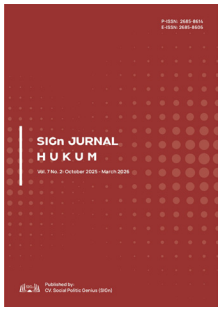

SIGn Jurnal Hukum

E-ISSN: 2685 – 8606 || P-ISSN: 2685 – 8614
https://jurnal.penerbitsign.com/index.php/sjh/article/view/v7n2-31

Vol. 7 No. 2: October 2025 - March 2026 Published Online: January 26, 2026

Article Title

Procedural Law Dualism in Asset Forfeiture Regime: Conflict of Evidentiary Norms and Judicial Oversight Regarding Human Rights Protection

Author

Asep Dadang Herdiana
Universitas Esa Unggul, Indonesia || adadangherdiana@gmail.com

How to cite:

Herdiana, A. D. (2026). Procedural Law Dualism in Asset Forfeiture Regime: Conflict of Evidentiary Norms and Judicial Oversight Regarding Human Rights Protection. *SIGn Jurnal Hukum, 7*(2), 1146-1161. https://doi.org/10.37276/sjh.v7i2.625

ABSTRACT

Corruption as an extraordinary crime demands progressive asset recovery instruments through the Asset Forfeiture Bill, yet its planned enactment may create procedural law dualism after the effective date of Law Number 20 of 2025. This research aims to analyze the disharmony in evidentiary standards, the expansion of seized-object definitions based on illicit enrichment, and the implications of shifting judicial oversight for the existence of the Pretrial institution as a guardian of human rights protection. Using the normative legal research method with statutory and conceptual approaches, the analysis is conducted through a qualitative prospective compatibility test. The results show a highly significant norm antinomy, where the reversed burden of proof mechanism in the Asset Forfeiture Bill diametrically opposes the presumption of innocence principle and the negative statutory proof system (negatief wettelijk) as regulated in Law Number 20 of 2025. Furthermore, the expansion of forfeiture object criteria ignoring the material connectivity boundaries of seized objects and the shifting of the objection mechanism to the internal executive are deemed to degrade judicial dignity and violate due process of law principles. The research conclusion asserts that without systemic harmonization placing the draft special regulation as a subsystem of the general regulation, the application of the lex specialis derogat legi generali principle will trigger destructive legal uncertainty. Therefore, harmonization of the substance of the Asset Forfeiture Bill with the human rights protection corridor in Law Number 20 of 2025 is an absolute prerequisite to prevent abuse of the exception loophole in Article 367 of the Law, while ensuring a balance between state asset recovery efficiency and citizens' property rights protection.

Keywords: *Corruption; Human Rights; Non-Conviction Based Asset Forfeiture; Presumption of Innocence; Procedural Law Dualism.*

INTRODUCTION

Corruption is an extraordinary crime that distorts the state's economic stability and hinders social welfare, thus its eradication demands progressive legal instruments beyond conventional criminal approaches (Wahyudi, 2018). Historically, the global corruption eradication paradigm has shifted from pursuing the perpetrator (*in personam*) to pursuing the proceeds of crime (*in rem*) through the Non-Conviction Based Asset Forfeiture (NCBAF) mechanism to optimally recover state losses (Nasution & Riswadi, 2024; Hasibuan, 2025). The Government of Indonesia responds to this trend through the Asset Forfeiture Bill, designed to reach assets that are difficult to seize through ordinary criminal channels due to evidentiary obstacles or the absence of a perpetrator. The urgency of enacting this instrument is growing, given the risk that state asset management will be prone to irregularities without a strict supervisory system (Wahyudi & Yulian, 2025). However, the ambition for asset recovery efficiency now faces a new constitutional barrier following the effective date of Law Number 20 of 2025, which philosophically tightens the guarantee of human rights protection in every coercive measure by the state.

Juridical tension arises as the Asset Forfeiture Bill—once enacted—will be positioned as a special regulation (*lex specialis*), potentially deviating from the general regulation standards (*lex generalis*) recently updated in Law Number 20 of 2025. On

the one hand, the rule of law requires effective corruption eradication, yet on the other, the state is bound by the obligation to guarantee due process of law (Pawe et al., 2025). The presence of the Asset Forfeiture Bill amidst the enforcement of Law Number 20 of 2025 creates a risk of serious procedural law dualism. Law enforcement officers are confronted with two conflicting regimes: the regime of Law Number 20 of 2025, which upholds judicial supremacy in coercive measures, versus the regime of the Asset Forfeiture Bill, which grants broad discretion to the executive to seize assets using civil standards of proof. This condition is feared to erode judges' role in upholding substantive justice, as the independence of the judiciary is the last fortress against state arbitrariness (Behuku et al., 2025).

