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Does the Asia-African Legal Consultative Organization (AALCO) Play a Role in The Assets Recovery from Crime?

Full Paper

Abstract

The Asia-African Legal Consultative Organization (AALCO), as an intergovernmental organisation in Asia and Africa, has great potential to facilitate cooperation among member states in combating transnational crimes and recovering assets. The objective of this study is to explore and analyse the role of the Asia-African Legal Consultative Organization (AALCO) in the context of the recovery of assets from crime. The research method used is normative-dogmatic juridical with statutory, conceptual, and comparative approaches. This research uses primary legal sources, such as laws and international treaties, as well as secondary legal sources, such as journals, articles, books, and comments on judges' decisions. The results show that AALCO has an important role in facilitating co-operation between member states for the recovery of assets from crime. AALCO has developed mechanisms such as conventions and guidelines to guide member states in asset recovery. However, this research also found limitations, such as the lack of harmonisation of laws between member states and limited institutional capacity in some countries. In addition, there are still challenges in cross-jurisdictional coordination and a lack of public awareness on the importance of asset recovery. This research recommends AALCO to strengthen a uniform legal framework and improve training and capacity building for law enforcement. In addition, AALCO also needs to strengthen information networks among member countries and build partnerships with international organisations. With these steps, it is hoped that AALCO can be more effective in supporting efforts to recover assets from crime in the Asia and Africa region.

Keywords: AALCO; Asset Recovery; Crime

1. Introduction

The Asia-African Legal Consultative Organization (AALCO) was established as a manifestation of the solidarity of Asian and African countries[1,2]. The organization was born out of the Asia-Africa Summit in Bandung in 1955 and has been officially operational since 1956. Since then, AALCO has become an important forum for its member states to discuss various issues of international law[3],

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[1] Marina Abdul Majid, "The New Asia-Africa Strategic Partnership (NAASP): An Informal Intergovernmental Organisation (IIGO) To Address Wildlife Trafficking And Bioprinting," *Journal of Islamic* 4, no. 26 (2019): 1–23.

[2] Kementerian Hukum dan HAM, "Asian-African Legal Consultative Organization (AALCO)," 2023.

[3] Carissa Amanda Siswanto and Dian Parluhutan, "The Strategic Roles of the AALCO in Accelerating the Regulatory Developments and Solving the Regulatory Problems for Implementing the

including the law of the sea and commercial law. In accordance with Article 1 of its statute, one of AALCO's principal functions is to consider and discuss matters of international law referred to it by Member States and to make recommendations as necessary[4]. In this capacity, AALCO plays a pivotal role in shaping international legal policies that accommodate the interests of Asian and African countries. The forum serves as a conduit for Indonesia and other members to articulate their perspectives and interests on the global stage, thereby facilitating their capacity to influence the shaping of international law. This is particularly crucial considering the evolving dynamics of global politics and economics, where Asian and African countries frequently encounter obstacles in articulating their interests. It is therefore of the utmost importance for AALCO to act as an equal partner with other global organisations that have a strong bargaining position. Through effective cooperation and diplomacy, AALCO can increase the bargaining power of its member countries at the international level. This bargaining power is of the utmost importance to ensure that international policies do not harm or undermine the interests of Asian and African countries.

At the 61st AALCO forum, scheduled to take place in Bali in October 2023, Indonesia will propose the establishment of an Asset Recovery Forum for member countries[5]. This initiative is expected to assist Asian and African countries that have been victims of corruption and money laundering. The establishment of this forum is of great importance, given the complexity of asset forfeiture issues that frequently cross international legal jurisdictions. The flight of assets abroad presents a significant challenge due to the differing legal and procedural frameworks that exist in each country[6]. The process of recovering assets obtained through corruption or money laundering that have been transferred to another country becomes even more complex due to the differences in legal systems, judicial practices, and the complexities of cross-border legal cooperation. This highlights the crucial role of a specialized forum such as the Asset Recovery Forum under AALCO in addressing these challenges. It is anticipated that this forum will facilitate the exchange of information, experiences, and best practices between member countries in dealing with asset forfeiture issues.

Asset forfeiture is an important measure in the context of national law and economy, especially considering the development of criminal acts aimed at obtaining economic benefits[7]. Such crimes not only damage the national economic order, but also threaten social justice. In the Indonesian context, this economic crime has the potential to reduce the Government's ability to realize public welfare, considering that resources that should be allocated for development and people's welfare are instead diverted for personal or group benefits (for example assets obtained from corruption)[8]. A clear example of economic losses due to this criminal offense can be seen from the data of the Investment Alert Task

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Green Finance in Indonesia Pursuant to the UNFCCC Paris Agreement," *LITERATUS* 5, no. 2 (2023): 348–58.

[4] AALCO, "STATUTES OF AALCO" (2004).

[5] Kementerian Hukum dan HAM, "Indonesia Akan Terus Mendorong Agar Asian-African Legal Consultative Organization (AALCO) Menjadi Organisasi Yang Bisa Menjadi Medium Untuk Menyampaikan Kepentingan Negara Asia Dan Afrika Di Tingkat Global," 2023.

[6] Muhammad Wildan Rekssaputra and Syahrul Fauzul Kabir, "The Analisis Terhadap Prosesrecovery Asset Di Indonesia Berdasarkan United Nation Convention Against Corruption (Uncac) Tahun 2003," in *Bandung Conference Series: Law Studies*, vol. 4, 2024.

[7] Irwan Hafid, "Perampasan Aset Tanpa Pemidanaan Dalam Perspektif Economic Analysis Of Law," *Lex Renaissance* 6, no. 3 (2021): 465–80.

