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Corruption as a Human Rights Violation: The Urgency of Asset Forfeiture Mechanisms for Social Loss Recovery

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Abstract

Background: Corruption is a systemic crime that harms state finances and may result in structural human rights violations by disrupting access to education, health care, social welfare, and development. Asset forfeiture is therefore important for recovering public resources and restoring the state's capacity to provide public services.
Objective: This study examines the relationship between corruption, human rights, and the urgency of asset forfeiture by tracing the development of Indonesia's anti-corruption legal framework, particularly Law No. 31 of 1999 *jo.* Law No. 20 of 2001 and the establishment of the Corruption Eradication Commission (KPK).
Methods: A normative juridical approach and conceptual analysis were used to examine relevant legal regulations, institutional developments, and conceptual frameworks concerning anti-corruption enforcement and asset recovery.
Results: The analysis indicates that corruption may constitute a human rights violation because it deprives communities of socioeconomic rights and, in certain circumstances, may threaten the right to life. Asset forfeiture also has a restorative dimension by enabling the recovery and reuse of public resources for social development. The literature indicates that asset recovery can support public services, reduce inequality, restore public trust, and promote development. These findings support the relevance of non-conviction-based (NCB) asset forfeiture mechanisms.
Conclusion: Strengthening the legal framework for asset forfeiture, including the Asset Forfeiture Bill and improved governance of confiscated assets, is essential for recovering social losses, protecting human rights, and strengthening Indonesia's anti-corruption system.

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INTRODUCTION

Corruption is an extraordinary crime that has a systemic impact on all aspects of social, economic, and political life. In Indonesia, corruption not only harms the state's finances but also deprives people of basic rights, such as the rights to education, health, welfare, and decent public services. This condition makes corruption a potential human rights violation (*pelanggaran hak asasi manusia* or HAM) because the consequences of these criminal acts can cause suffering, structural poverty, and unequal access to basic needs. Murray and Spalding's opinion above uses the term corruption committed by public officials, or official corruption; however, the concept of corruption is not limited to the public domain but also includes the private sector. In this regard, corruption does not yet have a universally accepted legal definition at the international level. Policymakers in the anti-corruption field more commonly refer to the definition of corruption as "the abuse of entrusted power for private gain." In fact, according to Rose, this definition focuses primarily on the public domain. In addition, he notes that UNCAC chose not to define corruption but "only" identifies conduct that falls within the scope of corruption.

Indonesia's efforts to eradicate corruption cannot be separated from the dynamics of legal and regulatory development, which continue to evolve in line with the increasing complexity of corruption offenses and public demands for clean government. The evolution of these regulations demonstrates the state's efforts to adapt its legal instruments to contemporary challenges. Since independence, Indonesia has amended and refined its laws on corruption several times in response to criticism, law enforcement needs, and international standards.

Efforts to eradicate corruption formally began with Regulation of the Military Ruler No. PRT/PM/06/1957, which was later amended through Regulation of the Central War Ruler of the Army (*Peraturan Penguasa Perang Pusat Kepala Staf Angkatan Darat* or AD) No. PRT/PEPERPU/03/1958. During this period, the threat of corruption began to be recognized as conduct that could disrupt national stability, so its handling remained strongly influenced by a security-oriented approach. Subsequently, Law No. 24/Prp/1960 was enacted as an initial step toward establishing a more systematic legal framework for combating corruption. This law sought to standardize the enforcement of anti-corruption laws, but it still had limitations, particularly with regard to evidentiary requirements and the recovery of state losses.

Entering the New Order era, the government replaced and updated the existing regulations through Law No. 3 of 1971 concerning the Eradication of Corruption, which provided a more comprehensive framework for corruption offenses, including abuse of office, bribery, and conduct causing losses to state finances. However, although normatively more comprehensive, enforcement of this law remained weak because of the dominance of centralized executive and political power, rendering its implementation ineffective.

The Reform Era brought major changes to Indonesian legal policy. Law No. 31 of 1999 was enacted and promulgated on August 16, 1999, during the administration of President B. J. Habibie. It was subsequently amended by Law No. 20 of 2001 during the administration of President Megawati Soekarnoputri. Together, these laws represented an important turning point in efforts to eradicate corruption. Substantively, these laws strengthened provisions concerning investigation, evidence, additional criminal penalties, and asset recovery mechanisms. To further strengthen the legal framework, Law No. 20 of 2001 amended Law No. 31 of 1999 and addressed various legal loopholes in the earlier legislation.

Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 introduced several fundamental reforms to Indonesia's anti-corruption framework. First, corruption is treated as a formal offense, meaning that the recovery of state losses does not eliminate criminal liability because the legal focus remains on the corrupt act itself. Second, the law introduced a limited reverse-burden mechanism under which defendants may, under specified circumstances, be required to explain the origin of their assets or gratifications. However, this mechanism does not transfer the entire burden of proof to the defendant, as the public prosecutor remains responsible for proving the elements of the offense while preserving the presumption of innocence.

The legislation also regulates the evidentiary treatment of gratifications received by civil servants or state officials. The IDR 10 million threshold concerns the allocation of the burden of proof for gratifications related to the recipient's office and contrary to official duties; it should not be interpreted to mean that every payment exceeding this amount automatically constitutes bribery. Another important reform concerns the forfeiture of assets associated with corruption, which may be pursued within the statutory framework when such assets have been concealed, transferred to third parties, or moved abroad. These provisions strengthen the ability of law enforcement authorities to trace and recover proceeds of corruption rather than relying solely on imprisonment as a punitive measure.

Regulatory reform, however, requires strong institutions for effective implementation. For this reason, legal reform was complemented by the establishment of the Corruption Eradication Commission (*Komisi Pemberantasan Korupsi* or KPK) through Law No. 30 of 2002. The KPK was granted special authority to conduct investigation, inquiry, prosecution, supervision, coordination, and prevention activities relating to corruption. As a special body with a high degree of institutional independence, the KPK was designed to address serious and complex corruption cases that had previously been difficult for conventional law enforcement institutions to handle effectively.

Changes in regulations and law enforcement institutions will not succeed without changes in the legal culture of the community and state apparatus. Legal culture encompasses people's mindsets, attitudes, behaviors, and awareness of the law. A weak anti-corruption culture causes society to be permissive toward irregularities, bribery to be regarded as “normal,” and practices of nepotism to continue to emerge within the bureaucracy. A legal system consists not only of legal substance (rules) and legal structure (institutions), but also of legal culture. Without a supportive legal culture, even a well-designed legal system may fail to function effectively.

Indonesia still faces major challenges in its legal culture, including weak public service ethics, social tolerance for petty corruption, a persistent feudalistic culture and political patronage, and a lack of exemplary conduct among public officials. Therefore, corruption eradication is not merely a matter of establishing and enforcing laws; it also requires broader social reform and the strengthening of morality and ethical standards within the bureaucracy.

