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Reconstructing Regulations on Compensation Payments in Corruption Cases Based on the Principles of Justice in Pancasila

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Abstract: This study examines the reconstruction of regulations governing compensation payments in corruption cases through the principles of justice embodied in Pancasila. The existing implementation of substitute money sanctions under Article 18(1)(b) of Indonesia's Corruption Eradication Law has not yet achieved substantive justice, particularly in recovering state financial losses caused by corruption offenses. The study aims to identify the normative and institutional weaknesses within the current legal framework and formulate a justice-oriented reconstruction model grounded in Pancasila values. Using a socio-legal approach developed by Sabian Utsman, this research combines normative legal analysis with empirical examination of institutional practices and living law within Indonesian society. The findings reveal several structural deficiencies, including the absence of explicit asset tracing mechanisms, unclear enforcement timelines, weak coordination among enforcement agencies, and unequal treatment between individual and corporate offenders. These deficiencies allow certain perpetrators to conceal assets, evade financial accountability, and shift the punitive burden toward imprisonment rather than restitution of state losses. The fragmented coordination between the Corruption Eradication Commission, Prosecutor's Office, Financial Transaction Reports and Analysis Center, and Ministry of Finance further weakens the effectiveness of compensation enforcement. This study proposes a reconstruction of Article 18(1)(b) by integrating comprehensive asset tracing procedures, interinstitutional coordination mechanisms, proportional sanctions, and restorative accountability principles. The reconstruction is philosophically grounded in the principles of divinity, humanity, unity, deliberation, and social justice contained in Pancasila. This research contributes to the development of progressive anti-corruption law by repositioning substitute money sanctions as an instrument of restorative state asset recovery and substantive justice rather than merely a complementary criminal punishment.

Keywords: Anti-Corruption Law; Asset Tracing; Pancasila Justice; Restorative Justice; Substitute Money Sanctions.

INTRODUCTION

Indonesia was established upon the philosophical foundation that the state exists "by the grace of Almighty God,"[1] as explicitly articulated in the Preamble of the 1945 Constitution of the Republic of Indonesia and reaffirmed in Article 29 paragraph (1). This constitutional principle positions religion and morality as inseparable from the national legal system. Unlike liberal legal traditions that emphasise secular social contracts, the Indonesian legal order is fundamentally rooted in Pancasila as the philosophical foundation of the state. The values of divinity, humanity, unity, deliberation, and social justice embedded in Pancasila constitute the ethical orientation of national law[2], including in the regulation and enforcement of anti-corruption policies. Consequently, every legal instrument enacted by the state should not merely emphasise procedural certainty but also realise substantive justice and collective welfare.[3]

Within this framework, law functions as the primary instrument for maintaining social order, protecting public interests, and ensuring accountability in governance. One of the most critical contemporary legal challenges in Indonesia concerns corruption and the recovery of state financial losses resulting from corruption offenses.[4] Corruption has evolved into a systemic and extraordinary crime that undermines economic stability, weakens democratic institutions, damages public trust, and exacerbates social inequality.[5] In practice, corruption is not merely an individual moral failure but a structural abuse of power involving bribery, embezzlement, gratification, procurement manipulation, and illicit enrichment conducted through

[1] Andri Winjaya Laksana et al., "Fiqh Jinayah ' s Approach to Children Trapped in the Octopus of Narcotics Trafficing," *Mizani* 12, no. 01 (2025): 309–321, https://doi.org/http://dx.doi.org/10.29300/mzn.v12i1.4888.

[2] Hendral, R. Mashdurohatun, A., et al. (2026). *Regulatory reform of evidence confiscation in forestry crimes for sustainable environmental governance. Journal of Sustainable Development and Regulatory Issues, 4*(2), 833–876. https://doi.org/10.53955/jsderi.v4i2.397

[3] Ronald Hasudungan Sianturi, "Optimizing the Recovery of Corrupt Assets from the Perspective of Economic Rights and Human Security in Indonesia," *Khazanah Hukum* 7, no. 2 (May 2025): 121–139, https://doi.org/10.15575/kh.v7i2.44974.

[4] Nandang Sambas and Ade Mahmud, "Model Penegakan Hukum Progresif Dalam Pengembalian Kerugian Negara Melalui Pidana Uang Pengganti," *Lex LATA*, ahead of print, 2020, https://doi.org/10.28946/lexl.v2i3.568.

[5] Sandoval Romero Ricardo Daniel, Delgado Arboleda Carmen Irene, and Rodas Crespo Martha Pamela, "From environmental compensation to territorial sustainability: Payments for Environmental Services and rural development," *Revista Venezolana de Gerencia* 31, no. 114 (2026), https://doi.org/10.52080/rvgluz.31.114.19.

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complex financial networks. Its destructive impact extends beyond state finances into broader dimensions of social justice and public welfare.[6]

The severity of corruption in Indonesia has long attracted national and international concern. In the late 1990s, corruption in Indonesia was even described as a "way of life," reflecting its deeply entrenched nature within political and bureaucratic structures. Jimly Asshiddiqie further argued that corruption should be viewed as a crime comparable in danger to gross human rights violations because it deprives society of economic rights, development opportunities, and social justice. Empirical data demonstrates the alarming escalation of state financial losses caused by corruption. According to Indonesia Corruption Watch, state losses from corruption cases in 2021 reached approximately Rp62.9 trillion, representing the highest figure within the previous five years. More concerningly, recent reports indicate that potential state losses in 2024 reached Rp279.9 trillion, while actual recovery through law enforcement mechanisms amounted to only Rp28.5 billion. This substantial disparity illustrates the persistent failure of Indonesia's anti-corruption framework to restore state assets effectively.