[8] Sylvi Fitria Dewi, "Tinjauan Yuridis Perampasan Aset Sebagai Upaya Pengembalian Kerugian Negara Dalam Tindak Pidana Korupsi Di Indonesia" (UNS (Sebelas Maret University), 2024).

Force. In a period of 10 years, public losses due to fraudulent investments reached Rp 117 trillion. [9] This number shows how much negative impact illegal practices have on the economy and state finances.

The Jiwasraya corruption case also serves to illustrate the significance of asset forfeiture. Over the 10-year period between 2008 and 2018, assets seized by prosecutors from those engaged in corrupt practices reached a total value of IDR 18.4 trillion[10]. This figure represents a considerable sum in the context of state financial recovery. Furthermore, the Directorate of Drugs of the Criminal Investigation Unit of the National Police managed to seize assets belonging to Fredy Pratama, an international drug kingpin, with total assets seized reaching IDR 273 billion[11]. This demonstrates the effectiveness of asset forfeiture in cutting off illicit financial flows and hampering organised crime operations. Thus, asset forfeiture in relation to criminal offenses is not only strategic but also urgent. Given the scale of economic loss and social impact caused by economic crimes, there is a clear need for the implementation of effective regulatory frameworks governing the seizure and forfeiture of assets. These arrangements must be able to reach assets that have been transferred outside the jurisdiction of the state and ensure that seized assets can be utilised for the benefit of the national economy and social justice.

Complex crimes such as corruption and money laundering frequently necessitate efforts to recover assets that extend beyond the boundaries of a single domestic jurisdiction. In many instances, the proceeds of crime are in countries other than the one where the crime was initially committed. For instance, companies that engage in bribery to secure contracts may have their headquarters or be incorporated in a different jurisdiction than where the bribe was paid. Similarly, officials who receive bribes often launder the illicit proceeds in other jurisdictions, making the process of asset recovery more complicated. In this context, inter-jurisdictional cooperation is crucial to conduct asset searches and investigations. In countries where crimes are committed, measures such as the identification, freezing and confiscation of criminal assets are often problematic, mainly due to jurisdictional limitations and national laws. Consequently, the role of international organisations such as AALCO is of paramount importance in assisting member states to develop provisions that can be adopted and ratified, including Indonesia. AALCO has the potential to be an effective platform to facilitate the discussion and resolution of cross-jurisdictional asset forfeiture issues. Through AALCO, member countries can work together to develop a uniform and effective legal framework for handling money laundering and corruption cases involving assets in multiple jurisdictions.

In the field of international law, there is a notable absence of research examining the efficacy of the Asia-African Legal Consultative Organization (AALCO) in addressing the issue of asset forfeiture. To date, existing studies have tended to focus on either the theoretical aspects of international cooperation or on specific cases of asset forfeiture in various countries. However, there are few studies that specifically examine the role of AALCO in facilitating the asset recovery process and its influence on the legal policies of its member countries. Furthermore, studies that examine the potential of AALCO as an international organisation to overcome jurisdictional and legal barriers in asset forfeiture cases are also scarce. Considering this, the objective of this study is to address this gap by exploring and analysing the role of AALCO in the context of asset recovery. The objective of this research is to gain a deeper understanding of the ways in which AALCO, through cooperation between member states, can provide

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[9] Rizki Wijaya Kusuma and Efrida Ratnawati Gultom, "INVESTASI BODONG BERKEDOK ROBOT TRADING DENGAN SKEMA PONZI," *UNES Law Review* 5, no. 4 (2023): 1843–60.

[10] Negarawati Ester Benedicta Sihombing, "Apa Saja Aset Koruptor Yang Dapat Dirampas Oleh Negara?," Hukum Online, 2022.

[11] Adrial Akbar, "Bareskrim Sita Aset Gembong Narkoba Fredy Paratama Senilai Rp 273 M," Detikcom, 2023.

solutions to the challenges faced in cross-jurisdictional asset forfeiture. Furthermore, the research aims to identify and evaluate the strategies adopted by AALCO in addressing the legal and political issues that arise in the asset recovery process. Consequently, the research findings are anticipated to furnish AALCO member states with pragmatic and efficacious counsel in addressing asset forfeiture concerns and enhancing the efficacy of international legal collaboration.

2. Method

This research uses a normative-dogmatic juridical method that aims to analyse legislation, literature, principles, principles, and doctrines relevant to the recovery of assets resulting from crime in the context of AALCO's role. This method emphasises an in-depth understanding of the legal text and its interpretation which is then applied to the case under study. The research approach used includes a statutes approach to analyse various regulations governing asset recovery, a conceptual approach to understand related legal concepts, and a comparison approach to compare practices in various AALCO member countries. The legal sources used in this research consist of primary and secondary legal sources. Primary legal sources include applicable laws at both national and international levels, such as the United Nations Convention Against Corruption (UNCAC) and laws and regulations in AALCO member countries. Secondary legal sources include unofficial publications on the law, including journals, articles, books, comments on judicial decisions, and other references that provide additional analyses and perspectives on the research topic.

