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Non-Conviction Based Asset Forfeiture (NCBAF) as an Asset Recovery Instrument in Indonesia: Juridical Analysis and Justice Perspective

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ABSTRACT

The confiscation of assets resulting from criminal acts is an important instrument in supporting the eradication of crime oriented to economic profit. This research focuses on a juridical analysis of the *Non-Conviction Based Asset Forfeiture* (NCBAF) mechanism as an instrument of asset forfeiture without a criminal verdict and its relevance in realizing justice in the Indonesian legal system. The purpose of the study is to analyze the legal basis, implementation mechanism, and potential of NCBAF in supporting the effectiveness of *asset recovery*. This research uses normative legal methods with laws and regulations, conceptual, and case approaches. Data were obtained through literature studies on primary, secondary, and tertiary legal materials, then analyzed qualitatively by descriptive-analytical methods. The results show that NCBAF has a normative foundation in UNCAC, UNTOC, and FATF recommendations, but has not been comprehensively regulated in the Indonesian legal system. The implications of the study confirm the need for special regulations regarding NCBAF to strengthen the effectiveness of *asset recovery* while ensuring legal certainty, protection of property rights, and the principle of *due process of law*.

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1. INTRODUCTION

The development of criminal acts oriented towards economic gain (*Profit-oriented crime*) has brought about significant changes to criminal law enforcement policies in various countries. Crimes such as corruption, money laundering, narcotics trafficking, human trafficking, and various forms of organized crime not only cause losses to the state and society, but also generate large amounts of financial benefits for the perpetrators. In such conditions, law enforcement is no longer enough to only be oriented towards criminalizing the perpetrators, but must also be able to recover assets derived from the proceeds of criminal acts (*Asset Recovery*). This approach is based on the understanding that eliminating the economic benefits derived from crime is one of the most effective ways to reduce crime rates while preventing the recurrence of criminal acts (Banking & Mughozi, 2023).

In Indonesia, the mechanism of asset confiscation in general still uses the *Conviction Based Asset Forfeiture* (CBAF), which is the confiscation of assets carried out after a criminal verdict that has permanent legal force. This mechanism has been accommodated in the Criminal Procedure Code (KUHAP), Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning the Eradication of Corruption, and Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes. However, in law enforcement practice, there are still various obstacles that cause the asset recovery process to not run optimally, especially when the perpetrator dies, flees, his whereabouts are unknown, or the assets resulting from the crime have been transferred to another party so that the criminal process cannot be completed (Corruption et al., 2026).

In response to these problems, the concept of *Non-Conviction Based Asset Forfeiture* (NCBAF), which is a mechanism for asset confiscation without requiring a criminal verdict against the perpetrator. This concept gained recognition in *United Nations Convention against Corruption* (UNCAC) The year 2003 which has been ratified by Indonesia through Law Number 7 of 2006. In addition, *Financial Action Task Force* (FATF) also encourages its member countries to build an effective asset forfeiture system as part of efforts to eradicate corruption, money laundering, and organized crime. The presence of NCBAF shows a paradigm shift from a perpetrator-focused approach to an asset-oriented approach resulting from criminal acts (Based & Law, 2024).

However, the implementation of NCBAF in Indonesia is still a debate. On the one hand, the mechanism is considered to be able to increase effectiveness *Asset Recovery* Because it provides space for the state to confiscate assets that are suspected of coming from criminal acts even though the perpetrators have not or cannot be convicted. On the other hand, the application of NCBAF raises a number of juridical problems, especially those related to the principle of the rule of law, legal certainty, protection of the right to property, the principle of presumption of innocence, and *due process of law*. Therefore, arrangements are needed that are able to maintain a balance between the interests of the state in recovering assets resulting from criminal acts and the protection of the constitutional rights of every citizen (Ncb et al., 2026).