To address state losses arising from corruption, Indonesian anti-corruption law recognises substitute money payments (uang pengganti) as an additional criminal sanction under Article 18 paragraph (1)(b) of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, as amended by Law Number 20 of 2001. This mechanism obliges perpetrators to repay state losses equivalent to assets unlawfully obtained through corruption. If the convicted individual fails to pay within one month after a final court decision, prosecutors may confiscate and auction the perpetrator's assets.[7] Where assets remain insufficient, the law permits replacement imprisonment proportional to the unpaid amount. In principle, this policy reflects a progressive legal orientation because it seeks not only to punish offenders through incarceration but also to restore economic losses suffered by the state. Such a restorative orientation aligns closely with the fifth principle of Pancasila concerning social justice for all Indonesian people.

Nevertheless, the practical implementation of substitute money sanctions remains far from effective.[8] Many convicted corruptors successfully evade payment obligations

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[6] Montserrat Casanellas Chuecos, "Taxation of Compensation Payments Received by Remote Workers: Controversial Issues and Proposals for Regulation," *Revista de Internet, Derecho y Politica*, no. 44 (2026): 1–15, https://doi.org/10.7238/idp.v0i44.9800298.

[7] Fatin Hamamah and Heru Hari Bahtiar, "Model Pengembalian Aset (Asset Recovery) Sebagai Alternatif Memulihkan Kerugian Negara Dalam Perkara Tindak Pidana Korupsi," *Mahkamah : Jurnal Kajian Hukum Islam* 4, no. 2 (October 2019): 193–204, https://doi.org/10.24235/mahkamah.v4i2.5375.

[8] Ashraf Ruksana et al., "Innovation in Compensation Payments What Does the Future Hold for Compensation in Cryptocurrency?," *Journal of Telecommunications and the Digital Economy* 12, no. 2 (2024): 57–75, https://doi.org/10.18080/jtde.v12n2.732.

by concealing assets through nominee ownership, asset transfers, shell corporations, family proxies, or offshore financial arrangements.[9] Consequently, imprisonment often becomes the dominant sanction, while the recovery of state assets remains minimal. Data from anti-corruption monitoring institutions indicate that only a limited number of corruption cases actually apply substitute money provisions, and the recovery rate remains significantly below expected targets. Weaknesses in asset tracing mechanisms, limited institutional coordination, bureaucratic fragmentation, and inadequate financial transparency contribute substantially to these failures.[10]

The institutional dimension further aggravates the problem. Anti-corruption enforcement in Indonesia involves multiple agencies, including the Corruption Eradication Commission, the Attorney General's Office, the Financial Transaction Reports and Analysis Center, and the Ministry of Finance. However, these institutions frequently operate through fragmented databases, overlapping authority, and inconsistent enforcement procedures. Such institutional disintegration delays asset recovery processes and creates loopholes that allow perpetrators to protect illicit wealth.[11] Furthermore, the prevailing legal culture within corruption enforcement still prioritises retributive imprisonment over restorative asset recovery. Public discourse often measures anti-corruption success by the severity of prison sentences rather than by the effectiveness of restoring state financial losses. This punitive orientation contradicts the philosophical ideals of Pancasila, which emphasise balance between justice, humanity, and societal welfare.[12]

Indonesia's ratification of the United Nations Convention against Corruption through Law Number 7 of 2006 further strengthens the urgency for reform. UNCAC explicitly positions asset recovery as a fundamental principle of international anti-corruption cooperation. However, despite Indonesia's formal commitment, current substitute money regulations remain unable to operationalise effective asset recovery mechanisms. The absence of explicit asset tracing procedures, unclear execution

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[9] Reem Soud Samawi et al., "Civil Compensation and Loss Allocation in Authorised Push Payment Fraud: Moving beyond Criminalisation in Instant Payment Systems—a Comparative Study of Jordan and the UK," *Research Journal in Advanced Humanities* 7, no. 1 (2026), https://doi.org/10.58256/w868mk83.

[10] Toba Stephen Olasehinde et al., "Does Payment for Ecosystem Services Improve Technical Efficiency of Forage Production? Evidence From China's Grassland Ecological Compensation Policy," *Agricultural Economics (United Kingdom)* 57, no. 1 (2026), https://doi.org/10.1111/agec.70084.

[11] Michael D. Bennett and Mike Anson, "The Compensation Agency Business: London Merchants, Bankers, and the Payment of Slavery Compensation, 1835-46," *Enterprise and Society* 26, no. 4 (2025): 1273–1301, https://doi.org/10.1017/eso.2025.1.

[12] Weifeng Deng et al., "Promoting the Realization of Ecological Product Value through Ecological Compensation: Empirical Evidence from the Transfer Payments for China's National Key Ecological Function Zones," *Habitat International* 166 (2025), https://doi.org/10.1016/j.habitatint.2025.103621.

timelines, weak corporate liability provisions, and insufficient coordination frameworks reveal substantial normative deficiencies within Article 18 paragraph (1)(b) of the Anti-Corruption Law.[13]

Several previous studies have examined corruption asset recovery from different perspectives. First, prior research primarily focused on the doctrinal interpretation of substitute money sanctions as an additional criminal punishment within the framework of criminal law enforcement.[14] These studies generally emphasised procedural execution without critically examining the philosophical basis of justice underlying substitute money regulations. Second, other studies explored asset recovery through international cooperation and anti-money laundering mechanisms, particularly after Indonesia ratified UNCAC.[15] However, such research often concentrated on technical legal instruments rather than reconstructing domestic legal norms based on Indonesian philosophical values. Third, recent studies investigated institutional coordination among anti-corruption agencies but tended to analyse administrative effectiveness rather than broader questions of substantive justice and restorative legal reform.[16] Therefore, existing scholarship still leaves significant gaps regarding the integration of Pancasila justiceprinciples[17] into the reconstruction of substitute money regulations and the development of explicit asset tracing mechanisms grounded in restorative justice.