3. Findings and Discussion

3.1. Recovery and Forfeiture of Proceeds of Crime Assets

Proceeds of crime are defined as property obtained because of committing a criminal offence[12,13]. This can include a wide range of assets, such as money, property, valuables and more. The crimes that generate these assets can be diverse, including corruption, money laundering, fraud, drug trafficking and terrorism. The terms "looted assets" and "recovery of assets from crime" have different definitions and meanings. Spoiled assets are generally understood to refer to objects or goods obtained from criminal offenses and seized by the state through legal proceedings[14]. These assets can be tangible or intangible objects that have economic value. In contrast, the concept of recovery of assets from crime focuses on returning assets to victims of crime. This concept aims to minimise the losses suffered by victims due to criminal acts. The main difference lies in the purpose. Forfeited assets are taken over by the state, whereas asset recovery aims to return assets to victims. It should be noted that Indonesian laws and regulations generally require proof of an asset's link to a criminal offence before it can be confiscated. This contrasts with asset recovery, which focuses on returning assets to victims, without always requiring proof of linkage to the criminal offence.

In accordance with Article 1, point 16 of the Criminal Procedure Code, confiscation is defined as the investigator's effort to take over and store movable or immovable objects for the purpose of evidence in the investigation, appointment, and trial. However, the provisions in the Criminal Code and Criminal Procedure Code do not specifically regulate what should be done with goods or assets that have been confiscated and cannot be returned intact to the victim. This may occur for two reasons: firstly, because

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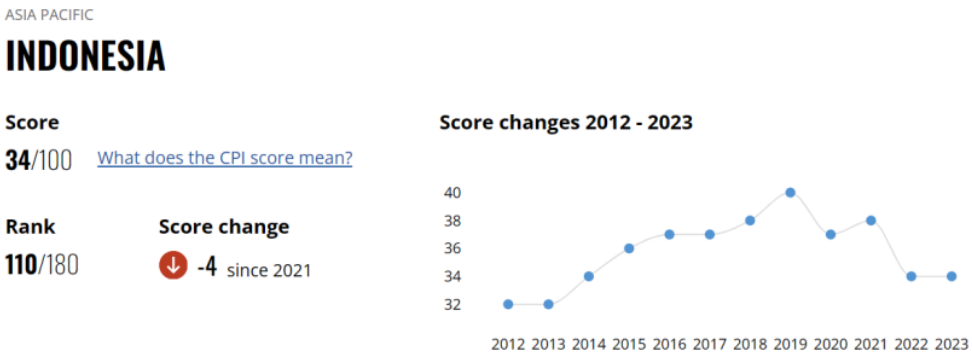
[12] Zaiton Hamin et al., "Configuring Criminal Proceeds in Money Laundering Cases in the UK," *Journal of Money Laundering Control* 17, no. 4 (2014): 374–84.

[13] P W Alldridge, "'Two Key Areas in Proceeds of Crime Law,'" *Criminal Law Review*, 2014.

[14] Marco Arnone and Leonardo S Borlini, "Asset Recovery," in *Corruption* (Edward Elgar Publishing, 2014), 479–523.

the perpetrator has enjoyed some or all the goods or assets; and secondly, because the value of the goods or assets has diminished due to the prolonged legal process. Therefore, a limitative arrangement is needed to overcome this situation[15]. Currently, there is no regulation regarding the return of confiscated goods or assets in an incomplete condition to the victim. Forfeiture of Proceeds of Crime plays a pivotal role in law enforcement and crime fighting. By depriving criminals of the proceeds of their crimes, forfeiture can deter them from committing further offences, encourage them to consider the consequences of their actions, and facilitate the recovery of losses suffered by victims of crime. Furthermore, forfeiture provides a valuable source of funding for crime-fighting programmes.

Picture 1. Corruption Perceptions Index in Indonesia 2023



Source: https://www.transparency.org/en/cpi/2022/index/idn , 1 May 2024

Despite sustained efforts to combat and eradicate corruption, Indonesia is on a downward trajectory, as evidenced by the Corruption Perception Index (CPI) issued by Transparency International (TI). Currently, Indonesia is ranked 110 out of 180 countries in the world with a score of 34, four points lower than the score in 2022.[16] One of the obstacles to the eradication of corruption is the inability of the criminal justice system to seize assets that are suspected of originating from criminal acts that have harmed state finances. These assets may not be explicitly proven in the legal process. The solution to this problem is the implementation of civil forfeiture or non-conviction-based forfeiture (NCB Forfeiture). This mechanism allows the seizure of the perpetrator's assets without the need to wait for a court decision. NCB Forfeiture differs from criminal forfeiture in its concept[17]. In NCB Forfeiture, authorities can seize assets through civil proceedings in a civil court. This is distinct from criminal forfeiture, which is predicated on a robust suspicion that the asset in question was derived from a criminal offence and its confiscation is conducted through criminal proceedings in the criminal court[18].

Indonesia has signed the United Nations (UN) Convention Against Corruption ("UNCAC") which mandates the establishment of a mechanism to implement NCB Forfeiture throughout the national

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[15] Heri Jerman, "Pemulihan ASet Hasil Kejahatan Sebagai Bentuk Perlindungan Hukum Terhadap Korban Kejahatan," *DIH: Jurnal Ilmu Hukum* 13, no. 25 (17AD): 149–61, https://core.ac.uk/download/pdf/290097124.pdf.

[16] Transperancy International, "Corruption Perceptions Index," n.d., https://www.transparency.org/en/cpi/2022/index/idn.

[17] Stephen Schneider, "Civil Forfeiture," Britannica Money, n.d., https://www.britannica.com/money/civil-forfeiture.

[18] Schneider.

legal system. In accordance with Article 54 of UNCAC on Mechanisms for Recovery of Property Through International Cooperation in Forfeiture:

"1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

a) Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;

b) Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and

c) Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article;

b) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article; and

c) Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property."

