



Legal Pluralism based on World Policy Hybridization: A Comparison of Malaysian and Iranian Asset Forfeiture



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Abstract

Asset forfeiture has developed into a global policy adopted by various countries as an instrument of corruption eradication. The United States and Australia already have asset forfeiture programs, as do countries in Asia. The direction is to strengthen the state to fight corrupt behaviors. This study analyzes the development of the contemporary criminalization of corruptors through a doctrinal comparative study of asset forfeiture policies in Iran and Malaysia. The results of the study showed that both countries adopted the policies of the United Nations Convention Against Corruption (UNCAC) and the recommendations of the Financial Action Task Force (FATF). Malaysia retains the influence of the British legal system with adjustments to customary law, while Iran implements a more revolutionary model through the practice of expanding sharia-based confiscation. In the Indonesian context, normative and institutional obstacles remain challenges, but implementation opportunities are open through the passage of the Asset Forfeiture Bill. This study recommends that the Bill regulate policies, mechanism models, proof, institutional, execution, and penal-non-penal practices, including the implementation of expanding confiscation. Thus, Indonesia can strengthen its anti-corruption regime through asset forfeiture instruments that are in line with international standards, the practices of other countries, and Indonesia's needs.

Keywords: Asset Forfeiture; Contemporary Criminalization; Corruption; Legal Pluralism

I. Introduction

The protection of state assets is a constitutional mandate in Indonesia, explicitly rooted in Article 33 of the 1945 Constitution, which positions state resources as instruments of public welfare and economic sustainability. However, in practice, state assets particularly those related to foreign exchange reserves and strategic economic sectors are increasingly threatened by organized and transnational crimes, such as corruption, money laundering, and other economic crimes. Indonesia continues to experience significant challenges in recovering state losses due to

weaknesses in its asset forfeiture regime, including procedural dependence on criminal convictions, limited tracing mechanisms, and the absence of comprehensive asset forfeiture laws.¹ The prolonged stagnation of the Asset Forfeiture Bill further exacerbates these problems, leaving asset recovery efforts fragmented and largely ineffective.²

Globally, criminal policy has undergone a paradigm shift from offender-oriented punishment to asset-oriented recovery, commonly referred to as Contemporary Criminalization.³ This shift emphasizes asset forfeiture as a preventive and restorative mechanism aimed not only at recovering state losses but also at severing the financial lifelines of criminal enterprises, preventing recidivism, and restoring unlawfully acquired assets to their rightful owners. International instruments, such as the United Nations Convention against Corruption (UNCAC)⁴, the Financial Action Task Force (FATF) recommendations,⁵ and the institutionalization of Asset Recovery Offices (AROs)⁶ have played a central role in promoting this transformation. These instruments endorse various forfeiture models, including Conviction-Based (CB) confiscation, Non-Conviction-Based (NCB)⁷ confiscation, and Expanding Confiscation (EC), each designed to enhance prevention, detection, investigation⁸ and asset recovery in economic crime cases.⁹

Previous studies have extensively examined asset forfeiture reform in Indonesia, largely through comparisons with other common law jurisdictions. Butt highlights that Indonesia's forfeiture framework remains overly dependent on final criminal convictions, resulting in procedural delays and the dissipation of assets.¹⁰ Schmidt and Hawley, in their comparative study of civil forfeiture regimes in the United States and Australia, demonstrate that NCB confiscation significantly improves recovery rates in corruption and organized crime cases.¹¹ Meanwhile, the asset recovery framework suffers from normative and weak institutional coordination, particularly between criminal justice and financial intelligence institutions.

¹ Daffa Ladro Kusworo and Titi Anggraini, "Extensive Interpretation of State Financial Losses in Tin Sector Corruption: A Comparative Study of Emerging Economies," *Integritas: Jurnal Anti Korupsi* 10, no. 2 (2024): 173–186.

² Abdil Mughis Mudhoffir, "The Limits of Civil Society Activism in Indonesia: The Case of the Weakening of the KPK," *Critical Asian Studies* 55, no. 1 (January 2, 2023): 62–82; Refki Saputra, "Tantangan Penerapan Perampasan Aset Tanpa Tuntutan Pidana (Nonconviction Based Asset Forfeiture) Dalam RUU Perampasan Aset Di Indonesia," *Integritas: Jurnal Anti Korupsi* Vol. 3, no. 1 (2017): 115–130.

³ Ely Aaronson and Gregory Shaffer, "Defining Crimes in a Global Age: Criminalization as a Transnational Legal Process," *Law & Social Inquiry* 46, no. 2 (2021): 455–486.

⁴ Bayu Sujadmiko et al., *Modelling Shared Assets in Indonesia's Forfeiture Bill: International Collaboration and Digital Networks*, *Lex Scientia Law Review*, vol. 9, 2025.

⁵ Zeynab Malakouti Khah and Aref Khalili Paji, "The Legal-Criminal Aspects of Iran's Anti-Money Laundering Law in Light of the FATF Recommendations," *Journal of Money Laundering Control* 27, no. 4 (September 2023): 780–789; Valsamis Mitsilegas and Niovi Vavoula, "The Evolving EU Anti-Money Laundering Regime: Challenges for Fundamental Rights and the Rule of Law," *Maastricht Journal of European and Comparative Law* 23, no. 2 (April 1, 2016): 261–293.

⁶ Georgios Pavlidis, "Transforming Asset Recovery Offices (AROs) to Enhance Their Role in Combating Money Laundering," *Journal of Money Laundering Control* 28, no. 2 (2025): 327–340.

⁷ Yuxiang Huang, *The Civil Forfeiture System from the Perspectives of the United Kingdom, the United States, and Australia: Legal Strategies and Challenges in the Global Fight Against Corruption* (Atlantis Press SARL, 2024); Theodore S. Greenberg et al., *Stolen Asset Recovery: A Good Practices Guide for Non-Conviction Based Asset Forfeiture*, 2009.

⁸ Michaël Fernandez-Bertier, "The Confiscation and Recovery of Criminal Property: A European Union State of the Art," *ERA Forum* 18 (2016): 1–20; Ehi Eric Esoimeme, "Institutionalising the War against Corruption: New Approaches to Assets Tracing and Recovery," *Journal of Financial Crime* 27, no. 1 (January 17, 2020): 217–230.

⁹ Habeeb Abdulrauf Salihu and Amin Jafari, "Corruption and Anti-Corruption Strategies in Iran: An Overview of the Preventive, Detective and Punitive Measures," *Journal of Money Laundering Control* 23, no. 1 (2020): 77–89.

