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Article Title

A Dual-Track Asset Recovery Model: Optimizing the Posthumous Forfeiture of Corruption Proceeds

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ABSTRACT

The transition of national positive law following the enactment of Law Number 1 of 2023 and Law Number 20 of 2025 creates a doctrinal inconsistency arising from a legislative omission in determining the legal status of evidence when personal criminal prosecution (in personam) is extinguished by operation of law upon the death of a corruption suspect. This normative weakness is reinforced by the inherent limitation of the sequential system under Law Number 31 of 1999. Under this system, civil claims by the State Attorney may be initiated only after the criminal process has been terminated or can no longer proceed, thereby causing asset depreciation and creating a time interval that enables the dissipation of corruption proceeds. This study employs normative legal research with a conceptual approach as the primary approach and a statute approach as the supporting approach through prescriptive qualitative analysis. The findings propose a paradigmatic reconstruction toward a parallel-simultaneous system through a dual-track asset recovery model. Under this model, the proprietary status examination (in rem) may proceed independently without depending on the legal status of the person subject to criminal prosecution. This model strengthens balanced legal protection and due process of law by applying the evidentiary standard of a balance of probabilities. This study recommends accelerating the enactment of the Bill on Asset Forfeiture, adopting limited amendments to Law Number 31 of 1999 and Law Number 20 of 2025, and establishing an integrated asset recovery center to optimize the posthumous forfeiture of corruption proceeds and restore public trust in law enforcement.

Keywords: *Corruption Proceeds; Dual-Track Asset Recovery; Non-Conviction Based Asset Forfeiture; Posthumous Forfeiture; State Civil Claim.*

INTRODUCTION

Corruption has long been portrayed as an extraordinary crime that not only causes substantial financial losses but also erodes public trust and undermines the state's institutional legitimacy. As a multidimensional crime, corruption eradication cannot be placed solely within a retributive paradigm that focuses on punishing the person subject to criminal liability. Modern law enforcement requires a shift of orientation toward asset recovery as an instrument for restoring substantive justice for society and safeguarding state finances. The safeguarding of state finances is not merely an administrative policy. It constitutes a constitutional mandate requiring the supremacy of law over power and the fulfillment of the economic rights of citizens harmed by corruption (Pawe et al., 2025). The failure of the state to recover corruption proceeds may reduce public confidence in the legitimacy of the criminal justice system (Arsyad et al., 2026).

The problem of safeguarding state finances is evident in the current transition of national criminal procedural law. The enactment of the new codification of substantive criminal law through Law Number 1 of 2023 and the codification of criminal procedural law through Law Number 20 of 2025 expressly provide that prosecutorial authority is extinguished by operation of law upon a suspect or defendant's death. This provision is a logical consequence of the principle of personal criminal responsibility (*in personam*), which prohibits the inheritance of criminal punishment. In practice, however, the termination of criminal proceedings by operation of law creates a judicial inconsistency because the legal status of seized property strongly suspected to constitute corruption proceeds remains uncertain. Returning seized property to heirs who are not legally entitled to it conflicts with the principle of justice and the public interest. Conversely, unilateral control by investigators without a lawful court order risks violating citizens' constitutional property rights.

This legal uncertainty is reinforced by the dysfunction of the law enforcement system under the prevailing corruption eradication regulations, particularly Law Number 31 of 1999[1]. The regulation of state loss recovery through the civil route carried out by the State Attorney remains placed within a sequential system, namely an ordered mechanism that positions civil proceedings as a supporting instrument after criminal proceedings have been terminated or can no longer continue. This sequential structure creates an inherent limitation in the form of depreciation in the economic value of seized assets due to the length of formal criminal law enforcement proceedings (Sandhy & Panjaitan, 2026). In addition, the sequential system creates a time interval that enables heirs to transfer, move, disguise, or conceal corruption proceeds before a civil claim is filed before the court (Syauket, 2025). As a result, the state often bears economically inefficient law enforcement costs because the value of assets recovered is substantially lower than the cost of handling the case itself, a condition known as unprofitable punishment.