A number of previous studies have generally discussed NCBAF from the perspective of corruption eradication policies, the urgency of establishing the Asset Forfeiture Law, or its effectiveness *Asset Recovery*. However, there are still relatively few studies that specifically examine the mechanism of NCBAF through juridical analysis that places aspects of national legal regulation, principles of the rule of law, evidentiary mechanisms, and the concept of justice as a unit of analysis. This condition shows that there is a research space that still needs to be developed so that it can contribute to the development of the law regarding the mechanism of asset confiscation in Indonesia (Armaijn et al., 2024).

Based on these conditions, the novelty of *(novelty)*This research lies in an analysis that integrates the *Non-Conviction Based Asset Forfeiture* (NCBAF) with the theory of the state of law, the theory of law enforcement, the theory of legal protection, the theory of proof, the theory of the *Asset Recovery*, as well as justice theory to assess the appropriateness of the application of NCBAF in the Indonesian legal system. This study not only examines the legal basis and mechanism for the implementation of NCBAF, but also assesses whether the mechanism is able to realize justice without neglecting legal certainty and the protection of citizens' rights. With this approach, this research is expected to make an academic contribution to the development of legal science as well as a recommendation for the formation of legal policies regarding the mechanism of asset confiscation in Indonesia (Rasji & Harmono, 2025).

Based on this description, this study is focused on two problem formulations, namely: how the juridical analysis of *the Non-Conviction Based Asset Forfeiture* (NCBAF) mechanism in the confiscation of assets resulting from criminal acts, and whether *the Non-Conviction Based Asset Forfeiture* (NCBAF) mechanism in asset forfeiture can provide justice. Through this study, it is hoped that a comprehensive legal argument will be obtained regarding the application of NCBAF as *an asset recovery* instrument that is effective, fair, and in line with the principles of the rule of law in Indonesia.

2. METHODS

This research is a normative legal research that uses a statute *approach*, a conceptual approach, and a case approach. This approach is used to examine in depth the *mechanism of Non-Conviction Based Asset Forfeiture* (NCBAF) in the seizure of assets resulting from criminal acts and its relevance to the principles of justice in the Indonesian legal system. The data collection technique is carried out through literature studies by examining primary legal materials in the form of laws and regulations and international legal instruments, secondary legal materials in the form of books, scientific journals, and previous research results, as well as tertiary legal materials that support the understanding of the research object.

The data obtained were then analyzed using qualitative analysis techniques with descriptive-analytical methods. The analysis was carried out through the process of inventory, classification, and interpretation of relevant legal materials to find legal constructions regarding the application of NCBAF in the Indonesian legal system. Furthermore, conclusions are drawn deductively, namely by describing general legal principles to be applied to specific problems that are the focus of the research, so that comprehensive legal arguments are obtained regarding the effectiveness and fairness of the NCBAF mechanism in supporting *Asset Recovery* (Kadriah & Sumarna, 2024).

3. FINDINGS AND DISCUSSION

Juridical Analysis of the *Non-Conviction Based Asset Forfeiture* (NCBAF) Mechanism in the Forfeiture of Assets Proceeds of Criminal Acts

The development of *profit-oriented crime* has changed the paradigm of criminal law enforcement in various countries. If previously law enforcement focused more on punishing perpetrators, now the orientation is developing towards asset *recovery*. This paradigm shift is based on the idea that the success of crime eradication is not only measured by the number of perpetrators who are convicted, but also by the state's ability to take back assets obtained illegally so that the proceeds of crime can no longer be enjoyed by perpetrators or other parties.

In that context, *Non-Conviction Based Asset Forfeiture* (NCBAF) emerged as one of the legal instruments that developed in international practice. In contrast to the mechanism *Conviction Based Asset Forfeiture* (CBAF), which requires a criminal verdict with permanent legal force before assets can be confiscated, NCBAF allows the state to apply for asset confiscation without first obtaining a criminal verdict against the perpetrator. The main focus of this mechanism is not on proving a person's guilt as a criminal perpetrator, but on proving that the asset that is the object of the case has a relationship with a criminal act (Ncb et al., 2026).