The most crucial disharmony lies in the conflict of evidentiary norms and civil rights protection. The principle of presumption of innocence, which serves as the crown of the criminal justice system, requires the state to prove individual guilt beyond a reasonable doubt (Alladuniah & Shadiq, 2025; Suhendar & Candra, 2025). Conversely, the NCB mechanism in the Asset Forfeiture Bill imposes a reverse burden of proof, requiring asset owners to prove the origin of their wealth, which fundamentally contradicts the legality principle and the protection of suspect rights in the criminal realm (Huda et al., 2025). If not harmonized, the application of lower standards of proof in asset forfeiture could be used by law enforcement officers as a shortcut to punish citizens without meeting the strict criminal standards of proof mandated by Law Number 20 of 2025.

In addition to evidentiary issues, potential normative conflict is also identified in the expansion of the definition of seized objects through the concept of illicit enrichment. Although the criminalization of illicit enrichment is considered urgent to seize the assets of corruptors whose wealth reports do not match their profiles (Dianita et al., 2023; Islamiah & Setyorini, 2024), its application in the Asset Forfeiture Bill risks exceeding procedural limits on the seizure of valid evidence. The use of evidence obtained through procedures incompatible with Law Number 20 of 2025 may violate the exclusionary rules principle, which prohibits the admission of illegally obtained evidence in court (Murtadho, 2025). Furthermore, the objection mechanism regarding seizure, which is shifted to the investigator's superior within the substance of the Asset Forfeiture Bill, is deemed to eliminate the judicial control function, whereas judicial oversight is an absolute prerequisite to validate every act of deprivation of citizens' property rights (Saputra et al., 2025).

Numerous prior studies have extensively reviewed the urgency of implementing NCBAF in Indonesia as a corruption eradication strategy (Wardhani et al., 2024; Yusuf et al., 2024; Aldino & Susanti, 2025). Other studies have also highlighted aspects of human rights protection in the context of asset forfeiture in general (Atapary et al., 2023; Wulandari et al., 2023). However, there is still very little research that specifically

conducts a prospective compatibility test between the substance of the Asset Forfeiture Bill and Law Number 20 of 2025. This gap analysis serves as the starting point for the research, given that the *lex specialis* and *lex posterior* principles could be used to legitimize deviations from criminal procedural law if norm reconstruction is not carried out early on.

Based on this background description, this research formulates four research objectives. First, to analyze the disharmony of evidentiary standards between the NCB mechanism in the Asset Forfeiture Bill and the negative statutory proof principle (*negatief wettelijk*) in Law Number 20 of 2025. Second, to criticize the expansion of the definition of seized objects based on illicit enrichment in the Asset Forfeiture Bill, which potentially exceeds the boundaries of material connectivity of seized objects in Law Number 20 of 2025. Third, to evaluate the juridical implications of shifting the objection mechanism to the investigator's superior on the existence of the Pretrial institution as the guardian of due process of law. Fourth, to reconstruct the position of the Asset Forfeiture Bill in relation to Law Number 20 of 2025 to prevent procedural law dualism that threatens legal certainty and human rights protection. The results of this research are expected to provide theoretical contributions to the development of national criminal law and practical input for legislators in harmonizing the Asset Forfeiture Bill before enactment.

METHOD

This research constitutes normative legal research (doctrinal legal research) focused on examining norm conflicts and systemic incompatibility between the draft law and the prevailing positive law (Qamar & Rezah, 2020). The choice of this research type is based on the prescriptive nature of the problem, namely testing the logical coherence between the Asset Forfeiture Bill (*ius constituendum*) and Law Number 20 of 2025 (*ius constitutum*), which serves as the material test parameter. Since the object of study involves regulations that have not yet been enacted but have significant prospective impacts, this research does not employ empirical or sociological approaches but moves entirely within the realm of legal dogmatics to discover the truth of norm coherence in the relationship between national legislations.

To dissect the complexity of such norm conflicts, this research applies two main approaches simultaneously: the statute approach and the conceptual approach. The statute approach is used to examine Law Number 20 of 2025, textually and grammatically, to map the standard of human rights protection, particularly in evidentiary law and judicial oversight. Meanwhile, the conceptual approach is used to deconstruct the NCBAF and illicit enrichment doctrines in the Asset Forfeiture Bill to assess their compatibility with the rule-of-law principles adopted in the Indonesian criminal justice system.

The legal materials used in this research are sourced from secondary data classified hierarchically (Sampara & Husen, 2016). Primary legal materials in this research exclusively use Law Number 20 of 2025 as the absolute binding positive law. Secondary legal materials consist of the Academic Paper and the substance of the Asset Forfeiture Bill positioned as the object of study, legal textbooks, reputable scientific journals discussing asset forfeiture theories, and criminal procedural law doctrines relevant to due process of law issues. Tertiary legal materials include legal dictionaries and encyclopedias that provide semantic explanations of technical legal terms. All legal materials are collected through library research, with an inventory system organized by the legal issues under investigation.