Based on this doctrinal limitation, this study is prepared as a continuation, expansion, and theoretical refinement of the initial conceptual foundation previously published by the Author (Suhartono & Panjaitan, 2025). Within the framework of a continuing research agenda, the previous study still has limitations because it analyzed the problem only under the old criminal law regime, namely Law Number 1 of 1946 and Law Number 8 of 1981. That study also did not detect the weakness of the sequential system under Law Number 31 of 1999. Therefore, this study addresses those limitations by shifting the analytical focus from the design of an emergency civil procedural draft toward a critical deconstruction of legislative omission in the new codification. This step is necessary to formulate a paradigmatic repositioning that treats the recovery and forfeiture of corruption proceeds as an autonomous legal regime operating in parallel with criminal proceedings from the investigation stage onward.

In the development of asset forfeiture law across various jurisdictions, the international community has moved away from a forfeiture model that depends entirely on conviction-based forfeiture. Global consensus, as reflected in anti-corruption conventions, encourages states to adopt non-conviction-based asset

[1]Law Number 31 of 1999, as amended several times, lastly by Article 622 section (1) letter l and section (4) of Law Number 1 of 2023.

forfeiture to address situations in which the person connected to the crime cannot be prosecuted (Greenberg et al., 2009). Several jurisdictions, such as the United States, have long used the concept of proceedings against property (*in rem*) with a broad scope of application (Cassella, 2019). Meanwhile, the United Kingdom introduced unexplained wealth orders to compel asset owners to prove the lawful origin of their wealth (Chistyakova et al., 2021). Although these instruments offer a high degree of effectiveness, the direct reception of foreign instruments without harmonization with national legal pluralism risks abuse of power by law enforcement officers and conflicts with the guarantee of due process of law.

Contemporary studies on the recovery of corruption proceeds in Indonesia generally remain concentrated in two main groups of scholarship. The first group tends to examine asset forfeiture as an additional criminal sanction or merely describes the substantive content of a proposed regulatory draft (Tantimin, 2023). The second group has begun examining the effectiveness of reverse burden-of-proof instruments and comparing institutions with those of countries in the region (Jumantoro et al., 2025; Salwa, 2026). However, these studies have not analyzed the principal issue of dysfunction in the sequential system of domestic regulation and continue to overlook the doctrinal implications of the new codification (Sianipar et al., 2024). The scientific novelty of this study lies in its analysis of the failure of the ordered mechanism for handling corruption proceeds under Law Number 31 of 1999, its critique of legislative omission in Law Number 1 of 2023 and Law Number 20 of 2025, and its proposal of a dual-track asset recovery model as a parallel-simultaneous system that firmly separates personal criminal prosecution from the posthumous forfeiture of corruption proceeds from the earliest procedural stage.

Based on the foregoing background, this study establishes three main objectives that are systematically interrelated. First, this study aims to detect and critically analyze the inconsistency in the new legal codification by identifying legislative omissions in determining the legal status of seized property and by deconstructing the limited reach of additional criminal sanctions, such as forfeiture, after the death of the person subject to criminal proceedings. Second, this study aims to identify and doctrinally evaluate the weakness of the sequential system in corruption eradication regulations that impedes the effectiveness of state financial loss recovery following the death of a corruption suspect. Third, this study aims to reconstruct the dual-track asset recovery model as a parallel-simultaneous system for optimizing the posthumous forfeiture of corruption proceeds and to project its doctrinal implications and institutional challenges within the national legal system. Theoretically, the findings of this study are expected to contribute to reforming criminal procedural law. Practically, this study may serve as policy input for lawmakers in refining asset forfeiture regulations in the future.

METHOD

This study uses normative legal research or doctrinal legal research (Qamar & Rezah, 2020). This methodological choice is based on the nature of the problem examined: doctrinal inconsistency in the form of dual interpretation of the legal status of seized property when criminal proceedings are terminated by operation of law due to the death of a suspect. Through the normative method, this study examines the internal coherence of positive legal norms, applicable legal principles, and relevant legal doctrines. This study limits its scope to the theoretical-doctrinal domain to construct a conceptually accountable framework for addressing systemic weaknesses without requiring empirical field evidence.

The approaches used in this study fall into three types, applied in an integrated manner to comprehensively analyze the problem. The conceptual approach is positioned as the primary approach in the overall research design. The conceptual approach is used to distinguish between the personal criminal liability track and the autonomous determination of proprietary status. Meanwhile, the statute approach serves as a supporting instrument to detect weaknesses, contradictions, and legislative omissions in the new legal codification. Finally, the comparative approach is used selectively to examine doctrinal constructions in other jurisdictions. The comparative analysis is limited to the conceptual level in order to avoid the reception of foreign procedural law without adjustment to the national legal system.