Conceptually, the mechanism is developing because the conventional criminal justice system often faces obstacles in recovering assets from crime. Not a few cases cannot be resolved through criminal proceedings because the suspect died, fled, is unknown, or is outside the jurisdiction of the state. In such conditions, the criminal process becomes impossible to continue, while assets derived from criminal acts remain in the control of the perpetrator or other parties. This situation shows that the mechanism of asset forfeiture that is completely dependent on criminal convictions has not always been able to meet the goal of *asset recovery*.

Analysis of NCBAF Regulations in International Legal Instruments, From the perspective of international law, the existence of NCBAF has gained strong legitimacy through *United Nations Convention against Corruption* (UNCAC) Year 2003. This convention places *Asset Recovery* as one of the fundamental principles in the eradication of corruption. Through the provisions on international cooperation, freezing, confiscation, and return of assets, UNCAC encourages each country to establish a legal mechanism that allows assets resulting from criminal acts to be recovered effectively, including under certain circumstances without waiting for a criminal verdict against the perpetrators (Natasya Klarisa Paruntu & Amad Sudiro, 2025).

In addition to UNCAC, recommendations *Financial Action Task Force* (FATF) also emphasized the importance of asset forfeiture mechanisms as part of efforts to prevent money laundering and terrorism financing. The FATF does not directly require every country to implement the NCBAF, but it does recommend that countries have legal tools that allow for effective asset confiscation when criminal proceedings cannot be carried out. This shows that the main orientation of the FATF is to ensure that the results of criminal acts cannot be enjoyed by the perpetrators (Safita & Siregar, 2026).

Other international instruments, namely *United Nations Convention against Transnational Organized Crime* (UNTOC), also draws attention to the importance of the seizure and confiscation of assets derived from transnational organized crime. This provision strengthens cooperation between countries in tracking, freezing, confiscating, and returning assets outside the jurisdiction of the country of origin (IMMIGRATION, 2023).

Thus, the three international instruments show a common goal, namely to strengthen the effectiveness of *asset recovery*. However, all of these instruments still provide space for each country to regulate its implementation mechanism in accordance with the national legal system adhered to.

From the perspective of international law, the concept of NCBAF gained legitimacy through *United Nations Convention against Corruption* (UNCAC) The year 2003 which placed *Asset Recovery* as one of the fundamental principles in the eradication of corruption. Indonesia has ratified the convention through Law Number 7 of 2006 so that it has a commitment to strengthen the asset recovery system. In addition, recommendations *Financial Action Task Force* (FATF) also encourages countries to have effective asset forfeiture mechanisms, including in certain circumstances without requiring criminal convictions (Based & Law, 2024).

Comparative Analysis of the Implementation *of Non-Conviction Based Asset Forfeiture* (NCBAF) in Several Countries, The development of *the Non-Conviction Based Asset Forfeiture* (NCBAF) mechanism cannot be separated from the practice that has been implemented in various countries as part of *asset recovery* policies. Some countries adopt this mechanism because they recognize that asset forfeiture approaches that rely solely on criminal convictions are often incapable of reaching criminal proceeds that have been moved, disguised or are outside the jurisdiction of the state. Therefore, NCBAF is seen as a legal instrument that is able to strengthen the effectiveness of eradicating economic crime and corruption.

In the United States, the *civil forfeiture* It has long been used as a means to seize assets suspected of coming from criminal acts. The main character of this system is that the object that is the focus of the examination is not the perpetrator of the crime, but the asset itself (*in rem proceeding*). In practice, the government must prove that the asset is related to a criminal act, while the owner of the asset is given the opportunity to prove that the asset was obtained legally. This mechanism shows that asset confiscation is still carried out through the judicial process so that judicial supervision is an important part in ensuring the protection of citizens' rights (Armaijn et al., 2024).