The legal material analysis technique is conducted qualitatively using the deductive syllogism method (Irwansyah, 2020), initiated by placing Law Number 20 of 2025 as the major premise (standard norm) and the Asset Forfeiture Bill as the minor premise (fact of norm being tested). Specific analysis is performed through a prospective compatibility test mechanism. The analysis stage begins by identifying crucial norms within the substance of the Asset Forfeiture Bill governing the burden of proof and seizure authority. The next step is to clash these norms against fundamental principles in Law Number 20 of 2025, such as the negative statutory proof principle (*negatief wettelijk*) and Pretrial authority. This process aims to detect potential legal antinomies or conflicts that cannot be resolved through ordinary interpretation.

In the final stage, the analysis focuses on simulating the juridical consequences if the Asset Forfeiture Bill is enacted without harmonization, by projecting the operation of the principles that specific regulations override general regulations (*lex specialis derogat legi generali*) and new regulations override old regulations (*lex posterior derogat legi priori*). Systemic and teleological interpretations are used to formulate an ideal norm reconstruction, so the conclusion-drawing process does not merely stop at identifying norm conflicts but also offers a juridical formulation capable of harmonizing asset forfeiture efficiency with human rights protection guarantees. The validity of this entire analysis process is maintained through strict legal reasoning free from fallacies to produce objective and scientifically accountable legal prescriptions.

RESULTS AND DISCUSSION

A. Incompatibility of Evidentiary Standards: Antinomy of Presumption of Innocence Principle with Non-Conviction Based Forfeiture Mechanism

National positive law through Law Number 20 of 2025 has consolidated the position of the presumption of innocence principle as the main pillar in the integrated criminal justice system. Based on Article 244 section (1) of Law Number 20 of 2025, every act of imposing criminal sanctions or other legal actions

by the state must be based on valid and convincing evidence according to the law. This principle guarantees that every individual must be treated as innocent until a court decision with permanent legal force is issued (Suhendar & Candra, 2025). This protection of the suspect's rights is a manifestation of the rule of law that respects human dignity and prevents arbitrariness by law enforcement officers during the investigation process (Alladuniah & Shadiq, 2025).

The Asset Forfeiture Bill introduces the NCBAF mechanism which conceptually detaches the link between asset forfeiture and the proof of the perpetrator's guilt. Article 2 of the Asset Forfeiture Bill provides that asset forfeiture may be conducted against assets suspected of being derived from criminal acts, without requiring the conviction of the criminal offender. Although aimed at accelerating the recovery of state financial losses due to corruption (Hasibuan, 2025), this formulation creates an antinomy with the philosophy of Law Number 20 of 2025. Disregarding the conviction process as a prerequisite for depriving citizens of property rights risks reducing material justice standards to mere administrative efficiency (Nasution & Riswadi, 2024).

Norm disharmony becomes more acute when examining the provision of Article 38 section (2) of the Asset Forfeiture Bill, which requires the objecting party to prove that the asset is not the proceeds of crime. This provision imposes a reversed burden of proof mechanism that diametrically opposes the negative statutory proof principle (*negatief wettelijk*) in Law Number 20 of 2025. From the perspective of national criminal procedural law, the burden of proof lies absolutely with the public prosecutor as the state representative, not on the individual (Huda et al., 2025). Forcing individuals to prove their innocence through the origin of their wealth constitutes a form of human rights degradation legalized through this draft regulation.

The application of the NCBAF mechanism automatically lowers the standard of proof from proof beyond a reasonable doubt to the balance of probabilities standard. This civil standard of proof adopted by the Asset Forfeiture Bill is highly vulnerable to misuse in handling complex corruption cases. The lowering of this standard ignores the requirement for valid evidence stipulated in Article 235 of Law Number 20 of 2025. Such a shift in standards potentially threatens citizens' lawful property rights, as the state may seize assets based solely on allegations with a higher likelihood, without the need for rigid criminal proof (Wulandari et al., 2023).

Future conflict projections indicate that law enforcement officers will tend to rely on the principle of special regulation (*lex specialis*) to override human rights guarantees under Law Number 20 of 2025. The use of the specificity argument

in the Asset Forfeiture Bill grants excessive discretion to investigators and prosecutors to choose procedurally easier paths to asset forfeiture. This strategy is feared to become a transactional instrument in corruption eradication if not accompanied by control mechanisms equivalent to national criminal procedural law standards (*lex generalis*) (Wahyudi & Yulian, 2025). At the same time, the effectiveness of increasing the state economy through corruption asset recovery must not be achieved at the expense of undermining constitutionally guaranteed legal certainty and civil rights protection (Wahyudi, 2018).

