Nusantara: Journal of Law Studies
Vol. 5 No. 2, 2026: 1460-1485
E-ISSN: 2964-3384
https://doi.org/10.66325/nusantaralaw.v5i2.221

Asset Confiscation in Combating Corruption and Money Laundering: A Human Rights-Based Approach to Law Enforcement

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|| *Received: 25-02-2026* || *Revised: 28-04-2026* || *Accepted: 21-08-2026* || *Published On: 31-08-2026*

Abstract: Law enforcement regarding corruption and money laundering in Indonesia faces ongoing challenges, as case handling remains primarily focused on penalizing offenders rather than confiscating the proceeds of crime to recover state financial losses. This study aims to address two issues: the current state of law enforcement in Indonesia regarding corruption and money laundering through asset forfeiture, and the ideal framework for such enforcement that simultaneously protects human rights. The study employs a normative-juridical (doctrinal) method, utilizing statutory, comparative, and conceptual approaches. Primary legal materials consist of legislation, court rulings, and international legal instruments, while secondary materials include books, journals, research findings, and expert opinions; these were analyzed qualitatively through legal interpretation, comparative analysis, and conceptual analysis. The findings indicate that law enforcement efforts to address corruption and money laundering through asset forfeiture are not yet fully integrated and require a stronger "follow the money" approach. The proposed ideal framework integrates asset tracing, freezing, seizure, forfeiture, and management into a unified mechanism, including the implementation of Non-Conviction-Based Asset Forfeiture, accompanied by guarantees of due process, proportionality, the right to a defense, protection for good-faith third parties, and the principle of balanced probabilities. The study contributes academically by developing an asset-recovery-based law-enforcement concept that links the eradication of corruption and money laundering with human rights protection, serving as a foundation for the development of asset-forfeiture policy in Indonesia.

Keywords: Corruption, Money Laundering, Asset Confiscation, Human Rights.

INTRODUCTION

The idea of thoroughly eradicating corruption cannot be achieved piecemeal, given that the proceeds of corruption are always laundered. Therefore, strategies for enforcing laws against corruption and money laundering must be integrated or implemented simultaneously.[1] This policy must be implemented because corruptors commit a "two-in-one crime": they not only engage in corruption but also in money laundering. Therefore, it is not surprising that, in the Indonesian context, corruption eradication policies must also be integrated with law enforcement against money laundering.

From the perspective of efforts to recover state financial losses, the money flow tracing approach can connect criminal acts with their perpetrators.[2] One focus of this approach is how the money flow tracing approach can serve as a tool for asset recovery to explore potential state revenues.[3] The idea of confiscating assets in corruption and money laundering cases is crucial to cut off the economic benefits of crime proceeds and recover state losses.[4] The primary definition of corruption is set out in Articles 2 (1) and 3 of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption (the Corruption Law), as amended by Law Number 20 of 2001. In essence, corruption is an unlawful act that enriches oneself, another person, or a corporation, thereby harming the state's finances or the economy. Furthermore, Article 1, paragraph (1), of Law Number 8 of 2010 states that money laundering is any act that satisfies the elements of a crime as stipulated in the law. In this definition, the elements referred to are the perpetrator, the unlawful act, and the proceeds of the crime.

Throughout 2024, the Indonesian Corruption Watch (ICW) discovered 364 corruption cases with 888 suspects. The estimated state financial losses reached Rp279.9 trillion, a figure significantly influenced by the Tin Commodity Trading Corruption Case at PT Timah Tbk, which accounted for 96.8 percent of the total losses. Ironically, amidst such a dramatic escalation in state losses, the application of the Money Laundering Article and Article 18 of the Corruption Law were not used as primary instruments in recovering assets resulting from

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[1] Redy Handoko et al., 'Beyond Punishment: Reformulating Corruption Law Enforcement for State Loss Recovery', *Nusantara: Journal of Law Studies* 5, no. 2 (August 2026): 1260–1279, https://doi.org/10.66325/nusantaralaw.v5i2.165.

[2] Ahyar Gayo et al., 'Asset Recovery in Contemporary Islamic Law: Reconstructing Public Wealth Protection through Maqāṣid al-Sharīʿah', *MILRev: Metro Islamic Law Review* 5, no. 2 (August 2026): 2075–2108, https://doi.org/10.32332/milrev.v5i2.14233.

[3] Prima Idwan Mariza, *Penelusuran Aliran Uang: Konsep Pengembalian Kerugian Keuangan Negara Dalam Kasus Korupsi Dan Pencucian Uang*, Cet.1 (Malang : Setara Press, 2021).

[4] Yevhen Leheza, 'Reforming the Legal Framework of Ukraine's Economic System: Challenges, Governance, and Regulatory Transformation', *Journal of Nusantara Economy* 5, no. 1 (June 2026): 56–71, https://doi.org/10.66325/nusantaraeconomy.v5i1.399.

corruption.[5] Throughout 2024, ICW recorded 359 corruption cases involving 881 suspects, with potential state losses totaling Rp279 trillion, bribery totaling Rp157 billion, extortion totaling Rp31.85 billion, and money laundering totaling Rp172.2 billion. These figures indicate a greater escalation in state losses compared to previous years. Although the articles on state losses (Articles 2 and 3 of Law Number 31 of 1999 and its amendments concerning Corruption Crimes) still dominate, the use of the Money Laundering (TPPU) instrument and the replacement money mechanism as stipulated in Article 18 of the Corruption Law remains very limited. Given that both instruments are crucial to expanding the recovery of assets obtained from crime, their limited use suggests that the enforcement strategy focuses more on punishing perpetrators than on recovering state losses.

Regulations governing the return of state assets resulting from corruption and money laundering are not clearly defined, particularly regarding the procedures and mechanisms for their return.[6] Fundamental questions remain: who is authorized to seize state assets resulting from corruption and money laundering during court proceedings? Which assets can be seized to compensate for state losses? Moreover, which institutions are authorized to receive, store, and manage state assets resulting from money laundering?[7]

The mechanism in the draft law on asset forfeiture without criminal prosecution is considered comprehensive, starting with tracing, blocking, and confiscation, as well as the court process. Non-Conviction-Based Asset Forfeiture can be effective if enforced by law enforcement with integrity.[8] However, it is important to examine the legal phenomenon that the Non-Conviction-Based Asset Forfeiture process is considered a violation of human rights.[9] Therefore, the Non-Conviction-Based Asset Forfeiture mechanism needs to be reformulated to maintain human rights protection. This method is

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[5] Zararah Azhim Syah, *Laporan Hasil Pemantauan Tren Korupsi Tahun 2024* (Jakarta, 2025).