The United Nations Convention Against Corruption (UNCAC) is an international treaty that aims to eradicate corruption through the prevention, enforcement, and monitoring of corruption between countries. Indonesia signed the UNCAC on 18 December 2003 and ratified it on 19 September 2006[19]. The UNCAC requires each State Party to ensure the existence of an anti-corruption body specialising in preventing and combating corruption through law enforcement. This body must be given the necessary independence and be able to perform its functions effectively and without undue influence. Indonesia has made significant progress in implementing the UNCAC into domestic law. The first and second review cycles have been completed, resulting in 53 recommendations. Of these, 32 were made in the first cycle and 21 in the second[20]. The review cycles facilitate the implementation of UNCAC into domestic law by identifying critical areas and recommendations through a peer-review process. Each

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[19] UNCAC Coalition, "UNCAC Coalition Statement on Threats to the Independence of Indonesia's Corruption Eradication Commission KPK," n.d., https://uncaccoalition.org/wp-content/uploads/Indonesia-statement-3.pdf.

[20] Stolen Asset Recovery Initiative, "UNCAC," The World Bank, n.d., https://star.worldbank.org/focus-area/uncac.

State Party is reviewed by two peers. In collaboration with the Corruption Supervisory Commission (KPK) and Bappenas, the United Nations Office on Drugs and Crime (UNODC) organised an event in Indonesia to review UNCAC implementation[21]. Indonesia reaffirmed its commitment to combating corruption in a comprehensive manner, underscoring the necessity of enhancing measures to facilitate asset recovery through the forthcoming Asset Recovery Bill.

Although Indonesia has signed the UNCAC, the current legal framework in Indonesia governing Asset forfeiture for certain criminal offenses has not adopted NCB Forfeiture. The legal framework includes:

1) Criminal Code (KUHP): The Criminal Code regulates criminal offenses and their legal consequences, including forfeiture of the proceeds of crime. Article 39 of the Criminal Code states that "Whoever intentionally and unlawfully takes, steals, extorts, embezzles, defrauds, deceives, or otherwise enriches himself or another person to whom another is entitled, shall be punished by imprisonment for a term not exceeding seven years and a fine not exceeding forty million rupiahs."
2) Law Number 31 Year 1999 on the Eradication of Corruption (Anti-Corruption Law): The Anti-Corruption Law regulates corruption offenses and the mechanism for confiscation of assets resulting from corruption. Article 39 of the Anti-Corruption Law states that "The defendant may be sentenced to an additional fine in the form of confiscation of all or part of the property obtained from the proceeds of corruption."
3) Law No. 8/2010 on the Prevention and Eradication of Money Laundering Crimes (Anti-Money Laundering Law): The Anti-Money Laundering Law regulates the crime of money laundering and the mechanism for confiscation and forfeiture of assets resulting from money laundering. Article 12 of the Anti-Money Laundering Law states that "Investigators and public prosecutors are authorized to confiscate objects suspected of being the proceeds of money laundering crimes."

In addition to the laws and regulations, there are several other regulations that also regulate the proceeds of crime assets. These include Law No. 36 of 2009 on Health (in the case of proceeds of crime assets related to the illegal drug trade) and Law No. 5 of 2018 on the Amendment to Law No. 15 of 2002 on Terrorism (in the case of proceeds of crime assets related to terrorism). To address this issue, the government is currently developing a draft law on criminal asset forfeiture (the bill). The latest version of the bill (published in April 2023) comprises 68 articles and 17 chapters that delineate the conditions for NCB forfeiture[22]. The latest bill defines "forfeiture" as the compulsory acquisition of rights to property or profits derived from criminal acts, whether in Indonesia or abroad. Conversely, "criminal forfeiture" refers to the act of the state expropriating assets through a court judgment in a criminal case. Although the bill employs the term "forfeiture," this concept is not explicitly found in Supreme Court Regulation No. 1/2013 on the Procedure for Settling Requests for Handling Assets in the Crime of Money Laundering or Other Crimes (Perma 1/2013). In lieu of the term "forfeiture," Perma 1/2013 employs the phrase "handling of assets" as a substitute.

3.2. Subheading International Cooperation in the Recovery of Proceeds of Crime

International cooperation in the recovery of criminal assets is a crucial aspect of combating transnational organised crime and corruption. Various international treaties and partnerships play a

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[21] United Nation, "Indonesia Commits to Anti-Corruption Drive," UNODC Regional Office for Southeast Asia and the Pacific, 2023.

[22] "Naskah Akademik Rancangan Undang-Undang Tentang Perampasan Aset Tindak Pidana," 2022, https://bphn.go.id/data/documents/hasil_penyelarasan_na_ruu_tentang_perampasan_aset_terkait_tindak_pidana.pdf.

significant role in facilitating the return of stolen assets to their rightful owners. The United Nations Convention against Transnational Organised Crime and the United Nations Convention against Corruption provide a legal framework for countries to adopt measures that encourage cooperation in the recovery of criminal assets[23]. These legal frameworks permit countries to collaborate more effectively in tracing, freezing and returning assets obtained through crime. Without international cooperation, asset recovery efforts are frequently impeded by jurisdictional differences and complex national laws. For instance, assets stolen in one country are frequently hidden in another, necessitating cross-border collaboration to identify and seize them.