Similar arrangements were also implemented in the UK through *the Proceeds of Crime* Act (POCA) 2002. The law gives the state the authority to conduct *civil recovery* against assets derived from unlawful activities even though there has been no criminal verdict against the perpetrators. However, any act of deprivation must still obtain court approval and be based on adequate evidence. Thus, the effectiveness of asset recovery is balanced by the protection of the right to ownership and the application of the principle of due process of law.

The experience of some of these countries shows that the success of NCBAF is determined not only by the existence of regulations, but also by effective supervisory systems. The court continues to play a central role as an institution that tests the legality of asset confiscation so that the mechanism does not turn into an instrument that opens up space for abuse of authority.

For Indonesia, the practice in various countries provides a lesson that the application of NCBAF must be adjusted to the characteristics of the national legal system. Indonesia adheres to the principle of the rule of law as affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Therefore, any policy regarding asset confiscation must remain based on the principles of legality, legal certainty, protection of human rights, and supervision by judicial institutions. Thus, the implementation of NCBAF cannot be adopted in its entirety, but must be aligned with the Indonesian legal system in order to ensure a balance between the effectiveness of law enforcement and the protection of citizens' rights (Lina et al., 2025).

Analysis of the Conformity of NCBAF with the Indonesian Legal System, When studied based on the Indonesian legal system, the application of NCBAF is basically not contrary to the principle of the rule of law as long as its implementation is carried out based on the law and through a fair judicial mechanism. The 1945 Constitution of the Republic of Indonesia has affirmed that Indonesia is a country of law that upholds legal certainty, equality before the law, and the protection of human rights.

However, Indonesia's positive law has not yet regulated NCBAF comprehensively. The Criminal Procedure Code is still oriented towards criminal proceedings against perpetrators, while asset confiscation in the Law on the Eradication of Corruption and the Law on the Prevention and Eradication of Money Laundering Crimes in general is still associated with criminal convictions. This condition causes the asset confiscation mechanism to not be fully able to answer the various obstacles that arise in practice *Asset Recovery* (Azzahra, 2026).

According to the author, the vacancy of the regulation is one of the main obstacles in the implementation of NCBAF in Indonesia. As a result, law enforcement officials still face limitations when it comes to confiscating assets that actually come from criminal acts, but the criminal process against the perpetrators cannot continue. However, the results of the analysis of Indonesia's positive law show that until now there has not been a single regulation that specifically regulates the mechanism of NCBAF. Regulations regarding asset confiscation are still scattered in various laws and regulations, including the Criminal Code of Criminal Procedure, Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning the Eradication of Corruption, and Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes. This provision basically still uses a *conviction-based asset forfeiture approach*, so the implementation of NCBAF does not yet have a comprehensive legal basis.

From the point of view of the theory of the state of law, any state action that restricts one's rights must be based on clear laws, implemented by an authorized institution, and carried out through accountable procedures. This principle is a consequence of Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which affirms that Indonesia is a state of law. Therefore, the implementation of NCBAF is not enough only based on the need to accelerate asset recovery, but must also be built on regulations that provide certainty regarding the object of confiscation, evidentiary standards, authority of law enforcement officials, examination mechanisms in court, and protection for third parties in good faith.

Furthermore, based on law enforcement theory, the success of the implementation of NCBAF is not only determined by the substance of the law, but also by the structure and culture of the law. Law enforcement officials must have the ability to carry out *Asset Tracing*, asset freezing, confiscation, asset management, and the implementation of court decisions. On the other hand, coordination between institutions such as the Police, the Prosecutor's Office, the Corruption Eradication Commission (KPK), the Financial Transaction Reporting and Analysis Center (PPATK), and the courts are important factors so that the asset forfeiture mechanism can run effectively and does not cause overlap of authority (Rasji & Harmono, 2025).