[6] Rintis Eka A'isyatul Wahab and Aprilliani Kusumawati, '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://dx.doi.org/10.26532/jph.v13i1.48748.

[7] Ameerah binti Amir et al., 'The Role of The Prosecutor as Executor of Court Decisions in Returning Confiscated Objects and State Spoils in Criminal Cases: Comparing Indonesia, Malaysia, Nigeria, and Thailand', *IJCLS (Indonesian Journal of Criminal Law Studies)* 7, no. 1 (2022): 1–26, https://doi.org/10.15294/ijcls.v7i1.35601.

[8] Tri Indah Sakinah and Benny Sumardiana, 'Non-Conviction Based Asset Forfeiture Policy Concept Through In Rem Lawsuit Based on Economic Analysis of Law', *Reformasi Hukum* 29, no. 1 (2025): 52–69, https://doi.org/https://doi.org/10.46257/jrh.v29i1.1154.

[9] 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 (June 2025): 517–538, https://doi.org/10.32332/milrev.v4i1.10664.

effective in making these crimes unprofitable, as perpetrators will reconsider the potential consequences.[10]

Several previous studies have addressed non-conviction-based (NCB) asset forfeiture in corruption cases in Indonesia. Research conducted by Riskyanti Juniver Siburian and Denny Wijaya examines NCB asset forfeiture as a mechanism for recovering assets derived from corruption without relying on a criminal conviction of the perpetrator.[11] The study indicates that NCB asset forfeiture can serve as a legal option to strengthen the recovery of corruption-derived assets, particularly when criminal proceedings against the perpetrator encounter obstacles. However, the study focuses primarily on NCB asset forfeiture as a means of combating corruption and has not yet linked it to the integration of asset recovery.

Another study conducted by Vincentius Patria Setyawan, Hartiwiningsih, and Erna Dyah Kusumawati examines the application of non-conviction-based (NCB) asset forfeiture from a human rights perspective.[12] The study focuses on property rights, the presumption of innocence, and due process of law as principles that must be upheld during asset forfeiture conducted without a criminal conviction. This research establishes a crucial foundation, demonstrating that asset forfeiture cannot be divorced from the protection of an individual's property rights and the right to a fair legal process. However, the discussion has not yet addressed developing a law enforcement model that integrates corruption and money laundering offenses into the entire asset recovery process.

Based on prior research, several gaps remain that warrant further exploration. Previous studies have tended to address Non-Conviction Based (NCB) asset forfeiture either as a standalone mechanism for combating corruption or through a human rights lens. Few studies have linked the enforcement of laws against corruption and money laundering within a unified mechanism that encompasses the entire process—from asset tracing, freezing, seizure, and forfeiture to the management of assets derived from criminal activity. Furthermore, there is a need to formulate an approach that effectively prioritizes

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[10] Tantimin Tantimin, 'Penyitaan Hasil Korupsi Melalui Non-Conviction Based Asset Forfeiture Sebagai Upaya Pengembalian Kerugian Negara', *Jurnal Pembangunan Hukum Indonesia* 5, no. 1 (January 2023): 85–102, https://doi.org/10.14710/JPHI.V5I1.85-102.

[11] Riskyanti Juniver Siburian, dan Denny Wijaya, and Info Artikel Abstrak, 'Korupsi Dan Birokrasi: Non-Conviction Based Asset Forfeiture Sebagai Upaya Penanggulangan Yang Lebih Berdayaguna', *Jurnal Penegakan Hukum Dan Keadilan* 3, no. 1 (March 2022): 1–16, https://doi.org/10.18196/JPHK.V3I1.12233.

[12] Vincentius Patria Setyawan, Erna Dyah Kusumawati, and Hartiwiningsih, 'Human Rights in the Prospect of Implementing Non-Conviction Based Asset Forfeiture in Corruption Cases in Indonesia', *Prosiding Seminar Hukum Aktual Fakultas Hukum Universitas Islam Indonesia* 4, no. 3 (2026): 1–11.

the state's interest in comprehensively recovering financial losses. Addressing these gaps, this research introduces a novel concept for enforcing laws against corruption and money laundering that prioritizes asset recovery through a "follow the money" approach. This concept positions NCB asset forfeiture as a means to integrate all stages of the process while upholding human rights protections.

This study examines law enforcement regarding corruption and money laundering through the lens of human rights-based asset forfeiture. It focuses on both current regulations and the formulation of an ideal future framework. Theoretically, the study contributes to the development of criminal law and asset recovery practices; practically, it offers valuable insights for legislators and law enforcement officials in designing asset forfeiture mechanisms that respect the rights of interested parties.

METHOD

This study employs a doctrinal legal research method to examine legal norms, principles, and concepts regarding the enforcement of laws against corruption and money laundering through asset forfeiture, specifically Non-Conviction-Based Asset Forfeiture, in the context of human rights protection. The study utilizes statutory, comparative, and conceptual approaches.[13] The statutory approach is used to analyze provisions concerning corruption, money laundering, seizure, asset forfeiture, the recovery of state losses, and the protection of the rights of interested parties. The comparative approach is used to examine the application of asset forfeiture mechanisms in other countries and provisions within international legal instruments regarding the recovery of assets derived from criminal acts. The conceptual approach is used to analyze concepts such as "follow the money," asset recovery, Non-Conviction Based Asset Forfeiture, due process of law, proportionality, the protection of good-faith third parties, and the balance of probabilities.[14]

Primary legal materials consist of legislation, court rulings, and international legal instruments, while secondary legal materials are derived from

[13] Muhammad Fuad Azwar R, M. Said Karim, and Haeranah, 'Konsep Non-Conviction Based Asset Forfeiture Sebagai Kebijakan Hukum Dalam Perampasan Aset Tindak Pidana Korupsi the Concept of Non-Conviction Based Asset Forfeiture As a Legal Policy in Assets Criminal Action of Corruption', *Legal Brief* 11, no. 5 (2022): 2613–2622, https://doi.org/10.35335/legal.The.