The understanding of corruption as a human rights violation is increasingly relevant when examining major corruption cases that have damaged public services. Rights such as the rights to education, health, work, and a decent standard of living can be undermined by the abuse of state budgets. Corruption also erodes public trust in the state, worsens social inequality, and hinders national development. The substantive provisions concerning corruption, or corruption offenses, do not expressly establish a direct relationship between corruption and human rights (Aninda, 2017; Aprianti, 2016; Nisa, 2016). In fact, the correlation between the two is clear because, in many cases of corruption, human rights violations may occur directly or indirectly. Acts of corruption generally begin with an abuse of power, meaning that perpetrators are often persons who hold or exercise public authority. In other words, deviant acts committed by bureaucratic officials in the form of corruption can create hardship for disadvantaged communities. This means that acts of corruption can deprive people of their economic, social, and cultural rights and thereby contribute to human rights violations.

In this context, the asset forfeiture mechanism is particularly important. Asset forfeiture is not merely an additional punishment for perpetrators but also a means of recovering social losses experienced by the community. This instrument can facilitate the recovery of assets lost through corruption, increase the deterrent effect, and broaden the orientation of criminal justice from a retributive approach toward a restorative approach. The introduction of the Asset Forfeiture Bill also reflects Indonesia's commitment to strengthening its anti-corruption system in accordance with international standards, including the United Nations Convention Against Corruption (UNCAC).

However, the implementation of asset forfeiture in Indonesia continues to face legal, bureaucratic, and political obstacles. Therefore, academic studies concerning the relationship between corruption as a human rights violation and the urgency of asset forfeiture as a mechanism for recovering social losses are important for strengthening the direction of national legal policy.

Although corruption has long been regarded as an extraordinary crime, Indonesia's legal framework still primarily treats corruption as a criminal offense that causes losses to state finances and the national economy rather than explicitly recognizing its consequences as human rights violations. In fact, various studies show that corruption can systematically hinder the fulfillment of basic rights guaranteed under the ICCPR and ICESCR, such as the rights to health, education, and a decent standard of living (UNODC, 2019). When a budget that should be allocated to public services is misappropriated, the state may fail to fulfill its obligations as a duty bearer to respect, protect, and fulfill the rights of citizens. This condition strengthens the argument that corruption is not merely a violation of administrative or criminal law but may also constitute a structural human rights violation.

However, there is a gap between the understanding of corruption as a crime that causes large-scale social losses and the legal mechanisms available to recover those losses. Applicable regulations, such as the Corruption Law (Law No. 31 of 1999 in conjunction with Law No. 20 of 2001), still emphasize conventional criminal sanctions, including imprisonment and fines, while mechanisms for recovering social losses through asset forfeiture have not yet been optimized. Meanwhile, international instruments such as UNCAC Articles 31 and 54 affirm the importance of asset recovery and provide a basis for international cooperation concerning the identification, freezing, seizure, and confiscation of proceeds of crime (UNCAC, 2003). This constitutes a central problem: Indonesia's legal framework has not yet fully integrated human rights perspectives and asset forfeiture mechanisms into a unified objective of restoring people's rights.

Furthermore, at the empirical level, Indonesia faces serious obstacles in optimizing asset forfeiture. Many corruption cases result in state losses that are not fully recovered, and proceeds of crime are difficult to trace, partly because Indonesia does not yet have a comprehensive non-conviction-based asset forfeiture (NCB) regime comparable to those available in some other jurisdictions (Asia Development Bank, 2020). As a result, people continue to bear long-term social losses, while perpetrators may still have opportunities to conceal or transfer proceeds of crime. This disparity indicates that Indonesia's legal policy remains heavily oriented toward punishing perpetrators rather than restoring the interests of collective victims, namely the community.

On the other hand, the long-standing discourse surrounding the Asset Forfeiture Bill demonstrates the urgency of fundamental reform. However, political debates and institutional concerns have delayed the enactment of this legislation, thereby creating a policy gap between the need to recover social harm and the availability of adequate legal instruments. Therefore, this research is relevant to answering the question of how corruption should be understood as a human rights violation and why asset forfeiture should be positioned as a principal instrument for recovering social losses.

Based on this description, it is clear that the central thread of this research is as follows: (1) corruption deprives members of the community of basic rights and therefore may properly be characterized as a human rights violation; (2) social losses caused by corruption are substantial and cannot be adequately addressed through conventional criminal sanctions alone; (3) Indonesia has a legal gap because it has not yet optimally adopted an asset forfeiture mechanism consistent with international standards; and (4) a comprehensive legal analysis is needed to establish the urgency of asset forfeiture as a human rights-based recovery strategy.

Therefore, this research seeks to fill a gap in normative studies and provide a scientific argument that the recovery of social losses through asset forfeiture is an important prerequisite for ensuring the protection of human rights and strengthening Indonesia's anti-corruption legal system.

The principal regulation governing corruption in Indonesia is Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Corruption Crimes (Corruption Law). This law broadly defines and regulates corruption offenses, including acts of unlawfully enriching oneself or another person that cause losses to state finances, abuse of authority, bribery, gratification, and conduct causing losses to the state economy. In addition, the legal framework for corruption enforcement is strengthened by the authority of the Corruption Eradication Commission (KPK) under Law No. 19 of 2019, as well as provisions in the New Criminal Code (Law No. 1 of 2023), which also contain provisions relating to forfeiture and additional criminal penalties. From a human rights perspective, corruption is also related to the state's obligations under Article 28H, Article 28I, and Article 34 of the 1945 Constitution, which affirm protections relating to a decent standard of living, health, education, and social welfare. Thus, the constitutional framework and sectoral regulations provide a basis for arguing that corruption can deprive people of their rights and hinder the fulfillment of state obligations.

The mechanism for asset forfeiture in Indonesian law has, in principle, been regulated through additional criminal penalties under the Corruption Law. Article 18 of the Corruption Law authorizes judges to impose additional penalties in the form of forfeiture of property obtained through corruption or payment of substitute money. However, this provision is essentially conviction-based, meaning that criminal forfeiture is generally imposed following a criminal conviction. In addition, the Criminal Procedure Code (Law No. 8 of 1981) regulates procedural measures such as seizure (*penyitaan*) but does not specifically establish a comprehensive modern asset recovery model. At the execution stage, Supreme Court Regulation *(Perma)* No. 1 of 2013 concerning Procedures for Settlement of Applications for the Handling of Assets in Criminal Cases also provides technical guidance for handling criminal assets, although its application remains limited to the matters covered by the regulation.

National Legal Limitations and the Urgency of Establishing New Regulations. One of the most significant obstacles to the recovery of corrupt assets is the absence of a comprehensive non-conviction-based asset forfeiture (NCB)mechanism in the Indonesian legal system. This mechanism is recognized in international anti-corruption standards, including UNCAC Article 54(1)(c), which calls upon States Parties to consider taking measures that would permit confiscation of property without a criminal conviction in appropriate cases where the offender cannot be prosecuted because of death, flight, absence, or other appropriate circumstances. Indonesia ratified UNCAC through Law No. 7 of 2006, but its implementation has not yet fully incorporated such a mechanism into the national legal system. These limitations may cause proceeds of corruption to remain untraced, dissipated, or difficult to recover, particularly in major corruption cases involving cross-border money laundering. Therefore, the need for specific legislation on asset forfeiture forms part of the urgent reform of Indonesia's anti-corruption legal framework.

