

Asset Recovery in Corruption Cases: A Comparative Study of Indonesia and the United States

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ABSTRACT

This study examines asset recovery in corruption cases in Indonesia, analyzes the application of Deferred Prosecution Agreements (DPAs) in the United States, and compares the legal approaches adopted by both countries. It employs normative legal research using statutory, conceptual, and comparative approaches. Data are collected through document analysis of primary, secondary, and tertiary legal materials and analyzed qualitatively using deductive reasoning. The findings indicate that asset recovery in Indonesia remains suboptimal because law enforcement tends to prioritize criminal punishment over the recovery of state losses. Limited asset-tracing capacity, weaknesses in law enforcement integrity, and institutional challenges further constrain recovery efforts. In the United States, asset forfeiture mechanisms operate alongside DPAs, which allow prosecution to be deferred subject to specified obligations, including financial penalties, asset forfeiture, cooperation, and corporate compliance reforms. However, DPAs do not automatically guarantee asset recovery and may raise concerns about unequal treatment and corporate accountability. The comparison highlights the importance of integrating asset recovery measures with effective corporate prosecution mechanisms. In Indonesia, the statutory framework for DPAs under Article 328 of Law No. 20 of 2025 on Criminal Procedure provides an opportunity to strengthen corporate accountability and recovery outcomes. Its effectiveness, however, depends on judicial oversight, transparent conditions, proportionate sanctions, and enforceable recovery obligations. This study contributes to the comparative analysis of asset recovery and corporate criminal justice reform.

Keywords: Asset Recovery, Corruption, Deferred Prosecution Agreements (DPA), Corporate Criminal Liability, Law Enforcement.

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1. INTRODUCTION

Corruption is a serious crime that undermines public finances, weakens institutional accountability, distorts economic activity, and obstructs sustainable development. Its consequences extend beyond the immediate financial losses suffered by the state, as illicit payments and the diversion of public resources can impair the provision of public services and reduce the resources available for social and economic development. The recovery of assets derived from corruption is therefore an essential component of anti-corruption enforcement. Unlike criminal punishment, which primarily addresses the culpability of offenders, asset recovery seeks to deprive offenders of illicit gains and restore resources to their legitimate owners. Nevertheless, the identification, tracing, freezing, confiscation, and repatriation of criminal assets remain complex processes, particularly when assets are concealed through financial transactions, transferred to third parties, or moved across national borders (UNODC, 2025).

In Indonesia, the legal framework for combating corruption includes Law Number 31 of 1999 concerning the Eradication of Corruption, as amended by Law Number 20 of 2001. Articles 2 and 3 address, respectively, unlawful enrichment that may cause losses to state finances or the state economy and the abuse of authority, opportunity, or facilities associated with a person's position for specified unlawful purposes. These provisions establish an important foundation for holding individuals and corporations accountable for corruption. However,

the effectiveness of anti-corruption enforcement cannot be assessed solely by the number of convictions or the severity of criminal sanctions. It must also be examined in terms of whether assets obtained through corruption can be identified, secured, confiscated in accordance with applicable law, and returned to the state. The distinction is particularly important because criminal proceedings and asset recovery involve related but different evidentiary, procedural, and institutional challenges.

The difficulties associated with asset recovery have prompted international efforts to strengthen legal mechanisms for tracing, confiscating, and returning proceeds of crime. Chapter V of the United Nations Convention against Corruption (UNCAC) establishes an international framework for asset recovery and cooperation between states. Nevertheless, the implementation of these measures requires effective domestic institutions, cross-border cooperation, and procedures capable of preventing the concealment or dissipation of illicit assets. A recent UNODC assessment of UNCAC Chapter V implementation in ASEAN countries highlights the complexity of asset recovery and the continuing gap between the proceeds of corruption and the assets actually recovered and returned (UNODC, 2025). In Indonesia, related scholarship has examined the potential of non-conviction-based asset forfeiture (NCBAF) as a means of recovering assets when conventional conviction-based mechanisms encounter legal or practical obstacles (Tantimin, 2023; Rozah & Nashriana, 2023). These studies demonstrate the importance of examining asset recovery as a distinct dimension of anti-corruption enforcement rather than treating it merely as a consequence of criminal punishment.