[14] Geza Tristanti Wardani and Satya Graha Habibilah, 'Beyond Conviction-Based Forfeiture: Legal Politics and Legislative Directions of Non-Conviction-Based Asset Forfeiture in the Recovery of Corruption Assets in Indonesia', *Istinbath: Jurnal Hukum* 22, no. 02 (2025): 605–627, https://doi.org/10.32332/istinbath.v22i02.art08.

books, scholarly journals, research findings, and expert opinions.[15] Data collection was conducted through a literature review, which involved identifying and categorizing legal materials relevant to the research problem. All legal materials were analyzed qualitatively using legal interpretation, comparative analysis, and conceptual analysis to identify shortcomings in existing asset forfeiture regulations and to formulate an ideal framework for enforcing anti-corruption and anti-money laundering laws through asset forfeiture that supports the recovery of state losses without compromising human rights protection.

RESULTS AND DISCUSSION

Law Enforcement of Corruption and Money Laundering Crimes Through Asset Confiscation in Indonesia

Corruption is believed to be a major source of poverty in developing countries.[16] Based on this consideration, the Indonesian government actively participated in the 2003 United Nations Convention on the Eradication of Corruption, promptly ratified it, and immediately conducted an in-depth study of the legal implications of ratification for the national legal system.[17] In the history of efforts to eradicate corruption and money laundering in Indonesia, a fundamental problem has emerged.[18] Since its launch in 1995, Indonesia has been one of the countries regularly assessed. When it was first launched, Indonesia scored 19 on the Corruption Perceptions Index, ranking 41st out of 41 countries surveyed. Two decades later, in 2024, Indonesia's Corruption Perceptions Index score was 34, ranking 115 out of 180 countries surveyed. This data demonstrates that Indonesia still faces serious challenges in combating corruption. The Corruption Perception Index shows that Indonesia still needs extra effort to improve towards a future free of corruption and money laundering.

The proceeds of corruption, which then become money laundering, can take various forms, not only through the financial system and direct investment but also hidden in assets such as property, vehicles, jewelry, and so on. Law enforcement against corruption and money laundering does not always proceed in tandem and consistently. Enforcement of money laundering laws should align with efforts to combat corruption, given that the proceeds of corruption are

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[15] Wulandari et al., 'Asset Forfeiture of Corruption Proceeds Using the Non-Conviction Based Asset Forfeiture Method: A Review of Human Rights', *Indonesia Law Reform Journal* 3, no. 1 (2023): 15–25, https://doi.org/10.22219/ilrej.v3i1.24496.

[16] Hafidz et al., 'Contemporary Legal Accountability Reform in Public Procurement'.

[17] Sri Nawatmi et al., 'The Effect of Corruption on Poverty in Indonesia', *International Journal of Economics, Business and Accounting Research (IJEBAR)* 8, no. 4 (2024): 1327–1335, https://doi.org/10.29040/ijebar.v8i4.15620.

[18] Poppy sofia Koeswayo, Sofik Handoyo, and Dede Abdul Hasyir, 'Investigating the Relationship between Public Governance and theCorruption Perception Index', *Cogent SoCial SCienCeS* 10, no. 1 (2024): 1–34, https://doi.org/https://doi.org/10.1080/23311886.2024.2342513.

concealed, disguised, and combined with existing assets by perpetrators to evade detection and tracking by law enforcement. Therefore, to fully eradicate corruption, anti-corruption law enforcement cannot stand alone but must be combined with anti-money laundering law enforcement. Corruptors not only commit corruption but also continue to commit money laundering. Therefore, anti-corruption legal policies in Indonesia must be integrated with those addressing money laundering.[19] The fundamental problem causing law enforcement officials' hesitation in applying the Money Laundering Law is the lack of a shift in law enforcement, from a more perpetrator-oriented approach to an asset-oriented approach, often referred to as "follow the suspect" to "follow the money.[20]

Therefore, the necessary approach to eradicating corruption emphasizes following the suspect, then integrating it with the "follow the money" approach, which involves tracing the proceeds of crime through money laundering. This law enforcement approach, which traces the flow of crime proceeds, aims to identify the perpetrator, uncover the underlying crime, and confiscate those proceeds. Therefore, the goal of law enforcement in eradicating corruption and money laundering is to recover state losses.[21] From the perspective of recovering state financial losses, the money flow tracing approach can connect criminal acts with their intellectual perpetrators.[22] One of the focuses of this approach is how cash flow tracing can serve as a tool for asset recovery to divert potential state income.[23] Therefore, law enforcement efforts to eradicate corruption and money laundering entail the risk of state financial losses and must be conducted comprehensively.[24]

[19] Yoserwan Yoserwan and Fausto Soares Dias, 'Implementing The Anti-Money Laundering Law: Optimizing Asset Recovery in Corruption Cases Inindonesia', *Jurnal Hukum Dan Peradilan* 13, no. 2 (2023): 227–250, https://doi.org/10.25216/jhp.13.2.2024.227-250.

[20] Muhammad Nurcholis Alhadi et al., 'Optimizing Asset Recovery in Indonesia from a "Follow the Money" Perspective', *Rewang Rencang : Jurnal Hukum Lex Generalis* 7, no. 7 (2026): 1–27, https://doi.org/10.56370/jhlg.v7i7.3684.

[21] Rahmayanti Rahmayanti, 'The Restitution of State Financial Losses in Law Enforcement Against Corruption Crime', *Jurnal Pembaharuan Hukum* 10, no. 2 (2023): 280, https://doi.org/10.26532/jph.v10i2.32753.

[22] Tetiana Kolomoiets et al., 'Preventing Corruption in Government Bodies Under the Laws of Muslim and European Countries in the Contemporary Era', *MILRev: Metro Islamic Law Review* 5, no. 1 (March 2026): 328–350, https://doi.org/10.32332/milrev.v5i1.13201.