Efforts to strengthen the asset forfeiture mechanism in Indonesian law are reflected in the discussion of the Asset Forfeiture Bill *(Rancangan Undang-Undang tentang Perampasan Aset Terkait Tindak Pidana)*, which has been included in the Priority National Legislation Program (*Program Legislasi Nasional* or Prolegnas). This bill has contemplated concepts such as non-conviction-based forfeiture, in rem forfeiture, and civil forfeiture to facilitate the state's recovery of assets suspected or proven to have been derived from criminal activity, including in circumstances in which the perpetrator cannot be brought before a criminal court because of flight, death, or other legally recognized circumstances. The bill also addresses the management of forfeited assets so that recovered assets may be redirected toward public purposes as part of social recovery. Within the framework of legal policy, the enactment of this bill would represent a strategic step toward fulfilling international commitments, increasing the effectiveness of corruption eradication, and placing human rights protection among the principal objectives of asset recovery.

The understanding of corruption as a human rights violation (*pelanggaran hak asasi manusia* or HAM) is rooted in the basic theory of human rights, which places the state as *a duty bearer* with obligations to respect, protect, and fulfill economic, social, and cultural rights (ESCR). Budgetary irregularities resulting from corruption have the potential to cause the state to fail to fulfill its obligations, particularly in providing education, health, and welfare services. Within the framework of human rights theory, the failure of the state to provide adequate basic services can be characterized as a structural violation of citizens' rights, particularly those of vulnerable groups. This perspective is strengthened by the argument that corruption can undermine the state's ability to fulfill the mandate of Articles 28H, 28I, and 34 of the 1945 Constitution, which are oriented toward the protection of basic rights.

Theoretically, corruption is understood as the abuse of authority for personal or group gain that results in state losses and distortions of governance. Corruption not only causes financial losses but also produces negative externalities affecting public services and social security. Various studies explain that corruption has a direct impact on declining education quality, limited access to health care, and increasing poverty as a result of disrupted social budget allocations (Mauro, 1997). Rawls (1971) theories of distributive justice provide a framework for understanding injustice in the distribution of public resources resulting from corruption as a form of substantive injustice. Meanwhile, restorative justice theory suggests that the criminalization of perpetrators alone is insufficient, a mechanism for recovery is also necessary for communities as collective victims of corruption (Braithwaite, 2002).

It is in this context that the asset recovery mechanism becomes important. Theoretically, asset forfeiture rests on two principal grounds: (1) the theory of prevention or deterrence, which holds that crime should not pay, and (2) the theory of reparation or recovery, which concerns the return of assets to the state or other legitimate beneficiaries to address losses caused by corruption. An international study by the Stolen Asset Recovery Initiative (StAR) explains that asset recovery plays an important role in restoring resources available to the public sector affected by corruption, particularly in public services such as health and education (StAR-World Bank, 2020). Legally, UNCAC Articles 31 and 54 provide an important international basis for member states to develop mechanisms for tracing, freezing, seizing, and confiscating assets derived from crime, including, under appropriate circumstances, non-conviction-based asset forfeiture (NCB)mechanisms.

In terms of global practice, studies have shown that countries that implement NCB or *in rem* forfeiture can be more effective in tracing and recovering proceeds of crime than systems that rely exclusively on criminal conviction-based mechanisms. The Asia Development Bank report (2020) and a study by Ikram (2026) indicate that the success of asset recovery increases when countries have strong asset-tracing units, effective cross-border cooperation, and transparent mechanisms for the reuse of recovered assets. Countries such as Singapore and the United Kingdom are examples of jurisdictions that have developed such mechanisms.

Meanwhile, the state of the art in international and national research shows a growing body of scholarship concerning the relationship between corruption and human rights violations. The UNODC report (2019) confirms that corruption can contribute to violations of ESCR, including rights relating to health, clean water, education, and decent living standards. An empirical study by McDevitt (2022) shows a correlation between high levels of corruption and lower public service performance and human rights indicators in developing countries. Thus, scientific evidence indicates that the impact of corruption is multidimensional and can directly erode the quality of life of communities.

In the Indonesian context, academic research shows that the national legal framework remains largely limited to conviction-based forfeiture mechanisms. Research by Dame Marbun et al. (2026) confirms that there is a legal gap between Indonesia's international commitments as a State Party to UNCAC and national legal practices that have not fully adopted an NCB mechanism. As a result, assets derived from corruption may fail to be recovered, particularly when the perpetrator dies, escapes, or cannot be brought to justice. In addition, ICW research (2023) found that average asset recovery reaches only around 20–30% of the state's total losses in major corruption cases.

The discourse on the Asset Forfeiture Bill in Indonesia, which was included in the 2024–2025 Prolegnas, provided political and legal momentum to strengthen the asset recovery mechanism. However, subsequent legislative developments have continued into 2026, and the bill remains under consideration rather than having been enacted. Note that implementation challenges remain substantial, particularly concerning potential abuse of authority, protection of citizens' property rights, and due process of law guarantees in forfeiture mechanisms. However, academic discussion generally recognizes that a more comprehensive and human rights-based asset forfeiture mechanism is an important prerequisite for recovering social losses, restoring public trust, and strengthening state governance.

Thus, there is a theoretical and empirical gap (research gap) that forms the basis for the urgency of this research. First, although many studies confirm the link between corruption and human rights violations, studies examining how asset forfeiture directly contributes to the recovery of human rights indicators remain limited. Second, there has been insufficient research comprehensively measuring the impact of asset recovery on social restitution in Indonesia. Third, positive legal discourse has not sufficiently integrated a human rights perspective into the formulation of asset recovery policies. This research seeks to fill this gap by analyzing corruption as a human rights violation and emphasizing the urgency of asset forfeiture as a principal instrument for recovering social losses.

Corruption is a crime that results in losses not only to state finances but also in widespread and layered social losses. These social losses arise in the form of declining quality of public services, limited public access to health care and education, increasing social inequality, and damage to local economic structures that depend on the state budget. Therefore, the mechanism of asset forfeiture is an important element in the design of modern anti-corruption policies, particularly in the context of recovering social losses experienced by the wider community. Various studies have shown that law enforcement models focusing only on prison sentences do not provide a sufficient deterrent effect and are unable to reverse the structural losses generated by corrupt practices (Mauro, 1997).

The urgency of asset forfeiture becomes increasingly evident when examining how corruption deprives members of the community of their basic rights. A study by UNODC (2019) identified significant impacts of corruption on rights relating to education, health, clean water, and social welfare. This means that the impact of corruption is not only financial but also directly hinders the fulfillment of basic rights guaranteed by the Constitution. Thus, asset forfeiture is not merely an economic or financial instrument of the state but also has a human rights dimension, namely, as an effort to restore social conditions more equitably. The theory of distributive justice explains that public resources that have been illegally diverted should be returned to the community to promote fairness in the distribution of social benefits (Rawls, 1971).