Initiatives such as Stolen Asset Recovery (StAR), a partnership between the World Bank Group and the United Nations Office on Drugs and Crime, have the objective of coordinating global efforts to end safe havens for corrupt funds and to increase the return of stolen assets to affected countries[24]. The initiative emphasises the significance of international collaboration in addressing the challenges associated with asset recovery, including the complexities of cross-border investigations and legal proceedings[25]. Such collaboration allows countries to share information, resources and expertise needed to trace and recover assets hidden in different jurisdictions. Furthermore, the initiative also promotes institutional capacity building in affected countries, thus enabling them to better face the legal and administrative challenges of asset recovery. Through effective international collaboration, asset recovery efforts can become more coordinated and efficient, reducing opportunities for criminals to hide the proceeds of their crimes. The StAR initiative demonstrates that with a systematic and structured approach, the international community can achieve significant progress in combating corruption and restoring justice to affected countries.

In the European Union, strategies that adopt a "no safe haven" approach to criminal proceeds emphasise the harmonisation of efforts in dealing with cross-border cases through preventive measures, financial investigations, and asset freezing and seizure[26]. This approach is designed to create an inhospitable environment for criminals who attempt to hide their assets in different jurisdictions. This kind of coordination is crucial in combating money laundering and enhancing the recovery of criminal assets globally. The implementation of coordinated action enables authorities in disparate countries to act expeditiously and efficaciously in tracing and seizing illicitly obtained assets. Furthermore, the harmonisation of these efforts serves to reinforce the international legal framework, thereby rendering it more challenging for criminals to exploit legal loopholes in disparate countries. The deployment of preventive measures, comprehensive investigations, and rigorous legal measures, such as the freezing and seizure of assets, collectively contribute to the success of this strategy. The EU's adoption of an integrated approach serves to strengthen the protection of the financial system, while simultaneously setting an example for other countries in the global fight against financial crime. This approach demonstrates that, through close international co-operation and harmonised action, countries can effectively confront the challenges posed by cross-border crime and ensure that illegally obtained assets are recovered and returned to the rightful parties.

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[23] Nicolous PrayGod Amani, "Informal Amnesties in Asset Recovery Practices in Tanzania: Examining Criminal Justice Challenges," *The Eastern African Law Review* 48, no. 1 (2022).

[24] Agaptus Nwozor and Oladiran Afolabi, "Keeping up Appearance? Nigeria's Anti-Corruption Crusade and Image Dilemma in the Global Arena," *Journal of Financial Crime* 30, no. 3 (2023): 813–27.

[25] George Pavlidis, "Asset Recovery: A Swiss Leap Forward?," *Journal of Money Laundering Control* 20, no. 2 (2017): 150–58.

[26] Pavlidis.

Assets derived from criminal activities are frequently hidden abroad, necessitating the involvement of multiple countries to track, confiscate, and return these assets to victims or the state. International cooperation can be achieved through various forms of collaboration, including the exchange of information about the proceeds of crime. This may involve the sharing of data such as the location of assets, their owners, and the flow of funds. In addition, mutual legal assistance can be carried out, whereby countries assist each other in the legal process to trace, confiscate and seize the proceeds of crime. Furthermore, countries work together to freeze the proceeds of crime so that they cannot be transferred or used by criminals. Countries seize the proceeds of crime to ensure their availability for further legal proceedings. Ultimately, the proceeds of crime are returned to the victim or country of origin. This is in accordance with international cooperation instruments such as:

(a) The United Nations Convention Against Corruption (UNCAC): UNCAC requires states parties to undertake international cooperation in the recovery of proceeds of crime.
(b) G20 Anti-Corruption Action Framework (G20 ACF): The G20 ACF promotes international cooperation in the recovery of proceeds of crime, including through information sharing and mutual legal assistance.
(c) Global Asset Recovery Network (GARAN): GARAN is an online platform that connects law enforcement authorities and asset recovery agencies from around the world to facilitate cooperation in the recovery of assets from crime.

However, there are differences in legal systems in different countries, so harmonization is needed to facilitate international cooperation. Lack of transparency of information about assets and the flow of funds can also hinder the asset recovery process. Also, some countries have limited capacity to track, seize and return assets from crime. Furthermore, the role of prosecutors in the asset recovery process is of paramount importance, as they utilise criminal and civil remedies to facilitate the return of assets acquired through corrupt practices[27]. Prosecutors are vested with the authority to seize and secure assets suspected of being related to crime, which represents a crucial step in stopping the flow of illicit funds. The involvement of legal authorities and the establishment of specialised institutions, such as Asset Recovery Centres, are essential to ensure the successful recovery of illicitly obtained assets[28]. These institutions play a key role in coordinating cross-border efforts and ensuring that legal proceedings are effectively implemented. The establishment of a specialised agency allows the state to focus its efforts on asset recovery cases, ensuring that all necessary legal steps are taken to return assets to their rightful owners. Furthermore, the existence of an asset recovery centre allows for more structured international cooperation, which is necessary to deal with the complexities of cross-jurisdictional cases. Thus, the combined role of prosecutors and specialised agencies ensures that the asset recovery process is not only efficient but also effective in returning stolen funds. This coordinated approach is of particular importance in the fight against corruption and financial crime, which frequently involve international networks and sophisticated money laundering techniques. Without the active role of prosecutors and specialised agencies, asset recovery efforts would face numerous obstacles, particularly in terms of cross-border coordination and enforcement.

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[27] Midian Hosiholan Rumahorbo, Risa Mahdewi, and Desia Rakhma Banjarani, "The Role of Prosecutors in The Effort For Assets Recovery From Corruption Crimes," *Ius Poenale* 3, no. 2 (2022): 81–92.

