

The Strengthening Institutional Capacity in Implementing Corruption Asset Return based on International Standards in Indonesia

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Abstract. *This research is motivated by the urgency of recovering assets derived from corruption as a crucial element in effectively eradicating corruption in Indonesia. Increasingly sophisticated corruption and money laundering, often involving cross-border transactions, pose significant challenges to recovering state financial losses. Although Indonesia has ratified the 2003 United Nations Convention Against Corruption (UNCAC) and has a national legal framework, the effectiveness of asset recovery remains hampered by a lack of regulatory harmonization, overlapping institutional authority, weak coordination between law enforcement agencies, limited civil law instruments, and a lack of a specific legal framework related to asset forfeiture. The research method used is normative law with a statute approach and a case approach. Secondary data were collected from various international legal literature (such as the UNCAC), Indonesian national laws and regulations related to the eradication of corruption and money laundering, legal doctrine, scientific journals, and court decisions. This approach aims to understand in-depth the harmonization of international standards with national law and identify factors that influence the effectiveness of the implementation of corruption asset recovery policies in Indonesia. Based on the results and discussion, it is concluded that harmonization of the UNCAC international standards with Indonesian national law in the recovery of corruption assets still requires significant strengthening. Institutional obstacles such as a lack of regulatory harmonization, overlapping authority, weak coordination, limited human resource capacity, and the inadequacy of specific legal instruments for asset confiscation are the main challenges. Solutions to strengthen institutional capacity through the drafting of the Asset Forfeiture Law, harmonization of the Corruption Eradication and Money Laundering Laws, increased inter-agency coordination, strengthened international cooperation, and enhanced officer competence are crucial recommendations for optimizing asset recovery to achieve effective corruption eradication and recovery of state losses.*

Keywords: *Asset Recovery; Corruption; Legal Harmonization; Institutional Capacity.*

1. Introduction

Corruption, as an extraordinary crime, has long been a scourge that undermines the development order and welfare of the Indonesian nation. Its widespread negative impact, like a domino effect, erodes the morality of state institutions, democratic values, and state ethics (Setiadi, 2018). Amidst the complexity of this problem, the international community, through the United Nations (UN), has initiated a joint effort by establishing a global anti-corruption instrument, the United Nations Convention Against Corruption (UNCAC) in 2003. This convention serves as an important guideline for member states in preventing and eradicating criminal acts of corruption, one of the main focuses of which is the recovery of assets obtained from corruption (United Nations, 2003). However, although Indonesia has ratified the UNCAC, its implementation, particularly regarding asset recovery, still faces significant challenges.

The magnitude of Indonesia's corruption problem is reflected in the 2024 Corruption Perceptions Index (CPI) released by Transparency International Indonesia (TII). Although Indonesia's CPI score increased by 3 points from 34 to 37 (ranking 99 out of 180 countries), this score still places Indonesia as a country with a high level of corruption (Transparency International Indonesia, 2025). Compared to other ASEAN countries, Indonesia ranks fifth, below Singapore, Malaysia, Timor Leste, and Vietnam (Transparency International Indonesia, 2025). This situation underscores that the primary goal of eradicating corruption, namely the recovery of lost state assets, has not been optimally achieved. There is an imbalance between the focus on imprisoning perpetrators and efforts to recover assets, even though asset recovery is key to restoring state finances and providing a broader deterrent effect (Meidiantama & Aldamia, 2022). If this problem is allowed to persist, the potential for state losses will increase, and development efforts will be further hampered, ultimately leading to a decline in public welfare (Meidiantama & Aldamia, 2022). Therefore, research on strengthening institutional capacity in implementing asset recovery based on international standards is crucial.