¹⁰ Salwa Zolkafil, Sharifah Nazatul Faiza Syed Mustapha Nazri, and Normah Omar, "Asset Recovery Practices in Combating Money Laundering: Evidence from FATF Mutual Evaluation Report of FATF Member Countries of Asia Pacific Region," *Journal of Money Laundering Control* 26, no. 1 (January 5, 2022): 24–34.

¹¹ Stefan D Cassella, "The Case for Civil Forfeiture: Why in Rem Proceedings Are an Essential Tool for Recovering the Proceeds of Crime," *Journal of Money Laundering Control* 11, no. 1 (January 4, 2008): 8–14.

Although these studies confirm the urgency of reform, they predominantly focus on Western or common law jurisdictions and treat global policy adoption as a largely technical or normative process.

In reality, the adoption of global asset forfeiture instruments in national legal systems is neither linear nor uniform. This process, commonly referred to as policy hybridization, interacts dynamically with domestic legal norms, constitutional principles, cultural values, and ideological foundations, ultimately producing diverse forms of legal pluralism¹² in asset forfeiture practices across jurisdictions. However, the existing literature has not sufficiently explored how such hybridization operates within contrasting legal systems, particularly between Common Law and Sharia-based systems, or how these differences shape the effectiveness and legitimacy of asset forfeiture regimes.

This study offers a novel contribution by conducting a comparative and pluralistic analysis of asset forfeiture policy hybridization in Malaysia and the Islamic Republic of Iran—two jurisdictions that represent sharply contrasting legal traditions and forfeiture models. Malaysia, operating within a Common Law framework enriched by Malay customary law,¹³ has implemented non-conviction-based forfeiture through the Anti-Terrorism Financing and Proceeds of Unlawful Activities (AMLATFPUAA) 2001¹⁴ while maintaining due process safeguards. In contrast, Iran adopts a Sharia-based constitutional system under Article 49 of its Constitution and applies Expanding Confiscation, a model that reverses the burden of proof regarding the lawful origin of assets. Unlike previous studies, this study does not merely compare legal texts or institutional designs but examines how global forfeiture norms are selectively integrated, adapted, and legitimized within distinct legal cultures, thereby producing unique configurations of legal pluralism.¹⁵

The significance of this study lies in its potential contributions, both theoretical and practical. Theoretically, this enriches the discourse on legal pluralism and policy hybridization by demonstrating how global criminal justice instruments are reshaped within divergent legal systems. Practically, the findings provide comparative insights and concrete policy options for strengthening Indonesia's Asset Forfeiture Bill, particularly in designing an adaptive and constitutionally legitimate forfeiture framework that balances asset recovery, due process, and sociolegal legitimacy. This study is expected to serve as a strategic reference for lawmakers, legal scholars, and policy practitioners involved in Indonesia's asset forfeiture reform.

II. Research Problems

Based on the gap analysis above, the scientific novelty of this study is the analysis of policy hybridization across legal systems (Sharia vs. Common Law) and its normative contribution to formulating an adaptive asset forfeiture model in Indonesia. Thus, this study seeks to answer the following questions:

1. How does Iran's asset confiscation legal system compare to Malaysia's?

¹² Brian Z. Tamanaha, "Understanding Legal Pluralism: Past to Present, Local to Global," *Legal Theory and the Social Sciences: Volume II* (2017): 447-483; Keebet von Benda-Beckmann and Bertram Turner, "Legal Pluralism, Social Theory, and the State," *Journal of Legal Pluralism and Unofficial Law* 50, no. 3 (2018): 255-274.

¹³ Fahmi Bin Adilah et al., "A Study of Malaysian Anti-Money Laundering Law and the Impact on Public and Private Sector," *Journal of Money Laundering Control* 26, no. 4 (2023): 831-844.

¹⁴ Zaiton Hamin et al., "The Legal Framework of Asset Forfeiture for Money Laundering in the United Kingdom and Malaysia," *International Journal of Research and Innovation in Social Science* 9, no. 2 (2025): 4404-4414.

¹⁵ Tamanaha, "Understanding Legal Pluralism: Past to Present, Local to Global."

2. What are the potential implications and relevance of integrating the Asset Forfeiture Bill in Indonesia?

III. Research Methods

This study employs normative legal research with a comparative law¹⁶ design to analyse the hybridization of global asset forfeiture policies and the resulting forms of legal pluralism in Malaysia and the Islamic Republic of Iran. Normative legal research is appropriate because the object of analysis consists of legal norms, doctrines, and policy frameworks governing asset forfeiture, rather than empirical law enforcement behaviour.¹⁷ A comparative orientation enables a systematic examination of how similar global policy instruments are adapted differently within contrasting legal systems.¹⁸

This study applies a statutory and a comparative-functional approach. The statutory approach examines the constitutional provisions, statutes, and international instruments that form the normative basis for asset forfeiture in each jurisdiction. Primary legal materials include the Malaysian Federal Constitution, the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (AMLATFPUAA), Article 49 of the Constitution of the Islamic Republic of Iran, and international instruments such as the United Nations Convention against Corruption (UNCAC) and the Financial Action Task Force (FATF) Recommendations.¹⁹ These materials were analyzed to identify how global asset forfeiture norms are formally incorporated into domestic legal frameworks.²⁰

IV. Result and Discussion

A. Legal Pluralism Based on the Hybridization of World Policy: A Comparison of Iran and Malaysia.

1. Directions and Policies

The confiscation of assets in Iran is rooted in the principles of Islamic law (sharia), contained in Article 49 of the Constitution, namely

"The government is responsible for confiscating illegitimate wealth resulting from usury, usurpation, bribery, embezzlement, theft, gamble, misuse of Islamic government endowments, misuse of government contracts and transactions, uncultivated lands and others belonging to the public, houses of ill repute, and other illegitimate sources. The government shall pass on this

¹⁶ Sanne Taekema, "Theoretical and Normative Frameworks for Legal Research : Putting Theory into Practice," *Law and Method* 2 (2018): 1-17; Peter Machmudz Marzuki, "The Essence of Legal Research Is to Resolve Legal Problems," *Yuridika* 37, no. 1 (2022): 37-58.

¹⁷ Sanne Taekema, *Methodologies of Rule of Law Research: Why Legal Philosophy Needs Empirical and Doctrinal Scholarship*, *Law and Philosophy*, vol. 40 (Springer Netherlands, 2021); Rahman Syamsuddin et al., "The Effect of the Covid-19 Pandemic on the Crime of Theft," *International Journal of Criminology and Sociology* 10, no. PAP 2020 (2021): 305-312; Eugen Dimant and Thorben Schulte, "The Nature of Corruption: An Interdisciplinary Perspective," *German Law Journal* 17, no. 1 (2016): 53-72.