In addition, the asset forfeiture mechanism also functions as an important component in creating a deterrent effect on perpetrators. According to the World Bank's Stolen Asset Recovery (StAR) Initiative report (2020), countries that aggressively implement asset forfeiture mechanisms have been able to recover significant amounts of criminal proceeds and strengthen public confidence in state institutions. Studies generally indicate that when proceeds of crime can be traced, seized, forfeited, and appropriately reallocated, corruption becomes less profitable. The principle that “crime must not pay” underlying the asset recovery philosophy is particularly relevant when combined with a non-conviction-based (NCB) forfeiture mechanism.

In many countries, this mechanism also supports social recovery because forfeited assets can be used to finance public services. Studies of the United Kingdom and Switzerland show that proceeds recovered from corruption can be reused to finance health, education, or social assistance programs for affected communities. In Italy, 90% of mafioso assets confiscated from organized criminal groups are reportedly redirected toward community empowerment, strengthening social services, and anti-poverty programs (El Siwi, 2018). These findings reinforce the importance of asset forfeiture not merely as a punitive measure but also as a restorative instrument for improving social conditions.

Indonesia faces increasingly urgent conditions because the rate of asset recovery from corruption cases remains low. The ICW report in 2023 shows that the average recovery of state losses through court decisions reaches only 20–30% of the total value of losses caused by corruption. This demonstrates that a criminal law approach alone is insufficient and needs to be strengthened through a comprehensive asset forfeiture policy. Research by Wicaksono et al. (2025) also highlights the absence of an NCB mechanism as one of the factors contributing to the low effectiveness of asset recovery in Indonesia.

From the perspective of social empowerment, the asset forfeiture mechanism opens opportunities for implementing an asset-reuse model oriented toward community recovery. Research in various countries shows that assets derived from corruption and reallocated to public service development can contribute significantly to improving people's welfare and trust in the state. For example, research by McDevitt (2022) shows that asset recovery can have a direct impact on public service indicators, particularly in the education and health sectors. This research provides an important basis for positioning asset recovery policies as a human rights and development strategy rather than merely as a tool of criminal law enforcement.

Thus, the asset forfeiture mechanism is a strategic necessity for Indonesia because it enables the recovery of assets that should benefit the public, provides a stronger deterrent effect than imprisonment alone, supports the recovery of social losses and the fulfillment of human rights, aligns Indonesia's anti-corruption efforts with international standards, and creates opportunities for recovered assets to be redistributed for social development.

The absence of a strong asset forfeiture mechanism means that the state lacks an important tool for responding to social losses caused by corruption. Therefore, strengthening asset recovery instruments, including the implementation of NCB mechanisms and the establishment of an institution for managing recovered or forfeited assets, is an important priority in Indonesia's legal policy. Such measures are necessary to ensure that social losses are genuinely addressed, people's rights are respected, and national development proceeds fairly and effectively.

METHOD

This study used a normative juridical approach supported by conceptual analysis and comparative literature studies. This approach was chosen because the issue of corruption as a human rights violation and the urgency of asset forfeiture required an analysis focusing on positive legal norms, the development of human rights theory, legal policy, and international standards such as UNCAC. The primary legal materials for the study consisted of laws and regulations, including the 1945 Constitution, the Corruption Law, the Criminal Code, Law No. 30 of 2002 in conjunction with Law No. 19 of 2019 concerning the Corruption Eradication Commission (KPK), and international legal instruments such as UNCAC.

In addition, this study used secondary legal materials in the form of academic literature, national and international journals, official reports from institutions such as UNODC, the Stolen Asset Recovery Initiative (StAR)-World Bank, and ICW, as well as previous studies discussing the relationship between corruption, asset forfeiture, and human rights. The analysis was conducted qualitatively by interpreting legal norms and theories and relating them to empirical realities concerning the recovery of social losses and the effectiveness of asset recovery mechanisms in Indonesia.

The analytical methods used included content analysis to examine the structure of legal norms and inconsistencies concerning asset forfeiture, as well as comparative analysis by examining the practices of other countries, such as Italy, Singapore, Switzerland, and the United Kingdom, that had implemented non-conviction-based asset forfeiture (NCB) mechanisms. This study also employed a law-in-context approach, which assessed the implementation of asset forfeiture in relation to legal culture, institutional effectiveness, and its impact on the fulfillment of the human rights of community members.

The results of the analysis were then synthesized to develop an argument that corruption constituted a human rights violation requiring an asset forfeiture mechanism as a principal instrument for recovering social losses. Through this normative-comparative methodology, the study sought to make a conceptual contribution to strengthening asset forfeiture regulations within the framework of human rights fulfillment and national development.

RESULTS AND DISCUSSION

Results

This article distinguishes three legal propositions. First, corruption is a criminal offense governed by anti-corruption legislation. Second, corrupt conduct may cause or contribute to violations of economic, social, and other human rights when a sufficiently specific causal and normative connection is established. Third, “gross human rights violations” constitute a special legal category under Law No. 26 of 2000 concerning the Human Rights Court, limited to genocide and crimes against humanity. Systemic corruption therefore cannot be classified as a gross human rights violation under existing positive law solely because its consequences are widespread; any proposal to expand that category is *de lege ferenda*.

From a juridical and normative perspective, the legislative considerations underlying Law No. 20 of 2001, which amended Law No. 31 of 1999 concerning the Eradication of Corruption Crimes, underscore the very broad and complex impact of corruption. Corruption not only causes state financial losses but also has wider consequences, including adverse effects on the fulfillment of the social and economic rights of the population. Corruption can result in the inefficient distribution of resources, hinder infrastructure development, and degrade the quality of public services. This directly affects people's well-being by restricting access to education, health care, and other essential services. When resources intended for the public benefit are diverted for the personal benefit of a particular individual or group, the community's right to obtain decent and adequate services is undermined. Therefore, corruption may constitute or contribute to human rights violations when its effects result in the deprivation, restriction, or impairment of rights protected by national or international law. Corruption is a form of crime that can have both direct and indirect effects on the fulfillment of human rights (*hak asasi manusia* or HAM). From the perspective of modern human rights law, the state has an obligation to respect, protect, promote, and fulfill the basic rights of its citizens. When corruption occurs, the state's capacity to discharge its constitutional and legal obligations may be significantly impaired. This can be seen in the erosion of people's rights to public services such as education, health care, infrastructure, social assistance, and development and welfare more broadly. Corruption diverts public resources that should help ensure people's quality of life, contributes to social inequality, and may hinder the achievement of decent living standards guaranteed by the 1945 Constitution and international human rights instruments. The discourse on the relationship between corruption and human rights has, in fact, been widely discussed at the international level. Ramasastry (2015) notes that several scholars have advanced arguments concerning efforts to characterize corruption as a form of international crime. In addition, she notes efforts by legal scholars to formulate a right to be free from corruption as a form of universally recognized human right. Corruption should therefore be examined as a potential cause or contributor to human rights violations. Transparency International's data have also been used to argue that countries perceived as more corrupt tend to exhibit weaker fulfillment of citizens' rights. In a corrupt state, efforts to protect citizens may be weakened. Therefore, corruption undermines democracy, adversely affects the rule of law—which is itself an essential framework for human rights protection—undermines public trust, and distorts the state's capacity to serve the public while diverting public resources toward private interests and illicit gains.

