineated in this Law and its implementing regulations. Secondly, Article 31 paragraph (1) states: The Company's authorised capital comprises the total nominal value of shares. According to the regulation, the Company's shares are already held by shareholders who have contributed their capital for business operations. Consequently, the ownership of the shares held by shareholders may be transferred through various means, including transactions, gifts, or inheritance.

Furthermore, the transfer of share rights is also governed by Article 57 of the Limited Liability Company Law. Article 56, paragraph (3) of the Limited Liability Company Law delineates the procedure for the transfer of shares. It mandates that the directors or management must duly record the transfer of rights to the shares, including the date and day of the transfer, in the register of shareholders or a special register. Furthermore, they are required to inform the Minister of any changes in the composition of shareholders, ensuring that these changes are documented in the Company's register within thirty days from the date of the rights transfer registration. The article clarifies that "notifying the

[29] Guy Stessens, *Money Laundering A New International Law Enforcement Model*, First Edit (University Press, 2000).

[30] Hanafi Amrani and Mahrus Ali, 'A New Criminal Jurisdiction to Combat Cross-Border Money Laundering', *Journal of Money Laundering Control*, 25.3 (2021), pp. 540–50, doi:https://doi.org/10.1108/JMLC-06-2021-0059.

Minister of changes in the composition of shareholders" refers to alterations in shareholder composition resulting from inheritance, acquisition, or division.

According to the stipulations outlined in these articles, should the implementation of practices or procedures for the acquisition or seizure of the corporation's shares be appropriately modified? Given the structure of share ownership among the parties, the corporation may be subject to procedural confiscation. Thus, it is not a corporation in the legal sense of being a subject of Law that possesses rights and obligations akin to a "person," but instead in the context of share ownership, which directly influences corporate ownership and inherently delineates the extent and nature of the rights and obligations of shareholders within the corporation. The possession of the shares is classified as a legal entity subject to confiscation.[31]

Corporate confiscation can be examined through the lens of economic analysis of Law, which emphasises the principles of effectiveness and efficiency in the enforcement of legal frameworks about criminal activities, specifically corruption and money laundering. The author noted that economic analysis of Law serves as a tool for examining economic theory in relation to legal frameworks. Legal issues persist as entities that are systematically categorised, organised, and interconnected with fundamental economic theories or concepts, alongside economic considerations. The objective is to thoroughly engage with the fundamental nature of legal matters, enabling a comprehensive analysis of the Law.[32]

It is worth noting that the economic analysis of law is still in its nascent stages, having been introduced by Gary Becker. Becker's theoretical framework draws significantly from the principles of Jeremy Bentham's utilitarian philosophy, as well as the criminological insights of Cesare Beccaria. This theory presents a novel analytical lens and viewpoint on the law, deeply philosophical and metaphysical, ultimately arriving at a conclusion that may be perceived as somewhat pragmatic, yet it introduces additional complexities. In revisiting the framework established by J. Bentham, one observes his emphasis on the magnitude of punitive measures as a means to mitigate criminal behaviour. He posits that the potential benefits derived from criminal activities serve as a primary motivator for individuals to engage in such conduct, while the prospect of suffering or hardship

[31] Niels Vandezande, 'Virtual Currencies under EU Anti-Money Laundering Law', *Computer Law & Security Review*, 33.3 (2017), pp. 341–53, doi:https://doi.org/10.1016/j.clsr.2017.03.011.
[32] Norman Mugarura, 'Anti-Money Laundering Law and Policy as a Double Edged Sword', *Journal of Money Laundering Control*, 23.4 (2020), pp. 899–912, doi:https://doi.org/10.1108/JMLC-11-2019-0093.

resulting from punitive actions acts as a deterrent against these transgressions.[33]

J. Bentham posits that when the first factor prevails, the likelihood of criminal acts being executed increases significantly; conversely, if the second factor takes precedence, such acts are unlikely to occur. J. Bentham's perspective operates at a normative level, subsequently applied in practical terms by Gary Becker, utilising the economic analysis framework. Becker aims to enhance the effectiveness of legal frameworks by articulating economic models that determine the necessary resource allocation for the optimal implementation of established legal rules. What is the extent of the punishment deemed necessary to ensure compliance with the enacted law?