[23] Nani Mulyati and Aria Zurnetti, 'Asset Recovery as a Fundamental Principal in Law Enforcement of Corruption by Corporations', *Andalas International Journal of Socio-Humanities* 4, no. 1 (2022): 51–60, https://doi.org/10.25077/aijosh.v4i1.33.

[24] Mochamad Rayhan, Zendy Fariz, and Mardian Putra Frans, 'Prinsip Follow the Money Sebagai Upaya Pengembalian', *Urnal Hukum Ius Publicum* 6, no. 2 (2025): 182–196, https://doi.org/10.55551/jip.v6i2.503.

A state based on the rule of law must guarantee the enforcement of the law and the achievement of legal objectives. According to Sudikno and Pitlo, three elements in law enforcement must always be considered: justice, utility or effectiveness (doelmatigheid), and legal certainty. According to Satjipto Raharjo, law enforcement is essentially the enforcement of ideas or concepts about justice, truth, social utility, and so on. Therefore, law enforcement is an effort to make these ideas and concepts a reality. According to Soerjono Soekanto, law enforcement is an activity to harmonize the relationship between values outlined in stable and embodied rules/value views, attitudes, and actions, as a series of final-stage value explanations, to create, maintain, and defend peace in social life.[25]

Law enforcement of corruption crimes that occur concurrently with or are accompanied by money laundering (concursus realis) remains, in principle, bound by the Criminal Procedure Code (KUHAP), the Corruption Law, and the Money Laundering Law. Money laundering is an underlying crime of the predicate crime.[26] In general, perpetrators of criminal acts attempt to conceal or disguise the origin of assets resulting from criminal acts in various ways to make the proceeds of their crimes difficult for law enforcement officials to trace. In Indonesia, this is legally regulated in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering.[27]

The strategy in law enforcement, as outlined by Sacipto Raharjo's law enforcement theory, is to translate ideas and concepts into reality. Considering that the modus operandi of corruption and money laundering is usually linear: perpetrators conceal, disguise, and store the proceeds of corruption so they are not known and cannot be easily traced by law enforcement officials.[28] Therefore, in tracing the flow of money from criminal acts, law enforcement officials can collaborate with institutions such as the Financial Transaction Asset Reporting Center (PPATK). Tracing the flow of money is highly dependent on the role of

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[25] Renaldy Afriyanto et al., 'The Existence Of The Principles Of Legal Certainty, Legal Justice And Legal Benefits As Legal Objectives In Indonesia In The Perspective Of Philosophers', *Unizar Law Review* 7, no. 2 (2024): 203–211, https://doi.org/https://doi.org/10.36679/ulr.v7i2.80.

[26] Muh. Afdal Yanua, *Tindak Pidana Pencucian Uang Dan Perampasan Aset* (Malang: Setara Press, 2021).

[27] Lambok Tambunan, 'Law Enforcement Concerning the Crime of Money Laundering Based on Pancasila', *Jurnal Hukum Unissula* 38, no. 1 (2022): 32–42, https://doi.org/10.26532/jh.v38i1.20985.

[28] Anis Mashdurohatun et al., 'Reconstructing Regulations on Compensation Payments in Corruption Cases Based on the Principles of Justice in Pancasila', *Nusantara: Journal of Law Studies* 5, no. 2 (August 2026): 1202–1225, https://doi.org/10.66325/nusantaralaw.v5i2.162.

banking institutions, especially the PPATK, since financial transactions use banks as intermediaries.[29]

PPATK has submitted to investigators 302 HA, 3 HP, and 68 pieces of information related to alleged TPPU originating from corruption in TPA, with the nominal transaction analyzed reaching IDR 180.87 trillion.[30] However, many corruption cases that reach the courts are numerous, but very few are linked to money laundering. This indicates that law enforcement against money laundering is still far from successful. The serious question is whether this represents a failure in law enforcement or a problem within the law.[31] Therefore, the idea of a law enforcement strategy must be strictly regulated by legislation to ensure legal certainty, emphasizing an integrated corruption eradication policy and the handling of money laundering through a special institution that addresses the predicate crime (corruption). This must be followed up with subsequent criminal actions, namely money laundering, either in conjunction with the predicate crime or individually. Given that law enforcement's focus on corruption and money laundering is on recovering state losses, the question is how to recover the funds stolen by corrupt actors. Therefore, the paradigm of law enforcement against corruption and money laundering has shifted from initially focusing on severe penalties or the punishment of perpetrators to one oriented towards recovering state losses through asset confiscation.[32]

This shift in law enforcement's orientation positions asset forfeiture as a crucial component in addressing corruption and money laundering offenses. Asset forfeiture aims not only to strip perpetrators of the proceeds of their crimes but also to prevent those assets from being repurposed for personal gain or other unlawful activities. To ensure a clear legal basis for its implementation while safeguarding the rights of interested parties, the asset forfeiture mechanism must align with national legal provisions and the evolving principles set out in international legal instruments. Consequently, the discussion on law enforcement regarding corruption and money laundering should proceed by examining how

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[29] Prima Idwan Mariza, *Op.Cit.* p. 5.

[30] 'Catatan Capaian Strategis PPATK Tahun 2025: Menjaga Kedaulatan Dan Integritas Ekonomi Bangsa Jakarta, 28 Januari 2026 B/001/HM.05/3.1/I/2026', PPATK, 2026, https://www.ppatk.go.id/siaran_pers/read/1594/catatan-capaian-strategis-ppatk-tahun-2025-menjaga-kedaulatan-dan-integritas-ekonomi-bangsa-jakarta-28-januari-2026-b001hm0531i2026-.html.

[31] Andhika Yuli Rimbawan, 'Harmonization of Judicial Decisions: Analysis of Compliance with Jurisprudence and Application Of The Principle of Legality In Special Criminal Cases', *Journal Critical Legal System* 1, no. 1 (2026).

[32] Hibnu Nugroho et al., 'Asset Seizure as an Effort to Recover State Assets Resulting from Criminal Corruption', *Journal of Law and Legal Reform* 7, no. 1 (2026): 161–202, https://doi.org/10.15294/jllr.v7i1.40778.

asset forfeiture is regulated under both international instruments and Indonesian national law.