The emergence of problems in recovering corrupt assets in Indonesia can be traced back to various historical and structural stages. Since the beginning of corruption eradication, the primary focus has been on criminal prosecution of perpetrators, as reflected in Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, as amended by Law No. 20 of 2001. Although this law has adopted several international provisions regarding asset confiscation, its implementation still faces technical and institutional challenges (Meidiantama & Aldamia, 2022). The implementation of the UNCAC, ratified through Law No. 7 of 2006, also demonstrates a gap between international standards and practice on the ground (Meidiantama & Aldamia, 2022). Various recommendations from the UNCAC implementation review mechanism, both in the first and second rounds, identified priority issues such as completing the revision of the Corruption Crimes Law (Tipikor), strengthening the independence and institutional capacity of anti-corruption agencies, and finalizing the

Asset Forfeiture Bill (KPK, 2024). Delays in harmonizing national laws with international standards, overlapping authority between law enforcement agencies, and the lack of a specific legal framework for asset forfeiture are factors that have prolonged the chronology of this problem (Meidiantama & Aldamia, 2022).

In an effort to address these issues, this study seeks to validate the hypothesis that strengthening institutional capacity is key to increasing the effectiveness of corruption asset recovery in Indonesia based on international standards. Various solutions have been identified, including the urgent ratification of the Asset Forfeiture Bill, strengthening coordination between law enforcement agencies such as the Prosecutor's Office, the Police, and the Corruption Eradication Commission (KPK), and increasing technical and human resource capacity in asset tracking, freezing, and confiscation (Meidiantama & Aldamia, 2022). Furthermore, a policy reorientation is needed that places a greater focus on asset recovery as the primary goal of corruption eradication, as mandated by the UNCAC (Meidiantama & Aldamia, 2022). This study will analyze in depth how strengthening institutional capacity, in terms of regulations, organizational structure, and human resources, can effectively implement international standards to maximize the recovery of corrupt assets in Indonesia.

2. Research Methods

This research used normative legal research method, focusing on the analysis of legislative sources (statute approach) and legal norms. This approach is used to examine and study laws and regulations, as well as conduct scientific analysis of legal materials related to legal issues related to strengthening institutional capacity in implementing the recovery of corrupt assets, compliance with international standards, and their implementation in Indonesian national law.

To address the issues raised in the background, this research was conducted using library research as a basis for addressing the various issues raised. This method collected data from various international legal literature, Indonesian national laws and regulations related to corruption eradication and asset recovery, legal doctrine, scientific journals, court decisions, and other relevant legal materials. Furthermore, secondary data was obtained from this literature search, which served as the primary source for this research (Benuf & Azhar, 2020).

The collected secondary data will then be analyzed descriptively. The descriptive analysis aims to provide a comprehensive, systematic, and in-depth overview of the issues studied, evaluate the alignment between international and national legal norms and their implementation in the field regarding the recovery of corrupt assets, and identify and analyze forms of institutional capacity building needed to increase its effectiveness.

3. Results and Discussion

3.1. Harmonization between international standards regarding the return of corruption assets with national laws and regulations in Indonesia in supporting efforts to return the assets of perpetrators of corruption crimes

a. The Concept of Asset Recovery in Corruption Crimes and its Regulations in UNCAC 2003

Asset recovery is a crucial element in effective corruption eradication, which focuses not only on criminalizing perpetrators but also on recovering state financial losses. Asset recovery is defined as an effort undertaken by a state through law enforcement to return money or goods obtained from criminal or civil acts by individuals (who have rights and obligations) in that state (Prakarsa & Yulia, 2017). The complexity of asset recovery increases when it involves more than one state, especially if state relations between the parties are not well-established (Meidiantama & Aldamia, 2022). Strong political will from the state, from the executive, legislative, and judicial branches, is a crucial starting point in this effort, which must then be supported by the development of adequate legislation, ranging from tracking, freezing, confiscation, management, transfer, and supervision of assets (Hiariej, in Meidiantama & Aldamia, 2022).