¹⁸ Esin Örücü, "Comparative Motley: Offerings from a Comparative Lawyer," *Critical Analysis of Law* 8, no. 2 (2021): 9-26; Hossein Sobhani and Seyyed Mansour Mirsaeidi, "A Comparative Study of Extended Criminal Confiscation from the Perspective of the Financial Action Task Force, EU, UK and Iran," *Comparative Law Review* 14, no. 2 (2023); Huang, *The Civil Forfeiture System from the Perspectives of the United Kingdom, the United States, and Australia: Legal Strategies and Challenges in the Global Fight Against Corruption*.

¹⁹ Cassella, "The Case for Civil Forfeiture: Why in Rem Proceedings Are an Essential Tool for Recovering the Proceeds of Crime."

²⁰ Örücü, "Comparative Motley: Offerings from a Comparative Lawyer"; Hiba Al Abiad and Ayman Masadeh, "Law Comparison as a Research Method in Legal Studies, and Its Importance in Promoting Uniformity in Legal Systems BT - BUiD Doctoral Research Conference 2023," ed. Khalid Al Marri et al. (Cham: Springer Nature Switzerland, 2024), 446-454; O'Brien, Aoife M, and Conor MC. Guckin, *The Systematic Literature Review Method : Trials and Tribulations of Electronic Database Searching at Doctoral Level* (London: SAGE Publications, 2016).

wealth to the rightful owner and in case such an owner is not identified, it must be deposited in the public treasury. This ruling must be carried out by the government after investigation, research, and proof through Islamic law".

Article 49 of the Constitution gives the Government of Iran the responsibility to confiscate "haram" property from "usury, usurpation, bribery, embezzlement, theft, gamble, misuse of Islamic government endowments, misuse of government contracts and transactions, uncultivated lands and others belonging to the public, houses of ill repute, and other illegitimate sources" or something unlawful to be returned to the rightful owner or state treasury.²¹ Shia legal experts in Iran emphasize the need to return assets obtained through financial corruption to their rightful owners or the state treasury. In the Iranian legal system, various laws establish mechanisms for the seizure of illicit assets.²² The Anti-Money Laundering Act (AML, 2008, 2019 amendment), which adopts the reverse burden of proof, reflects the influence of expanding confiscation within the framework of the FATF's recommendations.²³

The actual practice of Article 49 of the Iranian Constitution and the 2019 AML serve as an umbrella for the administrative arrangements of money laundering and referrals when Iran assesses the origin of illicit assets, issues freezing orders, and issues seizure orders for assets suspected of being of criminal origin. The suspect is an asset owner who must prove his wealth if he considers it to be legitimate.²⁴ The Islamic Penal Code (2013) provides criminal (general) deprivation measures against corruption, bribery, embezzlement (articles 590-592 of the IPC 2013), and narcotics trafficking. Likewise, the presence of the Combating Financing of Terrorism Act (2015) further expands the provisions of confiscation to include terrorist financing.²⁵

This constitutional foundation provides religious-moral as well as political legitimacy, so that the confiscation of assets is not only seen as a legal instrument, but also as a moral obligation of the state and its citizens. This illustrates a form of substantive legal pluralism, in which constitutional law, Sharia norms, and global anti-corruption policies coexist and mutually reinforce the legitimacy of asset forfeiture.

Meanwhile, Malaysia is building a legal framework for asset forfeiture through the Anti-Money Laundering, Anti-Terrorism Financing, and Proceeds of Unlawful Activities Act (AMLATFPUAA, 2001). This law combines the principle of conviction-based confiscation (criminal route, criminal forfeiture act.55) with space for non-conviction-based confiscation (civil route, civil forfeiture act.56).²⁶ AMLATFPUAA, 2001 at act.61 also gives the right to bona fide third parties to file claims against assets and prove legal ownership.

Malaysia also provides space for the influence of Malay law (*adat*), which is often considered in court decisions related to the ownership and management of property through Articles 55 and 56 of the 2001 AMLAFTPUAA.²⁷ However, it has limitations due to the existence

²¹ Mansour Rahmdel, "FATF and Money Laundering in Iran," *Journal of Money Laundering Control* 21, no. 3 (2018): 314-327.

²² Nasim Mansouri Tehrani, Yasin Saeedi, and AmirMohammad Sediqian, "Jurisprudential and Legal Analysis of the Legitimacy of Confiscating Assets Derived from Bribery and Its Impact on the Prevention of Financial Corruption," *Legal Studies in Digital Age* 4, no. 1 SE-Articles (2025): 1-10.

²³ Z. Fehrest, "Analysis of Anti-Money Laundry Law in Iran," *International journal that Coverage Human Field Studies* 3, no. 5 (2014): 108-118.

²⁴ Rahmdel, "FATF and Money Laundering in Iran."

²⁵ Salihu and Jafari, "Corruption and Anti-Corruption Strategies in Iran: An Overview of the Preventive, Detective and Punitive Measures."

²⁶ Nurazlina Abdul Raof and Norazlina Abdul Aziz, "Legal Avenue in Malaysia for Recovering Unlawful Money in Business Transactions," *Global Business and Management Research: An International Journal* 16, no. 2s (2024): 1199-1211.

²⁷ Thiyagu Ganesan et al., "Civil Forfeiture Under Anti-Money Laundering Legislation in Malaysia," *IJUM Law Journal* 31, no. S1 (2025): 189-216.

of 3 (three) elements from the High Court as a standard of proof for the judge to give a seizure order (beyond a reasonable doubt).²⁸ The Malaysian Anti-Corruption Commission Act (MACC, 2009) allows the seizure of assets related to corruption.

The Constitution of Malaysia, Article 13 (1) "No person shall be deprived of property save in accordance with law" and (2) "No law shall provide for the compulsory acquisition or use of property without adequate compensation" have limited the seizure of assets that must be under the law. Thus, the Malaysian system shows an effort to integrate modern legal mechanisms with the socio-cultural basis inherent in its society while adapting to the local context of the indigenous peoples.²⁹ Despite the AMLATFPUAA, 2001 is still more limited than the UK legal regime through the Proceeds of Crime Act 2002.³⁰

From the comparison of the two countries, it can be seen that Iran emphasizes the legitimacy of Sharia (sharia-based asset forfeiture) through the judgment that the assets are the result of crimes and haram. Meanwhile, Malaysia prioritizes social legitimacy (a combination of customary and modern laws) by emphasizing legal certainty. These two models represent an effort to hybridize law, which is the adjustment of international law to local and religious laws,³¹ including customary law (legal pluralism).³² These models demonstrate divergent forms of legal pluralism: Iran prioritizes substantive moral legitimacy, whereas Malaysia emphasizes procedural legal legitimacy, reflecting the different outcomes of policy hybridization. In other words, the seizure of assets in Iran and Malaysia is not only a legal technical mechanism but also a reflection of the national legal identity of each country.