1. Asset Confiscation in International Instruments.

   PThe United Nations (UN) or United Nations in UNCAC defines asset confiscation in the provisions of Article 2 letter g, which reads: "Confiscation", which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority;" which is translated as follows: Confiscation, which includes the imposition of a fine where applicable, means the permanent revocation of assets by order of a court or other competent authority.[33] The definition of Asset Confiscation in the UNCAC uses the term "asset forfeiture", which is different from the term "asset recovery".[34] In Chapter V of the UNCAC, the term asset recovery is used, which can be interpreted broadly, such as prevention and detection of the transfer of criminal assets; direct return of criminal assets; mechanisms for the return of criminal assets through transnational cooperation between countries, international cooperation for confiscation; and the return and search of criminal assets.[35]

2. Asset Confiscation in National Legal Instruments

   The basic idea in the discussion of the Draft Law on Asset Confiscation is that Asset Confiscation is a coercive measure carried out by the state to take over control and/or ownership of assets resulting from criminal acts based on a court decision that has obtained permanent legal force without being based on punishment of the perpetrator. In the Indonesian legal system, asset confiscation is an additional penalty that involves the seizure of certain goods resulting from criminal acts. This generally applies to every crime within the realm of criminal law in Indonesia, to deprive the convict, as proven by a binding court decision, of the proceeds of the crime.

[33] Direktorat Hukum, *"Permasalahan Hukum Seputar Perampasan Aset Dalam undang-undang nomor 8 tahun 2010 tentang Pencegahan dan pemberantasan tindak pidana Pencucian Uang dan Upaya Pengoptimalisasiannya", Jakarta: Pusat Penelusuran dan Analisis Transaksi Keuangan (PPATK),* 2021. p. 24.

[34] Lonna Yohanes Lengkong, 'Urgensi Penerapan Perampasan Aset Dalam Tindak Pidana Pencucian Uang', *Jurnal Hukum To-Ra : Hukum Untuk Mengatur Dan Melindungi Masyarakat* 9, no. 3 (2023): 351–364, https://doi.org/10.55809/tora.v9i3.278.

[35] Umi Rozah and Nashriana, 'Analisa Kebijakan Kriminal Dan Filsafat Pemidanaan Non-Conviction Based Forfeiture of Stolen Assets Dalam Tindak Pidana Korupsi', *Jurnal Pembangunan Hukum Indonesia* 5, no. 3 (2023): 411–432, https://doi.org/10.14710/jphi.v5i3.411-432.

Indonesia,[36] as a democratic country and a participating country in the 2003 UNCAC convention, which has also ratified the UNCAC through Law Number 7 of 2006 concerning the Ratification of the United Nations Convention Against Corruption, 2003,[37] has not adopted the mechanism of asset forfeiture without criminal punishment (NCB asset forfeiture). Currently, Indonesia adheres to three mechanisms for asset forfeiture with criminal punishment: criminal forfeiture (in personam), civil asset forfeiture, and administrative asset forfeiture. Asset forfeiture currently in effect in Indonesia can be implemented only if the perpetrator of the crime has been declared legally and convincingly guilty by a court decision that has permanent legal force (in kracht), or, in other words, asset forfeiture is carried out based on a criminal verdict. However, criminal forfeiture experiences many difficulties in its implementation. One of them is the ability of the perpetrator to divert or flee abroad with the proceeds or instruments of crime, and the perpetrator may even flee abroad and cannot be extradited to Indonesia.[38]

Through an analysis of the Draft Law on Asset Confiscation in relation to other laws and regulations, such as Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, Law Number 8 of 2010 concerning the Prevention and Elimination of Criminal Acts of Money Laundering, as well as Indonesia's obligations under the United Nations Convention Against Corruption (UNCAC) 2003.[39]

The Ideal Concept of Law Enforcement of Corruption and Money Laundering Crimes Through Asset Confiscation Based on Human Rights Protection in Indonesia

The current strategy for eradicating corruption remains problematic, as evidenced by the Corruption Perception Index, which remains far from expectations. As a measure to recoup state losses caused by corruption, the idea of asset confiscation has been implemented as an additional sanction, involving

[36] Wishnu Rusydianto, 'Harmonization of National Land Law with the Principles of Agrarian Justice in the Constitution', *Journal Critical Legal System* 1, no. 1 (2026).

[37] Lily Solichul Mukminah et al., 'The Importance of Regulating Non- Conviction Based Asset Forfeiture in Corruption Cases in Indonesia', *Iblam Law Review* 3, no. 1 (2023): 31–45, https://doi.org/https://doi.org/10.52249/ilr.v3i2.125.

[38] Hufron and Sultoni Fikri, 'The Urgency of Regulating Forfeiture of Assets Gained From Corruption in Indonesia', *Legality: Jurnal Ilmiah Hukum* 32, no. 2 (August 2024): 292–310, https://doi.org/10.22219/ljih.v32i2.35243.

[39] Ahmad Dicky et al., 'Analisis Rancangan Undang-Undang Perampasan Aset Dalam Sistem Pemerintahan Indonesia', *Jurnal Hukum, Administrasi Publik Dan Negara* 2, no. 6 (2025): 1–10, https://doi.org/https://doi.org/10.62383/hukum.v2i6.658.

the seizure of certain assets obtained through criminal activity.[40] In the current Indonesian legal system, the provisions for asset confiscation are contained in Law Number 20 of 2001, which amends Law Number 31 of 1999 on the Eradication of Corruption. Confiscation of assets resulting from corruption is considered a preventive measure to prevent the transfer of assets suspected of being derived from corruption, thereby preventing changes in ownership or location. Broadly speaking, the Corruption Law applies two mechanisms for implementing asset confiscation: criminal and civil.[41] The criminal mechanism is in Article 18 paragraph (1) letter (a), the confiscation of assets in corruption cases is regulated in the same way as the provisions for confiscation of assets that apply generally, namely the same as the provisions in Article 179 paragraph (4) of the new Criminal Procedure Code which states 'Investigators can confiscate the assets of the perpetrator of a crime as collateral for restitution with the permission of the head of the court'. Article 179, paragraph (5), provides that 'Confiscation, as referred to in paragraph (4), is carried out by taking into account the rights of third parties who act in good faith'. The civil mechanism is regulated under Article 32, paragraph (1), of the Corruption Law. In these provisions, when investigators find that there is insufficient evidence for a corruption crime, but real state losses are identified, the investigators may submit the case files resulting from the investigation to the State Attorney (JPN) or the injured agency for filing a civil lawsuit.[42]

Furthermore, an acquittal in a corruption case does not eliminate the state's right to file a lawsuit for losses to state finances.[43] The civil mechanism for confiscation is implemented as part of efforts to recover assets used to commit corruption and/or their proceeds.[44] In relation to corruption, to increase the recovery of state losses, asset recovery (confiscation) of the proceeds of crime is

[40] Ridwan Arifin et al., 'A Discourse of Justice and Legal Certainty in Stolen Assets Recovery in Indonesia: Analysis of Radbruch's Formula and Friedman's Theory', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 6, no. 2 (2023): 159–181, https://doi.org/10.24090/volksgeist.v6i2.9596.