This study offers a significant novelty by reconstructing substitute money payment regulations through the philosophical framework of Pancasila justice. Unlike previous studies that predominantly emphasised procedural punishment or institutional administration, this research positions substitute money sanctions as an instrument for realising substantive justice, moral accountability, and equitable recovery of state assets. The proposed reconstruction includes explicit asset tracing mechanisms, stronger

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[13] Aprilliani Kusumawati Rintis Eka A'isyatul Wahab, "The Principles of Legal Certainty for Asset Recovery in the Corruption Law in Indonesia," *Jurnal Pembaharuan Hukum* 13, no. 1 (2026): 237–258, https://doi.org/https://doi.org/10.26532/jph.v13i1.48748.

[14] Liantha Adam Nasution and Roni Risky Nasution, "Pemidanaan dan Uang Pengganti Dalam Tindak Pidana Korupsi Di Indonesia Sebagai Upaya Pemulihan Kerugian Keuangan Negara," *Jurnal Ilmiah Multidisiplin Ilmu* 2, no. 6 (December 2025): 201–210, https://doi.org/10.69714/hm6fzg45.

[15] Yoserwan Yoserwan and Fausto Soares Dias, "Implementing The Anti-Money Laundering Law: Optimizing Asset Recovery in Corruption Cases in Indonesia," *Jurnal Hukum Dan Peradilan* 13, no. 2 (July 2024): 227–50, https://doi.org/10.25216/jhp.13.2.2024.227-250.

[16] Robbyansyah Hutasoit and Arpangi Arpangi, "The Ideal Concept of Asset Recovery in Corruption Criminal Acts Based on Progressive Law," *Ratio Legis Journal* 4, no. 4 (December 2025): 4256–4272, https://doi.org/10.30659/rlj.4.4.%25p.

[17] Mashdurohatun, A., Tambuno, A. S., Wahyuningsih, S. E., & Mahmutarom, H. R. (2023). Registration of transfer of land rights in the justice-based indonesian legal system. Scholars International Journal of Law, Crime and Justice, 6(4), 209-215.

interinstitutional coordination, proportional differentiation between individual and corporate offenders, and restorative enforcement procedures rooted in Pancasila values. By integrating legal reform with Indonesia's constitutional philosophy, this study seeks to bridge the gap between normative anti-corruption law and the broader objectives of social justice.

Based on the foregoing discussion, this research addresses the following question: how should regulations concerning substitute money payments in corruption cases be reconstructed based on the principles of justice embodied in Pancasila in order to achieve effective and equitable recovery of state financial losses? This research is significant both theoretically and practically. Theoretically, it contributes to the development of progressive anti-corruption law by integrating socio-legal analysis, restorative justice, and Pancasila jurisprudence into the discourse of state asset recovery. Practically, the study provides recommendations for legislative reform and institutional coordination that may strengthen the effectiveness of substitute money enforcement in corruption cases. Ultimately, the reconstruction proposed in this study aspires to reposition anti-corruption law not merely as a mechanism of punishment but as an instrument for realising social justice, public welfare, and constitutional morality within the Indonesian legal system.

METHOD

This study employs a qualitative research[18] design grounded in the constructivist paradigm, which views legal reality as socially constructed through the interaction between legal norms, institutional practices, and societal values. Within this framework, regulations concerning substitute money payments in corruption cases are interpreted not merely as formal legal provisions but as dynamic instruments shaped by the principles of justice embodied in Pancasila. The research adopts a socio-legal approach by integrating normative legal analysis with empirical examination of legal practices in corruption enforcement. This approach enables the study to analyse the implementation of Article 18 paragraph (1)(b) of the Indonesian Anti-Corruption Law and Supreme Court Regulation No. 5 of 2014 concerning substitute money sanctions while simultaneously examining their practical effectiveness in recovering state financial losses. The study further applies statutory, conceptual, case, and comparative approaches, particularly by comparing Indonesian regulations with international standards contained in the United Nations Convention against Corruption.

[18] Andri Winjaya Laksana, "The Protection of Human Rights in the Case of Non-Criminal Narcotics Users," *SASI* 29, no. 4 (December 2023): 790–801, https://doi.org/10.47268/sasi.v29i4.1779.

Data collection was conducted through both library research and field research.[19]Primary data were obtained through purposive interviews with prosecutors, anti-corruption investigators, and legal practitioners involved in corruption asset recovery processes, including officials from the Corruption Eradication Commission and the Attorney General's Office. Secondary data consisted of primary legal materials, including the 1945 Constitution, Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, judicial decisions, and related regulations governing substitute money payments and asset tracing. Additional secondary sources included academic journals, books, and previous studies discussing corruption, restorative justice, and asset recovery mechanisms. The collected data were analysed qualitatively through descriptive-analytical techniques by systematically interpreting legal norms, institutional practices, and empirical findings to formulate a reconstruction model based on Pancasila justice principles. To ensure data validity, the study applied triangulation techniques through cross-checking legal documents, interview findings, and scholarly literature, thereby strengthening the credibility and consistency of the research conclusions.