The legal materials used in this study are hierarchically classified into three main groups. Primary legal materials consist of all national laws and regulations that remain valid and binding, particularly Law Number 31 of 1999, Law Number 1 of 2023, and Law Number 20 of 2025. Secondary legal materials consist of scholarly writings with strong doctrinal authority, including influential classical literature from leading legal scholars as a theoretical foundation, as well as reputable journal articles that specifically examine non-conviction-based asset forfeiture and money laundering. Tertiary legal materials include legal dictionaries and encyclopedias to provide semantic clarification of complex legal terms.

The technique for collecting legal materials involves systematic, structured library research. This stage begins by inventorying all relevant written legal materials, both in physical and digital documents. It is then followed by identification and classification to separate legal materials based on their level of authority. The final step is the critical selection of the collected legal materials to ensure substantive relevance and currency of references. By carefully selecting legal materials, this study ensures that only valid, highly credible materials serve as the basis for the argument (Sampara & Husen, 2016).

The technique for analyzing legal materials proceeds gradually from the descriptive-analytical to the prescriptive-evaluative levels (Irwansyah, 2020). At the initial stage, the collected legal materials are systematically and teleologically interpreted to analyze conflicting meanings among provisions of positive law. Systematic interpretation is used to examine the relationship between the provision on termination of prosecution and the provision on the legal status of evidence. Teleological interpretation is used to understand the economic utility objective underlying the safeguarding of state finances. The final stage of analysis applies the technique of conceptual legal construction to synthesize the parallel model as a doctrinal construction that can be legally justified, thereby producing a logical conceptual draft for resolving disputes over asset status fairly.

RESULTS AND DISCUSSION

A. The Paradox of the New Codification: Detecting Legislative Omission and the Limited Reach of Posthumous Execution

The transition of national criminal law following the enactment of the new codification has consequences for the restructuring of the criminal justice system. However, this transition also creates a significant juridical contradiction. The enactment of Law Number 1 of 2023 and Law Number 20 of 2025 is intended to reformulate the structure of colonial legal heritage. Nevertheless, the effort to unify substantive and procedural rules is not followed by regulatory clarity concerning the handling of seized property or assets related to a suspect or defendant who has died. Consequently, an inconsistency arises between the repressive purpose of punishment and the objective of safeguarding the state's financial losses. This inconsistency is reflected in legal uncertainty concerning the status of assets seized at the early stage of legal proceedings.

The extinguishment of the state's right to prosecute a person subject to criminal proceedings is absolute under the principle of personal criminal responsibility. This provision is evident from a normative comparison between Article 77 of Law Number 1 of 1946 and Article 132 section (1) letter b of Law Number 1 of 2023. Both provisions substantively establish that prosecutorial authority is extinguished by operation of law upon a suspect's or defendant's death. Remmelink (2003) emphasizes that criminal responsibility rests on the guilty mind (*mens rea*) of the person charged, so that the loss of the legal subject causes any personal charge (*in personam*) to be unable to proceed. The transfer of this normative construction from the old codification to the new codification without functional adjustment indicates the failure of lawmakers to anticipate the separation between the legal status of the person and the proprietary status of corruption proceeds.

Awareness of the limitations of the old criminal procedural law analysis in handling corruption proceeds after the death of a suspect has been identified in prior research. However, that research still requires refinement under the new legal regime. Suhartono and Panjaitan (2025) laid the initial theoretical foundation for the need for a juridical solution when criminal proceedings are discontinued before the merits are examined due to the death of the person subject to the proceedings. That previous study criticized the inadequacy of law enforcement under Law Number 8 of 1981, but it did not examine the doctrinal implications of the new codification and did not detect the dysfunction of the sequential system. Therefore, this manuscript is positioned as continuing research that serves as a theoretical distinction for refining the weaknesses of prior studies by focusing the analysis on the inconsistency of the transitional regulation currently in force.

