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Research Article

Asset Seizure Regulations Against Public Officials with Unexplained Wealth (A Comparative Study of the Philippines and Australia)

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ABSTRAK

The Draft Law on Asset Seizure, which includes the concepts of unexplained wealth and non-conviction based (NCB), is a regulation that urgently needs to be passed in Indonesia. This is due to the increasing losses suffered by the state as a result of corruption involving public officials. This legal instrument will strengthen the state's efforts to execute assets derived from corruption without having to wait for a final and binding court decision. Several countries have successfully implemented this concept, including Singapore and the Philippines, in order to accelerate the process of confiscating the assets of corruptors. This study aims to examine the regulations on asset reporting by public officials in uncovering unexplained wealth and to review the regulations on asset confiscation from officials based on unexplained wealth in Indonesia, Australia, and the Philippines. The method used is a normative approach with comparative legal analysis. The results of the study show that Australia, through the Unexplained Wealth Order (UWO), and the Philippines, through Republic Act No. 1379, have regulated the mechanism for seizing assets without waiting for the completion of criminal proceedings. This proves that the NCB approach is effective in combating illegal wealth. The conclusion of this study is that Indonesia needs to immediately pass the Asset Seizure Bill by applying the concepts of unexplained wealth and NCB as in Singapore and the Philippines so that corruption enforcement is more optimal and in line with international practices.

Keywords: Asset Seizure; Unexplained Wealth; Public Officials

A. INTRODUCTION

Efforts to recover assets derived from criminal acts face serious challenges, particularly in the context of financial crimes such as money laundering (Hasan et al., 2025). Corruption is a type of legal violation that is not easy to uncover, as it often occurs in the form of secret cooperation between more than one party, usually involving public officials (Hoeft, Kurschilgen, & Mill, 2025). The perpetrators generally protect each other's interests and carry out their actions without causing direct victims who can report the incident (Puanandini, Maharani, & Anasela, 2025). This condition opens the door for a large number of corrupt practices to take place secretly and repeatedly, while the proceeds of criminal acts are enjoyed by irresponsible perpetrators without any significant legal obstacles.

Public officials or state administrators are in a strategic position that often makes them vulnerable to economic crimes, such as corruption, bribery, and gratification. These

actions are generally carried out for personal gain, particularly in terms of accumulating wealth and assets (Sakinah & Sumardiana, 2025). These efforts to enrich oneself are often pursued by distorting legal principles. The ownership of large amounts of wealth that are not commensurate with the official income profile of the official in question often arouses public suspicion and raises serious questions about the integrity and accountability of the official.

The income of public officials comes from the state budget, so considering this, ideally, the wealth or assets owned by a public official can be audited based on common sense and their official income obtained during their term of office. However, if there is a striking discrepancy between the value of the assets owned and the legitimate income, there is a presumption of innocence regarding the possibility of acquiring such wealth through means that are contrary to the law. This kind of discrepancy indicates the potential for irregularities in the acquisition of such wealth. In legal practice, a situation in which an official has wealth whose origin cannot be legally traced and is disproportionate to their official income is known as Unexplained Wealth (Tantimin, 2023).

As a common law country, Australia has become a pioneer in regulating unexplained wealth, focusing on taking action against unnatural increases in wealth without clear explanation. The background to the emergence of the concept of unexplained wealth in Australia actually stems from the inability of law enforcement officials to prove the existence of crimes committed by a motorcycle gang involved in drug trafficking. However, when examined using data or the gang's wealth profile, the wealth or assets acquired by the motorcycle gang were unreasonable and the source of income was unclear. Therefore, with the accumulation of similar cases, Australia promptly implemented the concept of unexplained wealth (Smith & Smith, 2016). With the implementation of this concept, based on the 2020 Corruption Perceptions Index (CPI) from Transparency International, Australia scored 77 out of 100 and ranked 11th out of 180 countries, indicating its seriousness in tackling corruption, particularly bribery cases, through effective legal instruments, including the Unexplained Wealth regulation (Prenzler, 2021).

Singapore is one of the countries that applies the concept of unexplained wealth, while the Philippines also applies a similar concept, which applies non-conviction-based (NCB) asset forfeiture of unjust wealth through the Anti-Money Laundering Act (AMLA) 2001, which was updated through AMLA 2021. For its implementation, the Anti-Money Laundering Council (AMLC) was formed, which has the authority to block, seize, and sue for assets resulting from money laundering crimes (Pratiwi, Putranti, & Hanura, 2022). In addition, Republic Act No. 1379 of 1955 specifically regulates the seizure of assets belonging to public officials that are disproportionate to their legitimate income, even if

the assets were obtained through legitimate administrative means, as long as their value cannot be reasonably explained (Moiseienko, 2022). The implementation of the NCB concept in the Philippines was further strengthened by a past case involving former Philippine President Ferdinand Marcos and his wife, Imelda Marcos. Ferdinand and Imelda were investigated by Philippine state institutions for the unreasonable income they earned while in office. The Philippine Supreme Court at that time stated that the legitimate income of Ferdinand and Imelda was only US$304,000. However, after the Philippine anti-corruption agency, the Presidential Commission on Good Government (PCGG), conducted a further investigation, it found irregularities in Ferdinand and Imelda's accounts in various countries, which contained assets worth US$14,000,000,000. Based on these facts, the Philippine Supreme Court ordered the seizure of more than US$4 billion and other assets to be transferred to the state treasury.

The data and reviews of the two countries above indicate a country's seriousness in taking firm action against the proceeds of corruption. These countries understand that assets or wealth resulting from corruption by public officials can be immediately executed to generate funds that will be used for the benefit of the country in other areas. In addition, the above data shows that Australia ranks 11th in terms of CPI, while Indonesia ranks 102nd with a score of 37 out of 100 in the same year (Nurhuda, 2024). The irregularity of public officials' assets compared to their official income can be seen from the State Officials' Wealth Report (LHKPN). Administratively, in Indonesia, every official is required to report their wealth annually to the Corruption Eradication Commission (KPK) (Ratu & Kirana, 2025). This obligation is regulated in the KPK Law, specifically Article 7 paragraph (1) letter a, which gives the KPK the authority to register and examine LHKPN. LHKPN serves as a tool to identify potential unexplained wealth by comparing the reported assets with the official's legitimate sources of income. Thus, LHKPN is an important basis for detecting possible irregularities in the wealth of public officials.