2. Model Mechanism & Burden of Proof

a. CBF, NCBF, and EC mechanisms

Iran operates a conviction-based forfeiture (CBF) model as a consequence of confiscation through criminal convictions under the Islamic Penal Code. Meanwhile, non-conviction-based forfeiture (NCBF) after the 2018 AML restructuring has expanded its reach, among others, by strengthening the basis for reversing the burden of proof on the validity of certain assets, confiscation without a verdict due to the death of the suspect, escape, or extraordinary prosecution. An important transformation towards expanding confiscation (EC), which is a combination of criminal, civil, and administrative measures, broadens the realm of target assets.³³ This pattern is influenced by *fiqh jinayah* (haram/halal property), which justifies the seizure of haram/not after judicial proof. However, the moral-religious impulse of Article 49 of the Iranian Constitution gives the courts extensive room to order the confiscation (without compensation) of property whose source is considered illegitimate.³⁴

The anti-money laundering (AML) system in Iran also contains a reverse burden of proof reversal mechanism related to the origin of suspicious assets.³⁵ This reflects a hybrid legal logic in which religious classifications of property interact with global asset recovery doctrines,

²⁸ Raof and Aziz, "Legal Avenue in Malaysia for Recovering Unlawful Money in Business Transactions."

²⁹ Andrew Harding, "Global Doctrine and Local Knowledge: Law in South East Asia," *International and Comparative Law Quarterly* 51, no. 1 (2002): 35–53.

³⁰ Aspaella A. Rahman, "An Analysis of the Forfeiture Regime under the Anti-Money Laundering Law," *Journal of Money Laundering Control* 25, no. 1 (April 2021): 50–62.

³¹ Örtücü, "Comparative Motley: Offerings from a Comparative Lawyer."

³² Benda-Beckmann and Turner, "Legal Pluralism, Social Theory, and the State."

³³ Malakouti Khah and Khalili Paji, "The Legal-Criminal Aspects of Iran's Anti-Money Laundering Law in Light of the FATF Recommendations."

³⁴ M.A Ansaripour, "Iran," *Yearbook of Islamic and Middle Eastern Law Online* 21, no. 2 (2022): 123–138.

³⁵ Rahmdel, "FATF and Money Laundering in Iran"; A. Rahman, "An Analysis of the Forfeiture Regime under the Anti-Money Laundering Law."

producing a distinctive Sharia-based model of expanded confiscation. Foreclosure includes not only assets obtained directly from crime but also assets that are disproportionate to legitimate income. The court can confiscate property owned by relatives or third parties if it is considered a means of hiding illicit wealth. This is in line with the idea of the European Union,³⁶ expanding confiscation (EC).

Malaysia runs two routes: CBF and NCB/civil forfeiture. In the NCB route, the Public Prosecutor can apply for the confiscation of assets to the High Court on the basis of the standard of civil evidence (balance of probabilities), for example, under Article 56 (1) of the AMLA (with the connection of procedural articles such as Article 61). A recent academic study examined the effectiveness and design gaps of NCB Malaysia in the context of financial crime.³⁷ Malaysian jurisprudence confirms this standard in cases of civil forfeiture under the AMLA and/or in relation to alleged violations of the Malaysian Anti-Corruption Commission (MACC Act).

In policy theory, NCBs are seen as crucial for the scenario of escapees, deaths, immunities, or cross-country cases that are difficult to punish, as summarized in the StAR/World Bank Good Practices Guide and the UNODC Asset Recovery Handbook. The Malaysian model combines common law principles with the adaptation of Sharia norms, making it more flexible and effective for cross-border cases.³⁸ The comparison shows that Iran operates a conviction-based forfeiture (CBF) model based on the Islamic Penal Code, non-conviction-based forfeiture (NCBF) according to the 2018 AML restructuring, and expanding confiscation (EC) according to Article 41 of the Iranian Constitution through the Revolutionary Court to determine whether an asset is haram. Meanwhile, Malaysia runs two paths: CBF based on the MACC Act and NCB/civil forfeiture through the High Court based on the balance of probabilities.

b. Burden of Proof

Iran carries out its burden of proof in the CBF through prosecutors in accordance with the Islamic Penal Code, but the 2018 AML reforms introduced conditions for the reversal of the burden of proof to demand an explanation of the origin of suspicious assets (unlawful wealth). Article 49 of the Iranian Constitution allows for an approach that requires the party in possession of the property to show lawful origin (often understood as a form of limited reverse onus in cases of illegitimate property ownership).³⁹ This approach is in line with global trends (i.e., unexplained wealth), but demands strict control of judges so as not to erode legitimate property rights. Its operational details evolve through judicial practice and anti-money laundering (AML)/CFT derivative legislation.⁴⁰ From a legal pluralism perspective, this tension illustrates the trade-off between effectiveness-oriented confiscation and rights-based procedural legitimacy: when a person's assets, especially public officials, are suspected of being obtained illegally, the state initially assumes that the asset is illegal.

The burden of proof then completely shifts to the asset owner to prove the legitimacy and legality of the source of their wealth. Formal mechanisms for asset recovery, such as seizure without criminal conviction or administrative confiscation, recognized in the Merida Convention,

³⁶ Elżbieta Hryniewicz-Lach, "Expanding Confiscation and Its Dimensions in EU Criminal Law," *European Journal of Crime, Criminal Law and Criminal Justice* 31, no. 3-4 (2023): 243-267; Tommaso Trinchera, "Confiscation And Asset Recovery: Better Tools To Fight Bribery And Corruption Crime," *Criminal Law Forum* 31, no. 1 (2020): 49-79.

³⁷ Hamin et al., "The Legal Framework of Asset Forfeiture for Money Laundering in the United Kingdom and Malaysia"; Raof and Aziz, "Legal Avenue in Malaysia for Recovering Unlawful Money in Business Transactions."

³⁸ A. Rahman, "An Analysis of the Forfeiture Regime under the Anti-Money Laundering Law."