One mechanism that has attracted attention in the resolution of corporate crime is the Deferred Prosecution Agreement (DPA). A DPA generally allows prosecution to be deferred subject to specified conditions, which may include financial payments, cooperation with investigators, improvements to corporate compliance, and other remedial obligations. In the United States, DPAs and non-prosecution agreements form part of the available approaches to resolving corporate criminal matters without necessarily obtaining a corporate conviction. The United States Department of Justice recognizes that these arrangements may be appropriate in certain circumstances, including where a corporate conviction could produce substantial collateral consequences for innocent third parties, while maintaining conditions intended to promote compliance and accountability (U.S. Department of Justice, 2023). In England and Wales, the statutory framework for DPAs is established under the Crime and Courts Act 2013, Schedule 17, which provides for judicial approval and consequences in the event of breach. These differences demonstrate that DPA arrangements cannot be treated as a uniform mechanism detached from the institutional and procedural characteristics of the jurisdiction in which they operate.

Recent research has also identified tensions in the use of DPAs. Parker & Dodge (2023) examine DPAs in relation to the adjudication of corporate crime, while Fragale & Grilli (2024) question whether negotiated resolutions may allow companies to avoid the consequences associated with conventional criminal proceedings. De Franco et al. (2025) further examine the circumstances in which deferred and non-prosecution agreements are used and the relationship between resolution mechanisms and subsequent corporate violations. Taken together, these studies indicate that the assessment of DPAs requires more than a consideration of procedural efficiency. Relevant issues include the proportionality of financial sanctions, the effectiveness of compliance obligations, the accountability of responsible individuals, the protection of third parties, and the adequacy of judicial and prosecutorial oversight. Consequently, the possible contribution of a DPA to asset recovery should be examined as a conditional legal outcome rather than assumed to follow automatically from the use of an agreement.

The relationship between DPA arrangements and asset recovery is particularly relevant when corruption involves corporations whose activities are connected to public procurement, infrastructure projects, or the management of public resources. Conventional prosecution may involve lengthy investigations and proceedings, while the continued operation of a corporation may also affect employees, creditors, shareholders, and other parties who did not participate in the alleged misconduct. A negotiated resolution may provide an opportunity to impose financial obligations, require cooperation in identifying assets, and strengthen corporate compliance. However, the payment of a fine does not necessarily equal the restitution of state losses, and the continued operation of a corporation does not itself demonstrate that justice has been achieved. Any proposed mechanism must therefore distinguish among the confiscation of proceeds of crime, restitution or compensation for state losses, disgorgement of illicit profits, and criminal or administrative fines. It must also preserve the possibility of prosecuting responsible individuals and provide safeguards against agreements that inadequately reflect the gravity of the conduct.

In Indonesia, the potential relevance of a DPA must be examined in light of the existing framework for corporate criminal liability, prosecutorial authority, criminal procedure, and asset recovery. Research on DPA implementation in Indonesian corporate corruption cases has discussed its possible role as an alternative approach to resolving corporate wrongdoing and recovering losses (Taniady et al., 2023). Nevertheless, the adoption of a foreign legal mechanism requires more than transferring its formal rules into domestic legislation. Differences in institutional authority, procedural guarantees, judicial supervision, and the legal consequences of negotiated agreements must be considered. Moreover, the possibility of negotiating financial obligations with a corporation raises questions about transparency, equal treatment, proportionality, and the risk that an agreement could be used to reduce accountability without ensuring meaningful recovery of illicit assets. Accordingly, the relevance of a DPA to Indonesia depends on the legal conditions under which it could operate and the safeguards necessary to protect public interests.

Although previous studies have addressed asset forfeiture, the implementation of DPAs in corporate crime, and the risks associated with negotiated criminal resolutions, these discussions do not by themselves establish whether the DPA framework can provide an appropriate legal instrument for strengthening corruption-related asset recovery in Indonesia. The analytical gap lies in the relationship between the objectives of asset recovery and the institutional conditions governing negotiated corporate prosecution. In particular, it is necessary to distinguish the financial obligations that may be imposed through a DPA from the separate legal mechanisms required to trace, freeze, confiscate, and return criminal assets. A comparative analysis of Indonesia and the United States can clarify the extent to which the American experience offers relevant institutional lessons, while also identifying the legal limitations that prevent its mechanisms from being transferred directly into the Indonesian system.