This inconsistency in evidentiary standards ultimately creates systemic legal uncertainty within the national criminal justice system. If the Asset Forfeiture Bill is enacted without proper synchronization, the new legal principle of *lex posterior* (the law that is later in time) will validate procedures that are philosophically flawed under Law Number 20 of 2025. This dualism of evidentiary regimes not only undermines the presumption of innocence but also creates ambiguity about the limits of state authority over individual property. Confusion in this formal legal realm stems from the lack of clarity in the criteria regarding the link between seized objects and the alleged criminal acts. Therefore, a deep analysis of the disparity in the definition of seized objects becomes crucial to map out the extent to which the expansion of state authority intervenes in citizens' property rights.

B. Juridical Disparity of Seized Objects: Escalation of the Illicit Enrichment Concept against Material Connectivity Limits

Protection of citizens' property rights is a mandate of Article 28H section (4) of the 1945 Constitution, which is implemented rigidly in national criminal procedural law. Under Article 123 of Law Number 20 of 2025, seizure actions may be conducted only against objects that possess a specific material connection to the criminal act under investigation. This limitative boundary includes objects obtained from the proceeds of crime, objects used directly to commit a crime, or objects having a direct relationship with a criminal case. This provision aims to provide legal certainty that the state cannot arbitrarily deprive a person of property without an objective link to a concrete delict (Suhartono & Panjaitan, 2025).

However, the Asset Forfeiture Bill introduces an expansion of forfeiture objects exceeding those conventional material connectivity limits. Article 5 section (2) letter a of the Bill lists that forfeitable assets include wealth disproportionate to income or disproportionate to sources of wealth addition whose origin cannot be proven legally. This concept refers to the illicit enrichment doctrine, adopted from international conventions, to entrap the assets of concealed corruptors (Islamiah & Setyorini, 2024). Although this instrument is considered effective in

suppressing high levels of corruption, expanding this object creates a sharp legal disparity with the restrictions on seized objects established in Law Number 20 of 2025.

The implementation of the illicit enrichment concept within Indonesia's asset forfeiture regime has sparked a debate over the security of citizens' property. Disregarding the requirement of a direct relationship between the asset and the predicate crime can result in the forfeiture of legally obtained assets that are difficult to prove their acquisition (Dianita et al., 2023). This indicates a tendency of the state to criminalize the ownership of property itself rather than the evil act that produces it. Without synchronization with seizure limits in criminal procedural law, the state risks conducting excessive intervention into privacy rights and individual economic rights in the name of recovering state losses (Pratiwi & Lubis, 2023).

Future conflict-of-laws projections will become more complicated when the principle that new regulations override old regulations (*lex posterior derogat legi priori*) is applied after the enactment of the Asset Forfeiture Bill. Law enforcement officers may use the provision in Article 5 of the Bill to seize all assets deemed economically unreasonable based on profiling, even if they do not meet the criteria for objects liable for seizure under Article 123 of Law Number 20 of 2025. This condition creates systemic legal uncertainty, as the validity of a seizure becomes ambiguous. This dualism in seized-object criteria not only harms good-faith asset owners but also opens a loophole for abuse of authority in the state asset recovery process (Yusuf et al., 2024).

Numerous studies emphasize that the urgency of implementing illicit enrichment regulations in Indonesia is a key future strategy for systematic corruption eradication (Yusuf et al., 2024). The use of the NCBAF method is also seen as capable of accelerating asset recovery, which has been hindered by complex criminal procedures (Wardhani et al., 2024). Nevertheless, such effectiveness must be based on strict regulations to avoid infringing on human rights and remain within the bounds of accountability. Legal reconstruction of the asset forfeiture concept is highly necessary to ensure that state loss recovery does not ignore basic principles of the national criminal legal system that uphold material truth (Nasution & Riswadi, 2024).

Critically, it can be concluded that the escalation of the illicit enrichment concept within the substance of the Asset Forfeiture Bill currently still leaves vulnerabilities in the protection of citizens' property rights. The expansion of seized objects, in violation of material connectivity limits as provided in Law Number 20 of 2025, demands a highly strict supervisory system to prevent abuse of authority.

However, the substance of the Asset Forfeiture Bill suggests a tendency to limit judicial involvement in testing the validity of such forfeiture actions. Therefore, the discussion of the degradation of judicial dignity due to the shifting of judicial control mechanisms becomes a central issue that must be further examined to assess its systemic impact on the pretrial institution.

C. Degradation of Judicial Dignity: Implications of Shifting the Objection Mechanism on the Existence of the Pretrial Guardian

The existence of judicial power in the national criminal justice system is reaffirmed through tightened judicial oversight in Law Number 20 of 2025. Article 158 and Article 159 section (1) of the Law stipulate that the Pretrial institution has the authority to examine and decide on the validity of seizures conducted by investigators. This strengthening of the judge's role aims to ensure that every coercive measure undertaken by the state remains within the corridor of due process of law (Behuku et al., 2025). Judges are not merely administrative complements but guardians of human rights who ensure there is no abuse of authority in the primary investigation stage.