One example of a case of unexplained wealth by a public official in Indonesia is Rafael Alun Trisambodo, a former echelon III official at the Directorate General of Taxes, Ministry of Finance. The wealth reported in the 2021 LHKPN reached Rp 56.1 billion, far exceeding that of his immediate superior, which was only Rp 14.45 billion. Rafael was proven to have committed criminal acts of corruption in the form of gratification and money laundering. The Jakarta High Court ruled in Decision Number 8/Pid.Sus TPK/2024/PT DKI that the defendant was guilty under Article 12B in conjunction with Article 18 of the Corruption Eradication Law and Article 3 paragraph (1) of the Money Laundering Law, and sentenced him to 14 years in prison, a fine of Rp 500 million, and compensation of around Rp 10 billion (Rohid, Marsuni, & Ahmad, 2025).

Law enforcement in Indonesia focuses more on prosecuting perpetrators of criminal acts than on confiscating the proceeds of crime. This is due to the lack of legal instruments that would allow for the transfer of assets without having to wait for the criminal case to be proven in court. As a result, asset forfeiture is often late and ineffective because it can only be carried out after a court verdict as an additional punishment.

The transfer of assets to the state is a financial crime and is one of the strategic issues that has received considerable attention in efforts to eradicate economic crime today (Wahyu & Marwenny, 2025). The handling of illegally obtained assets is considered an important breakthrough because it not only punishes the perpetrators but also ensures that the proceeds of crime cannot be enjoyed or hidden. The asset forfeiture process is usually carried out through a series of steps consisting of comprehensive asset tracking and the implementation of preventive measures to hinder the transfer or disposal of these assets. Common preventive mechanisms include freezing accounts and seizing assets, which aim to keep the assets under the supervision of law enforcement officials until the legal process is complete. This approach is important to anticipate attempts by perpetrators to transfer or hide the proceeds of crime before the assets can be legally seized (Wulandari & Yuliantari, 2024).

Unexplained wealth among public officials in LHKPN often indicates financial crimes such as money laundering, which should be punishable by asset forfeiture. There are two main methods of recovering assets from criminal acts. First, Conviction-Based Asset Forfeiture, which is the confiscation of assets after a final and binding decision by a judge. This method is most commonly used in the enforcement of corruption laws. Second, Non-Conviction-Based (NCB) Asset Forfeiture, which is the confiscation of assets without the need to wait for the prosecution of the perpetrator, allowing for faster and more effective asset recovery (Tantimin, 2023).

Article 54 Paragraph (1) of the United Nations Convention Against Corruption (UNCAC) recommends a mechanism for asset confiscation without criminal proceedings (NCB Asset Forfeiture) to recover state finances. This mechanism allows for the confiscation of assets obtained through corruption even if the perpetrator cannot be prosecuted for reasons such as disappearance, flight, or death.

The UNCAC encourages the widespread use of this method across jurisdictions, without being limited to a single legal tradition, thereby facilitating member states in handling assets derived from corruption. Indonesia, as a party to the UNCAC through Law No. 7 of 2006, has ratified a norm to support the court's authority over state assets in criminal cases.

However, Indonesia does not have holistic regulations regarding the mechanism of confiscation of assets without criminal prosecution

(NCB) (Paranata, 2025). Although this mechanism has been applied in several cases, such as money laundering, its effectiveness is still limited in both criminal and civil asset recovery. NCB asset forfeiture is very important for restoring the state's financial situation, especially in economic crimes, as it allows for the transfer of assets to the state without waiting for a final judgement. This mechanism is particularly effective when the perpetrator has died, fled, or the case is difficult to process in court (Sakinah & Sumardiana, 2025).

Non-criminal asset forfeiture (NCB) targets assets derived from criminal acts, not the individuals involved, so the process is separate from criminal proceedings. This mechanism allows authorities to seize assets even if there is insufficient evidence of a criminal act, as the action focuses on the assets, not the perpetrators. NCB confiscation can be applied if the defendant is acquitted due to insufficient evidence, flees, dies, or the criminal assets have not been confiscated even though there has been a court decision. In addition, this mechanism is effective for dealing with unexplained wealth that does not match the asset reports of public officials (Ilma, 2025).

Law enforcement against officials who suddenly have stagnant wealth (*Unexplained Wealth*) in Indonesia is still not optimal. This is because the application of the concept of Unexplained Wealth in the national legal system is still limited, mainly regulated in the Corruption Eradication Law (Tipikor Law) and the Money Laundering Prevention and Eradication Law (UPPTPPU) (Muchlisin, 2024). Although these regulations govern efforts to eradicate corruption and money laundering, the provisions regarding Unexplained Wealth have not been harmoniously integrated with the international provisions adopted by Indonesia, particularly Article 20 of Law No. 7 of 2006 concerning the Ratification of UNCAC. This article requires UNCAC member states to consider taking legislative and other measures that would result in a reduction in state finances in the event of deliberate self-enrichment, namely an increase in the wealth of public officials that cannot be reasonably explained in relation to their legitimate income. This disharmony poses a serious obstacle to efforts to optimise law enforcement against public officials with unjustified wealth in Indonesia, thereby allowing corruption and abuse of power to continue without adequate legal consequences.

The concept of Unexplained Wealth from UNCAC requires participating countries to integrate this concept into their respective national legal systems. Based on data from Indonesia Corruption Watch (ICW), there are already 44 countries that regulate Unexplained Wealth in line with legal products, such as China, India, Malaysia, Brunei, Bangladesh, and Egypt. However, even though Indonesia is a participating country in UNCAC, until now Unexplained Wealth has not been regulated as an act regulated in legal products (Boister, 2025).

Unexplained Wealth as a criminal offence and as an indication of financial crime, such as money laundering, LHKPN can be used as a tool to verify unusual assets. This is regulated in the Anti-Corruption Law, Article 7 paragraph (1) letter a, which gives the KPK the authority to register and examine LHKPN in order to prevent corruption.

