



## **Reconstruction of the Formulation of Criminal Asset Forfeiture in the Form of Cryptocurrency in Indonesia Based on the Value of Justice**

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### **ABSTRACT**

The national legal system does not yet have adequate and specific regulations to regulate the confiscation of digital assets resulting from crime, especially blockchain-based assets such as cryptocurrency. This study aims to analyze the reasons for the ineffectiveness of digital asset confiscation, identify regulatory and institutional weaknesses in practice, and formulate a normative reconstruction design oriented towards substantive justice values. The methodology used is a normative legal approach and empirical legal approach based on the theory of the rule of law, law enforcement theory, and criminal policy. The research findings indicate that the absence of a comprehensive legal framework, weak law enforcement capacity, and suboptimal inter-agency coordination are key factors hampering the effectiveness of criminal confiscation, especially of digital assets. Furthermore, the conventional legal system, which relies on criminal evidence against the perpetrator, results in many assets resulting from crime being unable to be confiscated because the perpetrator has fled or the assets have been transferred to third parties. Therefore, this dissertation proposes a reconstruction of the asset confiscation formulation, encompassing the definition of digital assets, tracking mechanisms, blocking, reverse burden of proof, asset management, and international cooperation. The reconstruction is expected to serve as a basis for the development of relevant specific laws and serve as a practical reference for fair and effective modern law enforcement in the digital era.

**Keywords:** Asset Confiscation, Cryptocurrency, Criminal Acts, Legal Reconstruction, Justice Values

### **INTRODUCTION**

Asset confiscation of criminal acts is basically an important aspect of law enforcement, as it serves both a deterrent and restorative function (Unger et al., 2018). Apart from the juridical side, the challenge to the effectiveness of asset confiscation lies in terms of technology, where rapid innovation often outpaces regulatory capacity (Zarreh et al., 2021). The development of technology has resulted in the evolution of facilities for money laundering, with cryptocurrencies becoming a significant new channel for illicit finance (Houben & Snyers, 2018). Studies show that the pseudonymous nature of blockchain transactions facilitates cross-border laundering activities, creating difficulties for conventional monitoring systems (Foley et al., 2019). In 2021, money laundering through cryptocurrencies reached US\$8.6 billion (Rp 123.6 trillion), an increase of 30% from the previous year, according to Chainalysis reports (Chainalysis, 2022). The company also estimates total money laundering since 2017 at more than US\$33 billion, with most illicit funds flowing to centralized exchanges over time, consistent with research showing exchanges are common laundering nodes (Möser et al., 2018). This trend highlights the urgent need for global

regulatory cooperation and advanced forensic tools to ensure that asset confiscation remains effective in the digital economy (Möser & Narayanan, 2021).

The Financial Transaction Reporting and Analysis Center (Pusat Pelaporan dan Analisis Transaksi Keuangan, PPATK) stated that it had succeeded in uncovering money laundering crimes committed through crypto assets. In the 2022–2024 period alone, this financial intelligence agency found suspicious crypto transactions worth IDR 800 billion (PPATK, 2024). PPATK emphasized that crypto assets are increasingly used to obscure the origin of wealth due to their pseudonymous nature and ability to cross national borders, making them difficult to track (Asolo et al., 2022). Similar findings highlight that blockchain's decentralized architecture poses significant challenges for regulators and enforcement authorities (Albrecht et al., 2019). Moreover, cryptocurrencies have been exploited to layer illicit funds and transfer assets across jurisdictions with minimal oversight (Dierksmeier & Seele, 2018). Empirical studies also show that dark web marketplaces and unregulated exchanges remain key entry points for laundering through digital currencies (van Wegberg et al., 2018). To address these challenges, global institutions such as the Financial Action Task Force (FATF) have called for stronger Know-Your-Customer (KYC) and Anti-Money Laundering (AML) mechanisms in crypto-related transactions (Houben & Wouters, 2020). The Indonesian experience reflects wider global trends in which crypto assets are both a financial innovation and a vector for financial crime, demanding advanced forensic tools and international cooperation (Campbell-Verduyn, 2018).