Against this background, this study examines asset recovery in corruption cases in Indonesia, analyzes the role and operation of DPAs in the United States, and compares the legal and institutional conditions relevant to the possible use of DPA arrangements in Indonesia. The study focuses on three questions: first, how the Indonesian legal framework regulates the recovery of assets derived from corruption; second, how DPA arrangements in the United States may incorporate financial and remedial obligations in corporate criminal cases; and third, what legal safeguards and institutional adjustments would be necessary if a comparable mechanism were considered in Indonesia. The study's contribution lies in connecting comparative DPA analysis with the specific objectives of asset recovery, while distinguishing asset confiscation and restitution from fines and other negotiated obligations. Through this approach, the study seeks to develop a legally grounded assessment of the opportunities, limitations, and safeguards relevant to the use of DPA arrangements in corporate corruption cases within Indonesia's legal system.

2. RESEARCH METHODS

This study employs normative legal research, also referred to as doctrinal legal research, to examine the legal framework governing the recovery of assets derived from corruption in Indonesia and the United States. This method is appropriate because the research focuses on the interpretation, systematisation, and comparison of legal norms, statutory provisions, legal principles, and doctrines relevant to asset recovery. Normative legal research requires a clearly defined legal problem and a systematic examination of authoritative legal materials to develop reasoned legal arguments (Negara, 2023; Wulandari et al., 2026).

The study applies three complementary approaches: the statutory approach, the conceptual approach, and the comparative approach. The statutory approach examines the relevant legislation and regulatory provisions governing corruption offences, asset seizure, confiscation, and the recovery of criminal proceeds. The conceptual approach analyses legal concepts and principles, including asset recovery, criminal confiscation, civil forfeiture, and the protection of third-party property rights. The comparative approach identifies similarities and differences between the Indonesian and United States legal frameworks, taking into account their respective legal structures and institutional contexts. This comparison is intended to identify relevant legal differences and potential lessons for the development of asset recovery mechanisms in Indonesia, rather than to assume that legal rules can be transferred directly between jurisdictions (Negara, 2023; Lukito, 2022).

The legal materials consist of primary, secondary, and tertiary legal materials. Primary legal materials for Indonesia include the 1945 Constitution of the Republic of Indonesia, Law Number 31 of 1999 concerning

the Eradication of Corruption Crimes, as amended by Law Number 20 of 2001, and other relevant legislation governing corruption, money laundering, criminal procedure, and asset confiscation. For the United States, the analysis focuses on relevant provisions of the Foreign Corrupt Practices Act of 1977 and federal forfeiture legislation, particularly Sections 981–983 of Title 18 of the United States Code, together with other applicable legal instruments. The United Nations Convention against Corruption (UNCAC) 2003 is also examined as an international legal framework for asset recovery and international cooperation. The selection of these materials is guided by their relevance to the research questions and the legal mechanisms under comparison.

Secondary legal materials comprise peer-reviewed journal articles, academic books, scholarly commentaries, and expert opinions concerning corruption, comparative law, asset recovery, and the confiscation of criminal proceeds. Recent studies on non-conviction-based asset forfeiture and the recovery of corruption proceeds are used to contextualise the legal analysis (Tantimin, 2023; Rozah & Nashriana, 2023). The study also draws on the United Nations Office on Drugs and Crime's 2025 report on the implementation of Chapter V of UNCAC in ASEAN States Parties, which discusses legal, institutional, and operational challenges in asset recovery and international cooperation (UNODC, 2025). Tertiary legal materials, including legal dictionaries and other reference works, are used where necessary to clarify legal terminology and concepts.

Legal materials are collected through document and literature studies. The collection process involves identifying relevant legislation, international instruments, judicial decisions where applicable, official legal documents, and scholarly publications. The materials are then inventoried, classified according to their legal authority and subject matter, and organised systematically in accordance with the research questions. In the comparative stage, the materials are examined using common analytical categories, including the legal basis for asset recovery, the procedures for seizure and confiscation, the treatment of proceeds of corruption, safeguards for property owners and third parties, and mechanisms for international cooperation.