Another aspect that is no less important is the proof mechanism. In contrast to criminal cases in general which are oriented towards proving the perpetrator's guilt, NCBAF emphasizes proving the relationship between assets and criminal acts. Therefore, a clear standard of proof is needed so that the asset confiscation process still guarantees legal certainty and does not give rise to arbitrary actions. Regulations regarding the burden of proof, the right to file objections, and the defense mechanism for asset owners are an inseparable part of the application of NCBAF in the state of law.

Advantages and Disadvantages of NCBAF Implementation, From the results of the analysis, the application of NCBAF has a number of advantages. First, this mechanism is able to increase the effectiveness of asset recovery from criminal acts because it does not depend entirely on criminal judgments. Second, NCBAF can prevent perpetrators from enjoying the proceeds of crime even though the criminal process is hampered. Third, this mechanism supports international cooperation in tracking and returning assets located abroad.

However, NCBAF also has some weaknesses that need attention. The absence of clear regulations regarding evidentiary standards can lead to legal uncertainty. In addition, there is a risk of violation of the right to property if the confiscation mechanism is carried out without adequate court supervision. The potential abuse of authority is also a challenge that must be anticipated through the establishment of clear regulations and effective oversight mechanisms (Azzahra, 2026).

Based on this description, it can be understood that juridically the *Non-Conviction Based Asset Forfeiture mechanism* has a strong conceptual foundation and is in line with the development of international law in the field of *asset recovery*. However, its implementation in Indonesia still faces obstacles in the form of no comprehensive regulation on implementation procedures, evidentiary standards, protection of property rights, and supervision mechanisms by the courts. Thus, the establishment of regulations that specifically regulate NCBAF is an urgent need so that the mechanism can be implemented effectively without ignoring the principles of the rule of law, legal certainty, and the protection of citizens' rights.

The authors argue that the *Non-Conviction Based Asset Forfeiture* (NCBAF) is a relevant legal instrument to strengthen the system *Asset Recovery* in Indonesia. This is based on the fact that the development of modern crime is increasingly complex and cannot always be solved through conventional criminal mechanisms. However, the implementation of NCBAF should not be interpreted as a form of neglect of citizens' rights. Instead, the mechanism must be built on the principle of the rule of law by providing certainty regarding the confiscation procedure, evidentiary standards, the right to object, protection of third parties in good faith, and supervision by independent courts (Ncb et al., 2026).

Thus, the answer to the formulation of the first problem is that juridically the *Non-Conviction Based Asset Forfeiture* (NCBAF) mechanism has a strong conceptual basis and international legitimacy and has the potential to be applied in the Indonesian legal system. However, the effectiveness of its implementation depends heavily on the establishment of comprehensive regulations, harmonization with national laws and regulations, and guarantees of the principles of the rule of law, legal certainty, and protection of human rights.

Justice Analysis in the Application *of Non-Conviction Based Asset Forfeiture* (NCBAF)

The debate over the implementation *of Non-Conviction Based Asset Forfeiture* (NCBAF) basically centers on one fundamental question, namely whether asset forfeiture without a criminal conviction against the perpetrator can be considered a fair mechanism. This question is important because the law not only aims to realize the effectiveness of law enforcement, but must also ensure the protection of citizens' rights. Therefore, the assessment of NCBAF cannot be carried out only from the perspective of the state's success in recovering assets resulting from criminal acts, but must also consider the principles of justice, legal certainty, utility, and respect for human rights.

In law enforcement practice, conventional asset forfeiture mechanisms often face various obstacles. Not a few criminal cases cannot be solved because the suspect dies, escapes, is permanently ill, or is outside the jurisdiction of Indonesia. This condition causes assets suspected to come from criminal acts to remain in the control of the perpetrator or other parties, while the state loses the opportunity to recover the losses caused. From the point of view of public interest, this situation is clearly contrary to the purpose of law enforcement because the proceeds of crime can still be enjoyed by the perpetrators (Tarigan et al., 2025).