[28] Yully Lestari Tasdikin and Slamet Tri Wahyudi, "PROBLEMS OF THE SETTLEMENT OF STATE LOOTED GOODS IN THE CRIMINAL ACT OF CORRUPTION AND MONEY LAUNDERING AT PT ASURANSI JIWASRAYA," *Indonesian Journal of Multidisciplinary Science* 1, no. 10 (2022): 1176–94.

3.3. Legal Framework for Proceeds of Crime Asset Recovery

To establish a robust legal framework for the recovery of proceeds of crime assets, it is important to consider the various aspects that have been highlighted in the literature. Asset recovery plays an important role in combating crimes such as corruption, money laundering and organised crime by ensuring that illegally acquired assets are confiscated and returned to their rightful owners or used for public benefit[29]. Asset recovery not only assists in combating criminal activities but also reinforces public confidence in law enforcement agencies, enhances accountability, and reduces corruption[30]. By securing illegally acquired assets, the state can diminish the motivation for individuals to engage in criminal activities. Furthermore, the return of assets to society or their utilisation for public purposes can provide tangible benefits for social and economic development. Furthermore, these measures serve to demonstrate the government's commitment to upholding the rule of law and the administration of justice. This, in turn, can increase the legitimacy and public support for crime-fighting efforts.

One of the key considerations in the process of asset recovery is the legal framework involved in the seizure of assets obtained through criminal activity. This legal framework is of critical importance, as it ensures that asset forfeiture is conducted fairly and in accordance with applicable law. Criminal asset forfeiture systems often require prosecuting authorities to prove that the assets in question are proceeds or instrumentalities of crime. This emphasises the importance of a strong legal basis for asset forfeiture[31]. It is therefore essential that strong evidence and strict legal procedures are in place to ensure that the confiscation process does not violate human rights and principles of justice. In some jurisdictions, such as Indonesia, asset confiscation in corruption cases is based on the criminal law system, where confiscation can only occur after the perpetrator is found legally guilty in court[32]. This indicates that asset confiscation serves not only as a means of recovering state losses, but also as part of a law enforcement process that upholds the principle of the presumption of innocence. This system ensures that only those who are proven guilty can have their assets confiscated, which in turn strengthens the legitimacy and fairness of the legal system.

The legal framework for asset recovery should include several different measures, including preventive measures, criminal proceedings, financial investigations, and asset freezing and confiscation. These measures should be implemented in a consistent and complementary manner[33]. This comprehensive approach ensures that assets derived from criminal activity can be effectively targeted and recovered, including in a cross-border context within the European Union[34]. Consequently, a robust legal framework not only concentrates on asset confiscation after the commission of a crime, but also encompasses preventative measures that can dissuade criminal activity before it occurs. This approach is of paramount importance, as it provides a transparent and unified legal foundation for all member

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[29] Pavlidis, "Asset Recovery: A Swiss Leap Forward?"

[30] Hanita Azrica, Rahmad Safitri, and Muhammad Riza Muarrif, "Multiplier Effect Pemulihan Aset Di Kejaksaan," *Jurisprudensi: Jurnal Ilmu Syariah, Perundang-Undangan Dan Ekonomi Islam* 15, no. 2 (2023): 360–72.

[31] Anastasia Suhartati Lukito, "Revealing the Unexplained Wealth in Indonesian Corporation: A Revolutionary Pattern in Non-Conviction-Based Asset Forfeiture," *Journal of Financial Crime* 27, no. 1 (2020): 29–42.

[32] Rudi Margono et al., "The Urgency of Asset Confiscation Sanction in Tax Crimes," *International Journal of Research in Business and Social Science (2147-4478)* 9, no. 5 (2020): 285–93.

[33] Pavlidis, "Asset Recovery: A Swiss Leap Forward?"

[34] Pavlidis.

states to collaborate in combating transnational crime. Furthermore, the legal framework should be capable of addressing challenges such as attrition, which is the discrepancy between the estimated criminal gains and the amount of money recovered[35]. This discrepancy highlights the necessity for more effective and efficient asset recovery mechanisms. To address the issue of attrition, there is a requirement for improvements in financial investigation techniques and international collaboration. This encompasses training for law enforcement and prosecutors, the utilisation of sophisticated technology in asset tracing, and the harmonisation of regulatory frameworks between countries. By enhancing the efficacy of asset recovery mechanisms, countries can more effectively address and diminish the profits derived from criminal activity, which in turn will diminish the incentives for individuals to engage in such crimes.

3.4. AALCO's Role in Criminal Asset Recovery

International co-operation in the recovery of proceeds of crime is essential to combat corruption and other crimes. Despite some challenges, efforts continue to be made to strengthen international co-operation and improve the effectiveness of asset recovery. AALCO plays an important role in the recovery of assets from crimes in Indonesia. The 61st Annual Session of AALCO held in Bali, Republic of Indonesia, included the topic of "Asset Recovery Expert Forum" proposed by the Government of the Republic of Indonesia[36]. This proposal highlighted the importance of asset recovery in the fight against corruption and emphasised the need for the establishment of a joint expert forum within AALCO due to the severity and complexity of the asset recovery process. The meeting focussed on the importance of establishing an Asset Recovery Expert Forum comprising senior officials, academics and other relevant stakeholders who have experience and expertise in the recovery of proceeds of crime assets from foreign jurisdictions. The establishment of the Asset Recovery Experts Forum is essential for coordination and collaboration with domestic agencies and ministries in various jurisdictions with different legal systems and procedures, especially in relation to specialised investigative techniques[37]. The Forum aims to address the skills required to "follow the money" beyond national borders and the ability to act quickly to prevent asset obfuscation, which is critical to successful asset recovery. In addition, Indonesia actively encourages AALCO members to address transnational organised crime issues, including illegal wildlife trade and illegal fishing. This demonstrates the organisation's involvement in addressing various criminal activities. This exemplifies AALCO's role in facilitating collaboration and discussion among its member countries to combat transnational crime, including asset recovery, in Indonesia and beyond. In summary, AALCO's role in asset recovery of proceeds of crime in Indonesia is manifested through efforts to establish an Asset Recovery Expert Forum and encourage discussion on transnational organised crime issues. This demonstrates AALCO's commitment to fighting corruption and recovering stolen assets.