The effort of lawmakers to provide a solution for the death of a person subject to criminal proceedings through Article 141 of Law Number 1 of 2023 has operational limitations at the pre-adjudication stage. The essential element limiting the reach of this provision lies in the use of the term convicted person. This term legally requires a court judgment that has obtained final and binding legal force (*inkracht van gewijsde*). Tantimin (2023) argues that a forfeiture approach that relies entirely on a convicted person's guilty status, or conviction-based forfeiture, cannot be applied to assets seized if the suspect dies at the investigation or prosecution stage. Salwa (2026) adds that this weakness requires an object-oriented recovery mechanism to compel proof of the origin of unexplained wealth without depending on criminal proof against the person. This limitation confirms that Article 141 of Law Number 1 of 2023 is not a comprehensive regulation, but rather a posthumous execution rule that is ineffective at the pre-adjudication stage.

In addition to limitations in substantive criminal law, the new criminal procedural law also inherits normative ambiguity, which creates serious procedural inconsistencies at the law enforcement level. This is evident in Article 133 letter c of Law Number 20 of 2025, which requires the return of seized property to the entitled person if the case is closed by operation of law, except where the property was obtained from a criminal offence. In fact, the new codification of criminal procedural law has introduced a normative development by providing stricter judicial scrutiny through the expansion of the object of pretrial proceedings as an institution for reviewing the legality of coercive measures. This review examines the legality of seizures and account blocking, as regulated by Article 158 and Article 159 of Law Number 20 of 2025. However, Herdiana (2026) argues that such judicial scrutiny has functional limitations because it is authorized only to examine procedural legality, not material proof of ownership status. Consequently, when a case is closed by operation of law due to the death of the suspect, judicial scrutiny has no forum for material examination because the hearing on the merits of the case is never opened. This condition causes the exception under Article 133 letter c of Law Number 20 of 2025 to continue creating normative uncertainty without lawful parameters of review.

Limiting judicial scrutiny to formal aspects ultimately encourages arbitrary action by law enforcement officers, thereby undermining the protection of citizens' property rights. Control over assets suspected of constituting corruption proceeds, without a judicial forum authorized to decide on material proprietary status, is often resolved through administrative policy or investigators' unilateral discretion to safeguard state finances. Sianipar et al. (2024) warn that if the securing or forfeiture of state assets is carried out through administrative discretion without a substantive guarantee of due process of law, such action violates constitutional property rights and undermines the presumption of innocence. Asset recovery efforts that sacrifice procedural integrity and eliminate the court's supervisory function will, in turn, weaken the legitimacy of the rule of law.

The emergence of normative ambivalence in the new codification reflects the failure of national legal policy to formulate regulations responsive to the eradication of corruption. The formulation of Law Number 1 of 2023 and Law Number 20 of 2025, which have not adequately addressed the need to protect and forfeit corruption proceeds after the death of a suspect, indicates a tendency among lawmakers to overemphasize formal legal aspects. Pawe et al. (2025) argue that the contradiction between anti-corruption rhetoric and the legal products generated is often shaped by the persistence of the power-state (*machtstaat*) practice that prioritizes pragmatic interests over substantive justice. As a result, the new codification reinforces impunity for corruption proceeds whose owner or controller has died before the criminal process reaches final adjudication.

The failure of substantive and procedural criminal law reform in Indonesia underscores the need to evaluate other existing law enforcement instruments. Legislative omission in the new codification of criminal law and criminal procedural law indicates that the mechanism of personal criminal prosecution is inadequate when confronted with the death of a suspect. This uncertainty underscores the need to examine the regulation of state loss recovery through the civil route under Law Number 31 of 1999. This line of reasoning requires further examination of the effectiveness and doctrinal barriers of the sequential civil claim mechanism regulated under the current special corruption eradication regime.

B. Weaknesses of the Sequential System in the National Corruption Eradication Regulation

The civil claim brought by the State Attorney is an important instrument recognized under national positive law for the recovery of state funds. The existence of this civil instrument reflects a legal awareness that recovery of state losses cannot be based solely on the successful imposition of a personal penalty, such as imprisonment. Civil law provides a more flexible space for liability, particularly when the state's right to prosecute has been extinguished or cannot continue due to procedural impediments. Through the State Attorney's active role, the State may position itself as a lawful creditor to recover proprietary rights unlawfully taken through financial crimes.