LHKPN contains important information related to the assets, expenditures, and income of state officials. LHKPN is a key prerequisite for the effective implementation of provisions regarding Unexplained Wealth. However, the latest data from the Corruption Eradication Commission (KPK) shows that the level of compliance with LHKPN reporting by public officials is still low in various state institutions, including the legislative, judicial, and executive branches. As of 1 April 2024, out of a total of 407,290 people required to submit LHKPN, only 183,418 people, or around 51.14%, had submitted a complete LHKPN report. The compliance rate for LHKPN reporting in 2023 was only 51.14%. This low compliance rate is due to the lack of strict sanctions against public officials who do not report. The existing sanctions are administrative in nature and are ineffective as a means of punishment, allowing for unexplained wealth related to financial crimes and money laundering (KPK, 2024b).

Regulations on the confiscation of Unexplained Wealth assets are important to be included in Indonesian legal products, given the complexity of economic crimes such as corruption and money laundering, especially those related to the unreasonable increase in the wealth of those in power, such as the case of Rafael Alun Trisambodo. The criminalisation of Unexplained Wealth is part of criminal law policy that includes changes to criminal provisions, efforts to prevent crime, and effective law enforcement mechanisms (Syarafi & Syahbandir, 2024).

According to Harkristuti Harkrisnowo, the Asset Forfeiture Bill is very important because it prevents perpetrators from enjoying the proceeds of crime and cuts off the financial sources of crime. In addition, this regulation serves to confiscate assets resulting from criminal acts, prevent similar crimes in the future, and return assets to their rightful owners (Hutabarat & Handayani, 2024). Thus, this bill is a strategic step in the financial recovery of the state, which has suffered losses. The Asset Forfeiture Bill has not yet been passed, even though it has been included in the 2023 Priority National Legislation Program. This delay is due to issues surrounding the management of state confiscated assets and a difficult discussion process due to the diverse interests of political parties (Irawan, Hasan, & Umar, 2023).

The present study is preceded by a review of previous research relevant to the topic under examination. One such work is the article by Hufron and Sultoni Fikri entitled “The Urgency of Regulating Asset Confiscation of Proceeds of Corruption in Indonesia.” This study emphasized that the financial losses suffered by the state as a

consequence of corruption are highly extensive. Such losses are evident from the recurring cases of corruption over the years. Nevertheless, from a normative perspective, the Draft Law on Asset Confiscation has yet to be enacted, resulting in an ever-increasing detriment to the state. Accordingly, there is an urgent need for the immediate ratification of the Draft Law on Asset Confiscation (Hufron & Fikri, 2024). The similarity between this study and the present research lies in the shared concern regarding the urgency of enacting legal norms on asset confiscation. However, the difference is that the prior study was limited to a regulatory examination within Indonesia, without a comparative dimension, whereas the present research focuses on a comparative study of regulations and concepts on unexplained wealth and non-conviction based (NCB) forfeiture between Singapore, the Philippines, and Indonesia.

Another relevant study is "Resolving the Polemics of Civil Aspects in Combating Corruption (A Comparative Study on the Optimization of NCB Asset Forfeiture)" by Muhammad Rustamaji, Bambang Santoso, and Itok Kurniawan. This study concluded that the NCB concept, as adopted by UNCAC, the United States, and Australia, is potentially subject to criticism and opposition, particularly concerning individual rights and human rights protections. This is because NCB emphasizes asset confiscation without the requirement of a final and binding judgment. Thus, the implementation of NCB must be accompanied by safeguards such as the separation of the burden of proof, clear evidentiary standards, respect for the right of defense, judicial independence, transparency, and corrective legal remedies (Rustamaji, Santoso, & Kurniawan, 2024). The similarity with the present research lies in the shared focus on the application of NCB in Indonesia. The distinction, however, is that the earlier study examined the general regulatory frameworks of the United States and Australia, while the present research provides a more detailed comparative analysis of asset forfeiture regulations and the concepts of NCB and unexplained wealth in Australia and the Philippines, with a view to their potential adoption in Indonesia.

The next reference is the international article "The Injustice of Criminal Guidelines in the Act of Corruption Crime" by Margono and colleagues. This work examined sentencing guidelines in corruption cases, stressing the need for justification of maximum penalties. It argued that where state losses are considerable, the punishment imposed on offenders should be equally severe. The study highlighted deficiencies in Indonesia's sentencing system, which often fails to reflect the gravity of the harm caused, particularly in corruption cases (Margono et al., 2024). The similarity with the present research is the shared focus on corruption in Indonesia, while the difference lies in the scope: the prior study centered on sentencing guidelines, whereas the present research focuses on asset confiscation

through comparative examination of practices in Australia and the Philippines as a basis for urgent reform in Indonesia.

Another relevant study is "The Importance of Non-Conviction Based (NCB) Regulations for Asset Confiscation in Illegal Investment" by Asmarani Ramli and colleagues. This research emphasized the urgency of implementing NCB regulations to address the proliferation of illegal investments in Indonesia. It concluded that existing regulations are inadequate, thereby preventing the state from confiscating assets derived from illegal investment schemes (Ramli et al., 2024). The similarity with the present research lies in the advocacy for NCB implementation in Indonesia. However, the difference is that the earlier study concentrated on illegal investment offenses, while the present study focuses specifically on corruption offenses and further extends the analysis to include comparative perspectives on NCB regulations across multiple jurisdictions.

Finally, another relevant work is "Revealing the Unexplained Wealth in Indonesian Corporation: A Revolutionary Pattern in Non-Conviction-Based Asset Forfeiture" by Anastasia Suhartati Lukito. This study argued that Indonesia's Anti-Corruption Law requires supplementary regulations concerning asset confiscation in order to shift the investigative focus from solely identifying perpetrators to also tracing assets or properties linked to unexplained wealth (Lukito, 2020). The similarity with the present research lies in the shared urgency to adopt asset confiscation legislation and to implement the concept of unexplained wealth. The distinction, however, is that Lukito's study was confined to the Indonesian context, while the present research expands its scope by comparing NCB regulations in different jurisdictions, namely Australia and the Philippines.

A review of previous research and the background above has illustrated the fact that there is a normative vacuum and that the Asset Seizure Bill has been stalled, which also has implications for government officials with unexplained wealth who are difficult to subject to criminal or civil sanctions. This study aims to examine the regulations on asset reporting by public officials in uncovering unexplained wealth and to examine the regulations on asset forfeiture of officials with unreasonable wealth in Indonesia, Australia, and the Philippines. This study aims to find an appropriate model for asset forfeiture regulations for Indonesia to support the country's financial recovery.