AALCO should play a role in the recovery of assets from crime, as the organisation has the capacity to strengthen legal cooperation among member states. As an organisation that represents countries in Asia and Africa, AALCO can be an effective platform to develop joint policies and share

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[35] Edwin W Kruisbergen, Edward R Kleemans, and Ruud F Kouwenberg, "Explaining Attrition: Investigating and Confiscating the Profits of Organized Crime," *European Journal of Criminology* 13, no. 6 (2016): 677–95.

[36] AALCO, "Summary Repoart of The Sixty-First Annual Session of The Asian-African Legal Consultative Organization," 2023, https://www.aalco.int/61stAnnualSession/Final Summary Report 23 November 2023.pdf.

[37] AALCO, "Asset Recovery Expert Forum," n.d., https://aalco.int/AssetRecovery.

best practices in asset recovery. This co-operation is particularly important given the complexity of asset forfeiture issues that often involve the legal jurisdictions of different countries. In the absence of effective coordination, asset recovery efforts will be hindered by the existence of disparate legal frameworks and procedural differences across countries. Furthermore, AALCO can assist in addressing the regulatory gaps between member countries. By harmonising laws and regulations, countries can more effectively track, freeze, and seize illegally obtained assets. AALCO can also play an important role in enhancing the institutional capacity of member countries through training and human resource development. This will strengthen countries' ability to handle complex and cross-border asset recovery cases. Based on the previous literature review, there are 10 recommendations for AALCO to enhance its role in the recovery of assets from crime:

1) **Develop a Uniform Legal Framework:** AALCO should promote harmonisation of asset recovery laws and regulations among member states to facilitate cross-jurisdictional cooperation.

   AALCO should promote harmonisation of asset recovery laws and regulations among member countries to facilitate cross-jurisdictional cooperation. This harmonisation is important as differences in laws and procedures between countries are often a major obstacle in asset recovery efforts involving multiple jurisdictions. With a uniform legal framework, member states can work more effectively and efficiently in tracing, freezing and seizing illegally obtained assets. In addition, harmonisation will also enhance trust and cooperation among member states in sharing information and resources. Therefore, this measure will strengthen the collective capacity of AALCO member states in the fight against cross-border crime and corruption.

2) **Establish Asset Recovery Centres:** AALCO should establish a dedicated centre that serves as a coordination hub for member states in tracking, freezing and confiscating proceeds of crime assets.

   AALCO may establish an Asset Recovery Centre that serves as a coordination hub for member states in tracing, freezing, and seizing proceeds of crime assets. The centre will facilitate cross-jurisdictional cooperation by providing a centralised platform for the exchange of information and resources. With this centre, member states can more quickly and effectively identify and secure illegal assets spread across multiple countries. In addition, the centre can also offer training and technical support to law enforcement in member states to enhance their capacity to handle complex asset recovery cases. Therefore, the establishment of the Asset Recovery Centre will strengthen AALCO's framework in combating organised crime and corruption at the regional level.

3) **Training and Capacity Building:** AALCO should provide regular training programmes for law enforcement and prosecutors in member countries on financial investigation and asset recovery techniques.

   AALCO should provide regular training programmes for law enforcement and prosecutors in member countries on financial investigation and asset recovery techniques. This programme will enhance the skills and knowledge of law enforcement in tracing, freezing and seizing illegally obtained assets. With ongoing training, prosecutors and investigators will be better prepared to face complex challenges in cross-jurisdictional cases. Moreover, this capacity building will also strengthen co-operation among member states in sharing best techniques and strategies. Therefore, this initiative will strengthen AALCO's effectiveness in supporting the recovery of criminal assets at the regional level.

4) **Strengthening Information Networks:** AALCO should strengthen information networks between member states to facilitate the exchange of data on assets of suspected criminal origin.

   AALCO should enhance the information network between member countries with a view to facilitating the exchange of data on assets suspected of being derived from criminal activities. The strengthening of this network will permit member countries to share information in a more efficient

and expeditious manner, which is of the utmost importance in the tracking and freezing of illegal assets. With better access to data, countries will be in a position to identify and seize assets that are dispersed across multiple jurisdictions in a more effective manner. Furthermore, the establishment of a robust information network will facilitate transparency and collaboration among member states, thereby reinforcing collective efforts to combat organised crime and corruption. Therefore, enhancing the information network represents a pivotal strategy for AALCO to enhance the efficacy of asset recovery from criminals.

5) **Encourage the Use of Advanced Technology:** AALCO should encourage member states to use advanced technology in the tracking and analysis of proceeds of crime assets.

   AALCO should encourage member countries to utilise advanced technology in the tracking and analysis of proceeds of crime assets. The deployment of technologies such as artificial intelligence (AI), data analytics and asset tracking software can enhance efficiency and accuracy in the identification and monitoring of illicit assets. These advanced technologies permit law enforcement to analyse complex transaction patterns and detect suspicious activity that may be overlooked with traditional methods. Furthermore, technology can also facilitate the process of freezing and seizing assets in various jurisdictions. Consequently, the implementation of state-of-the-art technology will reinforce asset recovery initiatives and augment member states' capacity to address organised crime and corruption.