The basic characteristics of this civil claim mechanism are established under Article 32, Article 33, and Article 34 of Law Number 31 of 1999, which adopts a sequential or ordered system. Under this normative framework, the civil legal route is positioned as a supporting instrument that can only be activated after the criminal route has been terminated through an order terminating investigation, extinguished by operation of law, or after the defendant has been acquitted by the court. This sequential system is based on the traditional assumption that civil proof must await certainty regarding the legal status of the person subject to criminal proceedings. In its development, however, the requirement to await the completion of formal criminal proceedings reduces the effectiveness of recovering corruption proceeds by disregarding the dynamics of value depreciation and the risk of asset transfer.

The first weakness of the sequential system is the depreciation in the economic value of high-value seized objects while awaiting completion of the formal criminal process. Sandhy and Panjaitan (2026) argue that delaying civil execution to prioritize lengthy criminal proceedings creates substantial budgetary inefficiency. In such circumstances, the operational cost of case handling borne by the state treasury may exceed the value of the assets successfully recovered. Seized objects requiring special maintenance are often poorly managed at the State Confiscated Objects Storage House. Consequently, when the civil route is eventually activated, the economic value of those assets has declined significantly and is no longer sufficient to recover state financial losses fully.

The second weakness of this ordered scheme is the lack of a sufficient time interval for the heirs of the person subject to criminal proceedings to transfer, move, disguise, or launder corruption proceeds before a civil claim is filed in court. Syauket (2025) emphasizes that the absence of immediate civil security measures triggers substantial dissipation or dispersal of assets, so that the State

Attorney often faces civil proceedings without an actual executable object in the field. The long interval between the termination of criminal proceedings and the filing of a civil claim provides a broad opportunity for family members or parties affiliated with the person subject to criminal proceedings to impede asset tracing. Such impediments may arise in domestic banking transactions or in the transfer of funds to foreign jurisdictions.

The third weakness that reduces the effectiveness of sequential civil claims is the heavy burden of proof borne by the State Attorney in proving actual state financial losses from the initial stage of proof in ordinary civil proceedings. This difficulty is reinforced by the doctrinal dilemma of civil inheritance law, which regulates the liability of heirs based on the right of deliberation of heirs (*recht van beraad*) under Article 1023 of the Civil Code. Zyham et al. (2022) explain that tracing assets from the initial stage is highly vulnerable to failure due to limited data access after the principal criminal case has been terminated. This condition becomes more complex because if the heirs choose pure acceptance of inheritance (*zuivere aanvaarding*), the lawful personal property of the heirs may be mixed with the estate and risk being seized, which may injure the sense of justice. Conversely, if the heirs exercise beneficial acceptance of the inheritance (*beneficiaire aanvaarding*) or rejection of the inheritance (*verwerping*), the state cannot pursue further liability, even though the remaining estate has significantly diminished in value. This dilemma places the State Attorney under a heavier burden of proof to establish the element of a material unlawful act committed by the deceased before the civil panel of judges. This burden becomes more complex because the evidentiary instruments used are vulnerable to dispute due to the absence of a special civil procedural law for corruption cases.

These evidentiary barriers require a clear distinguishing boundary between administrative policy errors and corrupt acts based on guilty intent. Sutopo and Panjaitan (2025) formulate that the investigation of state losses must not be conducted without a sufficient legal basis and evidence against every public policy failure or ordinary administrative error. The investigation must be strictly limited to acts proven to contain the element of guilty mind (*mens rea*) to enrich oneself, another person, or a corporation unlawfully. Affirming this distinguishing boundary is essential to prevent the criminalization of administrative discretion exercised in good faith by public officials. This boundary also ensures that civil claims filed by the State Attorney have a proper object of claim and legal basis for the demand, and remain accountable.

The failure to recover state losses becomes more serious when the additional criminal sanction of substitute money is applied to complex corporate banking financial transaction schemes. Latifansyah et al. (2024) identify that obstacles to executing substitute money in the banking sector require an autonomous and flexible civil route, given that conventional criminal sanctions often cannot reach assets disguised through modern investment instruments. The inability of the sequential system leads to the doctrinal conclusion that a normatively more adequate model for preventing waste of the state treasury is a firm separation between personal criminal proceedings and recovery of corruption proceeds from the commencement of investigation. This transitional idea requires a paradigmatic reconstruction toward a parallel-simultaneous system.