The collected legal materials are analysed qualitatively through legal interpretation, systematic analysis, and comparative legal reasoning. The analysis first establishes the applicable legal framework in each jurisdiction and then compares the relevant rules, principles, and procedures to identify similarities, differences, and potential normative gaps. Particular attention is given to the legal basis, scope, and procedural safeguards of asset recovery mechanisms. The conclusions are drawn deductively, moving from general legal principles and applicable legal norms to specific findings concerning the recovery of corruption-related assets in Indonesia and the United States.

3. RESULTS AND DISCUSSION

3.1. Asset Recovery Efforts in Indonesia

Corruption has significant political, economic, and institutional consequences. It can undermine public confidence in government, distort the allocation of public resources, and impede economic development. Accordingly, the eradication of corruption should not be measured solely by the punishment imposed on offenders but also by the effectiveness of recovering assets derived from corrupt activities. Asset recovery is an important component of anti-corruption enforcement because it seeks to prevent offenders from retaining the economic benefits of their crimes and to restore assets or financial value to the state or other legally entitled parties.

In Indonesia, the legal framework for asset recovery is established through several interrelated legal instruments, including legislation on corruption, money laundering, criminal procedure, and the confiscation of criminal proceeds. Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, as amended by Law Number 20 of 2001, provides the principal statutory framework for prosecuting corruption offences and imposing relevant criminal sanctions. The Criminal Code, established by Law Number 1 of 2023, also regulates additional penalties, including the confiscation of certain property under Articles 66, 91, and 92. These provisions provide a legal basis for confiscating property connected with criminal conduct, property obtained from an offence, and economic benefits derived directly or indirectly from criminal activity. Their application must remain consistent with the applicable statutory requirements and procedural safeguards.

Asset recovery also depends on procedural mechanisms that enable law enforcement authorities to identify, trace, secure, and confiscate assets. Seizure and confiscation serve different legal functions. Seizure generally secures property during an investigation or proceeding, whereas confiscation concerns the legal transfer of property to the state or another legally entitled recipient under the applicable legal process. The initial seizure

of property does not, by itself, establish that the property may ultimately be confiscated. The legal connection between the property and the alleged offence must be established in accordance with the applicable evidentiary and procedural rules.

The legal framework governing money laundering is also relevant to asset recovery. Corruption proceeds may be transferred through financial transactions, converted into other forms of property, or concealed through intermediaries and corporate structures. Mechanisms for tracing financial transactions, freezing assets, and confiscating property may therefore complement the prosecution of the underlying corruption offence. Indonesia's participation in the United Nations Convention against Corruption (UNCAC) 2003 further provides an international framework for cooperation in identifying, freezing, confiscating, and returning proceeds of corruption, including assets located in foreign jurisdictions. Article 51 of UNCAC recognises asset recovery as a fundamental principle of the Convention, while Articles 53–57 address measures relating to recovery and return of assets (UN, 2003).

Two principal approaches are commonly discussed in the literature on asset forfeiture: conviction-based asset forfeiture (CBAF) and non-conviction-based asset forfeiture (NCBAF). Under CBAF, confiscation is connected to criminal proceedings and the applicable legal requirements for establishing criminal liability. NCBAF, by contrast, allows confiscation proceedings to be pursued without a prior criminal conviction where the relevant legal framework expressly authorises that procedure. These approaches differ in their legal basis, procedural requirements, evidentiary standards, and safeguards for persons claiming an interest in the property. They should not be treated as interchangeable mechanisms because each operates within a distinct legal framework (Tantimin, 2023; Rozah & Nashriana, 2023).

In a conviction-based process, asset recovery may involve identifying and tracing assets, securing property through legally authorised measures, establishing the relevant connection between the assets and the offence, obtaining a confiscation order, and executing that order. The execution stage may involve the management, transfer, or sale of confiscated property in accordance with the applicable rules. The proceeds are then handled according to the relevant legal provisions. Effective recovery therefore depends not only on the availability of confiscation orders but also on the ability of authorities to locate assets, preserve their value, establish their criminal origin, and execute court decisions.

NCBAF may provide an additional mechanism for addressing assets suspected of being derived from unlawful activities when the conditions established by law are satisfied. The process generally focuses on identifying and tracing property, initiating the legally prescribed proceedings, establishing the relevant basis for confiscation, and implementing the resulting order. Nevertheless, non-conviction-based procedures require appropriate safeguards, including notice, access to an effective remedy, protection of bona fide third-party interests, and a fair opportunity to contest the proposed confiscation. These safeguards are particularly important where property ownership is disputed or the property is held by parties other than the alleged offender (Rozah & Nashriana, 2023; UN, 2003).