³⁹ Malakouti Khah and Khalili Paji, "The Legal-Criminal Aspects of Iran's Anti-Money Laundering Law in Light of the FATF Recommendations"; Rahmdel, "FATF and Money Laundering in Iran."

⁴⁰ Ansari pour, "Iran."

are not recognized in the Iranian legal system.⁴¹ However, Iran has implemented these measures, even though they are not yet recognized.

Malaysia applies the CBF directly through the prosecutor, while for the NCB, the prosecutor must prove to the court to obtain a seizure order. To prove this, the standard used is the civil standard (probability balance), which states that assets are the proceeds/tools of crime.⁴² Meanwhile, the owner or third party has the right to file a claim or objection. Two things are emphasized:

- (i) Clear judicial access (notice, right of reply)
- (ii) The need for consistent evidence so that it does not become a punitive shortcut⁴³. The NCB is considered a viable meeting point between the global demands (FATF) and the liberal legal tradition.

The NCB is considered a viable meeting point between global demands (FATF) and the liberal legal tradition. Although the NCB is a civil (*or quasi in rem*) process separate from criminal proceedings, Malaysia's Common Law system still emphasizes due process. The burden of proof is placed on the investigator or prosecutor to prove that the assets are the result of unlawful activities, but with a lighter standard than in criminal proceedings (beyond a reasonable doubt). The standard used is the balance of probabilities (Habib Jewels Decision, 2018), which requires that the probability of the asset coming from a crime is greater than the other way. The legal burden of proving the actus reus of a crime shifted, but the initial burden of adducing evidence remained on the state, demonstrating efforts to maintain a balance between effectiveness and protecting civil rights.

International standards (FATF Rec. 4 & 38) require states to have swift freeze/confiscation powers, international cooperation, and a framework for the recovery of cross-border assets with judicial safeguards for property rights and third parties.⁴⁴ The FATF's influence has shaped the ever-evolving standards of human rights and supremacy.⁴⁵

3. Institutional and Execution

Institutionally, Iran establishes a foundation that not only speaks of law, but religious obligations based on the *Qur'an*, i.e. what is forbidden or the state of property to be *haram*. The system of "asset confiscation" is centered on the judiciary (*Qove-ye Qaza'ieh*), namely the Revolutionary Court and the General Court (criminal court). The court that issues the verdict, either confiscates, transfers, freezes or hands over assets to the state, especially the Revolutionary Court. The decision was implemented by the Judicial Execution Agency for the CBF model

⁴¹ Seyed Mostafa Kazerooni and Ahmad Momeni Rad, "New Strategies for Asset Recovery from Corruption in International Law: Capacities and Barriers to Implementation in Iran," *Public Law Studies Quarterly* 54, no. 4 (2025): 2269–2290; Seyyed Vahid Kazemi, Mohammad Rouhani Moghadam, and Asal Azimian, "Analysis of General Anti-Corruption Policies and Illicit Asset Recovery Mechanisms," *Journal of Legal Research* 24, no. 62 (2025): 341–370.

⁴² Anusha Aurasu and Aspaella Abdul Rahman, "Forfeiture of Criminal Proceeds under Anti-Money Laundering Laws: A Comparative Analysis between Malaysia and United Kingdom (UK)," *Journal of Money Laundering Control* 21, no. 1 (2018): 104–111; Ganesan et al., "Civil Forfeiture Under Anti-Money Laundering Legislation in Malaysia."

⁴³ Nurazlina Abdul Raof and Aiman Nariman Mohd Sulaiman, "Show Me the Money! Unexplained Wealth and Civil Forfeiture in Malaysia," *IJUM Law Journal* 31, no. 2 (2023): 127–154.

⁴⁴ *Best Practices On Confiscation (Recommendations 4 and 38) and a Framework for Ongoing Work on Asset Recovery*, Financial Action Task Force, 2012.

⁴⁵ Valsamis Mitsilegas and Niovi Vavoula, "The Evolving EU Anti-Money Laundering Regime: Challenges for Fundamental Rights and the Rule of Law," *Maastricht Journal of European and Comparative Law* 23, no. 2 (April 1, 2016): 261–293.

mechanism. As for the other model, there is an administrative entity (state) that implements large scale asset transfers.⁴⁶

The execution institution in the form of the Prosecutor's Office (*Daydar* or *Dadsetan*) investigates crimes and can also request searches, sea of files, and confiscation during the process. All aspects have been regulated within the updated AML framework.⁴⁷ The Police (NAJA/FARAJA) assisted in carrying out the search and seizure orders issued by the courts. They conduct raids, gather inventories, and can temporarily detain physical property based on court orders.

The Islamic Revolutionary Guard Corps (IRGC) can also assist with cases that are highly categorized and difficult to identify and track assets. There are also specialized bodies, such as Setad (Execution of Imam Khomeini's Order) and the Organization for Collection and Sale of State-owned Properties (OCSSOP), that manage confiscations. The challenges are the need for transparency in the governance of confiscated assets and the consistency of due process in the practice of Article 49 of the Iranian Constitution.⁴⁸ Institutionally, this concentration of authority reflects a centralized pluralist model, in which legitimacy derives from constitutional-religious authority rather than procedural checks.

Malaysia has deployed the Royal Malaysia Police (PDRM), Malaysian Anti-Corruption Commission (MACC), and Attorney General's Chambers (AGC) to conduct investigations and apply for freezing, seizure, and forfeiture of assets to the Court under the AMLATFPUAA 2001. The MACC is specialized in corruption cases, collaborating with Customs, Immigration, and Bank Negara Malaysia (in financial cases), PDRM in freezing, and the Insolvency Department/Ministry of Finance for high-value assets.

Assets that are confiscated, frozen, or confiscated are given to Amanah Raya Berhad as the manager of state-owned or state-seized assets. If it is through the CBF method, then through the Court to order the confiscation of the property. Meanwhile, the NCB method (Articles 55-61, especially Article 56 of AMLA 2001) allows the Public Prosecutor to apply for confiscation to the High Court without a decision if the asset is proven to be a tool or proceeds of a crime.⁴⁹

4. Iran and Malaysia Implementation: Case Examples

a. CBF, NCB and EC cases in Iran: Zanjani

Zanjani was arrested (December 30, 2013) on charges of embezzlement of more than \$2.7 billion that he arranged to a network of foreign companies, not the Iranian treasury. Over a 22-month pre-trial process, Zanjani's trial began (October 3, 2015) at Branch 15 of the Revolutionary Court in Tehran. The trial process involved 40 interrogations, 200 court summonses, and hundreds of witnesses. Zanjani was convicted of "spreading corruption on earth" in the category of serious offenses and sentenced to death (March 6, 2016), with repayment of embezzled funds and an additional fine equal to one-quarter of the amount. Zanjani appealed, and the result was the same (June-November 2016).