More elaborately, G. Becker elucidated that when an individual is presented with multiple options concerning the potential outcomes or advantages that may be attained, and when this individual contemplates engaging in a criminal act, they must weigh one particular consideration: the probability of apprehension, denoted as p. Thus, should the individual proceed with the criminal act: Initially, the benefits that will accrue when an individual refrains from engaging in criminal activity, alongside Unc. Secondly, profits acquired during the commission of crimes without detection by law enforcement, denoted as Uc1, and thirdly, profits gained from criminal acts that result in the perpetrator being apprehended and subsequently punished, referred to as Uc2.

The foundational economic model proposed by G. Becker concludes that individuals are likely to engage in criminal behaviour if the specified formula is satisfied (1-p). Uc1 plus Uc2 is greater than Unc. Moreover, numerous factors impact an individual's capacity to engage in criminal behaviour, alongside various theories proposed or refined by scholars that build upon Becker's original formulation, which remain inadequately explored in this article. There exist a multitude of principles and theories rooted in the theory of economic analysis for law, which can serve as a framework for scrutinizing criminal liability and corporate criminality. This approach enhances the efficiency and effectiveness of law enforcement, aligning seamlessly with the foundational principles within the paradigm of criminal case resolution, particularly in the context of the crime of money laundering, encapsulated in the maxim "follow the money."

In the realm of criminality, one can invariably identify the individuals responsible for the offences, the offences themselves, and the consequent ramifications that arise from such transgressions. The approach that emphasises tracing financial flows directly

[33] Ndidi Ahiauzu and Teingo Inko-Tariah, 'Applicability of Anti-Money Laundering Laws to Legal Practitioners in Nigeria', *Journal of Money Laundering Control*, 19.4 (2016), pp. 329–36, doi:https://doi.org/10.1108/JMLC-09-2015-0038.

addresses the outcomes of criminal activities, as the financial gains derived from such acts serve as the lifeblood and motivation behind the crimes, particularly in the realm of economic offences. Typically, the methodology for addressing cases begins with tracking the suspect or seeking the perpetrator of the crime. However, in instances of particular criminal activities or specialised offences such as corruption, money laundering, and illegal logging, law enforcement officials face significant challenges in identifying the perpetrators and those complicit in benefiting from or orchestrating these aforementioned criminal acts.

Moreover, this methodology, which employs forensic financial analysis, facilitates law enforcement officials in managing cases. It allows for discreet investigations by preliminarily reviewing and analysing financial statements and transaction data of the involved parties. This approach proves to be more effective and efficient, as it can be conducted without the knowledge of those involved, while also ensuring that supporting data is readily available. Materials about cases and criminal acts inherently facilitate a more expedient resolution of legal matters. The pursuit of effectiveness and efficiency in this context aligns with the objectives that the economic analysis theory of law seeks to attain. The approach of tracing financial flows in Indonesia has been formalised and governed by Law No. 15 of 2002, subsequently amended by Law No. 25 of 2003, which addresses amendments to the original law concerning money laundering offences. The most recent regulation is encapsulated in Law No. 8 of 2010, which focuses on the prevention and eradication of money laundering crimes.

The paramount consideration pertains to the outcomes and gains derived from criminal activities, which constitute a fundamental motive for their commission. Should these gains be identified or seized by law enforcement, it would significantly aid in the restitution of losses incurred due to the crime, facilitating asset recovery.[34] This action inherently diminishes the likelihood that offenders will benefit from their illicit endeavours, thereby fostering a deterrent effect. Such circumstances may compel potential offenders to reconsider their choices, particularly when the consequences extend beyond themselves to affect their families or associates. This broader impact serves as a critical factor in dissuading future criminal behaviour, as the repercussions are felt widely, prompting a

[34] Ning Ding and others, 'AML-CFSim: An Agent-Based Simulation Model for Anti-Money Laundering from Cyber Fraud Crimes', *Expert Systems with Applications*, 285 (2025), p. 127995, doi:https://doi.org/10.1016/j.eswa.2025.127995; Agung Andiojaya, 'Do Stronger Anti Money Laundering (AML) Measures Reduce Crime? An Empirical Study on Corruption, Bribery, and Environmental Crime', *Journal of Economic Criminology*, 8 (2025), p. 100157, doi:https://doi.org/10.1016/j.jeconc.2025.100157.