Despite the existence of several legal instruments, the effectiveness of asset recovery depends on more than the formal availability of statutory powers. Practical difficulties may arise from fragmented asset information, transfers of property between jurisdictions, complex ownership structures, delays in tracing and securing assets, and difficulties in executing confiscation orders. Institutional coordination, professional capacity, transparency, and accountability are therefore important to the implementation of the existing legal framework. It would be premature to attribute shortcomings in asset recovery exclusively to a lack of legislation without examining how the relevant rules are implemented in practice.

Accordingly, the central issue in Indonesia is how existing legal mechanisms can be implemented coherently to ensure that assets derived from corruption are identified, secured, confiscated, and returned through lawful procedures. This issue provides the basis for examining whether a Deferred Prosecution Agreement (DPA), subject to the applicable Indonesian law, can complement existing asset recovery instruments in corporate corruption cases. Any such assessment must consider not only the possibility of obtaining financial payments but also the legal basis for those payments, the accountability of the corporation and responsible individuals, and the protection of third parties.

3.2. Asset Forfeiture and Deferred Prosecution Agreements in the United States

The United States employs several legal mechanisms for confiscating assets associated with criminal activity. Federal law distinguishes between criminal forfeiture, civil judicial forfeiture, and administrative forfeiture, each of which operates under its own statutory requirements and procedures. Relevant federal provisions include Sections 981–983 of Title 18 of the United States Code concerning civil forfeiture and its procedural rules, as well as Section 982 concerning criminal forfeiture. The availability of a particular mechanism depends on the nature of the alleged offence, the property involved, and the applicable statutory authority. These mechanisms should not be understood as a single procedure because their legal foundations, procedural requirements, and available remedies differ ([United States Code, 2024](#)).

Criminal forfeiture is generally connected to a criminal prosecution and a conviction where the applicable statute requires one. Civil judicial forfeiture proceeds against property through a judicial process under the relevant civil forfeiture provisions. Administrative forfeiture may be available for property eligible for that procedure when the statutory requirements are satisfied. The distinction among these mechanisms is important because the procedure used affects the government's authority to confiscate property and the opportunities available to persons claiming a legitimate interest in it. Federal civil forfeiture law, for example, includes procedural requirements and protections for innocent owners.

Alongside these forfeiture mechanisms, the United States uses deferred prosecution agreements to resolve certain corporate criminal matters. A DPA is an agreement under which the prosecution is deferred subject to specified conditions. These conditions may include cooperation with investigators, payment of a criminal monetary penalty, restitution or compensation where applicable, compliance reforms, and other remedial obligations. If the corporation fulfils the agreement's conditions, the prosecution may be dismissed in accordance with the agreement and applicable law. If the corporation materially breaches the agreement, the government may retain the ability to proceed with prosecution under its terms and the relevant legal framework.

The DPA mechanism is not established by the United Kingdom's Bribery Act 2010 as a matter of United States law. In the United States, federal corporate DPAs operate principally within prosecutorial discretion and the Department of Justice's policies governing the prosecution of business organisations. The Department's Justice Manual identifies DPAs and non-prosecution agreements as possible alternatives in resolving corporate criminal matters. It also directs prosecutors to consider factors such as the seriousness of the conduct, cooperation, remediation, restitution, deterrence, and the potential consequences for innocent third parties ([U.S. Department of Justice, 2023](#)).

A DPA should not be equated with an administrative forfeiture proceeding or treated as a substitute for every form of criminal prosecution. It is a method of resolving a prosecution subject to specified conditions, whereas forfeiture is a legal mechanism for taking property under the applicable statutory authority. A single corporate resolution may involve both a DPA and separate forfeiture obligations, but each obligation must have an appropriate legal basis. Consequently, the contribution of a DPA to asset recovery depends on the terms of the agreement and the associated legal proceedings rather than on the existence of the agreement alone.