C. Paradigmatic Reconstruction of the Parallel-Simultaneous System through the Dual-Track Asset Recovery Model and Its Institutional Implications

The limitations of the sequential system require a firm paradigm shift toward a parallel or concurrent system. The handling of persons subject to criminal proceedings and the safeguarding of state finances must be placed within two independent legal mechanisms that operate simultaneously from the investigation stage. This approach removes the legal status of corruption proceeds from absolute dependence on the personal status of the legal subject, so that the process of recovering state finances no longer depends on the slow, bureaucratic conventional criminal justice process. Through this separation, the determination of asset status will not stop even though the process of personal criminal prosecution is extinguished by operation of law. This construction positions asset recovery as a fair and efficient legal instrument for optimizing the posthumous forfeiture of corruption proceeds while remaining free from procedural impediments attached to the suspect.

The jurisdictional separation between prosecution against the legal subject and a claim against the proprietary object is the main theoretical foundation underlying the dual-track asset recovery model. As a continuation and refinement of the initial conceptual foundation by Suhartono and Panjaitan (2025), this study affirms the need for strict jurisdictional separation in constructing the autonomy of the proprietary examination track. The previous study identified the inadequacy of the old criminal procedural law when criminal proceedings were terminated due to the death of a suspect. Greenberg et al. (2009) emphasize that separating object-based procedures from value-based procedures is an essential prerequisite for effectively implementing non-conviction-based asset forfeiture. This proprietary route operates objectively to establish a direct or indirect connection between the seized assets and the underlying corruption activity, without imposing on the state the obligation to prove the owner's personal guilty mind. This construction positions assets as objects suspected of being connected to a criminal offence, so that their recovery into the state treasury is restorative, correcting economic imbalance rather than punitive action that criminalizes a person.

The failure of conventional criminal procedural law to address the death of a suspect is confirmed in the death of the Former Head of the Denpasar National Land Agency, Tri Nugraha, at the Bali High Public Prosecutor's Office during the detention process (Flora, 2020). The death resulted in the absolute termination of the criminal investigation but left a major dilemma concerning the status of dozens of assets worth billions of rupiah that had been seized by investigators. The Bali High Public Prosecutor's Office, which attempted to safeguard state finances by issuing a determination letter on the status of seized property, instead triggered prolonged civil disputes with the heirs before the court. This case position demonstrates the systemic weakness of Indonesian positive law, which lacks a specialized judicial forum to examine and determine the ownership status of assets after the principal criminal case has been terminated. This situation proves that the termination of criminal proceedings due to the death of the legal subject leaves legal uncertainty that harms both the state and the heirs acting in good faith.

The contradictory judgments in the civil case involving the heirs of Tri Nugraha prove that resolving disputes over asset ownership after the death of a suspect through ordinary civil proceedings has not been able to provide an adequate judicial settlement. The Denpasar District Court, which analogized to a wanted persons list to reject the heirs' claim, erred in applying procedural law. Conversely, the Denpasar High Court, which overturned that judgment and declared that the prosecutor's office had committed an unlawful act, imposed an unilaterally imposed reverse burden of proof on the heirs. Under the parallel system paradigm, this procedural contradiction can be resolved fairly because the determination of Tri Nugraha's assets' unlawful status does not need to await the completion of the principal criminal process or depend on the heirs' claim. The proprietary route operating in parallel from the beginning of the investigation would continue its examination independently to test the origin of those assets. Accordingly, Tri Nugraha's death during the examination process should not terminate the forfeiture process, as the proprietary examination had already been operating in parallel from the outset.

The application of the parallel route requires a shift in the evidentiary standard from the strict criminal standard of proof to a more flexible civil evidentiary standard. Cassella (2019) explains that in the United States, the civil forfeiture system, the state need not prove individual guilt but only show the connection between the assets and the crime under the balance of probabilities standard. This civil evidentiary standard enables judges to order forfeiture when the probability that the assets constitute corruption proceeds exceeds the probability that they were lawfully acquired. However, to ensure that this shift in the evidentiary standard is not used arbitrarily and does not undermine the guarantee of property rights, the trial process must remain conducted under strict judicial scrutiny to enforce due process of law.