⁴⁶ Sobhani and Mirsaedi, "A Comparative Study of Extended Criminal Confiscation from the Perspective of the Financial Action Task Force, EU, UK and Iran"; Mansouri Tehrani, Saeedi, and Sediqian, "Jurisprudential and Legal Analysis of the Legitimacy of Confiscating Assets Derived from Bribery and Its Impact on the Prevention of Financial Corruption."

⁴⁷ Malakouti Khah and Khalili Paji, "The Legal-Criminal Aspects of Iran's Anti-Money Laundering Law in Light of the FATF Recommendations."

⁴⁸ Ibid.

⁴⁹ Ganesan et al., "Civil Forfeiture Under Anti-Money Laundering Legislation in Malaysia"; Raof and Aziz, "Legal Avenue in Malaysia for Recovering Unlawful Money in Business Transactions."

Zanjani then committed an act in the form of "cooperating" by finding and returning assets. Consequently, the death penalty was reduced to 20 years in prison by Iran's Supreme Leader (April 30, 2024).⁵⁰ Thus, the process of arresting and returning assets lasts for ten years and four months. This case exemplifies how expanding confiscation operates as an instrument of both punishment and negotiation, reinforcing the moral and political legitimacy of asset recovery within Iran's pluralist legal system.

b. CBF, NCB and EC Cases in Malaysia: The Case of Habib Jewels

On June 25, 2018, Jewels' funds were frozen and confiscated by the MACC. The prosecutor then filed a civil forfeiture application in June 2019 for around RM100,000 with alleged proceeds of illegal activities related to the Najib Razak case. On December 13, 2019, the Kuala Lumpur High Court rejected the seizure, as it considered that the prosecutor had not shown a link between the funds and the alleged illegal activities. On December 16, 2019, the Prosecutor appealed and requested a stay of the order to return the Jewels' assets.

As of April 21, 2020, Jewels' assets have not been returned because the penal process remains ongoing. The final result In September 2021, the Court rejected the Prosecutor's application.⁵¹ The High Court and the Supreme Court of Malaysia rejected the forfeiture because the Prosecutor could not prove, on the balance of probabilities, that the property originated from unlawful activities, and the defendant could thwart the forfeiture by showing a lawful valuable reward received in normal business activities. Malaysian prosecutors failed to establish a connection between the original crimes.

In this case, Malaysia established a high-level special task force involving the MACC PDRM, BNM, and AGC. The task force coordinates asset tracking, evidence collection, and seizures both domestically and through international cooperation. The rejection of forfeiture illustrates Malaysia's commitment to procedural legitimacy, demonstrating how legal pluralism operates through judicial restraint rather than through expansive state power.

Table 1. Comparison of Malaysian and Iranian Asset Forfeiture Systems

Aspects	Malaysia	Iran
	Common Law	Islamic Law (Sharia)
Policy Direction	"No one shall be deprived of his property, except according to law" There is no law that shall regulate the forcible acquisition or use of property rights without adequate compensation."	"It is the responsibility of the state to confiscate "illegal" property originating from (illegal source) and the obligation of the state to return to the rightful owner or state treasury (unknown owner). The rules must be implemented after investigation, research and proof through Islamic law"
	Legitimacy of Due Process of Law	religious-moral legitimacy
Conviction based Forfeiture (CBF)		

⁵⁰ "Iran Commutes a Tycoon's Death Sentence to 20 Years in Prison," <https://apnews.com/>; Hamid Dabashi, "Babak Zanjani and the Collaboration of Iran," www.aljazeera.com/opinions/; "Iran Billionaire Babak Zanjani Sentenced to Death," bbc.com.

⁵¹ Bernama, "Court Dismisses MACC Bid to Forfeit over RM1m from Kedah Umno, Habib Jewels," *Malaysia Kini*; Lim Koon Huan and Siew Ka Yan, "Recent Cases on Civil Forfeiture of Property under Malaysia's Anti-Money Laundering Law," *Skrine Advocates & Solicitors*; Hafiz Yatim, "Home Court of Appeal Dismisses Prosecution's Eight Appeals for Forfeiture Including RM192 Million from Central Umno 1MDB Watch Court of Appeal Dismisses Prosecution's Eight Appeals for Forfeiture Including RM192 Million from Central Umno," *The Edge Malaysia*.

	PDRM/AGC/MACC	Prosecutor's Office (<i>Daydar</i> or <i>Dadsetan</i>) Assisted by the Police (NAJA/FARAJA) for searches and seizures; Islamic Revolutionary Guard Corps (IRGC) for tracking.
Non-Conviction Based Forfeiture (NCBF)		
Model, Institution and Execution	Application for PDRM/AGC/MACC + beyond a reasonable doubt + Civil Forfeiture + District Courts	Prosecutor's Application + Shariah Ruling + reverse burden of proof + Revolutionary Court
Expanding confiscation (EC)		
	Not applied	Applied
Legal Basis	Article 13 of the Constitution of Malaysia Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act (AMLATFPUAA, 2001) Criminal Procedure Code (CPC) Malaysian Anti-Corruption Commission (MACC, 2009)	Prosecutor's Request + Sharia Decree + Revolutionary Court Article 49 of the Iranian Constitution Anti-Money Laundering (2008 and 2019) Combating Financing of Terrorism Act (2015) Islamic Penal Code (2013). Code of Criminal Procedure (2014).

Source: Secondary Legal Materials (processed in 2025)

B. Legal Pluralism and Policy Hybridization in Asset Forfeiture

The comparative findings demonstrate that asset forfeiture in Iran and Malaysia cannot be adequately explained through a single legal or procedural lens. Instead, both jurisdictions illustrate legal pluralism as an operational reality produced through the hybridization of global asset forfeiture policies with domestic legal systems. In this context, legal pluralism does not merely signify the coexistence of multiple legal sources but rather the dynamic interaction between international criminal policy instruments (UNCAC, FATF), constitutional norms, religious values, and socio-legal legitimacy.