A relevant example is the case involving Comunicaciones Celulares S.A., which operates as TIGO Guatemala. On December 12, 2025, the U.S. Department of Justice announced that the company had entered into a two-year DPA in connection with a charge of conspiracy to violate the anti-bribery provisions of the Foreign Corrupt Practices Act (FCPA). The resolution required a criminal penalty of US\$60 million and administrative forfeiture of US\$58,198,343, bringing the announced payments to more than US\$118 million. The agreement also included continuing cooperation and corporate compliance obligations. The Department stated that the criminal penalty reflected a 50 per cent reduction from the bottom of the applicable sentencing-guidelines range ([U.S. Department of Justice, 2025](#)).

The TIGO Guatemala matter illustrates how a DPA can be accompanied by monetary penalties, forfeiture, cooperation, and compliance obligations. However, the case should be interpreted carefully. The payment comprised distinct legal components: a criminal penalty and administrative forfeiture. It should not be described as a single asset-recovery payment or as proof that every DPA produces the same result. Moreover, the case concerned alleged foreign bribery and involved a company operating in Guatemala; its circumstances should not automatically be treated as identical to domestic corruption cases in Indonesia.

The United States approach demonstrates that corporate prosecution may be resolved through agreements designed to combine enforcement objectives with remedial measures. The Department of Justice's guidance emphasises that corporate resolutions should not automatically shield culpable individuals from prosecution and that restitution, remediation, and the interests of affected parties may be relevant to the decision. These principles are significant for asset recovery because a corporate agreement should not allow the payment of a financial penalty to replace the pursuit of identifiable criminal proceeds or the prosecution of responsible individuals where prosecution is warranted (U.S. Department of Justice, 2023).

Nevertheless, DPAs also raise questions concerning prosecutorial discretion, transparency, proportionality, and accountability. The terms of an agreement, the reasons for selecting that resolution, the treatment of individual offenders, and the adequacy of compliance measures may affect public confidence in the process. A DPA's contribution to asset recovery should therefore be assessed according to the amount and legal character of the property recovered, the extent to which victims or the state receive legally due compensation, the treatment of responsible individuals, and the effectiveness of safeguards against repeat misconduct. These considerations provide a more precise basis for evaluating the mechanism than assuming that DPAs are inherently efficient or inherently inadequate (Parker & Dodge, 2023; Fragale & Grilli, 2024).

3.3. Comparative Analysis of Asset Recovery in Indonesia and the United States

A comparison of Indonesia and the United States requires consideration of both their asset forfeiture frameworks and the legal arrangements through which corporate criminal cases may be resolved. In Indonesia, asset recovery is governed by multiple legal instruments concerning corruption, money laundering, criminal procedure, and the confiscation of criminal proceeds. In the United States, civil and criminal forfeiture are governed by federal statutory provisions, while DPAs are used in certain corporate criminal matters under prosecutorial policies and applicable legal procedures. These arrangements have different legal foundations and should be compared according to their functions rather than treated as identical institutions.

The first point of comparison concerns the legal basis and purpose of asset recovery. Both jurisdictions provide mechanisms for depriving offenders of the economic benefits of criminal conduct. However, the applicable procedures depend on the legal character of the case, the property involved, and the statutory authority relied upon. In Indonesia, the analysis must consider the interaction among corruption legislation, money-laundering legislation, the Criminal Code, and the Criminal Procedure Code. In the United States, the analysis must distinguish between criminal forfeiture under 18 U.S.C. § 982, civil forfeiture under 18 U.S.C. § 981, and the procedural safeguards established by 18 U.S.C. § 983. The comparison therefore concerns not only the availability of forfeiture but also the procedures, evidentiary requirements, and protections attached to each mechanism.

The second point concerns the relationship between corporate resolution and asset recovery. The U.S. DPA framework shows that an agreement resolving corporate criminal liability may include financial penalties, forfeiture-related obligations, cooperation, and compliance reforms. Nevertheless, a DPA and an asset-forfeiture proceeding remain legally distinct. The existence of a DPA does not, by itself, establish the criminal origin of every asset or dispense with the statutory requirements applicable to forfeiture. For Indonesia, this distinction is essential when considering the relationship between an agreement with a corporate defendant and the recovery of assets derived from corruption. Any agreement must specify the legal basis, nature, amount, and recipient of financial obligations and must not undermine applicable requirements for confiscating identifiable proceeds of crime.