Corruption as a Violation of Economic, Social, and Cultural Rights (ESCR)

The rights to education, health, employment, adequate housing, clean water, and social welfare form part of economic, social, and cultural rights (ESCR), for which the state bears primary responsibility for protection and fulfillment. Corruption undermines the foundations of these rights because public budgets that should be allocated to public services may be unlawfully diverted for the personal benefit of perpetrators. For example, when education budgets are affected by corruption, the quality of schools, the availability of learning facilities, and the welfare of teachers may decline significantly. When health budgets are affected by corruption, medical facilities may be unable to function optimally, medical personnel may be inadequately equipped, and patients may be directly affected. Thus, corruption not only harms the state's finances but may also deprive people of meaningful opportunities to enjoy basic rights guaranteed by the Constitution and international human rights instruments such as the ICESCR. Economic, social, and cultural rights (ESCR) are a fundamental part of human rights because they are directly related to the fulfillment of basic needs, quality of life, and human dignity. The regulation of these rights is generally affirmed in the Universal Declaration of Human Rights (UDHR) of 1948, particularly Articles 22 through 27, which recognize rights relating to work, health, education, social security, an adequate standard of living, and participation in cultural life. The UDHR also provided the foundation for the development of the two major international human rights covenants subsequently adopted by the United Nations.

The first category is the International Covenant on Economic, Social and Cultural Rights (ICESCR). Indonesia ratified the ICESCR through Law No. 11 of 2005, and is therefore legally bound by its provisions. The ICESCR recognizes rights including the right to work and just and favorable conditions of work, the right to social security, the right to an adequate standard of living including adequate food and housing, the right to the highest attainable standard of physical and mental health, the right to education, and the right to participate in cultural life and benefit from scientific progress. The UN Committee on Economic, Social and Cultural Rights, through General Comments Nos. 12–19, affirms that states must use the maximum available resources toward the progressive realization of economic, social, and cultural rights. This means that the state is required to take appropriate measures and allocate available public resources toward the fulfillment of these rights; budgetary irregularities caused by corruption may therefore impair the state's ability to discharge this obligation.

The second category is the International Covenant on Civil and Political Rights (ICCPR), which Indonesia ratified through Law No. 12 of 2005. This Covenant protects fundamental rights such as the right to life, freedom from torture, freedom from slavery, recognition as a person before the law, protection against retroactive criminal punishment, freedom of thought, conscience, religion and opinion, freedom of peaceful assembly and association, and rights relating to equality before courts and tribunals and fair trial guarantees. These rights protect the dignity and autonomy of individuals and require the state to refrain from arbitrary, repressive, or discriminatory conduct while providing effective legal protection.

In addition to these two international instruments, Indonesia has specific national legislation regulating human rights, namely Law No. 39 of 1999 concerning Human Rights. This law recognizes a broad range of rights and establishes the state's responsibilities concerning their protection and fulfillment. Article 8 provides that the protection, promotion, enforcement, and fulfillment of human rights are primarily the responsibility of the government. Law No. 39 of 1999 also recognizes the right to life and an adequate standard of living (Article 9), the right to education and personal development (Article 12), the right to health-related protections (including the rights recognized in its provisions concerning welfare), the right to a good and healthy environment (Article 65), and various rights relating to social and public services. Article 36, however, specifically concerns the right to property and protection against arbitrary and unlawful deprivation of property. Thus, human rights protection in Indonesia has a strong legal foundation derived from both international and national law.

Based on this legal framework, corruption may be qualified as a human rights violation where corrupt acts directly or indirectly deprive the state or communities of resources necessary for the fulfillment of protected rights, provided that the requisite causal and normative connection is established. Corruption reduces the state's capacity to provide health services, disrupts the distribution of educational resources, worsens access to food, clean water, and housing, and undermines social security programs. Corruption in the development sector may also endanger the right to life where corruption in infrastructure projects, the procurement of medicines or medical equipment, or disaster management results in foreseeable and preventable deaths. Thus, corruption is not only an offense against state finances but may also constitute a structural phenomenon that hinders the fulfillment of economic, social, cultural, civil, and political rights. Therefore, corruption deserves to be understood, where the applicable legal elements are satisfied, as conduct that can contribute to human rights violations and that demands effective law enforcement, including appropriate asset forfeiture mechanisms to support the restoration of public resources and the rights of people adversely affected by corruption.

Corruption and the Right to Life

A right-to-life analysis requires a stricter causal standard. Misappropriation of health, disaster, or safety funds may create serious risks and may contribute to preventable deaths, but the legal characterization depends on the foreseeability, proximity, and causal connection between the corrupt act and the deprivation of life. The analysis therefore distinguishes direct violations, contributory impacts, and broader adverse consequences.

In a more serious context, corruption can have a direct impact on the right to life, which is recognized as a non-derogable right under international human rights law. Corruption involving health-service funds, the procurement of medical equipment, or disaster-management budgets can contribute to the loss of human life. For example, if the procurement of medicines, vaccines, or medical equipment is affected by corruption to the point that the quality or quantity supplied is inadequate, people who depend on those services may face increased risks to their lives. In the context of natural disasters, corruption in crisis-mitigation and disaster-management funds can delay state responses, endanger vulnerable communities, and contribute to deaths that could otherwise have been prevented. Thus, corruption is not merely a white-collar crime involving financial interests; under particular circumstances, it can contribute to conduct that threatens the physical integrity and lives of members of society.

Corruption Produces Real and Systemic Victims

The view that corruption is a crime without victims is a misunderstanding. The victims of corruption can be real and widespread. On the one hand, communities may be directly affected because their rights and access to public services are impaired. On the other hand, the state may suffer institutional harm because corruption undermines public legitimacy and its capacity to administer good governance. People living in poor or geographically remote areas may be among the groups most severely affected because they are highly dependent on public services. Corruption can cause the quality of public services in disadvantaged areas to deteriorate, widen social inequality, and contribute to cycles of structural poverty. By depriving people of meaningful access to basic rights and public services, corruption may become a latent but highly destructive source of human rights harm.

Long-Term Impact: Systemic Corruption and Human Rights Harm

The impact of corruption does not stop at short-term monetary losses; corruption can have long-term effects that damage the social, economic, and political structures of a country. As stated in a study by Pattimura University (unpatti.ac.id), corruption has been argued to possess characteristics associated with gross human rights violations because of its massive, widespread, and long-term impact. However, this scholarly characterization should be distinguished from the current legal definition under Law No. 26 of 2000, which limits gross human rights violations to genocide and crimes against humanity. When corruption cripples development and worsens poverty, future generations may also be affected by the loss of opportunities to enjoy basic rights. Corruption hinders the achievement of sustainable development, increases social inequality, and undermines the quality of government institutions. In the long run, corruption can even erode state stability and contribute to multidimensional crises that threaten community welfare. In a long-term perspective, corruption may be argued to produce consequences comparable in severity to gross human rights violations, but it cannot presently be legally categorized as a gross human rights violation under Law No. 26 of 2000 unless its conduct independently satisfies the elements of genocide or a crime against humanity. Corruption possesses characteristics of conduct with massive, widespread, and cross-generational impacts because it hinders development and can systematically worsen quality of life. Corruption erodes state legitimacy, exacerbates inequality, and may reinforce cycles of poverty. Therefore, the eradication of corruption must be understood not only as an issue of law enforcement but also as an agenda for human rights protection and long-term national development.