However, the Asset Forfeiture Bill introduces an objection mechanism that fundamentally undermines the court's authority. Based on Article 19 section (4) of the Bill, objections to asset blocking or seizure actions must be submitted in writing to the investigator's direct superior. This provision creates an internal executive supervisory system that closes citizens' access to independent judicial control. Shifting the objection mechanism from the Pretrial path to this internal administrative path constitutes a form of degradation of the suspect's right to obtain justice before an impartial third party (Herusantoso et al., 2024).

Institutional confusion is exacerbated by granting prosecutors a hybrid role in the asset forfeiture process. Article 24 of the Asset Forfeiture Bill grants authority to the State Attorney to file asset forfeiture applications to the court. This contradicts the structure of the public prosecutor's duties in Law Number 20 of 2025, which is focused on criminal prosecution. Changing the prosecutor's role to that of a state attorney in cases initiated by criminal investigations creates ambiguity about the respondent's legal position (Saputra et al., 2025). Such conditions make it difficult for judges to determine which procedural law standard to apply, given that prosecutors exercise criminal authority but use civil procedures.

The disregard for judicial control procedures in Law Number 20 of 2025 implies the validity of evidence used in asset forfeiture trials. If a seizure action is conducted without passing the Pretrial validity test, the assets may be

categorized as illegally obtained evidence. Under the exclusionary rules doctrine, evidence obtained by means that violate the law should not be admissible in court (Murtadho, 2025). Legal circumvention by shifting administrative objections potentially legitimizes the use of illegal evidence previously strictly prohibited by national criminal procedural law.

The risk of human rights violations becomes more tangible in the application of asset forfeiture without the owner's presence (*in absentia*). This mechanism often limits the asset owner's ability to defend themselves effectively before a judge, which is an integral part of human rights (Atapary et al., 2023). Without active judicial oversight from the investigation stage, as mandated by Law Number 20 of 2025, the state may seize individual property without a transparent examination. The absence of judicial oversight at each stage of these coercive measures undermines the judicial system's role as a fortress of human rights protection.

Sociologically, this degradation of judicial dignity creates a paradox in which high law enforcement costs are not directly proportional to the quality of justice delivered (Sandhy & Panjaitan, 2026). Law enforcement officers who merely pursue the quantity of forfeited assets without adhering to procedural integrity will spawn legal uncertainty that damages public trust in judicial institutions. The weak judicial oversight of law enforcement officers' discretion demands a comprehensive restructuring of this regulation's framework. Therefore, a harmonization strategy capable of aligning asset recovery ambitions with legal certainty principles is required to prevent the systemic collapse of the national criminal legal system.

D. Reconstruction of Regulatory Position: Harmonization Strategy to Guarantee Legal Certainty and Human Rights

The norm conflict identified between the Asset Forfeiture Bill and Law Number 20 of 2025 reveals a paradox in law enforcement within the Indonesian rule-of-law state. On the one hand, the state strives to optimize the recovery of state financial losses through progressive instruments, yet on the other hand, there is a risk of disregarding the dialectics between discourse and the reality of corruption eradication (Pawe et al., 2025). The procedural law dualism born from the clash of evidentiary standards, definitions of seized objects, and judicial oversight mechanisms demands a reconstruction of the regulatory position. Without fundamental synchronization, the national criminal justice system will be trapped in legal uncertainty injuring the integrity of judicial institutions as a whole.

The root of this potential conflict lies in an exception clause in Article 367 of Law Number 20 of 2025, which provides that all regulations on criminal procedural law remain valid unless specifically regulated by law. The phrase "unless specifically regulated in a law" serves as an entry point for the Asset Forfeiture Bill to apply the principle that specific regulations override general regulations (*lex specialis derogat legi generali*). This condition allows the substance of the Asset Forfeiture Bill to deviate from human rights guarantees under Law Number 20 of 2025, on the grounds of subject and object specificity. Therefore, reconstruction must begin by emphasizing that every procedural exception in a special law must still not violate the basic principles of due process of law.

The harmonization strategy must prioritize legal certainty principles to mitigate errors in legal application that may imply substantive injustice (Ashal & Sudiro, 2025). The Asset Forfeiture Bill should not be presented as *a standalone system* but should be incorporated as a subsystem aligned with Law Number 20 of 2025. The utilization of the principle that new regulations override old regulations (*lex posterior derogat legi priori*) post-enactment must not be used as an excuse to degrade judicial dignity. A clear juridical demarcation is needed to distinguish between policy discretion and actions that violate the law, ensuring that law enforcement remains accountable (Sutopo & Panjaitan, 2025).