more cautious approach to engaging in unlawful activities.[35]

In this regard, if it is related to article 18 paragraph (1) of the Corruption Crime Law with article 7 paragraph (2) of the Money Laundering Law and other criminal regulations, the confiscation of corporations is an additional crime that can be imposed on corporations, whether they commit criminal acts or those related to criminal acts, aiming to implement asset recovery to be more effective because it does not rule out the possibility that the corporation is obtained from the proceeds of crime as happened in the case of Corruption and Money Laundering of Investment Funds and Financial Management PT. Jiwasraya (Persero) Period 2008 – 2018 where there is a corporation that is suspected to have been acquired or controlled by one of the suspects whose origin of the money / acquisition funds came from the results of criminal acts because it was based on facts obtained at the time of the investigation which was then confiscated by investigators with the aim of asset recovery / recovering state losses caused by the crime of Corruption & Money Laundering Crime.

A primary issue lies in the ambiguity surrounding the delineation of authority among pertinent agencies in the execution of the anti-money laundering framework. This situation may result in a convergence or absence of authoritative control, thereby obstructing the asset confiscation process. Law enforcement frequently underscores the principle of ultimum remedium, leading to a tendency to overlook criminal sanctions for corporations in favour of administrative penalties. Indeed, the prosecution of corporations for criminal activities serves a dual purpose: it acts as a form of retribution while simultaneously facilitating the recovery of financial losses incurred by the state through the seizure and confiscation of illicit profits.[36] Establishing the culpability of corporations in criminal activities presents a considerable challenge. Corporate crime frequently intersects with the realm of white-collar crime, presenting analytical challenges that distinguish it from conventional criminal activities. Establishing criminal responsibility presents a significant challenge, particularly in instances where offences are perpetrated by corporations characterised by intricate structures and extensive networks. Money

[35] Nasir Sultan and others, 'The Nexus of Environmental Crimes and Money Laundering/Terrorist Financing: Effectiveness of the FATF Recommendations against Green Criminology in Developing Jurisdictions', *Journal of Money Laundering Control*, 28.3 (2025), pp. 485 – 503, doi:10.1108/JMLC-08-2024-0142; Aisha Hassan Al-Emadi, 'The Financial Action Taskforce and Money Laundering: Critical Analysis of the Panama Papers and the Role of the United Kingdom', *Journal of Money Laundering Control*, 24.4 (2021), pp. 752 – 761, doi:10.1108/JMLC-11-2020-0129.

[36] Lewis Chezan Bande, 'Defining Money Laundering under Malawian Law: A Critical Appraisal for Compliance with International Standards', *Journal of Money Laundering Control*, 24.3 (2021), pp. 559–70, doi:https://doi.org/10.1108/JMLC-07-2020-0080.

laundering frequently entails transactions that span multiple jurisdictions, necessitating robust international collaboration and coordination. The absence of collaboration may impede the monitoring and confiscation of assets that have been transferred overseas.[37]

The publication titled "Law Enforcement on Confiscation of Corporate Assets as an Effort to Recover State Finances in Criminal Acts of Corruption" elucidates instances of judicial rulings concerning the confiscation of corporate assets that possess permanent legal authority, including Decision Number 55/Pid.Sus-TPK/2021/PN Jkt.Pst. About PT. CC and Decision Number 56/Pid.Sus-TPK/2021/PN Jkt.Pst. Concerning PT. PAAM. The examples presented illustrate that the seizure of corporate assets is indeed feasible; however, the volume of assets retrieved remains modest in relation to the financial detriment experienced by the state.