In Iran, asset forfeiture is embedded within a normative-religious constitutional framework, where Article 49 of the Constitution transforms confiscation from a procedural criminal sanction into the state's moral and theological obligation. This produces a model of substantive legal pluralism in which Sharia principles (haram/halal property), revolutionary constitutionalism, and global anti-money laundering standards coexist and mutually reinforce each other. The adoption of expanding confiscation and reverse burden of proof mechanisms reflects policy hybridization; however, these mechanisms are legitimized not primarily through due process discourse but through religious-moral authority and constitutional mandate. Consequently, effectiveness in asset recovery is achieved at the cost of heightened risks to procedural safeguards, placing judicial discretion at the center of legitimacy.

In contrast, Malaysia represents a form of procedural-legal pluralism, where global asset forfeiture instruments are selectively internalized within a Common Law framework emphasizing due process, judicial oversight, and property rights. The coexistence of conviction-based and non-conviction-based forfeiture under AMLATFPUAA 2001 reflects a pragmatic hybridization strategy that balances enforcement efficiency with constitutional guarantees under Article 13 of the Federal Constitution. Malay customary norms influence indirectly through judicial reasoning on ownership and good faith rather than through overt constitutionalizing, producing a more restrained but rights-sensitive forfeiture regime.

Theoretically, this comparison confirms that policy hybridization does not produce convergence but rather divergent models of asset forfeiture shaped by national legal identities. Iran and Malaysia illustrate the two ends of the pluralism spectrum: one grounded in substantive moral legitimacy and the other in procedural legitimacy. This finding challenges the assumption often implicit in UNCAC and FATF discourse that asset forfeiture models can be uniformly transplanted across jurisdictions without deep constitutional and cultural recalibrations.

C. Implications for Indonesia's Asset Forfeiture Bill: An Integration

Asset forfeiture is an important method for the United States to generate revenue through criminal investigations and prosecutions. An annual revenue of approximately \$2 billion has been generated, making asset seizure a profitable federal-state venture.⁵² In contrast, Indonesia still faces serious problems in the recovery of criminal assets. Although it has an instrument of confiscation through sectoral laws, the practice has not been able to significantly recover the state's losses.⁵³

The low effectiveness of asset forfeiture in Indonesia can be traced to several factors, such as the absence of non-conviction-based forfeiture means, the complexity of proving the origin of assets, weak coordination between law enforcement agencies, the issue of property rights, the process of proving assets originating from crime, and fairness of the process.⁵⁴ This is where comparisons with Iran and Malaysia become pertinent.

Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution) states that "everyone has the right to fair legal recognition, guarantee, protection, and certainty and equal treatment before the law." Meanwhile, Article 28H paragraph (4) of the 1945 Constitution states that "everyone has the right to have private property rights and such property rights must not be arbitrarily taken over."⁵⁵ Thus, the Indonesian Constitution is similar to the Malaysian Constitution, but not with the Iranian Constitution which gives directly to the State to "take responsibility for illicit property.

Indonesia has regulated asset confiscation through a criminal law mechanism based on Article 18 (a) of Law Number 18 of 1999 concerning the Eradication of Corruption. The civil lawsuit mechanism is based on Articles 32–38 of Law Number 31 of 1999, which was updated through Law Number 20 of 2001 on the Eradication of Corruption.⁵⁶ In addition, there are

⁵² Didwania, "Asset Forfeiture and Inequality."

⁵³ Diky Anandya, Kurnia Ramadhana, and Lalola Easter, *Laporan Tren Penindakan Kasus Korupsi Tahun 2021, Indonesia Corruption Watch* (Jakarta, 2022).

⁵⁴ Refki Saputra, "Tantangan Penerapan Perampasan Aset Tanpa Tuntutan Pidana (Nonconviction Based Asset Forfeiture) Dalam RUU Perampasan Aset Di Indonesia."

⁵⁵ Yunus Husein, "Penjelasan Hukum Tentang Perampasan Aset Tanpa Pemidanaan Dalam Perkara Tindak Pidana Korupsi," *Pusat Studi Hukum dan Kebijakan Indonesia (PSHK)* (2019): 15–19.

⁵⁶ Mariano Adhyka Susetyo, "Perampasan Aset Tindak Pidana Pencucian Uang Hasil Korupsi," *Recidive* 12, no. 1 (2023): 80–90.

regulations in the field of money laundering. This framework is called the Indonesian version of conviction-based forfeiture.

The NCB forfeiture mechanism can be said to be very effective in recovering state losses from the proceeds of corruption crimes because of its easier nature of proof (using civil proof standards) and the faster time to take over/confiscate assets.⁵⁷ In 2022, the National Development Agency released "the results of the alignment of the Asset Forfeiture Bill", which regulated NCB forfeiture in the sense of *im-rem*.⁵⁸ Iran and Malaysia have demonstrated a commitment to asset forfeiture.

On the other hand, Indonesia has never implemented NCB forfeiture, even though Law Number 7 of 2006 (ratification of UNCAC) stipulates the conditions of cause of death, flight, or absence, or in other appropriate cases. In addition, there are regulations that can be used as a reference in carrying out "confiscation" through a request to the Court, such as Law No. 8 of 2010 (Article 67 paragraph (2)), Article 79 paragraph (4), Supreme Court Regulation No. 1 of 2013, and Supreme Court Circular Letter Number 3 of 2013.⁵⁹ Malaysia's regulation opens the space for the prosecutor to plead for "confiscation" to the court based on strong evidence and pay attention to the defendant's condition.

From Malaysia, Indonesia can draw lessons about the flexibility of asset forfeiture mechanisms that accommodate conviction-based and non-conviction-based mechanisms, as well as sensitivity to the common law system, especially in the due process of law. From Iran, Indonesia can learn about the importance of providing a constitutional basis and normative legitimacy for asset confiscation, for example, Article 49 of the Iranian Constitution. However, Iran is better in practice because of the heavy punishment (it can be called progressive, it can also be called authoritarian), the existence of sharia institutions that determine whether an asset is haram or not, the imposition of heavy sanctions on law enforcement officials who abuse their authority (not only against the perpetrators), and the application of expanding confiscation.

Of 1 (one) case in Iran, the imposition of a sentence in the form of the death penalty can be supplemented by "repaying the embezzled funds and an additional fine equal to a quarter of the amount. This is called "revolutionary" because it has implemented non-conviction-based and expanded confiscation laws. Moreover, the defendant later returned the losses, and the sentence was changed to a prison sentence.

For Iran, "asset grabbing" is an economic-political tool, with the imposition of the death penalty, repayment, and additional fines as the extreme point. On the political side, the defendant can be given a reduction in sentence as long as he is able to return the "repay" and "additional fine." This implies that the power of punishment is related to the consciousness of the defendant. The challenge is that the due process of law is questionable because it is influenced by the policies of Sharia institutions and the highest decision of the Iranian state, namely *Rahbar*.