Effective corruption eradication is an urgent need to improve the national economy and guarantee social welfare (Wahyudi, 2018). Nevertheless, the ambition to increase state revenue through asset forfeiture must not ignore systemic risks in the management of the state budget and assets, which are prone to potential new irregularities (Wahyudi & Yulian, 2025). Norm reconstruction must guarantee that asset forfeiture efficiency runs in tandem with transparency and strict judicial oversight. This harmonization is essential to ensure that every penny returned to the state treasury is obtained through a legal process that is valid and constitutionally accountable.

Technically, the harmonization process must include restoring the role of the Pretrial institution as the vanguard of coercive measure supervision as stipulated in Article 158 and Article 159 section (1) of Law Number 20 of 2025. The administrative objection mechanism currently in the substance of the Asset Forfeiture Bill must be converted into a judicial objection mechanism to guarantee the independence of testing the validity of asset forfeiture. Furthermore, the urgency of NCBAF regulation must be accompanied by strict limits on illicit enrichment criteria to ensure that seized objects do not exceed the boundaries of material connectivity (Aldino & Susanti, 2025). These steps will prevent norm conflicts that could be exploited by law enforcement officers to commit abuse of authority.

As an analytical conclusion, the reconstruction of the Asset Forfeiture Bill's position is an absolute prerequisite to guarantee the sustainability of a democratic national criminal legal system. Aligning the substance of the Asset Forfeiture Bill with Law Number 20 of 2025 will close the procedural law dualism loophole, which is destructive to human rights protection. Only through harmonious norm integration can the state realize balanced justice between the interests of state asset recovery and the guarantee of citizens' property rights. This effort constitutes a commitment to upholding legal sovereignty that is not only sharp in its enforcement but also obedient to fundamental and universal justice principles.

CONCLUSIONS AND SUGGESTIONS

This research concludes that there is a sharp and fundamental norm incompatibility between the Asset Forfeiture Bill and Law Number 20 of 2025. The disharmony in evidentiary standards through the NCBAF mechanism clearly erodes the presumption of innocence, which serves as the primary safeguard for human rights under Law Number 20 of 2025. The adoption of the civil standard of proof in the form of the balance of probabilities regarding objects derived from alleged criminal acts constitutes a juridical anomaly damaging the integrity of the national criminal justice system. Synchronization between the evidentiary incompatibility issue and the analytical objective shows that without a reconstruction of the burden of proof within the substance of the Asset Forfeiture Bill, the state will be trapped in repressive law enforcement practices that ignore material justice values.

Consistent with the research objective regarding the evaluation of seized objects, it is found that the expansion of asset definitions through the illicit enrichment concept has exceeded the material connectivity limits established in Article 123 of Law Number 20 of 2025. Forfeiture of assets with no direct relationship to a concrete delict creates legal uncertainty regarding citizens' lawful property rights. This conclusion confirms that the discourse on state loss recovery efficiency must not be used as a justification to breach the rigidly regulated seizure limitations set out in Law Number 20 of 2025. This dualism in seized-object criteria potentially breeds a disparity in rulings that undermines the authority of judicial institutions in the future if the substance of the Asset Forfeiture Bill is enacted without limitations aligned with the prevailing positive law.

The most concerning juridical implication is the degradation of judicial dignity due to the shifting of the objection mechanism from the judicial path to the executive internal path. Provisions within the substance of the Asset Forfeiture Bill requiring objections to be submitted directly to the investigator's superior negate the control function of the Pretrial institution as regulated in Article 158 and Article 159 section (1) of Law Number 20 of 2025. This represents a weakening of the due-process-of-

law guardian, which should guarantee the state's independent oversight of every coercive measure. These findings assert that reconstructing the substance of the Asset Forfeiture Bill is an urgent need to restore the absolute authority of judges to objectively and transparently test the validity of the deprivation of citizens' property rights.

The limitation of this research lies in its fully normative, prospective study focus on the substance of the Asset Forfeiture Bill, which holds the status of *ius constituendum* (law intended to be established). This method choice is a logical consequence of detecting potential norm conflicts before the regulation is effectively applied; however, it has not captured the empirical dynamics and sociological obstacles in field law enforcement practices. However, this limitation actually strengthens the research's originality as an early warning system for policymakers regarding systemic incompatibility risks. With awareness of this limitation, the offered legal prescription focuses on harmonizing the substance of the Asset Forfeiture Bill so that it remains within the corridor of human rights protection established in Law Number 20 of 2025.

As a policy implication and concrete follow-up, the government and legislature are advised to harmonize the substance of the Asset Forfeiture Bill before enactment, so that it is fully in line with the human rights protection standards in Law Number 20 of 2025. This is urgently needed to prevent the abuse of the exception loophole in Article 367 of Law Number 20 of 2025, which is often used as an entry point for special regulations to deviate from citizens' procedural guarantees. The operational recommendation is to reformulate the substance of the Asset Forfeiture Bill as a subsystem that acknowledges the Pretrial institution's authority to test every asset forfeiture action. Furthermore, illicit enrichment criteria must be rigidly defined so as not to exceed the material connectivity boundaries of seized objects in positive law.