In that context, NCBAF offers a different approach. This mechanism places assets as the main object of examination so that what is assessed by the court is not solely a person's fault, but whether the asset really comes from or is related to a criminal act. Thus, the main purpose of the NCBAF is not to punish someone, but to eliminate the economic benefits obtained through unlawful acts. This approach shows that the orientation of NCBAF is more directed towards *restorative asset recovery* rather than the imposition of criminal sanctions.

If analyzed using Gustav Radbruch's theory of justice, the application of NCBAF must be able to realize a balance between three basic values of law, namely justice (*Right to Vote*), legal certainty (*Rechtssicherheit*), and benefits (*zweckmäßigkeit*). These three values cannot be separated because each complements each other in achieving legal goals. Asset confiscation can indeed provide benefits for the state through the recovery of losses due to criminal acts. However, these benefits should not be achieved at the expense of legal certainty or justice for individuals whose rights are affected by acts of deprivation. Therefore, the existence of clear regulations regarding the NCBAF procedure is the main requirement for the mechanism to meet the three legal values as stated by Radbruch (Paradise, 2025).

In addition, the theory Justice as Fairness presented by John Rawls also provides an important perspective in assessing the fairness of the NCBAF. Rawls argues that justice is measured not only by the final results achieved, but also by the process taken to achieve those results. In the context of NCBAF, due process of law is the main factor that determines whether an asset forfeiture is justified. The asset owner must obtain information about the reason for the seizure, have the opportunity to provide a defense, present evidence, use legal counsel, and obtain a decision from an independent and impartial court. Thus, justice is not only realized through the success of the state in recovering assets from criminal acts, but also through the guarantee that everyone receives the same treatment before the law (Maghfiroh, 2025).

This view is strengthened by the concept of corrective justice put forward by Aristotle. According to Aristotle, corrective justice aims to restore the balance that has been disturbed by an unlawful act. In the context of asset confiscation, justice does not always mean sanctioning the perpetrators, but also restoring the situation to its original state by eliminating the economic benefits obtained illegally. Therefore, if an asset is proven to have originated from a criminal act, then the confiscation of the asset is essentially a form of recovery for losses experienced by the state and society (Problem, 2009).

Nevertheless, the implementation of NCBAF must still pay attention to the principle due process of law. This principle is one of the main pillars of the state of law that requires that every state action be carried out according to the law, through fair, transparent, and accountable procedures. In the Indonesian legal system, this principle is reflected in constitutional guarantees regarding equality before the law, the right to legal protection, and the right to legal certainty as stipulated in the 1945 Constitution of the Republic of Indonesia. Therefore, the NCBAF mechanism should not be applied arbitrarily or only based on conjecture without the support of adequate evidence (Anom, 2025).

The protection of property rights is also an aspect that cannot be ignored. The right to property is part of the constitutional rights of citizens that must be respected by the state. Therefore, not all assets owned by a person can be confiscated just because of an alleged criminal act. The state must be able to prove that there is a real relationship between assets and the criminal act committed. In addition, third parties who acquire assets legally and in good faith must also obtain legal protection so as not to be harmed by the application of NCBAF. Arrangements regarding objection mechanisms, proof, and legal remedies are important instruments to ensure such protection.

Critical Analysis of the Opportunities and Challenges of the Implementation of NCBAF in Indonesia, The Implementation *of Non-Conviction Based Asset Forfeiture* (NCBAF) is basically a consequence of a change in the paradigm of criminal eradication which is no longer only oriented towards punishing the perpetrator (*follow the suspect*), but also on recovering assets from crime (*follow the money*). The paradigm shift is based on the fact that most modern crimes, particularly corruption, money laundering, and transnational crimes, have economic motives. Therefore, the success of law enforcement is not enough to measure the number of perpetrators who are convicted, but also from the state's ability to eliminate the economic benefits obtained from criminal acts.