B. RESEARCH METHODS

The research utilises normative legal research methods or legal rule assessment techniques, namely research that examines law as a norm through an approach to legal principles, legal theory, legislation, doctrine, and other literature. The approaches used include a legislative and comparative approach (Widiarty,

2024). The comparative approach was applied to the legal systems of Indonesia, Australia, and the Philippines to understand the regulation of Unexplained Wealth and the mechanisms for asset forfeiture in each country. The legal materials used consisted of primary legal materials (statutes, international conventions), secondary legal materials (literature, scientific journals), and tertiary legal materials (legal dictionaries). The analysis technique was conducted qualitatively by interpreting legal norms related to Unexplained Wealth and asset forfeiture as an effort to recover state losses (Efendi, 2023).

C. RESULTS AND DISCUSSION

1. Regulations on Asset Reporting by Public Officials in Revealing Unexplained Wealth

The obligation for public officials to report their income and assets is a preventive measure to avoid the abuse of authority for personal gain, whether in the form of economic benefits or other advantages that benefit themselves, their families, or their immediate circle. The income and asset disclosure (IAD) scheme plays a strategic role in minimising conflicts of interest in the performance of public duties and supporting efforts to disclose and take action against the accumulation of illicit wealth, including in the process of investigating corruption and asset recovery (Handoko, 2023). A study conducted by the World Bank shows that more than 160 countries have implemented this financial disclosure system as part of clean and transparent governance (Demamu, 2024).

Asset and interest declarations are an integral part of the international normative framework in the fight against corruption. This scheme plays an important role in building a culture of integrity among public officials (Kadir et al., 2025). This is in line with the provisions of Article 8 Paragraph (5) of the UNCAC, which encourages each state party to establish a system that requires public officials to report external activities, employment, investments, assets, and gifts or other benefits that could give rise to conflicts of interest in the performance of their duties. The Income and Asset Reporting System has three main functions that are highly strategic in clean governance. First, this system plays a role in detecting and preventing corruption and conflicts of interest in the public administration. Second, this system is a means of establishing a strong culture of integrity among state officials. Third, this system strengthens legitimacy and increases public trust in the integrity of public officials.

In the context of detecting unexplained wealth, this reporting system is designed to collect relevant information to enable effective monitoring of the growth of public officials' wealth (Sakinah & Sumardiana, 2025). The main focus of reporting is directed at identifying assets and income that are not in line with the official income profile or salary of the public official. This approach is crucial, especially in countries with

high levels of perceived corruption and impunity, where monitoring the origin of wealth is an important instrument in restoring public integrity and law enforcement (Ilma, 2025).

Corruption, which is often the basis of illegal wealth, includes bribery, gratuities, and embezzlement (Körtl & Chbib, 2024). Due to the difficulty of proving these crimes, many countries have adopted an Income and Asset Disclosure (IAD) system that serves to detect unusual wealth by monitoring significant changes that cannot be explained by legitimate income. Discrepancies between reports and actual income are subject to administrative and criminal sanctions. IAD violations can also form the basis or evidence in corruption investigations and support the process of recovering assets derived from crime (Hansen, Kartono & Susanto, 2025).

For the illegal wealth detection system to be effective, a credible threat of detection is needed through verification of wealth reports to identify suspicious indications or false information (Mittlaender, 2025). Approaches that can be used include: monitoring significant changes in wealth, comparing reports with external data (such as tax and banking), and conducting lifestyle checks to detect discrepancies between the standard of living and official income of public officials. Several detection methods can be used, as follows (Elda, 2021):

a) IAD institutions or civil society can monitor significant changes in officials' assets and income as indicators of potential illegal wealth;
b) IAD institutions cross-verify reports with external data such as tax, banking, and asset registration to detect false information;
c) IAD institutions and civil society examine discrepancies between lifestyle and official income through lifestyle checks, often supported by investigative journalists or civil organisations.

As for several regulations related to the reporting of public officials' assets in uncovering unexplained wealth in Indonesia, the regulatory review is outlined as follows (Toya, Aryana, & Dewi, 2024):

a) Corruption Eradication Commission (KPK) Regulation Number 3 of 2024 concerning LHKPN

Public officials in Indonesia are required to report their LHKPN to the KPK at the beginning of their term of office, at the end of their term of office, upon retirement, or upon reappointment. The purpose of this reporting is to ensure transparency and accountability. There are two types of forms, namely KPK-A and KPK-B, which have been replaced by the E-LHKPN system, which allows online reporting of assets through the KPK's official website. The KPK has the authority to examine LHKPN in three stages: before, during, and after the term of office of public officials. Post-term examinations can be carried out for a maximum of five years after the end of the term of office (Lineleyan, 2024). Inspections can be carried out on the KPK's initiative, for example if there is a discrepancy

between the reported assets and income, or at the request of certain parties to support law enforcement, internal supervision, and corruption prevention. This process includes analysis, clarification, and field verification, and the results are recorded in a confidential Inspection Report that is only used for inspection purposes.

b) Law No. 52 of 2009 concerning Population Development and Family Planning (BKKN Law)

Based on Article 5 points 2 and 3, every individual who carries out duties as a state administrator is required to submit a report on their assets at three different stages, namely before taking office, during their term of office, and after their term of office ends. Further explanation in Article 5(2) emphasises that if a state official deliberately takes action to obstruct or hinder the process of recording their assets, they may be subject to sanctions in accordance with the applicable laws and regulations. This provision is not merely an administrative regulation, but also serves as a supervisory instrument aimed at anticipating and identifying the possibility of unexplained wealth accumulation. The mandatory wealth reports serve as a tool to verify whether the amount and type of assets owned by public officials are in line with their legitimate sources of income (Chopard, 2025). If there is a significant discrepancy between the reported wealth and legitimate income, this could be an early indication that the assets were likely obtained illegally (Wijayanti, Lailam, & Iswandi, 2025). Furthermore, in Article 12 of the BKKN Law, the competent authorities, such as the KPK, are given the authority to follow up if there are indications that the wealth owned by a state official is not in accordance with their profile and reported official income (Abadiyah, Zainal, & Hakim, 2025). In this context, the public official concerned may be asked for an explanation or clarification, and if they are unable to provide adequate evidence or a rational explanation regarding the source of the assets, they may be subject to legal consequences as stipulated in the applicable provisions.