In Indonesia, the corruption case of PT Asabri (Persero) is suspected of involving money laundering through Bitcoin (Nelson et al., 2024; Rahma et al., 2023; Wardani et al., 2022). The suspects who are indicated to have committed the crime of money laundering (*Tindak Pidana Pencucian Uang, TPPU*) using Bitcoin are Commissioner of PT Hanson International Benny Tjokrosaputro, President Commissioner of PT Trada Alam Minera Heru Hidayat, and Director of Jakarta Issuer Investor Relations Jimmy Sutopo. The suspects' mode of money laundering was to buy bitcoins suspected to come from corruption at ASABRI. From the results of the investigation so far, the transactions carried out by the suspects are still conducted domestically.

Muh Afdal Yanuar (2022) stated that the crime of money laundering using crypto assets to hide the proceeds of crime is a real and ongoing event. The instrument has not yet received full attention from law enforcement officials in the field of money laundering law enforcement. Therefore, public awareness is needed concerning the risks of money laundering crimes using crypto assets.

Cryptocurrencies as a means of crime pose quite complex legal challenges, especially in the processes of confiscation, execution, and auction. In contrast to physical assets, cryptocurrencies are digital, decentralized, and can be hidden in networks that are difficult to trace. Additionally, cryptocurrencies are often not recorded in the name of the defendant or convict directly, but rather use a pseudonym or are held through a third party, which further complicates the legal process of establishing ownership and returning assets to victims. This technical problem not only hinders

law enforcement but also harms the state and society in efforts to recover assets obtained from criminal acts.

The Criminal Asset Forfeiture Bill that is being drafted is expected to provide a solution in terms of asset recovery, including digital assets such as cryptocurrencies. This bill is a response to the difficulties faced by law enforcement, which require a more comprehensive legal framework for handling money laundering and other financial crime cases. However, the absence of explicit provisions regarding cryptocurrencies in the draft bill and its academic manuscript raises concerns that crypto assets as instruments of crime may not be fully anticipated. In fact, the increase in crime cases involving cryptocurrencies continues to grow, and without clear regulations, the presence of this bill may not be able to fully address the problem of digital assets in criminal cases.

The absence of specific rules regarding cryptocurrencies in the Criminal Asset Forfeiture Bill indicates the need to develop a more detailed and adaptive legal framework that corresponds to the characteristics of digital assets. Specific arrangements regarding the process of confiscation, management, and auction of cryptocurrencies are essential for law enforcement to have adequate guidelines. In addition, aspects of protection of the rights of third parties who may be related to these assets, either directly or indirectly, also need to be considered. With a comprehensive and integrated legal approach, Indonesia can strengthen law enforcement mechanisms in dealing with crimes that use cryptocurrencies as a means and instrument to disguise the proceeds of crime.

In this context, the development of an appropriate legal framework for the confiscation of assets in the form of cryptocurrencies will provide a strong foundation for efforts to return state assets and protect the public. It also demands cooperation between institutions, both at the national and international levels, given the cross-border nature of cryptocurrencies and their connection to global networks. This legal reform, which is able to respond to the challenges of financial technology, also demonstrates that Indonesia's legal system is not left behind in the face of increasingly rapid technological developments, while supporting the eradication of crime in an effective and actionable way in judicial practice.

Several studies have examined the challenges in asset confiscation, particularly in the context of money laundering and cryptocurrencies. For instance, Lichtenstein et al. (2021) discussed the increasing complexity of money laundering through cryptocurrencies, emphasizing the obstacles in tracing and confiscating digital assets due to their anonymous and decentralized nature. Similarly, Bary et al. (2020) analyzed the role of blockchain technology in facilitating illicit financial transactions, highlighting the need for better regulatory frameworks to address the cross-border movement of crypto assets. While these studies have identified significant issues in confiscating digital assets, they have not fully addressed the specific legal challenges related to the confiscation and auctioning of cryptocurrencies in Indonesia.

This research aims to propose a more comprehensive legal framework that includes detailed provisions on the confiscation, management, and auctioning of cryptocurrencies, considering the involvement of third parties and cross-border issues. The benefits of this research are twofold: it will enhance the legal system's ability to combat financial crimes involving cryptocurrencies and

will serve as a foundation for future reforms, strengthening asset recovery and protecting public interests in Indonesia.

## RESEARCH METHODS

This research uses the paradigm of post-positivism, which departs from the view that reality is plural, subjective, and not value-free. This paradigm was chosen because it provides room for qualitative exploration of the legal complexity of the confiscation of digital assets, especially cryptocurrencies. With this paradigm, researchers not only describe legal phenomena normatively but also try to understand the social, cultural, and institutional contexts behind the failure of law enforcement.