In the Indonesian context, the opportunity for the implementation of NCBAF is quite large. First, Indonesia has ratified the *United Nations Convention against Corruption* (UNCAC) through Law Number 7 of 2006 which places *Asset Recovery* as a fundamental principle in the eradication of corruption. The ratification shows the state's commitment to building a legal system that supports the return of assets resulting from criminal acts. Second, the increasing complexity of economic crimes requires a legal mechanism that is more adaptive than the asset forfeiture system that is completely dependent on criminal convictions. Various studies have also shown that the *conviction based asset forfeiture* It is often ineffective when the perpetrator dies, flees, or transfers assets to a third party before the court decision acquires permanent legal force (Azzahra, 2026).

Nevertheless, these opportunities were followed by various juridical challenges. The first challenge relates to the lack of specific provisions regarding NCBAF in the national legal system. Currently, the provisions regarding asset confiscation are still scattered in the Criminal Code, the Law on the Eradication of Corruption Crimes, and the Law on the Prevention and Eradication of Money Laundering. These regulations have not formed a complete system regarding procedures, evidentiary standards, protection of third parties in good faith, and judicial supervision mechanisms. This condition has the potential to cause differences in interpretation in law enforcement practices so as to reduce legal certainty (Prasetyo et al., 2025).

The second challenge relates to the protection of human rights, in particular the right to property and the right to due process (*due process of law*). Asset confiscation without a criminal verdict can cause concern if it is not accompanied by an adequate control mechanism. Therefore, the implementation of NCBAF should not be interpreted as granting unlimited authority to law enforcement officials. Instead, any act of forfeiture must be based on sufficient evidence, conducted through an examination in court, and provide an opportunity for the asset owner to file a defense and legal remedy. Recent research also confirms that the constitutionality of the NCBAF is highly dependent on judicial oversight, the application of proportionality principles, and the protection of well-meaning third parties (Iskandar et al., 2026).

The next challenge is institutional readiness. The implementation of NCBAF requires close coordination between the Police, the Prosecutor's Office, the Corruption Eradication Commission (KPK), the Financial Transaction Reporting and Analysis Center (PPATK), the courts, and state booty management agencies. Without effective coordination, the process of tracking, freezing, confiscating, and managing assets has the potential to experience administrative and technical obstacles. Therefore, the formation of new regulations must be followed by strengthening institutional capacity, improving the competence of law enforcement officials, and building an information system that is able to support the process *Asset Tracing* in an integrated manner (Armaijn et al., 2024).

From the perspective of legal protection theory, the establishment of regulations regarding NCBAF must provide a balance between state interests and protection of individual rights. The protection is not only given to the suspect or defendant, but also to third parties who acquire assets legally and in good faith. Thus, the mechanism for objections, lawsuits, and other legal remedies must be clearly regulated so that each party gets an equal opportunity to defend their rights before the court (Fadhila, 2025).

According to the author, the biggest challenge in the implementation of NCBAF does not lie in whether or not the concept is accepted, but in how to build regulations that are able to maintain a balance between the effectiveness of *asset recovery* and the protection of citizens' constitutional rights. Regulations that are too repressive have the potential to violate the principle of the rule of law, while regulations that are too restrictive will actually hinder efforts to eradicate criminal acts that are oriented towards economic gain. Therefore, the establishment of the Asset Forfeiture Law must accommodate the principles of legality, legal certainty, proportionality, *due process of law*, and judicial supervision as the main foundation in the implementation of NCBAF.