c) Law No. 19 of 2019 concerning the Second Amendment to Law No. 30 of 2002 concerning the KPK

The KPK plays a strategic role in preventing corruption, including through the management of LHKPN. Based on Article 7 paragraph (1) letter a of the KPK Law, the KPK is tasked with registering and examining the wealth reports of state officials. The KPK has the authority to verify and analyse LHKPN to ensure that wealth is consistent with legitimate income. Any inconsistencies found can be used as a basis for further investigation. Article 12 of the KPK Law grants the KPK strategic authority to carry out investigations into criminal acts of corruption, including in the context of unexplained wealth belonging to public officials (Setyawan et al., 2025). This authority provides the legal basis that enables the KPK to carry out a series of crucial financial investigations to detect and prove the

existence of assets derived from corruption or other related criminal acts. In carrying out its investigative duties, the KPK can request financial data and information from various institutions, including banks and other financial institutions (Abadiyah, Zainal, & Hakim, 2025). This step aims to trace suspicious cash flows and identify transaction patterns that could potentially be a form of concealment or transfer of criminal proceeds. The involvement of financial institutions as data providers is an important element in uncovering hidden financial structures that are often used to conceal the origin of illegal wealth (Pramono et al., 2025). If the investigation finds strong indications that the funds originate from corruption, the KPK has the authority to freeze accounts suspected of being related (Wardana, Rahayu, & Sukirno, 2024). This action is part of preventive efforts to avoid the removal, transfer, or concealment of assets by the parties under investigation, which could hinder legal proceedings and the recovery of state assets (Nasution, Nuranisah, & Nurhalimah, 2025). Thus, Article 12 of the KPK Law not only serves as a legal basis in the investigation process, but also as an important instrument in establishing a system of supervision and enforcement against the practice of illegal wealth accumulation by public officials.

d) **Government Regulation No. 94 of 2021 concerning Civil Servant Discipline (PP DNS)**

Pursuant to Article 8(3) and Article 10(2) of the DPNS Regulation, administrative and functional officials who violate the reporting obligations as stipulated in Article 4(e) may be subject to moderate disciplinary sanctions in the form of a 25% reduction in performance allowances for a period of 6, 9, or 12 months. This sanction aims to improve compliance with wealth reporting. For senior officials or other officials who violate reporting obligations, Article 8 paragraph (4) and Article 11 paragraph (2) of PP DPNS stipulate severe sanctions, including suspension from office for up to 12 months, dismissal from office to an executive position for 12 months, or other sanctions in accordance with the provisions. The obligation to report assets as stipulated in Article 4 letter e of the PP DPNS aims to monitor the wealth of state officials, prevent unexplained wealth, and detect potential corruption. The imposition of strict sanctions in PP DPNS strengthens the administrative oversight system to ensure transparency and accountability among civil servants (Latifiani et al., 2022). However, the State Officials' Wealth Report is an obligation for every public official, but sanctions for those who fail to comply are still limited to administrative sanctions such as temporary dismissal, revocation of permits, supervision, administrative fines, or police coercion (Nanda & Hapsari, 2025).

The procedural implementation of asset confiscation also needs to be reviewed in greater depth before entering into the asset confiscation regulation or the Asset Confiscation Bill, which

must be immediately passed and implemented. According to the current technical regulations, when reviewed from a regulatory perspective, Article 47A of Law No. 19 of 2019 and Government Regulation No. 105 of 2021 stipulate that the procedure for seizing assets from corruption offences begins at the initial investigation stage when investigators report to the Supervisory Board to seize items resulting from corruption offences. The items or assets are then stored in the Seized Property Storage House (Rupbasan) and can be executed by auction once a final and binding court decision has been obtained. This will become even more complex if the procedure takes a very long time to try the defendant and it is not certain that the seized goods or assets will obtain a legal decision for execution. Therefore, a more holistic study of asset forfeiture is needed, emphasising the concepts of unexplained wealth and NCB, which will be examined in more depth in the following sub-chapter.

2. Regulations on the confiscation of assets of officials with unjustified wealth in Indonesia, Australia, and the Philippines

Researchers in this study will compare several countries that have regulations on the confiscation of state officials' assets of unjust enrichment, namely Indonesia, Australia, and the Philippines, with the following specific explanations:

a) Indonesia in the form of the Asset Confiscation Bill

The Asset Confiscation Bill regulates the legal instruments for confiscating assets related to criminal offences. Article 5 paragraph (1) states that assets that can be confiscated include:

1) assets used or suspected of being used in criminal acts;
2) assets belonging to the perpetrator as a substitute for confiscated assets;
3) found assets suspected of originating from criminal acts;
4) the proceeds of criminal acts or assets obtained directly or indirectly from criminal acts, including gifted or converted assets.

Article 5 paragraph (2) of the Asset Seizure Bill explains that assets that can be seized are assets that are disproportionate to legitimate income or sources of wealth and are suspected of being related to criminal acts, and seized assets obtained from or used for criminal acts. In essence, the Asset Seizure Bill focuses on Unexplained Wealth, particularly Article 5 paragraph (2) letter a of the Asset Seizure Bill, which states that unreasonable increases in wealth that are not commensurate with legitimate income may be seized. The explanation of this article states that such imbalance can be proven through the State Officials' Wealth Report (LHKPN), Personal Tax Return (LP2P), or Annual Tax Return (SPT). Thus, Unexplained Wealth is considered tainted property that can be subject to NCB-based asset confiscation (Muchlisin, 2024). The Asset Confiscation Bill applies a reverse burden of proof procedure in Unexplained Wealth

cases, whereby the defendant is required to prove the legitimate origin of their wealth. If they fail, the prosecutor no longer needs to prove the defendant's guilt. This approach is based on the specific nature of unjustified wealth, which is often associated with power and difficult to monitor. This process is in rem, targeting the assets rather than the criminal act, thereby facilitating the confiscation of financial assets suspected of being the proceeds of crime.