Various Indonesian literature has discussed the penal-non penal mix,⁶⁰ where penal in criminal non-penal is a litigation process, and non-penal is non-litigation that has a close relationship with civil law. Based on the interviews conducted, all agreed that "so far the legal non-penal arrangement has been good enough for handling corruption, but it is still lacking if you want to recover losses" and "increasing the punishment of corrupt perpetrators with asset

⁵⁷ Husein, "Penjelasan Hukum Tentang Perampasan Aset Tanpa Pemidanaan Dalam Perkara Tindak Pidana Korupsi."

⁵⁸ Hasil Penyelarasan Naskah Akademik RUU Tentang Perampasan Aset Terkait Tindak Pidana, 2022.

⁵⁹ Husein, "Penjelasan Hukum Tentang Perampasan Aset Tanpa Pemidanaan Dalam Perkara Tindak Pidana Korupsi."

⁶⁰ Muhammad Djaelani Prasetya, "Analisis Nilai Barang Berbasis Kerugian Ekonomi Terhadap Tindak Pidana Pencurian (Berdasarkan PERMA Ri No. 2 Tahun 2012)," 2019.

confiscation is also important to implement." However, this study was limited to the South Sulawesi region; therefore, further research is needed.

Indonesia needs to establish a law on asset confiscation, with criminal forfeiture, not civil forfeiture⁶¹ and expanding confiscation. Thus, carrying out hybridization efforts can be in the form of penal means through judges' decrees for confiscation, non-penal means through NCBF and ADR by the State for confiscation, and expanding confiscation, as practised by Iran.

When using "alignment results", several spaces can be discussed, including:

- 1) It is best to arrange a joint investigation or a joint team, or a phrase that allows for the exchange of information and coordination between investigators and investigators with others. Because in Indonesia "investigations" are opened for several institutions⁶² and to avoid the occurrence of sectoral egos. Indonesia is similar to Malaysia, but different from Iran where the authority rests with the Prosecutor assisted by the Police and the IRGC based on the level of need and category of cases;
- 2) It is best to arrange Blocking & Confiscation directly (administratively) for 30 days and if extended by the investigator it must go through the Court. During these 30 days, the Owner/Suspect can file a lawsuit (civil forfeiture) or during the blocking/confiscation based on reverse burden of proof;
- 3) It is better to arrange for non-governmental institutions (not just government agencies) to help assess whether the asset is haram or not, so that it can be confiscated. Owing to the availability of Islamic banking in Indonesia;
- 4) it is better to consistently regulate the definition of "asset forfeiture" which has been expanded by its Procedural Law;
- 5) it should be regulated by the Supervisory Judge (can use the conception of the Bankruptcy Procedural Law)⁶³ as a medium for the application of "lawsuits" based on reverse evidence and so that expanding confiscation can be applied;
- 6) It is recommended that a minimum proof scheme be arranged;
- 7) It is better to set limits and protection for third parties, especially related to guarantees/assets or inherent property; and
- 8) It is better to regulate the mechanism of the code of ethics for implementing procedural law, especially judicial supervision.

While the foregoing discussion addresses policy reform, the findings of this study also have broader theoretical implications. Beyond its policy implications, this study contributes to legal scholarship in three ways. First, it advances the theory of legal pluralism by demonstrating that asset forfeiture regimes are not merely technical legal instruments but products of normative interaction between international norms, constitutional values, and socio-religious legitimacy. Second, by comparing Malaysia's procedural-oriented NCB model and Iran's substantively legitimized expanding confiscation model, this study introduces a comparative hybridization framework that has not been sufficiently explored in prior studies on Indonesia's asset forfeiture reform. Third, this study provides a conceptual bridge between global anti-corruption

⁶¹ Ayuningsih and Nelson, "Perampasan Aset Tanpa Pidana: Suatu Perbandingan Indonesia Dan Australia."

⁶² Muhammad Djaelani Prasetya, "Inkonstitusional Penyidikan Tunggal: Transformasi Menuju Sistem Multiparty Penyidikan," *Hukumonline.Com*.

⁶³ Prasetya, "Analisis Nilai Barang Berbasis Kerugian Ekonomi Terhadap Tindak Pidana Pencurian (Berdasarkan PERMA Ri No. 2 Tahun 2012)."

instruments (UNCAC and FATF) and national constitutional design, offering a context-sensitive model of policy hybridization that is suitable for plural legal systems.

Thus, the integration of Malaysia's national law, Iran's national law, the UNCAC, and the FATF's recommendations can provide lessons to Indonesia with its legal pluralism by designing a socio-religious asset forfeiture mechanism. Both models show that international law does not have to be adopted in its entirety but can be adapted to local contexts. Indonesia can take advantage of the UNCAC principles and FATF recommendations, but it needs to be hybridized in accordance with the values and needs of Indonesian national law. This is in line with the view that the importance of legal texts should not be separated from social and institutional realities.⁶⁴ This hybridization model has the potential to strengthen Indonesia's national policy while increasing public trust in law enforcement by paying attention to evidentiary standards, third-party protection (on collateral/asset), and strict judicial supervision.

V. Conclusion

The World Policy on Asset Forfeiture (UNCAC and FATF) has triggered a process of policy hybridization (including Malaysia and Iran), but this adoption interacts with national legal traditions, thus creating contrasting Legal Pluralism. Malaysia (Common Law System) with a Non-Conviction Based (NCB) model dominated by the principles of Legal Certainty and due process of law (balance of probabilities), in accordance with Common Law values, limiting the effectiveness of asset recovery (Habib Jewels Case). Non-convictionstem with the Expanding Confiscation (EC) model, which is dominated by the constitutional mandate and Sharia principles (*maal haram*). This allows for a radical reversal of the burden of proof, thus prioritizing Asset Recovery over formal procedures (Zanjani Round Case). This contrast confirms that the Legal Pluralism resulting from the hybridization of world policies is related to the values of the country's local and national legal systems. Therefore, Indonesia can integrate the Hybridization Model to overcome the weaknesses of the criminal forfeiture approach by strengthening a non-conviction-based mechanism based on evidence that balances probabilities, which pays attention to the existence of third parties. The expanding confiscation mechanism can be applied if Indonesia has a commitment to the constitution, trust between institutions (no ego-sectoral), and strict judicial supervision to mitigate abuse of authority.

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⁶⁴ Reza Banakar and Max Travers, *Theory and Method in Socio-Legal Research* (Bloomsbury Publishing, 2005).

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