Academically, this research recommends further studies on the standardization of asset forfeiture procedures across jurisdictions that can maintain a balance between public interests and individual civil rights. The legal reconstruction offered in this research must be viewed as a preventive effort to maintain the harmony of the national hierarchy of legislation from the threat of procedural law dualism. Academics are expected to continue monitoring this legislative process so that corruption eradication ambitions remain grounded in democratic rule-of-law values and do not sacrifice legal certainty. This norm alignment is not merely a technical legislative matter but a constitutional promise to protect every citizen's property rights from arbitrary actions arising from uncontrolled regulatory discretion.

REFERENCES

The 1945 Constitution of the Republic of Indonesia. https://www.dpr.go.id/dokumen/jdih/undang-undang-dasar

Aldino, M. R., & Susanti, E. (2025). The Urgency of Regulation of Non Conviction Based Asset Forfeiture in Corruption Criminal Acts in Indonesia. *Jurnal Hukum Sehasen*, *11*(1), 97-102. https://doi.org/10.37676/jhs.v11i1.7630

Alladuniah, M. A., & Shadiq, A. N. (2025). The Influence of Public Opinion on the Application of the Presumption of Innocence to the Criminal Justice System. *International Journal of Multidisciplinary Research and Analysis*, *8*(6), 3121-3126. https://doi.org/10.47191/ijmra/v8-i06-06

Ashal, A. S., & Sudiro, A. (2025). The Reconstruction of Free Judgments in Corruption Crimes and Its Implications for Enforcement Laws in Indonesia. *Journal of Law, Politic and Humanities*, *6*(1), 885-896. https://doi.org/10.38035/jlph.v6i1.2678

Atapary, A. E., Pasalbessy, J. D., & Wadjo, H. Z. (2023). Prinsip in Absensia dalam Pemeriksaan Tindak Pidana Korupsi Ditinjau dari Perspektif Due Process of Law. *Matakao Corruption Law Review*, *1*(1), 28-45. https://doi.org/10.47268/matakao.v1i1.9049

Behuku, J. G., Kusuma, J. I., Chasanah, N. U., Sugianto, F., & Indradewi, A. A. (2025). A The Judge's Role in the Effectiveness of Anti-Corruption Enforcement in Indonesia: A Juridical Analysis. *SIGn Jurnal Hukum*, *7*(1), 351-367. https://doi.org/10.37276/sjh.v7i1.464

Dianita, D., Pujiyono, P., & Sutanti, R. D. (2023). The Criminalization of Illicit Enrichment in Combating Corruption in Indonesia. *Mahadi: Indonesia Journal of Law*, *2*(2), 165-174. https://doi.org/10.32734/mah.v2i2.13183

Hasibuan, H. A. L. (2025). Non Conviction Base (NCB) Asset Forfeiture Regarding the Recovery of Assets from the Proceeds of Corruption Crimes. *Rechtsvinding*, *3*(1), 17-26. https://doi.org/10.59525/rechtsvinding.v3i1.661

Herusantoso, B. P., Ahmadi, A., & Maulana, B. A. (2024). Auction of Confiscated Assets by the Corruption Eradication Commission (KPK) at the Investigation Stage from the Perspective of the Presumption of Innocence. *Journal of Contemporary Law Studies*, *1*(4), 191-206. https://doi.org/10.47134/lawstudies.v2i3.2595

House of Representatives of the Republic of Indonesia. (2024, November 19). *Draft Law on Asset Forfeiture Related to Criminal Acts*. https://www.dpr.go.id/kegiatan-dpr/fungsi-dpr/fungsi-legislasi/prolegnas-periodik/detail/707

Huda, M. N., Mardhatillah, S. I., Ayunisa, Q., Munjiyah, A., & Nugroho, A. E. (2025). Non-Conviction-Based Asset Forfeiture: Presumption of Innocence and Principle of Legality Perspective. *Walisongo Law Review (Walrev)*, *7*(1), 98-112. https://doi.org/10.21580/walrev.2025.7.1.28205

Irwansyah. (2020). *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel*. Mirra Buana Media.