Asset confiscation for Unexplained Wealth in the Asset Confiscation Bill uses an in rem approach, which focuses on the assets themselves without requiring proof of a direct link to criminal acts (Sakinah & Sumardiana, 2025). Assets can be confiscated if they are proven to be disproportionate to legitimate income, without waiting for a criminal verdict against their owner. Indonesia's hope for the future is to strengthen the implementation of UNCAC through the Asset Seizure Bill by effectively regulating the mechanism for seizing tainted assets without criminal prosecution (NCB) within the national legal framework. Based on the Asset Forfeiture Bill, even though it is still only a bill, judges have discretion to act as the arm of God, as in the case of Rafael Alun Trisambodo in 2023, which began in April 2023 when Rafael Alun Trisambodo, a former Director General of Taxes, was arrested by the Corruption Eradication Commission (KPK) on suspicion of corruption and money laundering since 2005. He received gratuities from taxpayers and owned a tax consulting company, PT Artha Mega Ekadhana (AME). His 2022 LHKPN (State Officials' Wealth Report) recorded assets of Rp56.7 billion, but this did not match his lifestyle and assets (Anjarani, 2024). The KPK investigation seized 20 assets worth approximately Rp150 billion, including properties in Jakarta, Yogyakarta, and Manado. Based on Supreme Court Decision No. 4101 K/Pid.Sus/2024, Rafael was sentenced to 14 years in prison, a fine of Rp500 million, compensation of Rp10.07 billion, and confiscation of assets worth Rp29.9 billion. On 27 August 2024, the KPK deposited IDR 40.5 billion into the state treasury from the proceeds of the execution (KPK, 2024a). This amount is considered not to represent Rafael's total illicit wealth, which was not fully confiscated.

Based on the NCB approach, the amount of Rafael Alun's Unexplained Wealth can be calculated from the difference between the total assets seized and the value of legitimate wealth in the LHKPN (Riani & Jumadi, 2023). From the total seized assets of Rp150 billion and LHKPN worth Rp56.76 billion, a difference of Rp93.23 billion was obtained, which can be categorised as Unexplained Wealth (KPK, 2024b). The NCB asset forfeiture process was initiated by the JPN, which filed a petition with the court with preliminary evidence, such as the LHKPN, the results of the KPK investigation, and financial analysis. The court summoned Rafael to explain the origin of his wealth. The burden of proof shifted to him to prove that the assets were

obtained legally (Saputro & Chandra, 2021). If Rafael failed to prove the legal origin of his wealth, the judge could declare the assets as Unexplained Wealth and order their confiscation for the state. This process is more efficient than substantive criminal corruption proceedings. The substance is its connection with the NCB, namely that the confiscation of NCB assets is more efficient and optimal than criminal mechanisms (Holqi, 2025). In Rafael's case, the NCB has the potential to return Rp 93.2 billion, which is much greater than the Rp 40.5 billion obtained through criminal proceedings.

b) Australia in the form of the Proceeds of Crime Act (POCA) 2002 Commonwealth

Section 14D paragraph (2) of POCA 2002 defines Unexplained Wealth as wealth that may not have been obtained legally. The inclusion of the Unexplained Wealth Order (UWO) gives the court the authority to seize illegal assets across jurisdictions. However, differences in implementation between states have created legal loopholes (Irawan et al., 2025). To overcome this, the Commonwealth has implemented the UWO to close these loopholes, although it is limited to federal or state offences with a federal dimension. In the UWO, the burden of proof is reversed to the property owner, who must prove the lawful origin of the assets. If they fail, the court may order the payment of the value of the assets to the Commonwealth. This process is civil in nature with a balance of probabilities standard of proof. However, the government must demonstrate a link between the property and a specific offence, which can weaken the effectiveness of the UWO as evidence of suspicious asset ownership alone is not sufficient. No conviction is required for the application of a UWO, as long as an individual's involvement in a federal offence or an offence with a federal aspect is proven (Campbell & Clancy, 2023). The following are several types of Unexplained Wealth under the Commonwealth's POCA 2002 provisions:

1) Restraining Orders may be sought by the Commonwealth Director of Public Prosecutions (DPP) to freeze assets suspected of being linked to criminal activity, even without a conviction. Alternatively, the court may order a financial penalty equivalent to the value of the illegal assets. The UWO process begins with an application for a restraint order or preliminary UWO, in which the respondent must prove the origin of the assets. If unsuccessful, the court orders payment of the value of the assets to the state (Nurhuda, 2024). Under Section 20A of the POCA 2002, the court has the authority to issue a Restraining Order prohibiting the sale or transfer of property related to Unexplained Wealth until the legal process is complete (Damping, 2024). The DPP is required to give written notice to the owner or related parties, unless there is a high risk of the property being transferred, in which case the application may be filed without prior notice. The application for

a Restraining Order must be accompanied by an Affidavit explaining the alleged ownership of the property by individuals involved in criminal acts. While the property is frozen, the court may allow the use of part of the assets for legal fees, living expenses, and business operations, after assessment by a court assessor. The court has the right to reject the application if it is contrary to the public interest or if the Commonwealth does not provide a guarantee of compensation, and may order reimbursement of costs if the rejection is based on fairness (Rustamaji, Santoso & Kurniawan, 2024).

2) Freezing Orders. The initial step involves applying for Freezing Orders to freeze assets suspected of being the proceeds or means of criminal activity. These orders can be applied to accounts if there is strong evidence that the balance is related to a legal violation, without the need for a direct link between the assets and the crime. Evidence is submitted via affidavit, and financial institutions are required to prevent the withdrawal of funds, except for legitimate financial obligations. In emergencies, applications can be submitted electronically. Account holders may request the withdrawal of funds for urgent needs, but not for legal fees. Parties who comply with the order are granted legal immunity (Wilcox, 2024).
3) Unexplained Wealth Orders, Under Section 179B of the POCA, the court may issue a Preliminary Unexplained Wealth Order (UWO) upon application by the DPP, ordering a person to appear in court to determine the issuance of a UWO. The application must be accompanied by a statement from an authorised officer indicating suspected wealth exceeding what is lawful and ownership or control of property. Respondents may apply for cancellation within 28 days with a maximum extension of 3 months if the court finds no compelling reasons, in the interests of justice and the public interest (Campbell & Clancy, 2023). Section 179G defines the respondent's wealth as including all property, even that which has been sold or consumed. The DPP may apply for an initial UWO without notice, but must notify the owner or interested parties within 7 days of the order being issued (Section 179N). Section 179E POCA gives the court the power to issue a payment order to the Commonwealth if there is a discrepancy between a person's total wealth and the legally permissible amount, after a preliminary Unexplained Wealth Order has been issued. The court must be satisfied that the wealth is related to a predicate offence. The burden of proof of the legitimacy of the assets lies with the owner. The court may refuse the order if it is deemed unfair or if the value of the Unexplained Wealth is below AUD 100,000. If the government fails to provide security for potential losses, the initial UWO may be refused. The amount of Unexplained Wealth is