The third point concerns procedural safeguards and institutional accountability. A system that permits negotiated resolution must establish clear criteria for eligibility, the authority responsible for negotiating and approving agreements, the treatment of individual offenders, and the consequences of non-compliance. Transparency concerning the factual basis and terms of an agreement is also important to public accountability. In the United States, Department of Justice guidance identifies cooperation, remediation, restitution, and the potential impact on innocent third parties as relevant considerations in corporate resolutions. These considerations can inform comparative analysis, but they do not eliminate the need to examine the legal and institutional conditions under which the mechanism operates in Indonesia (U.S. Department of Justice, 2023).

The fourth point concerns differences between the two legal systems. Indonesia's legal institutions and crim-

inal procedure have developed within a different statutory and institutional setting from those of the United States. It would therefore be inaccurate to assume that the DPA can be transferred merely by adopting its terminology or copying the terms of a foreign agreement. Comparative legal analysis must consider the allocation of authority among investigators, prosecutors, and courts; the applicable standards of proof; the procedural rights of defendants and third parties; and the relationship between negotiated resolution and ordinary criminal proceedings. The legal-transplantation perspective is relevant because the adoption of a legal mechanism requires attention to the receiving system's existing institutions and legal principles, not simply to the foreign mechanism's stated objectives.

Importantly, Indonesia has now expressly recognised DPA through Article 328 of Law Number 20 of 2025 concerning the Criminal Procedure Code, which entered into force on January 2, 2026. Article 328(1) establishes three principal objectives: promoting legal compliance, recovering losses arising from criminal offences, and improving efficiency in the criminal justice system. Article 328(2) limits the mechanism to criminal offences committed by corporations. Under Article 328(3)–(4), an application may be submitted by a suspect, defendant, or advocate to the public prosecutor before the case is transferred to the court. The prosecutor may accept or reject the application based on considerations of justice, the interests of victims, and compliance with applicable laws (Indonesia, 2025).

Article 328 also establishes judicial review of the agreement. Under Article 328(5)–(7), if the prosecutor accepts an application, the court must be notified and the agreement must be submitted to the court no later than seven days after it is signed. The court must conduct a hearing to assess the agreement's eligibility and validity before approval. Article 328(8) requires the judge to consider the agreement's compliance with legislation, the proportionality of administrative sanctions or other obligations, its impact on victims, society, the environment, the national economy, and the criminal justice system, as well as the corporation's ability to fulfil the agreed conditions. The judge may request additional information or clarification under Article 328(9). If approved, the agreement is formalised through a court determination and the case is deferred in accordance with its terms; if rejected, the case proceeds through ordinary criminal proceedings (Indonesia, 2025).

The statutory conditions of a DPA may include compensation or restitution to victims, the implementation of legal-compliance programmes or improvements to anti-corruption corporate governance, reporting and cooperation with law enforcement authorities during the deferral period, and other corrective measures considered necessary by the prosecutor. Under Article 328(13), where all obligations are fulfilled within the agreed period, the case may be discontinued without further prosecution through a court determination. Article 328(14) authorises the court to monitor implementation of the agreement, while Article 328(15) permits the prosecutor to resume prosecution if the corporation fails to fulfil its obligations (Indonesia, 2025).

For the purposes of asset recovery, Article 328 provides a statutory foundation for examining whether negotiated corporate resolutions can support the recovery of losses arising from corruption. The provision's explicit objectives of recovering criminal losses and improving legal compliance are relevant to corporate corruption cases. Nevertheless, the conditions listed in Article 328(12) should be distinguished from asset confiscation under other applicable laws. Compensation, restitution, compliance measures, cooperation, and corrective actions have different legal functions from the confiscation of criminal proceeds. The provision should therefore not automatically be interpreted as replacing separate legal requirements for tracing, freezing, or confiscating assets. Its relationship with existing asset-recovery mechanisms requires a systematic interpretation alongside the applicable corruption, money-laundering, and forfeiture provisions.