Corruption Undermines the Right to Development

The right to development is a collective and individual right to participate in, contribute to, and enjoy economic, social, cultural, and political development. Corruption can directly undermine this right because state revenues from taxes, natural resources, and development funds may not be used effectively for the welfare of the community. Infrastructure may deteriorate, public facilities may remain inadequate, and social programs may be hampered or fail to operate as intended. When development is obstructed by corruption, people's ability to enjoy economic and social progress is impaired. Therefore, combating corruption is not only a criminal-law issue but also relates to the state's obligation to fulfill its constitutional and human rights responsibilities in relation to national development.

The legal basis for asset forfeiture can be traced to the additional criminal penalties provided under the Criminal Code (*Kitab Undang-Undang Hukum Pidana* or KUHP). Under the current Criminal Code, Law No. 1 of 2023, Article 66(1)(b) recognizes forfeiture of certain goods and/or claims as an additional criminal penalty, while Article 91 specifies categories of property that may be forfeited, including property used to commit or prepare a criminal offense, property connected with the commission of an offense, property belonging to a convicted person or another person that was obtained from a criminal offense, and economic benefits derived directly or indirectly from a criminal offense. Article 92 further permits forfeiture of certain property that was not previously seized, subject to the statutory conditions. These provisions are conviction-based because they operate as additional criminal penalties imposed in connection with a criminal conviction.

In the context of corruption, Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 (*jo.*) concerning the Eradication of Corruption Crimes provides more specific mechanisms through Article 18 paragraph (1), including forfeiture of tangible or intangible movable or immovable property used for or obtained from a corruption offense, payment of replacement money, and forfeiture of property used to secure payment of replacement money. Article 18 paragraph (2) provides that, where replacement money is not paid within the statutory period after the judgment has obtained permanent legal force, the prosecutor may seize and auction the convicted person's property to satisfy the replacement payment, subject to the statutory limitations. Article 18 paragraph (3) provides for substitute imprisonment where the convicted person lacks sufficient property to pay the replacement money; it does not establish a general power to forfeit assets held by third parties.

However, even though the Anti-Corruption Law provides more specific asset-recovery mechanisms than the general Criminal Code, its principal criminal forfeiture mechanism remains in personam in character because it is connected to criminal proceedings and conviction. This means that, as a general matter, criminal forfeiture under these provisions is linked to a judgment against the offender. This limitation is significant in corruption cases involving hidden assets, layering, nominees, and transfers across borders. Nevertheless, Indonesian law also contains civil-recovery mechanisms in certain circumstances, including provisions under Articles 32 through 38 of the Anti-Corruption Law. Accordingly, it would be inaccurate to state that no asset recovery is legally possible without a criminal conviction; rather, the principal criminal forfeiture mechanism remains conviction-based, while separate civil mechanisms may apply in specified circumstances.

From a human rights perspective, the state's obligation to protect and fulfill human rights is directly related to Law No. 39 of 1999 concerning Human Rights, particularly Article 8, which provides that the protection, promotion, enforcement, and fulfillment of human rights are primarily the responsibility of the government, and Article 9, which protects the right to life, the right to develop one's standard of living, the right to live in security and well-being, and the right to a good and healthy environment. Article 36 concerns the right to property and protection against arbitrary and unlawful deprivation of property. Corruption that diverts public budgets may impair the state's capacity to fulfill its human rights obligations. Therefore, asset forfeiture can be understood as one component of the state's broader effort to recover public resources and restore its capacity to fulfill basic rights.

The limitations of conviction-based forfeiture create a gap between the need for effective asset recovery and the capacity of existing criminal-law mechanisms to address assets concealed, transferred, or controlled through complex structures. This condition is exacerbated by the absence of a comprehensive Non-Conviction-Based Asset Forfeiture (NCB) mechanism in the Criminal Code or Anti-Corruption Law. Internationally, Article 54(1)(c) of the United Nations Convention against Corruption (UNCAC) requires States Parties to consider taking measures necessary to permit confiscation of property without a criminal conviction where the offender cannot be prosecuted because of death, flight, absence, or other appropriate circumstances. Article 54(1)(c) therefore provides an international legal basis for considering NCB mechanisms, but it does not itself impose a single mandatory model of NCB forfeiture on all States Parties. Article 31 of UNCAC separately addresses the identification, tracing, freezing, seizure, and confiscation of proceeds and instrumentalities of crime. Thus, although the Criminal Code, the Anti-Corruption Law, and the Human Rights Law provide important normative bases for asset recovery, further reform may be necessary to address social losses, damage to public services, and the structural consequences of corruption. This provides a basis for legal arguments supporting the establishment of a more comprehensive asset-forfeiture mechanism, such as through an Asset Forfeiture Bill, to enable the state to recover illicit assets while safeguarding due process, proportionality, and the rights of affected third parties.

The Criminal Procedure Code (*Kitab Undang-Undang Hukum Acara Pidana* or KUHAP) provides the procedural basis for investigation, prosecution, seizure, and evidentiary procedures in criminal cases, including corruption cases. Its provisions concerning seizure regulate how law-enforcement authorities may secure property suspected of being connected with criminal activity. However, the Criminal Procedure Code does not establish a comprehensive non-conviction-based forfeiture regime. In the context of corruption, reliance on conviction-based mechanisms can prove ineffective where perpetrators flee, die, or transfer assets to third parties. The Criminal Procedure Code also does not establish a comprehensive asset-focused in rem forfeiture regime or a standalone mechanism for the recovery of assets located across jurisdictions comparable to the broader asset-recovery framework contemplated by UNCAC. This can cause recovery of corruption proceeds to remain suboptimal and may reduce the state's ability to recover financial resources that could otherwise support public welfare.

From a human rights perspective, the Criminal Procedure Code protects suspects and defendants through principles associated with due process of law, but it does not by itself provide a comprehensive mechanism for addressing the rights of communities as collective victims of corruption. Social losses such as declining quality of public services, increasing poverty, and damage to public infrastructure cannot necessarily be restored through criminal procedure alone. Therefore, an asset-forfeiture mechanism that supplements existing criminal and civil recovery mechanisms may be needed, including a Non-Conviction-Based Asset Forfeiture (NCB) framework that allows the state, subject to judicial oversight and adequate procedural safeguards, to seek forfeiture of assets without waiting for a criminal conviction in circumstances permitted by law. Such a mechanism should also provide for the transparent and accountable management and disposition of forfeited assets so that recovered resources can contribute to the restoration of economic, social, and cultural rights. These reforms are important to ensure that the eradication of corruption is not oriented solely toward punishing perpetrators but also toward restoring social harm and protecting human rights.