6) **Organise Expert Forums:** AALCO can periodically organise expert forums that bring together legal experts, academics, and practitioners to discuss and share experiences on asset recovery.

   AALCO may periodically organise expert forums that bring together legal experts, academics, and practitioners to discuss and share experiences on asset recovery. This forum will be an important platform for the exchange of information and best practices among member countries. Through discussion and collaboration, participants can develop new strategies and innovative solutions to address challenges in asset recovery. In addition, the forum can also strengthen professional networks and facilitate cross-border co-operation. Thus, the regular organisation of the expert forum will enrich member countries' knowledge and capabilities in recovering assets from crime, as well as strengthen AALCO's role in supporting global efforts against organised crime and corruption.

7) **Building Partnerships with International Organisations:** AALCO should build strong partnerships with international organisations such as UNODC and World Bank to support the asset recovery initiative (StAR Initiative).

   AALCO should build strong partnerships with international organisations such as UNODC and the World Bank to support asset recovery initiatives, such as the StAR Initiative. These partnerships will enable AALCO and its member states to access wider resources, expertise and technical support in asset recovery efforts. Through this collaboration, AALCO can strengthen the institutional and operational capacity of its member countries in tracing, freezing and seizing illegally acquired assets. Moreover, cooperation with international organisations can help overcome jurisdictional and regulatory barriers that often impede cross-border asset recovery processes. As such, this strategic partnership will enhance AALCO's effectiveness in supporting global efforts against corruption and organised crime.

8) **Promote Public Awareness:** AALCO should organise public awareness campaigns in member states on the importance of asset recovery of proceeds of crime and how to report it.

   AALCO should organise public awareness campaigns in member countries on the importance of recovering assets from crime and how to report them. This campaign will help increase public understanding of the negative impact of financial crime and the importance of public participation in the asset recovery process. With proper education, the public will be more aware of the signs of

suspicious transactions and motivated to report illegal activities to the relevant authorities. In addition, public awareness campaigns can build stronger social support for the government's efforts to fight corruption and organised crime. As such, this initiative will strengthen collaboration between the public and the government in combating financial crime and recovering stolen assets.

9) **Integrate Asset Recovery in National Policies:** AALCO should encourage member states to integrate asset recovery policies into national anti-corruption and anti-money laundering strategies.

   AALCO should encourage member states to integrate asset recovery policies into national anti-corruption and anti-money laundering strategies. This integration is important to ensure that asset recovery efforts are part of a comprehensive approach to countering financial crime. By incorporating asset recovery into national policies, member states can coordinate relevant agencies and maximise resources. In addition, an integrated approach will strengthen national legal frameworks and institutions, thereby enhancing the effectiveness of law enforcement and crime prevention. Therefore, the integration of asset recovery policies into national strategies is an important step to strengthen member states' ability to combat corruption and money laundering.

10) **Optimising Mutual Legal Assistance:** AALCO should ensure that member states have efficient mutual legal assistance mechanisms to support cross-border asset recovery processes.

   AALCO should ensure that member states have efficient mutual legal assistance mechanisms in place to support cross-border asset recovery processes. Effective mutual legal assistance is essential in overcoming jurisdictional barriers that often prevent the recovery of illegally obtained assets. This mechanism allows countries to assist each other in identifying, freezing and seizing assets spread across different countries. Moreover, good mutual legal assistance will speed up the legal process and improve coordination between member states. Therefore, optimising mutual legal assistance is a strategic step towards strengthening international cooperation in the recovery of assets from crime and enhancing global justice.

4. Conclusion

The objective of this research is to examine and analyse the role of AALCOs in the context of asset recovery. The findings indicate that the recovery and forfeiture of criminal assets plays a significant role in law enforcement and the recovery of losses suffered by victims of crime. It is often the case that proceeds of crime assets are hidden overseas, necessitating the establishment of robust international cooperation to trace and seize them. AALCO has the potential to facilitate cooperation among its member countries in asset recovery efforts. This is achieved by providing a harmonised legal framework and supporting the establishment of asset recovery centres. By encouraging the use of advanced technology and strengthening information networks, AALCO can enhance the effectiveness of the asset recovery process. Therefore, through these recommendations, AALCO is expected to strengthen its role in combating transnational crime and corruption and returning the proceeds of crime to the rightful state or victims.

It is important to note that this research has several limitations that must be considered. Firstly, this study primarily focuses on the role of AALCO in the context of asset recovery without conducting a comprehensive analysis of policy implementation in each member state. Secondly, the data used in this study is largely derived from secondary sources, which may result in limitations in data validity. For future research, it is recommended that an empirical study be conducted involving direct interviews with experts and practitioners in the field of international law, as well as representatives of AALCO member countries. This research contributes to the existing literature on the role of international organisations, particularly AALCO, in the recovery of assets from crime. It also enriches the academic discussion on the importance of legal harmonisation among Asian and African countries in cross-border

asset recovery efforts. In practice, this research provides concrete recommendations for AALCO and its member states on how to enhance cooperation and effectiveness in asset recovery. These include the establishment of asset recovery centres and the use of advanced technology. Thus, this research not only provides new insights for the development of international legal theory, but also offers practical guidance for policy makers and law enforcement in addressing the challenges of recovering assets from crime.

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