Although the international community does not yet have a mutually agreed-upon definition of asset restitution, various perspectives have been put forward. Fleming (2005, in Meidiantama & Aldamia, 2022) views asset restitution as the process of confiscating, taking over, and transferring the proceeds or profits of a crime, with the aim of preventing the perpetrator from using those proceeds to commit further crimes. Essentially, asset restitution is a law enforcement system implemented by the country victim of corruption to revoke, confiscate, and revoke the rights to assets obtained from corruption from the perpetrator through a series of processes and mechanisms, both criminal and civil. These efforts include tracking, freezing, confiscating, and returning assets held within or stored abroad, which not only recovers financial losses but also provides a deterrent effect (Meidiantama & Aldamia, 2022).

United Nations Convention Against Corruption The 2003 United Nations Convention on the Law of the Sea (UNCAC) is an international instrument that explicitly regulates asset recovery. This convention, which entered into force on December 14, 2005, recognizes asset recovery as the primary standard in combating corruption, requiring state parties to assist each other in the process (United Nations, 2003). The UNCAC regulates asset recovery in detail, including freezing and confiscation of assets (Article 31), general provisions for asset recovery (Article 51), alignment of national laws with the UNCAC (Article 53), international cooperation in the asset recovery process (Article 55), special cooperation (Article 56), and the return and

disposition of assets (Article 57). The UNCAC also emphasizes the importance of mutual legal assistance (MLA) as the easiest way to process the return of assets located outside the jurisdiction of the victim country (Meidiantama & Aldamia, 2022).

b. Harmonization of UNCAC International Standards with Indonesian National Law

Indonesia has demonstrated its commitment to eradicating corruption and asset recovery by ratifying the UNCAC through Law No. 7 of 2006. This ratification marks Indonesia's obligation to implement the provisions of the convention into its national law (Meidiantama & Aldamia, 2022).

In Indonesian national law, efforts to return assets resulting from criminal acts of corruption have been regulated in various laws and regulations, including:

- 1) **Law No. 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended by Law No. 20 of 2001 (Corruption Law):** The Corruption Eradication Law has adopted several provisions consistent with the UNCAC, particularly regarding asset confiscation. Articles 18, 31, 32, 33, 34, and 38C of the Corruption Eradication Law regulate asset confiscation, civil lawsuits for restitution of state losses, and asset recovery if a suspect or convict dies or lacks sufficient assets to pay compensation (Meidiantama & Aldamia, 2022; Haswandi, 2015). These provisions allow for asset recovery through both criminal (restitution) and civil (civil lawsuits by the State Attorney or the injured agency).
- 2) **Law No. 8 of 1981 concerning the Criminal Procedure Code (KUHP):** The Criminal Procedure Code (KUHP) regulates the consolidation of compensation claims (Articles 98-101), but does not specifically regulate civil lawsuits related to the recovery of corrupt assets. Civil lawsuits in corruption cases must be based on the conditional principle, state financial losses, and as a complement to confiscation procedures (Haswandi, 2015).
- 3) **Law No. 1 of 2006 concerning Mutual Assistance in Criminal Matters:** This law is the legal basis for international cooperation, including in terms of asset recovery through Mutual Legal Assistance (MLA), which is one of the important pillars of the UNCAC (Meidiantama & Aldamia, 2022; Haswandi, 2015).
- 4) **Law No. 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering:** This law also supports asset recovery efforts by regulating mechanisms for preventing and eradicating money laundering, which is often closely related to assets resulting from corruption (Haswandi, 2015).

Although Indonesia has a legal framework that adopts several UNCAC principles, the effectiveness of asset recovery still faces various challenges. Most existing laws and regulations do not specifically regulate the nomenclature of "asset recovery" as stated in the UNCAC, which includes tracking, freezing, confiscation, and surrender of assets (Haswandi, 2015). There are also difficulties in implementing civil lawsuits due to being subject to civil procedural law that still adheres to the principle of formal proof, a heavy burden of proof on the state as the plaintiff, and a lengthy process until a final and binding decision is issued, not to mention the potential for counterclaims from third parties (Haswandi, 2015).

In addition, the application of the principle of reversal burden of proof in the context of corruption, which considers a suspect or defendant guilty unless they can prove otherwise, has not been fully integrated into all aspects of asset recovery. Another weakness is the provision of Article 18 paragraph (3) of the Corruption Law which allows for the replacement of the penalty of payment of compensation with imprisonment, which is sometimes used by convicts to avoid asset recovery because they have succeeded in hiding it (Haswandi, 2015).