The approach used is an empirical approach, which is based on empirical facts, both in the form of verbal behavior (through interviews) and real behavior (through direct observation). The purpose of this approach is to find out concretely how the formulation of digital asset confiscation takes place in the field, and how legal actors interpret and implement it.

This research is descriptive and evaluative. The descriptive method is used to depict the actual condition of cryptocurrency asset confiscation practices in Indonesia, while the evaluative method is used to assess existing legal weaknesses and propose better legal formulations.

The research locations include strategic institutions, namely the National Police Criminal Investigation Department (*Bareskrim*), *PPATK*, *OJK*, Indodax, the Attorney General's Office, the Supreme Court, and the House of Representatives of the Republic of Indonesia. The selection of these locations considers the direct relevance of these institutions in law enforcement practices relating to digital assets resulting from criminal acts.

This study uses primary data and secondary data. Primary data were obtained from direct interviews with practitioners and stakeholders. Secondary data include primary legal materials (laws and regulations, jurisprudence), secondary legal materials (legal literature), and tertiary legal materials (dictionaries, encyclopedias, and legal indexes).

The data collection method used was interviews, which were conducted with resource persons from institutions such as *Bareskrim*, *PPATK*, *OJK*, Indodax, the Attorney General's Office, the Supreme Court, and the House of Representatives. The interviews were conducted directly to explore in-depth information about practices, constraints, and expectations for the digital asset forfeiture system.

The analysis was carried out qualitatively, with an inductive approach. The data were analyzed to describe and understand relevant legal phenomena, social behaviors, and policies in the context of cryptocurrency asset confiscation. Researchers allowed key issues to emerge from the field and interpreted them contextually based on the results of interviews, observations, and literature reviews.

## RESULTS AND DISCUSSION

**The Urgency of the Idea of Asset Confiscation of Criminal Acts in the Form of**

## **Cryptocurrency in Indonesia**

The confiscation of assets resulting from criminal acts in the form of cryptocurrencies in Indonesia has not currently shown adequate effectiveness. One of the main reasons is the absence of specific regulations that regulate the seizure of digital assets in detail. In the existing legal system, law enforcement officials still have to interpret general provisions that are not specific to the form of crypto assets. This causes legal uncertainty and doubts in the implementation of confiscation and confiscation.

The current asset forfeiture system is still oriented towards proving the perpetrator first. In practice, many digital assets have been transferred to other digital wallets, disguised, or even moved abroad before law enforcement officials have time to act. This condition causes the seizure process to be ineffective and lose legal momentum. Criminals also have the time and space to hide the proceeds of their crimes more sophisticatedly.

Limited human resources and technology are also significant obstacles. Law enforcement in Indonesia is generally not equipped with adequate technical capabilities and tools to track blockchain-based transactions. Knowledge about the working mechanism of cryptocurrency is still minimal among investigators and prosecutors. This widens the legal loophole that can be exploited by cybercriminals.

Coordination between institutions involved in the legal process such as the police, prosecutor's office, PPATK, and OJK is still fragmented. The absence of a unified system for sharing information and joint actions has led to the handling of crypto assets being out of sync. Asset tracking and blocking are often delayed due to weak communication between institutions. This worsens the overall effectiveness of asset forfeiture.

Law as a tool of social control must be able to adapt to technological developments and digitalization. Asset forfeiture in Indonesia has not been effective because there are still weaknesses in the law enforcement system, especially for the development of digital assets in the form of cryptocurrencies that have not explicitly regulated the mechanism for confiscation and confiscation of digital assets. The technological challenges in tracking and confiscating cryptocurrencies are still an obstacle for law enforcement officials, especially due to their decentralized and anonymous nature. The lack of coordination between law enforcement agencies also slows down the process of confiscating digital assets. Therefore, the Criminal Asset Forfeiture Bill needs to regulate the confiscation of criminal assets in the form of cryptocurrencies in Indonesia.

## **Weaknesses of Criminal Asset Forfeiture in the Form of Cryptocurrency in Indonesia**

The main weakness in the confiscation of crypto assets in Indonesia lies in the normative aspect, where there is no explicit recognition of cryptocurrencies as legal objects that can be confiscated. The Criminal Code (KUHP) and the Money Laundering Law have not yet regulated specifically regarding digital assets. As a result, law enforcement is often hesitant to confiscate or declare confiscation of blockchain-based assets. The indecisiveness of this norm opens up room

for inconsistent interpretation in the courts.