The Indonesian framework also changes the central comparative question. Rather than asking whether Indonesia should adopt a DPA mechanism, the analysis should examine how the statutory framework can be implemented to promote verifiable asset recovery, corporate compliance, proportionality, judicial oversight, and accountability. Comparison with the United States can inform this analysis, but the U.S. model should not be transferred mechanically because Indonesia's DPA is governed by its own statutory requirements, including express judicial review and monitoring. The principal issue is whether the Indonesian framework and its implementation can ensure that negotiated corporate resolutions contribute to the recovery of criminal losses without undermining the lawful confiscation of criminal proceeds or the accountability of responsible individuals.

From an asset-recovery perspective, the principal issue is whether a DPA can be structured to secure measurable and legally justified recovery without weakening corporate and individual accountability. Any framework

should distinguish criminal fines from restitution, compensation, and confiscation of criminal proceeds. These categories serve different legal purposes and may have different recipients and procedures. An agreement should therefore provide clear terms for identifying assets, determining financial obligations, preserving evidence, cooperating with asset-tracing investigations, complying with confiscation orders, and addressing breaches of the agreement. It should also protect legitimate third-party interests and ensure that the resolution does not confer unjustified immunity on individuals who may be criminally responsible.

The comparison also highlights the importance of evaluating results rather than relying on the formal availability of a legal instrument. Relevant criteria include the value of assets successfully recovered, the time required to secure and return them, the enforceability of payment and cooperation obligations, the treatment of responsible individuals, the protection of affected parties, and the prevention of repeated corporate misconduct. These criteria can be used to assess whether a DPA complements existing asset-recovery mechanisms or creates gaps in enforcement. Such an assessment requires evidence from legal instruments, official agreements, judicial records where available, and reliable empirical studies; it should not rest on assumptions that negotiated resolutions necessarily produce faster or more complete recovery (De Franco et al., 2025).

Accordingly, the comparative findings suggest that the potential value of a DPA for Indonesia lies not simply in shortening corporate criminal proceedings but in ensuring that any negotiated resolution is legally grounded, transparent, enforceable, and connected to an effective asset-recovery strategy. The U.S. experience provides material for examining the possible combination of financial penalties, forfeiture, cooperation, and compliance obligations. However, the suitability of particular features for Indonesia must be assessed against Indonesia's statutory framework, institutional responsibilities, and procedural safeguards. A DPA should complement, not displace, the applicable legal requirements for confiscating criminal proceeds and holding responsible individuals accountable. Its effectiveness should ultimately be evaluated by whether it produces lawful and verifiable asset recovery while maintaining procedural fairness and public accountability.

4. CONCLUSION

Asset recovery is a fundamental component of corruption eradication because the effectiveness of law enforcement depends not only on punishing offenders but also on recovering state losses and illicit assets. Although Indonesia has established a legal framework through anti-corruption legislation, anti-money laundering provisions, and the ratification of the United Nations Convention against Corruption (UNCAC), implementation remains challenged by weaknesses in asset tracing, interinstitutional coordination, and law enforcement integrity. In contrast, the United States combines criminal, civil, and administrative asset forfeiture mechanisms with Deferred Prosecution Agreements (DPAs) to address corporate criminal cases. These mechanisms serve complementary purposes: asset forfeiture facilitates the recovery of property associated with criminal activity, while DPAs allow prosecution to be deferred subject to specified obligations, potentially including financial penalties, asset forfeiture, cooperation, and corporate compliance reforms. Nevertheless, DPAs do not automatically guarantee asset recovery and require effective oversight to prevent disproportionate leniency toward corporations.

Indonesia's enactment of Law No. 20 of 2025 on Criminal Procedure, particularly Article 328, establishes a statutory framework for DPAs in corporate criminal cases, including objectives related to legal compliance, recovery of criminal losses, and procedural efficiency. This development creates an opportunity to integrate negotiated corporate resolutions into Indonesia's asset recovery framework; however, its effectiveness will depend on transparent eligibility criteria, judicial review, proportionate obligations, enforceable recovery measures, and monitoring of corporate compliance. Therefore, DPAs should complement rather than replace criminal accountability and should be implemented to protect public interests, secure measurable asset recovery, and prevent corporations from benefiting disproportionately from negotiated settlements. Future empirical research is needed to assess whether the implementation of Article 328 improves asset recovery outcomes in corporate corruption cases in Indonesia.

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Statement on AI Usage

The authors declare that no Generative AI technology or AI assistance tools were used during the preparation, drafting, or analysis of this manuscript.

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