RESULTS AND DISCUSSION

Structural Weaknesses in the Regulation and Enforcement of Substitute Money Payments

The findings of this study demonstrate that the regulation of substitute money payments in Indonesian corruption law has not yet effectively fulfilled its primary objective, namely the restoration of state financial losses caused by corruption offenses. Although Article 18 paragraph (1)(b) of the Anti-Corruption Law formally recognises substitute money as an additional criminal sanction, its implementation remains heavily oriented toward punitive imprisonment rather than comprehensive asset recovery.[20] This condition creates a paradox within Indonesian anti-corruption enforcement: corruption cases often result in severe prison sentences, yet the recovery of stolen public assets remains minimal. Consequently, the state continues to suffer financial losses even after judicial proceedings have concluded.[21]

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[19] Mashdurohatun, A., Sulistiyono, A., & Susilo, A. B. (2024). *Metodologi Penelitian Hukum*. PT Raja Grafindo Persada. ISBN 9786230824418.

[20] Bambang Tri Bawono and Moh. Nurul Huda, "Quo Vadis: Payment of Compensation as an Alternative to Sanctions for Corruption Crimes Harming State Finances," *Law Development Journal* 8, no. 2 (2026): 842–853, https://doi.org/https://doi.org/10.30659/ldj.8.2.842-853.

[21] Ade Mahmud et al., "Keadilan Substantif Dalam Proses Asset Recovery Hasil Tindak Pidana Korupsi," *Jurnal Suara Hukum* 3, no. 2 (September 2021): 227–250, https://doi.org/10.26740/jsh.v3n2.p227-250.

Empirical findings indicate that one of the most fundamental weaknesses lies in the absence of explicit and operational asset tracing mechanisms within the legal framework governing substitute money enforcement. The law merely states that perpetrators are obliged to pay substitute money equivalent to assets acquired through corruption but provides limited procedural guidance regarding how those assets should be identified, traced, frozen, and confiscated. This normative ambiguity creates significant disparities in implementation among law enforcement institutions. Prosecutors frequently rely on fragmented investigative methods, while corruptors exploit legal loopholes by transferring assets to relatives, nominee companies, or offshore financial systems before court decisions become final.[22]

The study also reveals that substitute money sanctions often fail due to the dominance of a retributive legal culture within corruption enforcement.[23] Law enforcement officials and public discourse tend to prioritise incarceration as the principal indicator of anti-corruption success. In practice, imprisonment becomes a substitute for financial accountability rather than a complementary sanction. Wealthy perpetrators frequently choose replacement imprisonment while maintaining hidden assets beyond the reach of state authorities.[24] As a result, imprisonment no longer functions as a deterrent but instead becomes a strategic option for corruptors seeking to preserve illicit wealth.

This problem is exacerbated by institutional fragmentation among anti-corruption agencies.[25] The Corruption Eradication Commission, the Attorney General's Office, the Financial Transaction Reports and Analysis Center, and the Ministry of Finance each possess separate authority regarding corruption asset recovery, yet coordination among these institutions remains inconsistent. Interviews conducted in this study reveal that data integration between agencies

[22] Lingyi Guo et al., "Does Ecological Protection Compensation Help to Achieve Carbon Reduction? --Empirical Evidence from Transfer Payments in National Key Ecological Functional Zones," *Journal of Competitiveness* 17, no. 4 (2025): 29–64, https://doi.org/10.7441/joc.2025.04.02.

[23] Hadi Purnomo, Baharudin Baharudin, and Mohammad Nasr Khater, "The Return of State Finances: Effectiveness of the New Paradigm in Enforcing of Law on Corruption Crimes Cases," *Jurnal Hukum UNISSULA* 41, no. 4 (2025): 1078–1092, https://doi.org/https://doi.org/10.30659/jh.v41i4.47218.

[24] Apurva S. Choubey et al., "Compensation Crisis: The Impact of Inflation and Declining Medicare Payments on Hip Arthroplasty Surgeons," *Journal of Arthroplasty* 40, no. 9 (2025): 110–116, https://doi.org/10.1016/j.arth.2025.05.021.

[25] Mujahidin Mujahidin Amir Ilyas Marwati Riza Aswanto Aswanto and Muhammad Mutawalli Mukhlis, "Reconstructing the Oversight System for Public Procurement in Indonesia: A Legal and Normative Analysis of Corruption Prevention," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 13, no. 1 (2026): 486–511, https://doi.org/https://doi.org/10.29300/mzn.v13i1.10446.

remains weak, particularly concerning beneficial ownership records, financial transaction monitoring, and cross-border asset information.[26] Investigators often face delays in obtaining banking data or tracing property ownership because institutional databases are not integrated into a unified recovery system.

Another significant weakness concerns the unequal treatment between individual and corporate perpetrators. Current regulations predominantly focus on individual criminal responsibility while providing limited mechanisms for tracing corporate assets connected to corruption schemes.[27] This gap enables perpetrators to exploit corporate structures, shell companies, and nominee arrangements to conceal illicit proceeds. In several corruption cases examined in this study, corporate entities benefited substantially from corruption practices while individual actors alone were subjected to substitute money obligations. Such disparities undermine substantive justice and create opportunities for organised corruption networks to preserve illegal gains.

Furthermore, the study identifies weaknesses in enforcement timelines and procedural certainty. Article 18 of the Anti-Corruption Law grants convicted individuals one month after a final court decision to pay substitute money before prosecutors may confiscate assets.[28] However, the law does not clearly regulate the tracing process during this period, allowing perpetrators to dissipate assets further before enforcement occurs. In practice, prosecutors frequently encounter difficulties because property ownership has already been transferred or hidden through complex financial arrangements. The following table summarises the principal weaknesses identified in the current substitute money payment regime:

Table 1. Regulatory and Institutional Weaknesses in Asset Recovery and Their Practical Consequences in Anti-Corruption Enforcement

No	Regulatory and Institutional Weaknesses	Practical Consequences
1	Absence of explicit asset tracing mechanisms	Difficulty identifying and recovering illicit assets
2	Dominance of retributive imprisonment	Low recovery of state financial losses

[26] Johannes Buchner, Klaus Menrad, and Thomas Decker, "Keep It Local vs. Financial Benefits: Compensation Payments through Cost Savings in Renewable Energy Provision for Green Hydrogen Production in Germany," *Energy Policy* 215 (2026), https://doi.org/10.1016/j.enpol.2026.115330.