reduced by the value of assets already seized and payments made, to prevent double taxation and maintain fairness (Brun et al., 2023). With the enactment of these regulations, the concept of law enforcement and the proceeds of crime involves the allocation of authority between the DPP and the Commissioner of the AFP, giving the AFP the right to initiate the process of seizure or confiscation of assets under the Commonwealth POCA. Both have the authority to initiate legal action and represent the state in court proceedings related to the case. Based on the detention order, the DPP and AFP can file a preliminary UWO application and are required to provide written notification along with a copy of the application and Affidavit to the subject within 7 days, with the possibility of a 28-day extension. The subject of the UWO has the right to appear and submit evidence to oppose the order, while the DPP and AFP may also submit evidence at the hearing to determine the issuance of the UWO (Campbell & Clancy, 2023). Section 179R of the POCA stipulates that the amount payable under a UWO is considered a civil debt that can be claimed by the government through the courts. The court also has the power to issue a property utilisation order to satisfy the payment obligation (Section 179S POCA) and a property restraint order (Section 20A POCA) to prevent the transfer of assets before the obligation is fulfilled (Mayana et al., 2024). Property subject to a detention order is automatically charged with a charge protecting the Commonwealth's rights to that property (Section 179SA POCA), and this charge is registered to provide additional legal protection (Section 179SB POCA). The charge remains in force even if ownership is transferred, ensuring that the debt to the state is repaid before the property is transferred. Section 179U of the POCA 2002 regulates the oversight of Unexplained Wealth investigations by the Parliamentary Joint Committee on Law Enforcement to ensure transparency and accountability. The Committee has the authority to summon agencies such as the Australian Federal Police (AFP), the Director of Public Prosecutions (DPP), and the Australian Crime Commission to provide testimony regarding the implementation of the rules (Suardi et al., 2024). In paragraph (3), the AFP is required to submit an annual report to the Committee containing: the number of investigation cases with potential proceedings under the UWO rules, the number and results of Restraining Orders applications under Section 20A and Unexplained Wealth Orders (UWO), and other information in accordance with the regulations (Shabrina & Putrijanti, 2022). The report must be submitted immediately after the AFP's annual report to Parliament. AFP Commissioners have the right to request data from the DPP and other

law enforcement agencies in order to compile a complete and accurate report.

c) The Philippines under Republic Act No. 1379

Republic Act No. 1379 (RA 1379) in the Philippines regulates the confiscation of assets of public officials that were acquired illegally during their term of office. This law states that property whose value is clearly disproportionate to the official's salary and official income may be confiscated in the interests of the state. RA 1379 aims to prevent and eradicate the accumulation of illegal wealth by public officials through the mechanism of Unexplained Wealth asset forfeiture. RA 1379 applies to all public officials appointed, elected or contracted, including those working in state-owned companies or agencies. Property that is lawful under RA 1379 includes assets owned prior to taking office, gifts received before becoming an official, and property already owned when qualifying for the position. In addition, the proceeds and income from property exclusively owned by the official's spouse are also included in the category of lawful property (Mendoza, Bulaong Jr, & Mendoza, 2025). Illegal property as referred to in Article 2 of RA 1379 is:

1) Property obtained illegally by the respondent, but in their name or in the name of their spouse, descendants, relatives, or other parties.
2) Property obtained illegally by the respondent, but transferred to another person after the law came into effect.

Property bequeathed to the respondent during his or her term of office, unless its validity can be proven in court. The determination of public officials' property as unlawfully property begins with a taxpayer's complaint to the city or provincial fiscal (prosecutor) who conducts a preliminary investigation in accordance with Article 3 of RA 1379. The Fiscal then reports to the Solicitor General under Section 4 of RA 1379 that there is a suspected violation of the provisions of the law. Next, the Fiscal files a petition with the Court of First Instance under Section 5 of RA 1379 to order the public official to show cause why the property should not be seized by the state. The petition may be filed against active public officials as well as those who have resigned, been dismissed, or separated from office, with a statute of limitations of four years from the end of their term of office, as stipulated in Article 6 of RA 1379. The prohibition on filing petitions one year before regular elections and three months before special elections is also included in the provisions.

Petitions filed by the Fiscal in cases of Unexplained Wealth of public officials must contain important information, including: the respondent's full identity, current public office and previous employment history, estimated total wealth during their term of office, a description of the assets identified, the amount of salary and other legal income, and additional data that may assist the court in assessing whether the wealth was obtained unlawfully (Bui et al., 2021). This

information aims to provide a strong basis for the court in deciding the legal status of the property. Respondents (public officials) are given 15 days to submit a response to the court, as an opportunity to defend themselves and submit evidence of the lawful acquisition of wealth. The court then schedules a public hearing, at which the respondent must explain the origin of the property. If it is not proven to be lawful, the property is confiscated for the benefit of the state (Mendoza, Bulaong Jr & Mendoza, 2025). Both parties have the right to appeal the decision of the court of first instance. Article 8 of RA 1379 stipulates that the defendant is obliged to testify or provide evidence even if it may incriminate them, but such testimony cannot be used as evidence in criminal proceedings against them. This protection ensures that the right against self-incrimination is upheld in the enforcement of the Unexplained Wealth Act, with the provision that testimony cannot be used for criminal charges, except in cases of perjury or false testimony (Handayani & Hardiyanti, 2025). This is in line with the recommendation of The Stolen Asset Recovery Initiative, which allows for exceptions to the principle of non-self-incrimination in the context of unexplained wealth, while still protecting the rights of the defendant (Muchlisin, 2024). However, such statements may still be used in civil or administrative proceedings (Hijriani et al., 2025).