[41] Arie Kartika et al., 'Law Enforcement in the Recovery of State Funds from Corruption Crimes', *Law Reform: Jurnal Pembaharuan Hukum* 20, no. 2 (2024): 211–229, https://doi.org/10.14710/lr.v20i2.63799.

[42] Orrisa Firsta Graviddita and Indung Wijayanto, 'Non-Conviction Based Asset Forfeiture as an Instrument for Recovering State Losses in Corruption Crimes in Indonesia', *Law Research Review Quarterly* 11, no. 4 (2025): 1089–1117, https://doi.org/https://doi.org/10.15294/llrq.v11i4.40783.

[43] Puti Priyana and Tanumihardja Jopie Gunawan, 'Reformulation of Asset Recovery Strategy Resulting from Corruption Crimes as an Effort to Recover State Losses', *Indonesian Law Journal) FSH UIN Syarif Hidayatullah Jakarta* 12, no. 2 (2024): 421–454, https://doi.org/10.15408/jch.v12i2.39768.

[44] Amir Firmansyah et al., 'Reframing State Loss Policy in Price-Related Corruption Cases: A Future Agenda', *Contrarius* 2, no. 2 (2026): 160–182.

necessary. According to Yenti Ganarsih, asset confiscation is one strategy for enforcing corruption laws, which is carried out through money laundering mechanisms.[45]

The TPPU Law, which regulates the seizure of assets from money laundering crimes, accommodates the tracing of assets resulting from criminal acts by a financial intelligence unit (FIU) called the Financial Transaction Reports and Analysis Center (PPATK),[46] which is tasked with receiving financial transaction reports, analyzing them, and forwarding the results of these analyses to law enforcement agencies. The TPPU Law strengthens the PPATK as an independent institution. In this regard, any person is strictly prohibited from interfering with the implementation of the PPATK's duties and authorities. Furthermore, the PPATK is required to reject or ignore any intervention by any party in the performance of its duties and exercise of its authorities. Therefore, the TPPU Law accommodates the seizure of assets using the independent PPATK instrument.

In this case, the predicate crime or crime originating from money laundering includes corruption. In law enforcement, the mechanism for confiscating assets from money laundering is one of the strategies that needs to be carried out. In the context of money laundering and the regulation to eradicate corruption in Indonesia, it is not only about identifying the perpetrators of corruption and imposing prison sentences; it also requires efforts to confiscate and seize the proceeds of corruption. Asset confiscation is a solution to eradicate corruption and money laundering. Asset confiscation for asset recovery is a solution that can be used to eradicate corruption, both conceptually and operationally.[47]

The concept of asset confiscation in corruption and money laundering (TPPU) crimes is a crucial instrument in the modern criminal justice system, aiming not only to punish the perpetrators but also to recover state losses and eliminate the proceeds of crime. In Indonesia, provisions regarding asset confiscation can be found in Law Number 31 of 1999, as amended by Law Number 20 of 2001, and Law Number 8 of 2010. These provisions provide the

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[45] Bambang Sugeng Rukmono, Pujiyono Suwadi, and Muhammad Saiful Islam, *The Effectiveness of Recovering Losses on State Assets Policy in Dismissing Handling of Corruption*, in *Journal of Human Rights, Culture and Legal System*, vol. 4, no. 2 (2024), https://doi.org/10.53955/jhcls.v4i2.259.

[46] Albert Theo et al., 'Peran Kejaksaan Dalam Pengambilan Aset Terpidana Korupsi Sebagai Bentuk Pemulihan Aset Negara Dalam Peradilan Pidana', *Jurnal Media Akademik* 3, no. 7 (2025): 1–16, https://doi.org/https://doi.org/10.62281/v3i7.2506.

[47] Ahmad Fauzi, Ariesta Wibisono Anditya, and Mohamad Noor Fajar Al Arif Fitriana, 'Recovering Justice Amid Restorative Approach: Finding the Silver Lining in Asset Recovery on Corruption Crimes', *Indonesian Journal of Criminal Law Studies* 10, no. 1 (2025): 217–238, https://doi.org/10.15294/ijcls.v10i1.5626.

legal basis for the state to seize and confiscate assets derived from criminal acts. However, the practice of asset confiscation often generates debate because it directly impacts the rights to ownership, legal certainty, and a fair trial, all of which are human rights guaranteed by the 1945 Constitution of the Republic of Indonesia.[48]

Considering that every individual has the right to fair legal guarantees, which include the right to self-defense and the right not to be subjected to arbitrary action. Therefore, the provision on the reversal of the burden of proof in Articles 77 and 78 of Law Number 8 of 2010 is a legal mechanism that requires defendants to prove that their assets are not the proceeds of crime, are limited/proportional, and are not intended to facilitate the confiscation of illegal assets. Prosecutors remain obligated to prove the charges, but defendants must prove the legal origin of their assets. This can expedite law enforcement, but its implementation must still adhere to the principles of justice and human rights protection.[49]

Furthermore, the handling of corruption cases must also be in line with applicable national and international legal instruments that regulate human rights protection and the principles of fair law enforcement.[50] Therefore, despite obstacles in proving corruption cases, the strategy employed must respect the broader legal framework, thereby establishing a legal system that is not only efficient in combating corruption but also upholds justice for all parties involved.