Islamiah, C., & Setyorini, E. H. (2024). Characteristics of Illicit Enrichment as a Corruption Crime. *DIH: Jurnal Ilmu Hukum*, *20*(1), 34-49. https://doi.org/10.30996/dih.v20i1.9844

Law of the Republic of Indonesia Number 20 of 2025 on the Criminal Procedure Code (State Gazette of the Republic of Indonesia of 2025 Number 188, Supplement to the State Gazette of the Republic of Indonesia Number 7149). https://www.dpr.go.id/dokumen/jdih/undang-undang/detail/2011

Murtadho, N. A. (2025). Illegally Obtained Evidence in Indonesia's Draft Criminal Procedure Code (RUU KUHAP): Exclusionary Rules and the Due Process of Law. *Jurnal Penelitian Hukum de Jure*, *25*(3), 291-308. https://doi.org/10.30641/dejure.2025.V25.291-308

Nasution, A. A., & Riswadi, R. (2024). Legal Reconstruction of Non-Conviction-Based Asset Forfeiture for State Loss Recovery from Corruption Crimes. *Return: Study of Economics and Business Management*, *3*(11), 271-280. https://doi.org/10.57096/return.v3i11.293

Pawe, T., Husen, L. O., & Muzakkir, A. K. (2025). The Paradox of a Rule of Law State: A Critical Reflection on the Dialectic between Discourse and Reality in the Eradication of Corruption in Indonesia. *Sovereign: International Journal of Law*, *6*(1-2), 1-17. https://doi.org/10.37276/sijl.v7i1-2.56

Pratiwi, J. I., & Lubis, A. F. (2023). The Urgency of Implementing Illicit Enrichment Regulations in Eradicing Corruption in Indonesia. *West Science Law and Human Rights*, *10*(1), 8-14. https://doi.org/10.58812/wslhr.v1i1.8

Qamar, N., & Rezah, F. S. (2020). *Metode Penelitian Hukum: Doktrinal dan Non-Doktrinal*. CV. Social Politic Genius (SIGn). https://books.google.co.id/books?id=TAQHEAAAQBAJ

Sampara, S., & Husen, L. O. (2016). *Metode Penelitian Hukum*. Kretakupa Print.

Sandhy, A. P., & Panjaitan, H. (2026). The Cost Burden Paradox in Petty Corruption Enforcement: A Socio-Legal Study Based on Cost-Awareness. *SIGn Jurnal Hukum*, *7*(2), 1058-1077. https://doi.org/10.37276/sjh.v7i2.564

Saputra, R., Suwadi, P., Laksito, F. X. H. B., & Santos, J. G. (2025). The Authority of Judges in Determining Suspects of Corruption: Rationality for the reform of Indonesia Criminal Justice in Corruption. *Indonesian Journal of Crime and Criminal Justice*, *1*(2), 156-187. https://doi.org/10.62264/ijccj.v1i2.145

Suhartono, A., & Panjaitan, H. (2025). Normative Reconstruction of Asset Forfeiture: A Legal Pathway Following Demise of Corruption Suspects. *SIGn Jurnal Hukum*, *7*(2), 682-707. https://doi.org/10.37276/sjh.v7i2.511

Suhendar, S., & Candra, S. (2025). The Principle of Presumption of Innocence: Ensuring Suspect Rights During the Investigation Process. *Jurnal Akta*, *12*(2), 644-657. https://doi.org/10.30659/akta.v12i2.44719

Sutopo, R. B. P., & Panjaitan, H. (2025). A Juridical Demarcation: Reconstructing the Proof of Mens Rea to Differentiate Policy and Corruption by Public Officials. *SIGn Jurnal Hukum*, *7*(2), 765-784. https://doi.org/10.37276/sjh.v7i2.525

Wahyudi, E. (2018). Korupsi dalam Peningkatan Perekonomian di Indonesia. *Lex Jurnalica*, *15*(2), 162-171. Retrieved from https://ejurnal.esaunggul.ac.id/index.php/Lex/article/view/2437

Wahyudi, E., & Yulian, B. M. (2025). Potensi Tindak Pidana Korupsi dalam Pengelolaan Danantara (Analisis Perspektif Sistem Hukum). *Ius Civile: Refleksi Penegakan Hukum dan Keadilan*, *9*(2), 51-65. Retrieved from https://jurnal.utu.ac.id/jcivile/article/view/13010

Wardhani, M. S., Noerdajasakti, S., & Yuliati, Y. (2024). Seizure of Corruption Proceeds Through Non-Conviction-Based Asset Forfeiture as a Means of Recovering State Losses From Corruption Crimes. *Path of Science*, *10*(10), 7001-7007. https://doi.org/10.22178/pos.109-21

Wulandari, Suprayitno, W., Kurniawan, K. D., & Borsa, M. Ö. (2023). Asset Forfeiture of Corruption Proceeds Using the Non-Conviction Based Asset Forfeiture Method: A Review of Human Rights. *Indonesia Law Reform Journal*, *3*(1), 15-25. https://doi.org/10.22219/ilrej.v3i1.24496

Yusuf, M., Aswanto, A., Sumardi, J., Maskun, M., & Rahman, N. H. A. (2024). Illicit Enrichment in Corruption Eradication in Indonesia: A Future Strategy. *Jurnal Media Hukum*, *31*(2), 224-243. https://doi.org/10.18196/jmh.v31i2.22304