Therefore, deeper harmonization and strengthening of institutional capacity are crucial. This includes accelerating the development of specific legislation on asset recovery, strengthening the mutual legal assistance (MLA) mechanism, expanding the authority of institutions such as the Corruption Eradication Commission (KPK) in asset recovery, and enhancing coordination between law enforcement agencies. Experiences from other countries and the principles of the UNCAC serve as important references to ensure that asset recovery efforts in Indonesia are more effective, enabling a prosperous, rule-of-law nation.

3.2. The institutional obstacles and challenges faced by relevant institutions in Indonesia in implementing the corruption asset recovery mechanism in accordance with international standards, and how institutional capacity strengthening solutions can overcome these obstacles

Corruption and money laundering are phenomena that continue to evolve with technological and economic advances, making them dynamic targets. Perpetrators continually adapt to increasingly sophisticated modus operandi to conceal the proceeds of crime, often across national borders and exploiting differing legal systems. Key challenges in recovering laundered assets from corruption include the complexities of transnational governance, weaknesses in national legal instruments that have not fully adopted international standards such as the UNCAC, and limited technical capacity and human resources within law enforcement agencies. Furthermore, supplementary criminal mechanisms, such as monetary compensation, still face effectiveness issues due to the potential for abuse by convicts who choose corporal punishment over asset recovery (Firli Bahuri, cited in the article; Meidiantama & Aldamia, 2022; Woo, cited in the article; Harefa, 2011; Meidiantama & Aldamia, 2022).

The implementation of corruption asset recovery mechanisms in Indonesia faces various institutional obstacles. The lack of harmonization between the UNCAC international standards and national laws and regulations, as well as overlapping authority and weak coordination between law enforcement agencies such as the Corruption Eradication Commission (KPK), the Prosecutor's Office, and the Financial Transaction Reports and Analysis Center (PPATK), are significant obstacles (Suud, 2020, in Meidiantama & Aldamia, 2022). Indonesia's international cooperation in asset recovery is also considered weak, reflected in the slow ratification of the MLA agreement and difficulties in the extradition process (Harefa, 2011; Meidiantama & Aldamia, 2022). Existing civil law instruments are also not fully optimal due to the complexity of the evidence and the lengthy process (Haswandi, 2015). The absence of a specific law regarding comprehensive asset forfeiture further exacerbates this situation (Ramelan, 2012; Meidiantama & Aldamia, 2022).

The implementation of the corruption asset recovery mechanism according to international standards faces various institutional obstacles in Indonesia:

- 1) Lack of Legal Harmonization: There is a gap between international standards stipulated in the UNCAC and national legislation in Indonesia. The revised Corruption Law is considered to not fully accommodate UNCAC provisions, particularly regarding asset recovery, and there is potential for contradiction with UNCAC provisions regarding trading in influence and illicit enrichment (Meidiantama & Aldamia, 2022; Ramelan, 2012).
- 2) Overlapping Authority and Coordination: Studies show overlapping authority between the Attorney General's Office's Asset Recovery Center (PPA), the Corruption Eradication Commission (KPK), and the Directorate General of State-Owned Assets (Rupbasan) at the Ministry of Law and Human Rights, leading to tensions between law enforcement units (Suud, 2020, in Meidiantama & Aldamia, 2022). Weak coordination between law enforcement agencies also hampers the effectiveness of asset tracking and recovery.
- 3) Weaknesses in International Cooperation: Although Indonesia has ratified the UNCAC, the implementation of international cooperation in asset recovery remains weak. This is evident in the slow ratification of MLA agreements with several countries, as well as difficulties in the extradition process and tracing assets spread across jurisdictions with different legal systems (Harefa, 2011; Meidiantama & Aldamia, 2022). The failure of the Corruption Hunter Team to meet its target of recovering assets also indicates this weak cooperation (<http://kkn-watch.blogspot.com/>).
- 4) Limitations of Civil Instruments for Asset Recovery: Civil lawsuits regulated by the Corruption Eradication Law are complex, including the unclear legal status of the defendant and the heavy burden of proof placed on the state. Lengthy civil

proceedings and the potential for other obstacles, such as third-party lawsuits, also pose obstacles (Haswandi, 2015).