The forfeiture of assets under Law No. 31 of 1999 *jo*. Law No. 20 of 2001 is an additional criminal instrument expressly regulated in Article 18, which authorizes forfeiture of property obtained from corruption offenses and provides for payment of replacement money and related enforcement measures. This provision reflects the principle that corruption should not generate an illicit financial benefit while providing mechanisms through which the state may recover financial losses caused by corrupt acts. However, asset forfeiture under the Anti-Corruption Law principally operates through a conviction-based mechanism, meaning that criminal forfeiture is imposed in connection with criminal proceedings and a court judgment. This model has significant practical limitations where assets are concealed, transferred, dissipated, or otherwise placed beyond the effective reach of enforcement authorities. From a human rights perspective, the asset-forfeiture provisions of the Anti-Corruption Law are related to the state's obligations under Law No. 39 of 1999 concerning Human Rights, especially Article 8 and Article 9, which establish governmental responsibility for human rights protection and recognize rights relating to life, welfare, and a good and healthy environment. Corruption can impair the state's capacity to fulfill these obligations; therefore, asset forfeiture should be understood not merely as a punitive criminal-law instrument but also as a potential means of recovering public resources and supporting the restoration of rights adversely affected by corruption. The limitations of conviction-based mechanisms further strengthen the argument for establishing a carefully regulated Non-Conviction-Based Asset Forfeiture (NCB) mechanism, subject to judicial safeguards, evidentiary standards, proportionality, and protection of legitimate third-party interests.

The Urgency of the Asset Forfeiture Mechanism for Social Loss Recovery

Asset forfeiture is a key instrument for mitigating the impact of corruption, especially because corruption can generate social losses that cannot be addressed through imprisonment alone. Corruption diverts resources that should be used for the public interest, so recovery of social losses requires legal mechanisms capable of recovering and returning illicitly diverted assets to public use. According to StAR-World Bank (2020), asset recovery is an important instrument for reducing the social impact of corruption and returning public funds to sectors in need.

Theoretically, this mechanism is based on two concepts: (1) deterrence, which seeks to ensure that crime does not produce financial benefits; and (2) restorative justice, which seeks to address and repair harm suffered by affected communities. Hariyanti & Wibisono (2026), show that countries that successfully implement asset recovery, through both conviction-based and non-conviction-based (NCB) models, may increase the deterrent effect and facilitate the productive reuse of assets resulting from corruption for public purposes.

In many countries, asset recovery has also been associated with broader social-development objectives. A study by El Siwi (2018) in the Italian context shows that more than 90% of seized mafia assets are reallocated to public education, social centers, and health facilities, thereby becoming a tool for community empowerment. Countries such as Switzerland and the United Kingdom have implemented related asset-recovery models, although the specific legal frameworks and mechanisms differ among jurisdictions.

Indonesia faces particular urgency because asset recovery in corruption cases remains challenging. The Indonesia Corruption Watch report (2023) notes that only about 20–30% of assets have been successfully recovered through court rulings, while many other assets are untraceable or difficult to confiscate because of legal and practical obstacles. Legal research by Hariyanti & Wibisono (2026) confirms that the absence of a comprehensive NCB mechanism is an important factor contributing to the limited effectiveness of asset recovery in Indonesia.

The mechanism of asset forfeiture is not merely an instrument of law enforcement but can also function as a tool for development and the restoration of people's rights. Research by McDevitt (2022) shows that countries implementing asset recovery consistently may experience improvements in public-service indicators such as school quality, access to medicines, and health facilities. In other words, asset-forfeiture mechanisms can have a concrete relationship with the fulfillment of human rights, especially rights relating to education, health, and social welfare.

Discussion

Therefore, the urgency of an asset-forfeiture mechanism lies in its ability to: 1) restore the basic rights of people adversely affected by corruption; 2) return public funds for social development; 3) increase the deterrent effect on perpetrators; 4) strengthen asset-forfeiture policy and implementation; 5) strengthen state governance and public trust; 6) support the human rights and sustainable-development agenda.

Thus, asset forfeiture is not only a complement to the enforcement of corruption offenses but also a strategic instrument for social recovery. It should be strengthened through the Asset Forfeiture Bill, an appropriately designed NCB mechanism, and transparent, accountable, and pro-public governance of recovered assets.

Corruption not only harms the state's finances but also creates social losses experienced by communities at large. These social losses arise in the form of reduced public access to educational services, disrupted health services, poor-quality public infrastructure, increasing poverty, and declining overall quality of life. In many cases, the social consequences may be substantially greater than the formally recorded state financial losses. Therefore, the asset-forfeiture mechanism is an important instrument for recovering social losses associated with corruption. This mechanism not only aims to eliminate the illicit profits of perpetrators but also to restore public resources so that they can be reused for affected public services.

In the context of social-loss recovery, asset forfeiture is a highly relevant strategy because it has a restorative dimension. A study by Arifin (2026) confirms that the recovery of state losses through asset confiscation can contribute to the recovery of public services because returned funds may reduce the burden on state expenditure and flow back to sectors experiencing budget deficits due to corruption. Thus, asset confiscation can provide "alternative resources" for addressing structural social harm.

Social losses are not only material but also involve injustice and lost opportunities. Research by Rudiyansah & Rezki (2025) shows that corruption exacerbates social inequality because poor communities are often most affected by reduced access to public facilities, while powerful actors may benefit from corrupt systems. Asset forfeiture can serve a restorative and redistributive function because recovered assets may be directed toward social programs targeting disadvantaged groups. In other words, asset confiscation may have a redistributive function by returning resources diverted from the community for the benefit of the community.

In addition, recovery of social losses through asset confiscation is closely related to improving the quality of public services. A study by Gilman (2026) when funds derived from corruption are successfully recovered, local governments may reuse them to build schools, improve health facilities, and improve public transportation, thereby directly improving community quality of life. These findings reinforce the understanding that asset recovery can strengthen not only the country's fiscal system but also the social dimension previously damaged by corrupt practices.

Furthermore, the return of assets resulting from corruption can affect the restoration of public trust. Trust is an important indicator of social well-being that is often overlooked. People who see corrupt assets confiscated and returned for public services may develop greater confidence in the state's commitment to accountability. This is emphasized by Harsono (2020) in the Journal of Justice, which states that asset recovery can symbolize the state's presence in protecting the people and ensuring that criminals do not retain the benefits of their unlawful conduct. With increased public trust, public participation in corruption monitoring and prevention may also increase.

In Indonesia, the social losses associated with corruption have proven to be significant and far-reaching. Research by Kahangirwe & Vanclay (2024) found that in cases involving corruption in infrastructure projects, communities bear losses in the form of damaged roads, inadequate public facilities, and additional economic burdens that are not fully reflected in the state's financial statements. In such cases, asset confiscation may be necessary to provide the state with financial resources to repair damaged infrastructure and restore the quality of life of affected communities. Asset forfeiture is therefore a legal mechanism capable of converting the recovery of illicitly obtained assets into tangible public benefits.