Efforts to forfeit assets through civil proceedings without a criminal conviction are often opposed because they are considered to violate citizens' constitutional property rights. Jumantoro et al. (2025) formulate the constitutional justification that individual property rights are not absolute rights without limits, but may be restricted for public order under Article 28J section (2) of the 1945 Constitution. The restriction of property rights over assets suspected to constitute corruption proceeds is constitutionally lawful as long as it is regulated by law and carried out through a fair judicial process. Therefore, parallel asset forfeiture should not be viewed as a human rights violation, but rather as the state's constitutional obligation to uphold distributive justice for all Indonesian people harmed by corruption-related losses.

Progressive parallel forfeiture authority still poses systemic risks, including the abuse of power by law enforcement officers in practice. Chistyakova et al. (2021) provide a critical note based on empirical findings in the United Kingdom that civil forfeiture mechanisms are vulnerable to failing to achieve their primary objective and are more often used to target lower-level economic offenders or subjects easily reached by law enforcement, commonly described as low-hanging fruit. This risk of deviation requires strict nominal thresholds to classify assets that may be processed through the parallel route. This risk also requires strengthening judicial oversight mechanisms to prevent investigators from conducting aggressive seizures without an adequate evidentiary foundation. Law enforcement that prioritizes the quantity of forfeited assets over procedural integrity will undermine the moral legitimacy of the parallel system in public perception.

The complexity of determining asset status in the parallel system is also complicated by the involvement of third parties who passively receive flows of corruption funds and by the role of professional facilitators in disguising the origin of assets. Boong et al. (2023) analyze that the boundary of third-party liability must be strictly based on the examination of good faith and the reasonableness of the transaction. Third parties who passively enjoy assets without a lawful basis must return them, as they are deemed to have obtained unlawful enrichment. However, proof of good faith is often obscured by the role of professional facilitators, known as legal enablers, who draft explanations of asset origins to shield clients from legal liability. Heathershaw and Mayne (2023) demonstrate that these facilitators possess transnational capacity to manipulate asset ownership drafts using complex legal structures. This situation requires law enforcement officers to have equivalent financial investigation competence to uncover asset concealment structures.

The implementation of the parallel system in Indonesia also faces functional weaknesses and institutional fragmentation in the management of seized property. Zainab et al. (2025) argue that the fragmentation of institutional interests and authority among the State Confiscated Objects Storage House, the Public Prosecution Service, the Corruption Eradication Commission, and the Directorate General of State Assets significantly reduces the economic value of evidence before execution can take place. This managerial weakness requires institutional restructuring to integrate all asset management functions into a centralized and professional institution. Anisa and Nelson (2024) offer best practices from the Southeast Asian region, namely the establishment of a specialized independent body, such as Thailand's Anti-Money Laundering Office. This body has proven capable of managing, maintaining, and auctioning seized assets transparently, thereby significantly increasing the value of state financial recovery.

The paradigmatic transition toward a parallel-simultaneous system ultimately requires comprehensive readiness across the three elements of the national legal system. Friedman (1975) argues that the success of legal reform is determined not only by the legal substance of adaptive laws, but also by the readiness of the legal structure, law enforcement officers, and society's legal culture. The legal culture of law enforcement officers must be ready to adapt from the conventional criminal evidentiary approach to the flexibility of civil proof. Meanwhile, society's legal culture must ensure that parallel asset forfeiture continues to uphold the principle of justice. Rawls (1971) formulates lexical ordering as a principle under which the protection of citizens' basic liberties (P1) must not be sacrificed for the economic efficiency of safeguarding state finances (P2), as indicated by the formal relationship P1 > P2. However, this lexical priority relationship is not violated under this model because assets strongly suspected to constitute corruption proceeds are, by their nature, not lawful objects of property rights. Therefore, their forfeiture cannot be categorized as a violation of basic liberties (P1). The parallel determination of asset status remains placed under strict judicial scrutiny to achieve reflective equilibrium, so that legal certainty and distributive justice can be applied simultaneously. Prasetya et al. (2026) add that this hybridization of global policy must continue to respect national legal pluralism in order to be socially acceptable. At the prevention stage, Arsyad et al. (2026) remind that the enforcement of bureaucratic ethics is an essential instrument to accompany this parallel system. Thus, the combination of ethical reform at the prevention stage and firm asset forfeiture at the enforcement and asset recovery stage can restore public trust that has declined due to corruption impunity.