The asset confiscation process is not without challenges, including ensuring fair implementation without neglecting human rights principles. In this situation, maintaining a balance between efforts to combat corruption and protecting human rights as a fundamental right of every individual is crucial. Therefore, every step in the asset confiscation mechanism must be carried out with high transparency and accountability, while providing the accused with the opportunity to defend themselves and prove the origin of their wealth. Therefore, the concept of proof that upholds human rights must be the foundation of asset confiscation, as does the principle of balanced probabilities.[51]

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[48] Rita Komalasari and Cecep Mustafa, 'Strengthening Asset Recovery Efforts: A Path to Mitigating Corruption in the Public Sector', *Integritas : Jurnal Antikorupsi* 10, no. 1 (2024): 137–148, https://doi.org/10.32697/integritas.v10i1.1042.

[49] Ali Imron, 'Recovery Of Assets Stolen By Criminal Acts Of Corruption(Reversal of the Burden of Proof System Approach to Assets Proceeded from Corruption Crimes)', *Res Nullius Law Journal* 6, no. 2 (2024): 111–126, https://doi.org/10.34010/rnlj.v%25vi%25i.13013.

[50] Andri Winjaya Laksana et al., 'Criticism of Legal Protection for Victims of Drug Abuse: The Disharmony in Legal Substance Regulation', *Legality : Jurnal Ilmiah Hukum* 33, no. 1 (January 2025): 93–109, https://doi.org/10.22219/LJIH.V33I1.36680.

[51] Dionysius Yasmin Pongkor, 'Non-Conviction-Based (Ncb) Asset Forfeiture Concept From a Legal and Human Rights Perspective', *Constitution* 13, no. 3 (2025): 62–70, https://doi.org/https://doi.org/10.35335/ijopsor.v13i3.311.

The principle of balanced probabilities, or balanced probabilities, was outlined by legal expert Oliver Stolpe. Under this principle, the owner of the assets must be placed on the highest level of balanced probability so that they cannot be punished simply for not being able to prove the legality of their assets. Conversely, confiscated assets are placed on a lower level of balanced probability. If the legality of the seized assets cannot be proven, the court can confiscate them for the state. Regarding the rules on the management of assets resulting from TPPU, currently the Supreme Court Regulation (Perma) Number 1 of 2013 concerning Procedures for Settling Applications for Handling Assets in Money Laundering Crimes or Other Crimes is a guideline for proceedings related to the confiscation of assets as stated in Article 67 of Law Number 8 of 2010. Namely, the assets of the reporting party, consisting of 16 financial service providers regulated under Article 17 of Law Number 8 of 2010, may be regulated and immediately confiscated and deposited with the State.[52]

Furthermore, to increase the success of asset confiscation, closer cooperation among law enforcement agencies, including the Corruption Eradication Commission (KPK), the police, and the prosecutor's office, is essential.[53] Harmonious coordination among these institutions is key to ensuring that asset tracing, freezing, and confiscation are integrated and efficient. Furthermore, training and capacity-building for law enforcement personnel are vital to ensuring they have the skills and expertise to handle asset confiscation cases.[54]

From a human rights perspective, asset confiscation must not be carried out arbitrarily. The principle of due process of law requires that all seizures and confiscations be conducted through a legal, open, and impartial judicial mechanism. Furthermore, the presumption of innocence must be respected, particularly in conviction-based forfeiture models, where confiscation can occur only after a final and binding court decision. On the other hand, the concept of non-conviction-based forfeiture (NCB) has also developed, namely the confiscation of assets without waiting for a criminal verdict against the perpetrator. This model is more effective in situations where the perpetrator has fled, died, or is difficult to criminally prosecute, but it can raise human rights

[52] Muhammad Nurul Huda, Safira Ila Mardhatillah, and Qurota Ayunisa, 'Non-Conviction-Based Asset Forfeiture: Presumption Of Innocence And Principle Of Legality Perspective', *Walisongo Law Review* 7, no. 1 (2025): 98–111, https://doi.org/https://doi.org/10.21580/walrev.2024.6.2.28205.

[53] Jurnal Pembaharuan Hukum et al., 'The Analysis of Criminal Sanctions Effectiveness in Drug Law: Between Prevention and Rehabilitation', *Jurnal Pembaharuan Hukum* 13, no. 1 (April 2026): 52–70, https://doi.org/10.26532/JPH.V13I1.50247.

[54] Hanifah Azizah et al., 'Guarding Property, Recovering Assets: A Constitutional Court Perspective on Non-Conviction-Based Asset Forfeiture in Indonesia', *Jurnal Konstitusi* 23, no. 2 (2026): 337–72, https://doi.org/10.31078/jk2326.

concerns if it is not accompanied by adequate procedural protections, including the right to file objections and defenses.[55]

Theoretically, the concept of human rights-based asset confiscation can be analyzed using various legal theories. In John Rawls's theory of justice, justice is understood as fairness: a system that guarantees the basic freedoms of every individual while regulating social inequality to benefit everyone. In this context, the confiscation of assets obtained through corruption can be justified because the wealth was obtained through unfair means and harms the wider community. However, the confiscation procedure must still guarantee equal treatment and the protection of basic individual rights to prevent new injustices in the name of eradicating corruption. [56]

From the perspective of progressive law developed by Satjipto Rahardjo, the law should not be confined to mere procedural formalities but should be oriented towards substantive justice and social benefit. Asset confiscation in corruption and money laundering cases is seen as a means to restore social balance and restore the community's rights to resources stolen by criminals. However, progressive law still places humanity at its center, so state actions in confiscating assets must not disregard individuals' dignity and fundamental rights.