5) Lack of Specific Legal Framework: The absence of a separate law on asset forfeiture that is comprehensive and adheres to international standards, as mandated by the UNCAC, is a significant obstacle. This makes it difficult for law enforcement to effectively seize and confiscate assets, especially those located abroad (Ramelan, 2012; Meidiantama & Aldamia, 2022).

To overcome these obstacles, strengthening institutional capacity is crucial. Solutions include drafting an Asset Forfeiture Law that adopts international standards for non-conviction-based asset forfeiture, as well as harmonizing and refining the Corruption Eradication Law and the Money Laundering Law to align with the UNCAC (Ramelan, 2012; Meidiantama & Aldamia, 2022). Strengthening coordination between law enforcement agencies, establishing a dedicated asset tracing unit, and establishing a Central Authority (CA) for implementing the UNCAC are also necessary (Meidiantama & Aldamia, 2022). Furthermore, improving human resource competency through training and strengthening international cooperation, including active participation in global initiatives such as the StAR Initiative, is key to maximizing asset recovery to recover state losses and achieve effective corruption eradication goals (Firli Bahuri, cited in the news; Harefa, 2011; Meidiantama & Aldamia, 2022).

4. Conclusion

Based on the results and comprehensive discussion regarding the harmonization between international standards regarding the return of corruption assets with national laws and regulations in Indonesia in supporting efforts to return the assets of perpetrators of corruption crimes, as well as an analysis of the obstacles and institutional challenges in implementing the mechanism for returning corruption assets according to international standards, and solutions for strengthening institutional capacity to overcome these obstacles, the following main conclusions were obtained: 1) Harmonization of UNCAC International Standards and Indonesian National Law: Indonesia has demonstrated a strong commitment to eradicating corruption by ratifying the UNCAC through Law No. 7 of 2006. This ratification requires harmonization of national laws to align with international standards, particularly regarding asset recovery. Although Indonesia has a legal framework that includes the Corruption Law, the Criminal Procedure Code, the Mutual Legal Assistance Law, and the Money Laundering Law, the effectiveness of asset recovery remains challenging. There are gaps in detailed regulations regarding asset recovery, difficulties in enforcing civil lawsuits due to the principle of formal proof and the heavy burden of proof, and the potential for misuse of substitute criminal provisions. The absence of a separate, comprehensive law on asset forfeiture is also a significant obstacle. Therefore, deeper harmonization efforts, including the drafting of an Asset Forfeiture Law and adjustments to existing laws, are crucial to increasing the effectiveness of asset recovery in accordance with international standards, in order to realize a prosperous rule of law. 2) Institutional

Obstacles and Capacity-Strengthening Solutions: The implementation of the corruption asset recovery mechanism in Indonesia faces multidimensional institutional obstacles. Lack of legal harmonization, overlapping authority among law enforcement agencies (the Corruption Eradication Commission, the Attorney General's Office, and the Financial Transaction Reports and Analysis Center), weak coordination, and limited technical capacity and human resources are key challenges. International cooperation in asset recovery remains weak due to the slow ratification of the MLA agreement and difficulties in the extradition process. To overcome these obstacles, strengthening institutional capacity is absolutely necessary. Solutions include the development of a comprehensive Asset Forfeiture Law, harmonization of the Corruption Eradication Law and the Money Laundering Law with the UNCAC, strengthening inter-agency coordination, establishing a dedicated asset tracing unit, and enhancing human resource competency through training. Strengthening international cooperation, including active participation in global initiatives such as the StAR Initiative, is also crucial to maximize asset recovery and effectively eradicate corruption.

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