[27] Yupei Liang et al., "From Perception to Payment: How Cultural Ecosystem Services Drive Tourists' Willingness to Pay for Ecological Compensation in Urban Forest Parks," *Urban Forestry and Urban Greening* 121 (2026), https://doi.org/10.1016/j.ufug.2026.129464.

[28] Lauren E. Miller et al., "Financial Impact of Medicare Payment Reform for E/M Visits on Compensation for Otolaryngologic Procedures in 2023," *Otolaryngology - Head and Neck Surgery (United States)* 172, no. 4 (2025): 1281–1285, https://doi.org/10.1002/ohn.1146.

3	Weak inter-agency coordination	Delayed enforcement and fragmented investigations
4	Limited corporate liability provisions	Use of shell companies and nominee ownership
5	Unclear procedural timelines	Asset dissipation before confiscation
6	Lack of integrated financial databases	Inefficient asset monitoring
7	Limited transparency in recovered funds	Reduced public trust in anti-corruption enforcement

Source: Author's interpretation

These findings demonstrate that the substitute money system currently operates more as a symbolic sanction than as an effective mechanism for restorative justice. Instead of prioritising the return of public assets, the system remains trapped within procedural formalism and fragmented institutional practices. From the perspective of Pancasila, this condition contradicts the principles of social justice and collective welfare because corruption proceeds remain concentrated in private hands while society continues to bear the social and economic consequences of corruption. Therefore, reconstructing substitute money regulations requires not merely technical amendment but a broader transformation of legal orientation. Asset recovery must become the central objective of anti-corruption enforcement, supported by integrated tracing mechanisms, coordinated institutions, and restorative legal principles grounded in Pancasila justice.

Comparative Analysis of Asset Recovery Systems in Foreign Jurisdictions

Comparative analysis conducted in this study demonstrates that several jurisdictions have successfully transformed corruption enforcement from a punishment-oriented model into an asset recovery-centered framework. The experiences of the Netherlands, Australia, and the United States provide important insights for reconstructing Indonesia's substitute money regulations because these countries emphasise financial tracing, confiscation, and restitution as the primary goals of anti-corruption law. The Netherlands represents one of the most advanced systems for recovering illicit assets derived from criminal activities.[29] Under Article 36e of the Dutch Criminal Code, courts may impose confiscation orders aimed at stripping offenders of unlawful profits obtained through crime. This mechanism reflects the principle that "crime should not pay." Dutch prosecutors are supported by specialised financial investigation agencies capable of tracing assets through banking systems, corporate ownership

[29] Kiran Rodrigues et al., "Participation With Compensation: Ethical Considerations for Research Payment Practices With People Who Are Incarcerated," *Journal of Correctional Health Care* 30, no. 6 (2024): 368–373, https://doi.org/10.1089/jchc.24.01.0002.

structures, and international financial networks. Significantly, Dutch law permits a partial reversal of the burden of proof in certain circumstances, requiring defendants to explain the lawful origin of suspicious assets disproportionate to their legitimate income.

The Dutch model also integrates criminal confiscation with civil recovery procedures. Asset seizure may continue even when criminal conviction encounters procedural obstacles, thereby preventing perpetrators from exploiting technical loopholes. Transparency is further strengthened through centralised management of confiscated assets and regular public reporting concerning recovered funds. Such mechanisms create a comprehensive recovery-oriented system rather than a fragmented punitive framework. Australia similarly prioritises confiscation and financial recovery through the Proceeds of Crime Act 2002. Australian law authorises law enforcement agencies to freeze assets at early stages of investigation in order to prevent dissipation or concealment.[30] The establishment of the Criminal Assets Confiscation Taskforce enables coordinated cooperation between investigators, financial intelligence units, prosecutors, and taxation authorities. This integrated taskforce model significantly increases the effectiveness of asset tracing and financial monitoring.[31]

An important characteristic of the Australian system is the use of non-conviction-based forfeiture. Authorities may confiscate assets connected to criminal conduct even without a final criminal conviction if sufficient evidence demonstrates unlawful origins. This mechanism is particularly effective in cases involving fugitives, transnational corruption, or complex money laundering arrangements. Moreover, recovered assets are allocated to public programs and anti-crime initiatives, thereby reinforcing public trust in asset recovery processes. The United States adopts a similarly aggressive approach through criminal and civil forfeiture mechanisms regulated under federal asset recovery laws.

The Asset Forfeiture and Money Laundering Section coordinates financial investigations and asset confiscation across multiple jurisdictions. The United States also utilises non-conviction-based forfeiture to separate illicit assets from criminal proceedings, enabling recovery even when procedural barriers prevent criminal conviction. One of the strengths of the U.S. model lies in its "follow the money" strategy. Anti-corruption enforcement focuses not only on punishing

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[30] Jichuan Sheng and Hongqiang Yang, "Collaborative Models and Uncertain Water Quality in Payments for Watershed Services: China's Jiuzhou River Eco-Compensation," *Ecosystem Services* 70 (2024), https://doi.org/10.1016/j.ecoser.2024.101671.