Ius Constituendum: The Ideal Concept of NCBAF Regulation in Indonesia, Based on the results of the analysis, the authors argue that the regulation of NCBAF in Indonesia needs to be directed at the establishment of a comprehensive legal system. The regulation must contain at least five main elements. First, affirmation of the definition and scope of NCBAF so as not to cause multiple interpretations in law enforcement practices. Second, the regulation of clear evidentiary standards so that the state remains obliged to prove the existence of a relationship between assets and criminal acts through valid evidence. Third, the obligation to obtain a determination or court decision before assets are declared confiscated by the state as a form of judicial supervision. Fourth, providing legal protection to third parties who acquire assets legally and in good faith through objection mechanisms and other legal remedies. Fifth, regulations regarding the governance of assets that have been confiscated so that they can be used in a transparent, accountable, and beneficial manner for the public interest (Usfunan & Hermanto, 2024).

With this arrangement, NCBAF is not only an effective instrument in accelerating the recovery of assets resulting from criminal acts, but also reflects the character of the state of law that upholds justice, legal certainty, utility, and protection of human rights. In the end, the success of the NCBAF is not only measured by the number of assets that have been seized, but also by the ability of the legal system to maintain a balance between the state's interests in eradicating crime and the protection of the constitutional rights of every citizen.

From a law enforcement perspective, NCBAF has a number of advantages over conventional mechanisms. First, this mechanism is able to speed up the asset recovery process because it does not rely entirely on criminal judgments which often take a long time. Second, NCBAF can prevent perpetrators from enjoying the proceeds of criminal acts even though the criminal process cannot be completed. Third, this mechanism strengthens international cooperation in tracking and returning assets located abroad. However, these advantages must be balanced with strict supervision so as not to cause abuse of authority or violations of human rights (Rasji & Harmono, 2025).

As long as its application is carried out according to the law, under the supervision of an independent court, upholding the principle of *due process of law*, provide protection for the right to legal ownership, and ensure the existence of a defense mechanism for all interested parties. In these conditions, NCBAF is not only an effective instrument in supporting *Asset Recovery*, but also reflects the balance between the state's interest in eradicating crime and the state's obligation to protect the constitutional rights of every citizen (Anom, 2025).

According to the author, justice in the NCBAF mechanism should not be understood only as the success of the state in recovering assets from criminal acts. Justice must also be realized through the protection of individual rights, the implementation of transparent legal procedures, and the existence of equal opportunities for each party to defend their rights before the courts. In other words, the effectiveness of *asset recovery* and the protection of human rights are not two conflicting goals, but two principles that must run in a balanced manner in the rule of law. Based on the overall analysis, it can be concluded that *the Non-Conviction Based Asset Forfeiture* (NCBAF) mechanism can in principle provide justice.

4. CONCLUSION

Based on the results of the research, it can be concluded that the *Non-Conviction Based Asset Forfeiture* (NCBAF) mechanism is a legal instrument that has a strong conceptual foundation and international legitimacy in supporting *asset recovery*, especially through *the United Nations Convention against Corruption* (UNCAC), *the United Nations Convention against Transnational Organized Crime* (UNTOC), and recommendations *Financial Action Task Force* (FATF). Juridically, NCBAF has the potential to be applied in the Indonesian legal system because it is in line with the goal of eradicating criminal acts that are oriented towards economic gain. However, its implementation still faces obstacles in the form of the lack of comprehensive arrangements regarding asset confiscation procedures, evidentiary standards, protection of property rights, and judicial supervision mechanisms. From the perspective of justice, NCBAF can provide justice if it is implemented based on the principles of the rule of law, *due process of law*, legal certainty, and protection of the constitutional rights of citizens and third parties in good faith.

Further research is recommended to examine more deeply the model of NCBAF regulation that best suits the characteristics of the Indonesian legal system through a comparative approach with countries that have implemented it effectively. In addition, empirical research is needed on institutional readiness, capacity of law enforcement officials, and the mechanism for managing confiscated assets to support the effective, accountable, and equitable implementation of NCBAF. Follow-up studies are also important to formulate standards of proof and mechanisms for the protection of human rights that can maintain a balance between the effectiveness of *asset recovery* and the protection of citizens' rights.

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