The publication "The Legal Framework of Asset Forfeiture for Money Laundering in the United Kingdom and Malaysia" (RSIS International) offers a comparative analysis of the legal structures governing asset forfeiture. In the United Kingdom, the Proceeds of Crime Act (POCA) 2002 governs the frameworks for both criminal forfeiture and civil forfeiture, including non-conviction-based forfeiture.[38] The Proceeds of Crime Act 2002 facilitates the reclamation of assets derived from criminal activities, even in situations where a criminal conviction is lacking, particularly when there is substantiated evidence indicative of a 'criminal lifestyle'. In Malaysia, the Anti-Money Laundering, Anti-Terrorism Financing, and Proceeds of Unlawful Activities Act (AMLATFPUAA) 2001 encompasses a comparable framework for the freezing, confiscation, and forfeiture of assets. This analysis indicates that various nations possess a more robust legal framework, featuring a non-conviction-based forfeiture (NCBF) mechanism that remains inadequately implemented in Indonesia. NCBF plays a crucial role in the recovery of assets in instances where the perpetrator has either passed away or absconded, or when establishing evidence of criminal activity is challenging.[39]

While NCBF is regarded as a potent mechanism for asset recovery, its execution in Indonesia continues to encounter obstacles. A significant challenge lies in the apprehensions regarding the potential misuse of authority by law enforcement officials,

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[37] Daniel González Uriel, 'Money Laundering, Political Corruption and Asset Recovery in the Spanish Criminal Code', *International Annals of Criminology*, 59.1 (2021), pp. 38 – 54, doi:10.1017/cri.2021.5.
[38] Aspalella A Rahman, 'Anti-Money Laundering Law: A New Legal Regime to Combat Financial Crime in Malaysia?', *Journal of Financial Crime*, 23.3 (2016), pp. 533–41, doi:https://doi.org/10.1108/JFC-07-2014-0033.
[39] Eugene E Mniwasa, 'The Anti-Money Laundering Law in Tanzania: Whither the Ongoing "War" against Economic Crimes?', *Journal of Money Laundering Control*, 24.4 (2021), pp. 869–907, doi:https://doi.org/10.1108/JMLC-09-2020-0099.

particularly since the NCBF permits the confiscation of assets without a prior criminal conviction. This prompts a discussion regarding the equilibrium between the efficacy of law enforcement and the safeguarding of human rights and property rights. It is imperative to establish well-defined regulations and robust oversight mechanisms to prevent misuse and ensure equity in the implementation of the NCBF. The lack of thorough and precise data regarding the quantity of assets seized, recovered, and returned to the state presents a significant issue.[40]

The scarcity of data presents a significant challenge in evaluating the effectiveness of asset recovery initiatives and identifying areas that require improvement. The clarity in the administration of confiscated assets is crucial for fostering public confidence and mitigating corrupt practices within the asset recovery framework. The constraints posed by insufficient human resources and the limited institutional capacity within law enforcement agencies present significant challenges.[41] Addressing matters related to money laundering and the seizure of corporate assets necessitates a profound understanding of finance, legal frameworks, and investigative techniques. Insufficient training and resources may significantly impede law enforcement officials' capacity to proficiently monitor, immobilise, and confiscate intricate assets.[42]

Money laundering frequently manifests as a transnational offence; thus, the enhancement of international collaboration is of paramount importance. It is imperative to enhance Mutual Legal Assistance (MLA) mechanisms to effectively monitor, immobilise, and confiscate assets across international borders.[43] Indonesia must proactively engage in international forums and bilateral agreements to enhance the exchange of information and the implementation of court rulings regarding the confiscation of cross-border assets. The earlier discussion highlighted that the implementation of NCBF presents a considerable opportunity for enhancing asset recovery. The NCBF permits the confiscation of assets prior to the attainment of a criminal verdict. This provision is particularly pertinent in instances where the offender evades

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[40] Elena Badal-Valero, José A Alvarez-Jareño, and Jose M Pavía, 'Combining Benford's Law and Machine Learning to Detect Money Laundering. An Actual Spanish Court Case', *Forensic Science International*, 282 (2018), pp. 24–34, doi:https://doi.org/10.1016/j.forsciint.2017.11.008.

[41] Al-Emadi, 'The Financial Action Taskforce and Money Laundering: Critical Analysis of the Panama Papers and the Role of the United Kingdom'.

[42] Pujiyono Suwadi and Rian Saputra, 'Non-Fungible Tokens and the Metaverse Using Cryptocurrency in Indonesia: Money Laundering Potential and Challenges', *Indonesian Journal of Crime and Criminal Justice*, 1.1 (2025), pp. 109–31, doi:10.62264/ijccj.v1i1.120.