Furthermore, the asset-forfeiture mechanism can play a strategic role in improving development indicators. Recovered corruption proceeds can potentially be used to improve the Human Development Index (HDI), enhance the quality of schools, build health facilities, and maintain food availability. Research by Detter & Fölster (2017) that regions that experience asset recovery are able to improve the quality of public services more rapidly than areas that do not receive asset recovery. This demonstrates that asset forfeiture is not merely a legal measure but may also function as a social development policy.

Thus, the link between asset confiscation and the recovery of social losses is strong. Asset forfeiture can function as a mechanism to: 1) restore lost public resources; 2) restore basic services such as education and health care; 3) reduce social inequality; 4) increase public trust in the state; 5) accelerate development; 6) strengthen social justice for groups most affected by corruption.

Asset confiscation therefore touches not only the legal and formal dimensions of corruption enforcement but also the social, economic, and human rights dimensions that are essential to ensuring community welfare. Accordingly, strengthening the asset-recovery mechanism is not only important for law enforcement but also for recovering social losses and supporting the fulfillment of the basic rights of affected communities.

Asset forfeiture is a particularly important and urgent instrument in efforts to recover national losses caused by corruption. National losses caused by corruption are not limited to the loss of state funds but may also include lost development opportunities, weakened fiscal capacity, deterioration of governance, increased poverty, and declining quality of public services. These impacts are multidimensional, affecting the economic, social, governmental, and national-stability sectors. Therefore, recovery cannot be achieved solely through the criminal prosecution of perpetrators; it must also be supported by effective asset-recovery mechanisms so that the state can address the damage caused by corrupt practices.

The first urgency of asset confiscation concerns the recovery of state financial losses, which form a foundation for fiscal stability and national development. Every rupiah diverted through corruption represents public funds that should have been allocated to national programs and projects ranging from education and health care to infrastructure and social protection. The Indonesia Corruption Watch (ICW) report consistently shows that state losses from corruption cases reach trillions of rupiah on average each year; however, the rate of asset recovery through court judgments is only around 20–30%, meaning that a substantial proportion of national losses does not return to the state treasury.[1] This creates an increasingly large development deficit and reduces the state's capacity to perform its welfare functions. Asset recovery is therefore necessary to reduce this deficit and restore lost fiscal capacity.

The second urgency is to recover the social impact caused by corruption, which may be substantially greater than the financial losses alone. Corruption deprives people of meaningful access to decent education, adequate health services, safe infrastructure, and equitable development opportunities. Corruption in public projects (whether involving roads, irrigation systems, hospitals, or schools) can result in real social losses such as construction delays, poor project quality, and potential accidents. Remeikienė & Gaspareniene (2023) stated that social losses arising from infrastructure corruption often exceed the financial value calculated in state audits because of their effects on people's security and quality of life. Asset confiscation is therefore an important instrument through which public resources can be redirected toward repairing social damage.

The third urgency lies in the repressive and preventive functions of asset confiscation, which can reduce the economic incentives underlying corrupt conduct. Corruption is often driven by the expectation of financial gain. Therefore, prison sentences alone may not provide a sufficient deterrent if perpetrators can continue to conceal or retain the proceeds of corruption. Asset forfeiture directly targets the economic incentive. Countries implementing non-conviction-based asset forfeiture (NCB) mechanisms may experience reductions in corruption because the risk of losing illicit assets can constitute a significant deterrent (Muhammad Nurul Huda et al., 2025;

Olujobi, 2021; Setiawan & Solikhin, 2025). Thus, strengthening asset-forfeiture mechanisms can form an important component of a national strategy to reduce corruption.

The fourth urgency is to increase the effectiveness of law enforcement. Many corruption cases face difficulties in recovering state losses because perpetrators flee, die, or conceal assets through third parties. An NCB-based asset-forfeiture mechanism, if appropriately designed and subject to judicial safeguards, could allow the state to pursue forfeiture of assets suspected of being derived from criminal activity without always requiring a prior criminal conviction in circumstances permitted by law. Ywanjono et al. (2024) explained that a major obstacle in national loss recovery is the limitation of legal instruments for tracing and confiscating assets spread across various jurisdictions or held through third parties. Therefore, asset forfeiture offers a potentially flexible, progressive, and adaptive response to increasingly complex forms of corruption.

The fifth urgency is to strengthen governance and public trust. When the public sees that assets resulting from corruption are actually recovered and returned to the state for legitimate public purposes, trust in state institutions may increase. Public trust is fundamental to the operation of stable and effective government. Asset recovery is a tangible indicator of the state's presence in upholding justice and protecting people's rights from the effects of corruption (Bayuaji & Hadi, 2025; Ghondohi et al., 2025; Igbinedion & Osobase, 2025). Conversely, when illicit assets are not recovered, the public may perceive the legal system as ineffective or unfair, thereby weakening institutional legitimacy. Thus, asset confiscation also has a political and social dimension that is important for the sustainability of effective governance.

The final urgency is to support sustainable national development. Asset recovery provides additional resources that can potentially finance national strategic projects, strengthen public services, and accelerate equitable development. Pavletic (2009) shows that areas that receive asset recovery experience faster improvements in the quality of public services than areas that do not receive such recovery. This mechanism can support the achievement of the Sustainable Development Goals (SDGs), particularly with respect to poverty reduction, health, education, and social inequality. Because corruption obstructs development objectives, asset forfeiture can serve as an instrument for restoring public resources and supporting national development.

CONCLUSION

This study concludes that corruption may generate serious human rights consequences when it deprives communities of resources required for education, health, welfare, and development. However, corruption offenses, human rights impacts, and gross human rights violations remain legally distinct categories. Under current Indonesian law, gross human rights violations under Law No. 26 of 2000 are limited to genocide and crimes against humanity; consequently, the widespread or systemic consequences of corruption do not, by themselves, place corruption within that legal category. The study further finds that asset recovery can function as an instrument for restoring social losses and public resources when implemented through due process, proportionality, protection of third-party rights, judicial oversight, and a transparent legal framework. Its main contribution lies in positioning asset forfeiture not merely as a criminal-law mechanism but also as a means of supporting human rights protection, social recovery, and social justice.

In the Indonesian context, strengthening asset-recovery mechanisms is necessary to address limitations in recovering assets that have been concealed, transferred, dissipated, or controlled through third parties. Non-Conviction-Based Asset Forfeiture may therefore be considered a complementary policy option, consistent with the qualified formulation of UNCAC Article 54(1)(c), particularly in circumstances in which criminal prosecution cannot proceed because of death, flight, absence, or other appropriate circumstances. Any such mechanism should incorporate robust judicial oversight, clear evidentiary standards, proportionality, due process, and effective protection of innocent third parties. Future research should examine judicial practice, evidentiary safeguards, third-party protection, cross-border asset recovery, and transparent mechanisms for directing recovered assets toward measurable public benefits.

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AUTHOR CONTRIBUTION STATEMENT

Abdul Haris Semendawai: Conceptualization, methodology, legal analysis, investigation, literature review, writing—original draft, and writing—review and editing. Sukamto Kusnadi: Conceptualization, legal analysis, literature review, validation, writing—review and editing, and supervision. All authors reviewed and approved the final version of the manuscript and agreed to be accountable for the integrity of the work.

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