CONCLUSIONS AND SUGGESTIONS

The structure of national positive law after the enactment of the new legal codification leaves a doctrinal inconsistency due to a serious legislative omission in determining the legal status of evidence when personal criminal prosecution is extinguished by operation of law. The transfer of the norm on case closure due to the death of a suspect into Article 132 section (1) letter b of Law Number 1 of 2023, followed by the provision on the return of seized property under Article 133 letter c of Law Number 20 of 2025, has proven unable to resolve legal uncertainty over the status of corruption proceeds. This ambiguity is aggravated by the operational paralysis of Article 141 of Law Number 1 of 2023, which limits the reach of posthumous execution to legal subjects with the status of convicted persons. Consequently, the state faces the absence of an adequate judicial mechanism, as the expansion of the object of pretrial proceedings as an instrument of judicial scrutiny under Law Number 20 of 2025 has only a procedural reach. This instrument also lacks a forum for material examination when criminal prosecution is terminated by operation of law, thereby encouraging unilateral control over assets without a lawful evidentiary forum.

The inability of legal instruments to recover state finances also stems from the inherent weakness of the sequential system set out in Article 32, Article 33, and Article 34 of Law Number 31 of 1999. The characteristics of this ordered system require the State to defer the State Attorney's initiation of civil claims until the formal criminal process has been completed or extinguished by operation of law. This systemic postponement produces three destructive implications, namely the decline in the economic value of evidence due to physical deterioration, the opening of a time interval for heirs to transfer corruption proceeds, and the heavy burden of proving actual state losses from the initial stage in ordinary civil proceedings. This dilemma becomes more complex when confronted with the doctrine of civil inheritance law concerning the choices of heirs in exercising their right of deliberation. The unclear position of heirs' asset ownership risks injuring the principle of distributive justice and facilitating impunity for inherited unlawful wealth.

The paradigmatic reconstruction toward a parallel-simultaneous system through the dual-track asset recovery model may be formulated as an alternative judicial mechanism to overcome the limitations of the sequential system and to optimize the posthumous forfeiture of corruption proceeds. Under this model, the track of personal criminal liability and the track of examining proprietary status are placed within two independent legal mechanisms that operate simultaneously from the investigation stage. This jurisdictional separation ensures that the death of a suspect during the proceedings will not halt the asset forfeiture trial, because objective proof of the assets' unlawful status has been established independently. This model not only effectively resolves procedural uncertainty in court examinations in concrete cases of case closure due to death, but also provides balanced legal protection and enforces due process of law by applying the balance of probabilities standard under strict judicial scrutiny.

To realize the effective applicability of this parallel-simultaneous system, the House of Representatives and the Government need to accelerate the enactment of the Bill on Asset Forfeiture as a comprehensive special regulation for the posthumous forfeiture of corruption proceeds. This enactment must be accompanied by a limited and harmonized amendment to Law Number 31 of 1999 to reform the civil recovery provisions under Article 32, Article 33, and Article 34 of Law Number 31 of 1999 from a sequential mechanism into a parallel-simultaneous mechanism. The reform also requires a limited amendment to Law Number 20 of 2025 by establishing a connecting norm that places the handling of evidence suspected to constitute corruption proceeds within an autonomous civil track that operates concurrently from the investigation stage after a person has been designated as a suspect, without requiring the prior extinguishment of criminal prosecution. Institutionally, the state needs to carry out an integrated restructuring to consolidate asset management functions that have so far been fragmented across various law enforcement institutions and related ministries. The establishment of an independent and professional asset recovery center is essential to prevent depreciation in the economic value of seized assets and to ensure transparent and accountable governance of forfeited property.

The normative and institutional follow-up to this legal reform must begin with the formulation of a joint regulation by the Supreme Court and the Attorney General's Office to establish technical guidelines for handling special civil claims over assets after the death of a suspect, pending enactment of the new law. Law enforcement officers, particularly State Attorneys, need specialized training and certification programs in financial investigation and cross-jurisdictional asset tracing to enhance the effectiveness of proof before the court. As an agenda for further research, scholars should focus on judges' psychological readiness and professionalism in adopting the shift in evidentiary standards from the criminal to the civil domain. Further in-depth studies also need to evaluate the socio-economic impact of the reverse burden of proof mechanism on the guarantee of property rights protection for the families of heirs, so that the implementation of the parallel system remains grounded in the principles of legal justice and constitutional rights protection.

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