[43] Andiojaya, 'Do Stronger Anti Money Laundering (AML) Measures Reduce Crime? An Empirical Study on Corruption, Bribery, and Environmental Crime'.

justice, passes away, or presents challenges in establishing criminal culpability.[44]

Nonetheless, the execution of such measures necessitates robust safeguards to avert potential abuses and uphold human rights, as exemplified by practices in certain developed nations. The rise of digital assets and cryptocurrencies has rendered the tracking and freezing of assets associated with Money Laundering Crimes an increasingly intricate endeavour. The absence of well-defined regulations and the requisite technical proficiency in managing digital assets presents a significant impediment to foreclosure initiatives. The establishment of a comprehensive legal framework, combined with the enhancement of law enforcement personnel's competencies in digital forensics, is essential to effectively address this challenge.[45]

The interplay of political influences and internal corruption within law enforcement agencies presents significant challenges in enforcing laws related to money laundering and asset confiscation. The influence of political intervention, the insidious nature of bribery, and the prevalence of conflicts of interest serve to undermine the integrity of the legal process, thereby enabling those guilty of Money Laundering Crimes to elude responsibility for their actions.[46] Thorough institutional reform and rigorous oversight are essential to uphold the autonomy and integrity of law enforcement officials. During the process of asset confiscation, a significant concern arises regarding the safeguarding of legitimate third parties who may possess rights to the assets in question. The current legal framework must ensure the protection of the rights of third parties not involved in criminal activities, while also facilitating the recovery of assets from offenders. Maintaining this equilibrium is crucial for ensuring justice and fostering public confidence in the legal framework.

4. Conclusion

Legal positivism's perspective on corruption verdicts prioritises adherence to written law (ius constitutum) while disregarding moral principles, substantive fairness, and the underlying socio-political context. This approach emphasises formal legality—whether a judgement aligns with the explicitly applicable legal standards.

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[44] Ding and others, 'AML-CFSim: An Agent-Based Simulation Model for Anti-Money Laundering from Cyber Fraud Crimes'.

[45] Peter Leasure, 'Asset Recovery in Corruption Cases: Comparative Analysis Identifies Serious Flaws in US Tracing Procedure', *Journal of Money Laundering Control*, 19.1 (2016), pp. 4 – 20, doi:10.1108/JMLC-04-2015-0010.

[46] Kevin Chamberlain, 'Recovering the Proceeds of Corruption', *Journal of Money Laundering Control*, 6.2 (2003), pp. 157 – 165, doi:10.1108/13685200310809518.

The positivistic approach often faces criticism for yielding a formalistic judgment that lacks genuine justice. This strategy can help perpetrators of corruption if they use legal gaps or drafting mistakes in the law. Legal positivism thus fails to motivate judges to use progressive approaches in eliminating systemic corruption. The seizure of company assets in the context of money laundering in Indonesia has significant potential to recoup state losses and serve as a deterrence. Nonetheless, its execution continues to encounter numerous intricate issues, including ambiguous jurisdiction, a focus on administrative penalties, evidentiary complexities, insufficient international coordination, and difficulties in managing digital assets. To enhance the efficacy of law enforcement, extensive initiatives are required, encompassing the following: Initially, legal reform is necessary, including the enactment of a comprehensive Forfeiture Bill with provisions for Non-Conviction-Based Forfeiture (NCBF), which includes explicit protections to uphold human rights and avert misuse. Secondly, Institutional Capacity Enhancement: Augmented training and professional development for law enforcement personnel in finance, legal matters, and digital forensics to effectively track, freeze, and confiscate intricate assets. Third, Enhancing Coordination and Collaboration: Advancing inter-agency coordination at the national level (Corruption Eradication Commission, Financial Transaction Reporting and Analysis Centre, Prosecutor's Office, Police, Courts) and fortifying international cooperation through Mutual Legal Assistance to enable cross-border asset recovery. Four, Transparency and Accountability: Enhanced transparency in the administration of confiscated assets and the dissemination of detailed data on asset recovery to foster public trust and for improved assessment. Five, Progressive Law Enforcement: Bolder law enforcement in ensnaring businesses as criminal actors and using criminal punishments and asset seizure to the maximum, not merely administrative sanctions.

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