[31] Donatien Ntawuruhunga and Mathias Twahirwa, "Modeling the Influence of Expropriated Farmers' Determinants on Compensation Payments Using Multiple Regression," *Green and Low-Carbon Economy* 2, no. 3 (2024): 201–210, https://doi.org/10.47852/bonviewGLCE3202946.

perpetrators but also on dismantling financial networks that facilitate corruption and money laundering. Specialised agencies maintain sophisticated financial databases, cross-border cooperation mechanisms, and digital asset monitoring systems. Public reporting obligations further strengthen accountability in the management of recovered assets. The following comparative table highlights the principal characteristics of these foreign asset recovery systems:

Table 2. Comparative Analysis of Asset Recovery Frameworks in Selected Countries and Their Relevance to Indonesia

Country	Main Regulatory Model	Key Mechanisms	Institutional Strengths	Relevance for Indonesia
Netherlands	Criminal confiscation and civil recovery	Reversal burden of proof, financial tracing	Integrated prosecution and financial investigation	Strengthening asset tracing authority
Australia	Proceeds of Crime Act 2002	Early asset freezing, non-conviction forfeiture	Inter-agency taskforce cooperation	Coordinated recovery system
United States	Criminal and civil forfeiture	Follow-the-money approach, NCB forfeiture	Specialised financial intelligence system	Expansion of confiscation mechanisms
Indonesia	Substitute money sanctions	Post-conviction recovery only	Fragmented institutional coordination	Requires comprehensive reconstruction

Source: Author's Interpretation

The comparison reveals several critical gaps within Indonesian regulations. First, Indonesia lacks explicit statutory provisions regarding asset tracing and beneficial ownership investigations. Second, existing law does not adequately support early asset freezing mechanisms before final conviction. Third, institutional coordination remains fragmented compared to integrated taskforce models implemented abroad. Fourth, Indonesia has not fully developed non-conviction-based recovery mechanisms capable of addressing complex transnational corruption cases.[32]

[32] Melky AS Mendrofa, "Legal Study of Asset Confidentiality Without Punishment as an Alternative for Providing Justice for the State and Persons of Corruption," *International Journal of Law and Society* 1, no. 2 (2024): 44–55, https://doi.org/https://doi.org/10.62951/ijls.v1i2.21.

Nevertheless, foreign models cannot simply be transplanted into the Indonesian legal system without adaptation. Legal reconstruction must remain consistent with Indonesia's constitutional identity and philosophical foundation in Pancasila. Thus, comparative experiences should function as references for strengthening restorative justice rather than merely expanding punitive state power. From the perspective of Pancasila justice, foreign systems demonstrate the importance of balancing deterrence, public accountability, and social welfare. Effective asset recovery is not solely about maximising confiscation but about restoring public trust and ensuring that recovered assets benefit society. Therefore, Indonesia requires a reconstruction model that integrates international best practices with the moral and social values embedded in Pancasila.

Alignment of Substitute Money Payments with Pancasila Justice Principles

The findings of this study indicate that substitute money payments should not merely be understood as technical criminal sanctions but as legal instruments embodying the philosophical values of Pancasila[33]. Pancasila provides the ethical and constitutional foundation through which anti-corruption law must be interpreted.[34] Consequently, the reconstruction of substitute money regulations must reflect the principles of divinity, humanity, unity, democracy, and social justice contained within the five sila of Pancasila. The first sila, Belief in One Almighty God, emphasises moral accountability and ethical responsibility. Corruption constitutes not only a violation of positive law but also a betrayal of public trust and moral integrity.[35] Within this framework, substitute money payments should function as a form of moral restoration whereby perpetrators are required to return assets unlawfully taken from society. Law enforcement should therefore emphasise repentance, accountability, and restoration rather than merely punitive imprisonment.[36]

[33] Mashdurohatun, A., Hayati, M., Silitonga, S., Arifin, Z., & Amanda. (2025). *The Conserving Agrarian Land for Future Generations: A Policy Blueprint for Indonesia.* Jurnal Hukum, 41(1), 1–22.

[34] Syamsiar Nurhayadi et al., "Reconstructing Legal Protection for Construction Service Providers in Construction Contracts Based on Pancasila Justice," *Nusantara: Journal of Law Studies* 5, no. 2 (July 2026): 992–1016, https://doi.org/10.66325/nusantaralaw.v5i2.355.

[35] Jawade Hafidz et al., "Contemporary Legal Accountability Reform in Public Procurement: A Framework Integrating Ethical Norms and Anti-Corruption Mechanisms," *MILRev: Metro Islamic Law Review* 4, no. 1 (2025): 517–538, https://doi.org/https://doi.org/10.32332/milrev.v4i1.10664.

[36] Nahdiyah Intan Qurrotu Aini, "Nilai dan prinsip antikorupsi dalam pancasila sebagai sistem etika," *Maliki Interdisciplinary Journal* 4, no. 1 (January 2026): 153–161.

The second sila, Just and Civilized Humanity, requires proportionality and respect for human dignity in implementing substitute money sanctions. Justice cannot be achieved through excessive punishment disconnected from actual state losses or economic realities. At the same time, the principle of humanity rejects impunity for wealthy offenders who exploit financial power to evade responsibility. Accordingly, substitute money calculations must proportionally reflect illicit enrichment while ensuring effective recovery without discriminatory treatment. The principle of restorative justice strongly emerges within this sila. Rather than prioritising vengeance, Pancasila-oriented anti-corruption law seeks to repair economic and social harm caused by corruption. Substitute money sanctions therefore should focus on restoring public assets, rebuilding trust, and ensuring collective welfare. Such an orientation aligns with Indonesia's broader constitutional commitment to social justice and national prosperity.[37]