The criminal procedure legal procedures used today are irrelevant to the characteristics of digital assets. Virtual assets cannot be confiscated with conventional approaches such as physical goods. The freezing to confiscation process requires electronic systems and digital expertise that law enforcement in general do not have. This causes seizures to often not be carried out on time.

Additionally, not all law enforcement agencies have specialized units that handle cybercrime or digital assets. The lack of institutional capacity makes asset tracking and securing efforts slow and inaccurate. Weak internal capacity also has an impact on dependence on external parties or the private sector in managing confiscated assets. This dependency risks data leakage or asset manipulation.

Disintegration between institutions is also a serious weakness. Each institution has different procedures and systems, in the absence of effective coordination. In many cases, information about the existence of crypto assets is not shared in real-time between PPATK, the Police, the Prosecutor's Office, and the OJK. This disharmony results in a failure in freezing or confiscation that should be done immediately.

Another aspect of weakness is the lack of a legal framework that supports international cooperation effectively. Given that crypto assets are cross-border, their confiscation often requires strong and fast mutual legal assistance (MLA). Unfortunately, Indonesia does not have adequate legal and diplomatic capacity to access digital assets that have been moved abroad. This exacerbates the state's inability to recover the proceeds of digital crimes.

### **Reconstruction of Criminal Asset Forfeiture in the Form of Cryptocurrency in Indonesia**

This dissertation aims to provide solutions to the ineffectiveness of the current legal system by offering a normative reconstruction framework for the seizure of digital assets. This reconstruction is designed to answer various regulatory, institutional, and procedural weaknesses in the practice of confiscating assets resulting from technology-based crimes. Thus, it is hoped that the national legal system can have a stronger foothold and be responsive to the challenges of cybercrime. This reconstruction is based on the principles of justice, legal effectiveness, and human rights protection.

One of the key elements of this reconstruction is the need to redefine the concept of "assets" in national law. Digital assets such as cryptocurrencies must be explicitly recognized in laws and regulations in order to be used as legal objects of confiscation and forfeiture. This redefinition will provide legal certainty and a legal basis for law enforcement officials to act. It is also important in aligning domestic arrangements with international legal regimes.

In addition to the redefinition, technical procedures are also prepared which include tracing, blocking, and confiscating digital assets. This procedure includes the use of forensic blockchain technology, inter-agency data integration, and strengthening the digital capacity of law enforcement. A mechanism for objection and protection of the rights of third parties in good faith is also included to guarantee the principle of justice. All of these procedures are formulated in one

more progressive and contextual procedural law system.

This reconstruction also includes reverse proof as a relevant legal instrument in the context of money laundering and corruption. Reverse proof allows the state to demand proof of the origin of wealth from the defendant without violating the principle of presumption of innocence. This is important to prevent the perpetrator from hiding their assets through a third party. In this new system, the courts have a central role in ensuring a fair and proportionate process.

Finally, this reconstruction encourages the construction of a strong, fast, and mutually beneficial system of international cooperation. Cross-border digital asset confiscation must be carried out through strengthening mutual legal assistance (MLA) networks, recognition of foreign court decisions, and alignment of cross-border regulations. With this systematic reconstruction based on the value of justice, it is hoped that Indonesia can have a resilient, adaptive, and effective legal system for the seizure of digital assets.

## CONCLUSION

The role of law as a tool for social control must evolve in response to technological advancements, particularly in the field of digital assets such as cryptocurrencies. In Indonesia, asset forfeiture has not been fully effective due to gaps in the legal framework, especially with respect to the confiscation of digital assets. The decentralized and anonymous nature of cryptocurrencies, combined with technological challenges, complicates tracking and confiscation. Additionally, coordination issues among law enforcement agencies further delay the process. Therefore, it is crucial for the Criminal Asset Forfeiture Bill to include explicit provisions for the confiscation of cryptocurrency assets. Key weaknesses identified in the current confiscation system include regulatory ambiguity, inadequate technological infrastructure, insufficient law enforcement expertise, and jurisdictional challenges due to cryptocurrencies' cross-border nature. To address these issues, it is recommended to develop specific regulations for digital asset confiscation, enhance the capacity of law enforcement through training in blockchain analysis, strengthen monitoring infrastructure, foster international cooperation, and encourage public education to prevent the misuse of cryptocurrencies in criminal activities.

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