The provisions in Article 9 RA 1379 provide legal protection to anyone who testifies about illegal methods used by the defendant in acquiring wealth. This provision is designed to guarantee legal security for third parties who provide important information in the prosecution of a case (Irawati, Prananingtyas, & Wulan, 2023). Thus, witnesses cannot be criminally prosecuted for their statements as long as the information is provided in the context of legal proceedings under RA 1379. Article 10 of RA 1379 emphasises that ownership in the name of the defendant or other related parties, as recorded in official documents of wealth and income, does not prevent the state from continuing the asset forfeiture process if it is proven that the assets were obtained through unlawful means. The aim is to prevent attempts to conceal illegal wealth through third parties. Section 12 of RA 1379 imposes criminal sanctions on any state official or public employee who deliberately attempts to transfer or conceal assets obtained illegally after the enactment of this law. The punishment imposed can be imprisonment for up to five years, a fine of up to ten thousand pesos, or a combination of both. The same criminal penalties apply to other individuals who knowingly accept assets obtained through violations, to ensure that external parties cannot protect or conceal assets obtained through abuse of power. To facilitate comparison of the application of the UWO and NCB, the following table is provided:

Table 1. Comparison of Asset Seizure Practices Applied by the UWO and NCBs of Three Countries

Aspects	Comparison between Indonesia, Australia, and the Philippines
Regulations or legal basis for the implementation of UWO and NCB	**Indonesia** Article 5 paragraph (2) of the Asset Seizure Bill Assets that can be seized are assets that are disproportionate to income or legitimate sources of wealth and are suspected of being related to criminal acts, and seized assets obtained from or used for criminal acts. **Australia** Section 14D paragraph (2) of the POCA 2002 defines Unexplained Wealth as wealth that may not have been obtained legally. The inclusion of UWO gives the court the authority to seize illegal assets across jurisdictions. **Filipina** Section 2 RA 1379 If an official or civil servant acquires wealth during his term of office that is clearly disproportionate to his salary as an official or civil servant and to other legitimate income and income from wealth acquired legally, then such wealth shall be prima facie deemed to have been acquired unlawfully.
The institution authorised to seize assets	**Indonesia** With reference to the Asset Seizure Bill, the institution authorised to seize assets from corrupt individuals is the Corruption Eradication Commission (KPK). **Australia** *The Director of Public Prosecutions (DPP) has a duty to apply to the criminal courts for restraining orders and forfeiture orders in respect of assets suspected of being the proceeds of crime. The Australian Financial Security Authority (AFSA), as the official trustee in bankruptcy, is tasked with taking custody of, managing and selling forfeited assets following a court order.* **Filipina** In Executive Order No. 286 of 1987, the authority responsible for executing assets confiscated from corruption offences is the Sequestered Assets Disposition Authority (SADA).
Asset Seizure Mechanism	**Indonesia** In Articles 8 to 9 of the Asset Seizure Bill, it can be seen that the mechanism for asset seizure is through investigators appointed by law, and these investigators have the authority to request all financial institutions to provide the necessary documents related to the convicted person's assets. **Australia** According to POCA 2002, asset forfeiture mechanisms can be carried out by the DPP through restraining orders and freezing orders as described above. **Filipina** In the Philippines, according to RA 1379, the asset forfeiture mechanism begins with a taxpayer filing a complaint with the city or provincial fiscal (prosecutor), who conducts an initial investigation in accordance with Article 3 of RA 1379. The fiscal then reports to the Solicitor General, based on Article 4 of RA 1379, that there is a suspected violation of the provisions of the law. Next, the fiscal files a petition with the Court of First Instance in accordance with Article 5 of RA 1379 to order public officials to show cause why the property should not be seized by the state.

Sumber: Draft Law on the Confiscation of State Assets of Indonesia, Proceeds of Crime Act (POCA) Tahun 2002 of Singapore, and Republic Act (RA) No. 1379 of the Philippines

Based on a comparison of several countries, namely Indonesia, Australia, and the Philippines, each of which has its own concept of asset forfeiture with different legal systems, namely civil law and common law, as well as a comparison of various aspects of regulations, procedures, and asset seizure mechanisms, the researcher analysed that there are several obstacles to asset seizure in relation to unexplained wealth in Indonesia, namely The

asset seizure mechanism in the Asset Seizure Bill has different characteristics from the schemes used in corruption or money laundering cases. This bill does not require proof of a direct link between the assets and a specific criminal act. The State Attorney only needs to submit allegations of inconsistency between the value of the assets and proven legal sources of income. If the defendant fails to provide an adequate explanation of the origin of the assets, the court may conclude that the assets are illegal. Similar regulations in many countries apply a reversal of the burden of proof, requiring individuals to explain the legality of wealth deemed to exceed their economic profile. Although effective in combating illicit wealth, this approach is often criticised for deviating from the principle of presumption of innocence and potentially violating human rights principles. Researchers therefore recommend that several methods be implemented in Indonesia to effectively confiscate unexplained wealth, as follows:

a) Enacting the Asset Seizure Bill with strict regulations on balanced standards of proof, so as not to conflict with the principle of presumption of innocence.
b) Establishing an accountable wealth verification and public asset monitoring system, including integration with the LHKPN system and asset tracking agencies.
c) Providing adequate legal protection for witnesses or reporters of alleged illicit wealth, to encourage public participation without fear.
d) Codify the principle of non-self incrimination clearly, as stipulated in Philippine law, so that testimony in civil proceedings cannot be used for criminal prosecution.
e) Improve the capacity of investigators and law enforcement officials to accurately distinguish between suspected legitimate and illegitimate wealth.

To address unexplained wealth, Indonesia needs to immediately pass asset forfeiture regulations that allow for a reversal of the burden of proof, while still guaranteeing the principles of human rights and the presumption of innocence. Strengthening the law, asset transparency, and witness protection are important steps to ensure that this mechanism is effective and constitutionally valid.

D. CONCLUSION

Indonesia already has various regulations on the reporting of public officials' wealth, such as the BKKN Law, the KPK Law, the DPNS Government Regulation, and the PKPK MHK, as an effort to prevent unjustified wealth. However, without specific regulations governing asset forfeiture based on unexplained wealth, law enforcement has not been optimal and is not yet fully constitutional. Compared to Australia and the Philippines, Indonesia has an urgent need to immediately pass and enact the Asset Forfeiture Bill, given the large number of corruption cases in which the assets of corruptors cannot be executed due to a legal vacuum. Therefore, the

enactment of the Asset Seizure Bill, the adoption of the concepts of unexplained wealth and NCB from Singapore and the Philippines, and the strengthening of the evidence system need to be carried out immediately so that the recovery of state assets can be more effective and sustainable.

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