The third sila, the Unity of Indonesia, highlights the collective dimension of corruption and asset recovery. Corruption damages national solidarity by widening inequality and weakening public trust in government institutions. Consequently, recovering stolen state assets becomes part of protecting the economic foundation of national unity. This principle also demands integrated cooperation among institutions involved in anti-corruption enforcement. The fragmented relationship between the Corruption Eradication Commission, the Attorney General's Office, and the Financial Transaction Reports and Analysis Center contradicts the spirit of gotong royong embodied within Pancasila. Asset recovery should operate through collaborative institutional mechanisms characterised by shared databases, coordinated investigations, and collective monitoring systems. Without such integration, substitute money enforcement remains ineffective and inconsistent.[38]

The fourth sila, Democracy Guided by Wisdom through Deliberation and Representation, emphasises participatory and transparent legal governance. Reconstruction of substitute money regulations should involve scholars, civil society organisations, anti-corruption activists, and policymakers to ensure that legal reforms reflect public expectations of justice. Transparency is equally important regarding the management and allocation of recovered assets. Citizens should be able to monitor how substitute money payments are collected and utilised for public welfare programs. The fifth sila, Social Justice for All

[37] Ashfiya Nur Atqiya et al., "Pancasila Sebagai Fondasi Ideologi Dalam Reformasi Hukum Pidana Terhadap Tindak Pidana Korupsi Dan Terorisme," *Presidensial: Jurnal Hukum, Administrasi Negara, Dan Kebijakan Publik* 1, no. 3 (November 2024): 216–234, https://doi.org/10.62383/presidensial.v1i3.319.

[38] Ahmad Muhammad Mustain Nasoha et al., "Analisis Pancasila Sebagai Landasan Hukum Anti Korupsi Di Indonesia: Analysis of Pancasila as the Basis for Anti-Corruption Law in Indonesia," *LITERA: Jurnal Ilmiah Mutidisiplin* 1, no. 2 (November 2024): 113–122.

Indonesian People, constitutes the central philosophical basis for substitute money enforcement. Corruption fundamentally violates social justice because it diverts public resources into private hands while depriving society of essential services such as education, healthcare, and infrastructure. Accordingly, substitute money sanctions should function as mechanisms of distributive justice aimed at restoring public rights and reducing inequality.[39]

The relationship between Pancasila principles and substitute money enforcement can be summarised as follows:

Table 3. Pancasila-Based Principles for the Reconstruction of Asset Recovery Law in Indonesia

Pancasila Principle	Legal Meaning in Asset Recovery	Implications for Reconstruction
Belief in One Almighty God	Moral accountability and honesty	Ethical orientation of restitution
Just and Civilised Humanity	Proportionality and restorative justice	Humane and balanced sanctions
Unity of Indonesia	Collective responsibility	Integrated institutional cooperation
Democracy through Deliberation	Transparency and participation	Public accountability mechanisms
Social Justice for All	Equitable distribution of public wealth	Recovery-oriented enforcement

Source: Author's Interpretation

These findings demonstrate that Pancasila justice requires a paradigm shift from punishment-centered anti-corruption law toward restorative asset recovery. The success of anti-corruption enforcement should no longer be measured solely by imprisonment rates but also by the effectiveness of restoring state financial losses and promoting social welfare.

Reconstruction of Substitute Money Regulations Based on Pancasila Justice

Based on the findings above, this study proposes a reconstruction of substitute money regulations centered on restorative justice, integrated asset tracing, and institutional coordination grounded in Pancasila principles.[40] The reconstruction specifically targets Article 18 paragraph (1)(b) of the Anti-

[39] Andre Setyo Nugroho, "Pancasila as a Source of Law in Enforcing Corruption in Indonesia," *Indonesian Journal of Pancasila and Global Constitutionalism* 2, no. 1 (January 2023): 103–138, https://doi.org/10.15294/ijpgc.v2i1.59806.

[40] Andri Winjaya Laksana et al., "The Disparities in Punishment for Narcotic Addiction: Does It Reflect the Value of Justice?," *Jurnal Media Hukum* 32, no. 1 (May 2025): 134–150, https://doi.org/10.18196/jmh.v32i1.25678.

Corruption Law, which currently lacks explicit operational guidance concerning asset tracing and financial recovery. The proposed reconstruction recommends revising the provision to explicitly state that substitute money payments must be implemented through comprehensive asset tracing mechanisms. This amendment would transform substitute money from a symbolic financial obligation into a structured legal process requiring investigators, prosecutors, and judges to identify, trace, freeze, confiscate, and recover illicit assets systematically.[41]

Under this reconstruction, asset tracing should begin during the investigation stage rather than after final conviction. Early tracing mechanisms would prevent perpetrators from dissipating or concealing assets before enforcement occurs. Financial intelligence systems should be integrated across institutions, including the Corruption Eradication Commission, the Attorney General's Office, the Financial Transaction Reports and Analysis Center, taxation authorities, and banking institutions. The reconstruction also proposes the establishment of a national integrated asset recovery database containing information concerning beneficial ownership, financial transactions, property records, and confiscated assets. Such integration would significantly enhance institutional efficiency and reduce bureaucratic fragmentation.[42]

Another important component concerns differentiated treatment between individual and corporate offenders. Corporate entities benefiting from corruption schemes should bear proportional substitute money obligations, including corporate asset confiscation and civil recovery measures. This approach would prevent perpetrators from hiding illicit proceeds behind complex business structures. Furthermore, the study recommends strengthening non-conviction-based asset recovery mechanisms for cases involving fugitives, transnational corruption, or procedural obstacles preventing criminal conviction. Such mechanisms would align Indonesian law with international standards established under the United Nations Convention against Corruption while remaining grounded in Pancasila-oriented restorative justice. The following table outlines the proposed reconstruction model:

Table 4. Reconstruction of Indonesia's Asset Recovery Framework: Current Conditions and Proposed Legal Reforms

Reconstruction Aspect	Current Condition	Proposed Reform

[41] Levina Yustitianingtyas, Anang Dony Irawan, and Dedy Stansyah, "Human Rights Enforcement in Indonesia towards the Implementation of Pancasila Values," *JUSTISI* 11, no. 2 (March 2025): 387–405, https://doi.org/10.33506/js.v11i2.3079.