The utilitarian theory, pioneered by Jeremy Bentham, emphasizes that the purpose of law is to achieve the greatest happiness for the greatest number of people. Asset confiscation in corruption and money laundering cases can be viewed as a policy that provides broad benefits to society, as it can recoup state losses, increase deterrence, and prevent similar crimes in the future. However, from a modern utilitarian perspective, violations of human rights can actually undermine the legitimacy of the legal system and ultimately harm the public interest.[57]

Within the framework of a state governed by the rule of law (Rechtsstaat), asset confiscation must be carried out in accordance with the principles of legality, proportionality, accountability, and protection of third parties acting in good faith. The state has the authority to confiscate the proceeds of crime, but

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[55] Yanuar Ramadhana Fadhila, 'Perlindungan Pihak Ketiga Beriktikad Baik Dalam Non-Conviction Based Asset Forfeiture Legal Protection of Bona Fide Third Parties in Non-Conviction Based Asset Forfeiture Againts Corruption (UNCAC) . 4 Konvensi Yang Diinisiasi Oleh Perserikatan Bangsa-b', *Jurnal USM Law Review* 8, no. 3 (2025): 8–11, https://doi.org/https://doi.org/10.26623/julr.v8i3.12263.

[56] Syana Mifta Salsabila and Bambang Waluyo, *Optimizing the Enforcement of Asset Forfeiture as an Additional Penalty for Corruption Offenders to Recover State Losses*, 13, no. 2 (2025): 6–12, https://doi.org/10.21070/jihr.v13i2.1084.

[57] Kholilah Delvi Syauqi Huda, Yuliati Yuliati, and Bambang Sugiri, 'The Forfeiture of Corruption Assets And The Legal Position of Innocent Third Parties: Normative Challenges And Policy Gaps', *Invest Journal of Sharia & Economic Law* 5, no. 1 (2025): 164–83, https://doi.org/10.21154/invest.v5i1.10546.

this authority is limited by the constitution and human rights principles. The concept of asset confiscation based on human rights protection ultimately demands a balance between eradicating corruption and money laundering and guaranteeing citizens' fundamental rights. With this balance, asset confiscation is not merely a repressive instrument but also part of an effort to achieve social justice grounded in law and respect for human dignity.

Table 1. A Comparison of Current Conditions and the Ideal Concept of Asset Forfeiture in Corruption and Money Laundering Offenses

Parameter	**Current Condition**	**Ideal Concept**
Law enforcement orientation	Focused on punishing offenders	*Follow the suspect* and *follow the money*
Asset forfeiture	Still dependent on criminal proceedings	Strengthening *NCB Asset Forfeiture*
Asset recovery	Not yet integrated	Integrated asset tracing through asset management
Human rights protection	Not yet a central part of the mechanism	*Due process*, proportionality, and protection of third parties
Final objective	Punishment and asset recovery remain separate	Recovery of state losses based on human rights protection

Source: Author's interpretation

The table illustrates the key differences between the current situation and the ideal concept. The current approach primarily focuses on punishing offenders, whereas the ideal concept directs law enforcement to combine "follow the suspect" and "follow the money" strategies through an integrated asset-forfeiture mechanism. This approach treats the recovery of state losses and the protection of the rights of interested parties as two objectives that must be balanced. On this basis, the study identifies a novel contribution that lies not only in strengthening the Non-Conviction Based (NCB) asset forfeiture framework but also in integrating all stages of asset recovery within a human rights protection framework.

The novelty of this research lies in the formulation of a law enforcement concept that integrates corruption and money laundering offenses through a "follow-the-money" approach focused on asset forfeiture and recovery, rather than merely the punishment of offenders. The study develops the concept of Non-Conviction Based Asset Forfeiture within a human rights protection framework, incorporating guarantees of due process, the principle of proportionality, the right to a defense, protections for good-faith third parties, and the application of the "balanced probabilities" principle. This novelty is further evident in the effort to link asset tracing, freezing, seizure, forfeiture, and management into a single, integrated law enforcement mechanism, thereby enabling more effective recovery of state losses without disregarding the fundamental rights of parties subject to asset forfeiture measures.

CONCLUSION

Law enforcement efforts against corruption and money laundering through asset forfeiture in Indonesia have not yet been fully integrated, as they remain more focused on prosecuting offenders than on recovering assets derived from criminal activities. The ideal approach proposed in this study combines the follow-the-suspect and follow-the-money approaches within a human rights-based asset forfeiture framework, ensuring due process, proportionality, the right to a defense, protection of bona fide third parties, and the balance-of-probabilities standard. The scientific contribution of this research lies in developing a concept of Non-Conviction-Based Asset Forfeiture (NCB Asset Forfeiture) that balances the recovery of state losses with human rights safeguards. This concept can serve as a foundation for developing asset forfeiture policies in Indonesia. This study is limited to a normative legal analysis and does not empirically examine its institutional implementation. Future research should therefore explore institutional frameworks, third-party protection mechanisms, and evidentiary standards applicable to NCB Asset Forfeiture.

ACKNOWLEDGEMENT

The authors would like to express their sincere gratitude to the Rector of Jayabaya University for the institutional support and encouragement provided throughout the completion of this research. The authors also appreciate the academic environment and facilities that contributed to the successful completion of this study.

AUTHOR CONTRIBUTIONS STATEMENT

Kristiawanto contributed to conceptualization, research design, methodology, legal analysis, preparation of the original draft, and coordination of the manuscript as the corresponding author; Abdul Latif contributed to supervision, theoretical analysis, validation, and critical review of the manuscript; Muhammad Naufal Khanif contributed to the collection of legal materials, literature review, and analysis of corruption and money laundering law; Agus Prasetia Wiranto and Volodymyr Ogurchenko contributed to comparative legal analysis, interpretation of asset forfeiture regulations, and validation of research findings; and Silvia Desty Rosalina contributed to human rights analysis,

https://doi.org/10.66325/nusantaralaw.v5i2.221

reference management, manuscript editing, and final proofreading. All authors reviewed and approved the final version of the manuscript.

AI USAGE STATEMENT

The authors acknowledge the use of artificial intelligence (AI)-assisted tools during the preparation of this manuscript, particularly for language editing, proofreading, grammar correction, and improving the clarity and readability of the English language. AI tools were not used to generate research findings, conduct data analysis, formulate substantive arguments, or determine the study's conclusions. The authors remain fully responsible for the accuracy, originality, integrity, and academic content of the manuscript and have carefully reviewed and verified all AI-assisted revisions before submission.

CONFLICT OF INTEREST

The authors declare that there are no conflicts of interest that could have influenced the research, analysis, interpretation of the findings, or preparation of this manuscript. The research was conducted independently and without any financial, personal, or institutional interests that could have affected the objectivity or integrity of the study.

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