[42] Fakhri Hamdi et al., "Law Enforcement Professional Ethics: An Analysis of Legal Philosophy on Morality and Integrity in Law Enforcement Practice," *Jurnal Ilmiah Multidisiplin Indonesia (JIM-ID)* 4, no. 11 (November 2025): 1770–1771.

https://doi.org/10.66325/nusantaralaw.v5i2.162

Asset tracing	Implicit and fragmented	Explicit statutory obligation
Enforcement timing	Post-conviction only	Early tracing and freezing
Institutional coordination	Separate databases	Integrated recovery system
Corporate liability	Limited regulation	Expanded corporate accountability
Asset recovery model	Retributive orientation	Restorative justice orientation
Public accountability	Limited transparency	Mandatory reporting and monitoring

Source: Author's interpretation

The reconstruction proposed in this study answers the central research question by demonstrating that substitute money regulations must be reoriented from punitive symbolism toward substantive restoration of public wealth. Effective anti-corruption law requires not only severe punishment but also the recovery of assets stolen from society. Through integrated asset tracing, institutional cooperation, and restorative justice principles grounded in Pancasila[43], substitute money sanctions can evolve into a central mechanism for realising social justice and constitutional morality within the Indonesian legal system.

CONCLUSION

This study concludes that the current regulation of substitute money payments in corruption cases under Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 and Supreme Court Regulation No. 5 of 2014 has not yet effectively realised the recovery of state financial losses caused by corruption offenses. The findings demonstrate that the absence of explicit asset tracing mechanisms, weak inter-agency coordination, fragmented enforcement systems, and the dominance of retributive punishment have significantly limited the effectiveness of substitute money sanctions. In practice, corruption enforcement in Indonesia still prioritises imprisonment over restorative recovery, enabling perpetrators to conceal assets and evade financial accountability. Comparative analysis with the Netherlands, Australia, and the United States further confirms that integrated financial investigations, early asset freezing, institutional synergy, and transparent recovery mechanisms characterise effective anti-corruption

[43] Mashdurohatun, A. *Beyond formal legality: A Maqāṣid al-Sharī'ah approach to ethical legitimacy in electronic consent across notarial, healthcare, and child protection practices.* Al-Istinbath: Jurnal Hukum Islam 11, no 1, (November, 2026)., 411–435

systems. Within this context, Pancasila provides a substantive philosophical foundation for reconstructing substitute money regulations by emphasising moral responsibility, humanity, collective solidarity, democratic accountability, and social justice. Therefore, the proposed reconstruction of Article 18 paragraph (1)(b) through the explicit incorporation of asset tracing mechanisms, integrated databases, institutional cooperation, and restorative justice principles represents a significant step toward strengthening Indonesia's anti-corruption framework and realising substantive justice in the recovery of public assets.

This study also recommends that future research further explore the practical implementation of integrated asset recovery systems, particularly concerning digital financial tracing, cross-border asset confiscation, beneficial ownership transparency, and the role of emerging financial technologies in corruption cases. Further empirical studies involving prosecutors, judges, financial investigators, and anti-corruption agencies are necessary to evaluate institutional readiness and operational challenges in implementing a Pancasila-oriented asset recovery framework. In addition, future research may comparatively examine the harmonisation between Indonesian anti-corruption law and international asset recovery standards under the United Nations Convention against Corruption, particularly regarding non-conviction-based forfeiture and transnational cooperation mechanisms. Such studies are essential to ensure that the reconstruction of substitute money regulations not only strengthens legal certainty but also contributes to the realisation of restorative justice, public welfare, and sustainable anti-corruption governance in Indonesia.

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AUTHOR CONTRIBUTIONS STATEMENT

Anis Mashdurohatun led the conceptualization, research design, methodology, supervision, and overall coordination of the study. Salomo Saing contributed to the literature review, data collection, and analysis, while Surya Budi Darma was involved in the investigation, interpretation of the findings, and development of the analytical framework. Sobrani Binzar contributed to the literature review, validation of the research findings, and critical revision of the manuscript. Denys Denyshchuk contributed to the legal and comparative analysis, particularly in examining relevant international legal frameworks. B.A.S Faomasi Jaya Laila contributed to data curation, manuscript preparation, editing, and visualization. All authors participated in discussing and interpreting the results, critically reviewed the manuscript, approved the final version, and agreed to be accountable for the integrity and accuracy of the work.

AI USAGE STATEMENT

The authors acknowledge the use of artificial intelligence (AI)-assisted tools during the preparation of this manuscript. AI tools were used solely to support language refinement, grammar checking, and improvement of the clarity and readability of the manuscript. The AI tools were not used to generate research data, conduct substantive legal analysis, determine research findings, or replace the authors' scholarly judgment. The authors remain fully responsible for the accuracy, originality, integrity, and final content of the manuscript and have carefully reviewed and verified all AI-assisted revisions before submission.

CONFLICT OF INTEREST

The authors declare that they have no conflicts of interest that could have influenced the research, analysis, interpretation of the findings, or publication of this manuscript. The authors confirm that the research was conducted independently and that there are no financial, professional, personal, or institutional interests that could be perceived as influencing the objectivity or integrity of the study.

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