

Illicit Enrichment and Human Rights: Comparative Legal Policy in Indonesia and Poland

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Abstract

Corruption in Indonesia has been classified as an extraordinary crime; however, the absence of an illicit enrichment offense has resulted in law enforcement primarily targeting the symptoms of corruption rather than its root cause, namely the accumulation of disproportionate and unexplained wealth. This condition creates an urgent need to examine the potential criminalization of illicit enrichment while ensuring the protection of human rights. This study aims to analyze the construction of legal policy in Indonesia and Poland and to assess the extent to which criminal law policies concerning illicit enrichment in both jurisdictions integrate fundamental principles of criminal law and human rights within their normative design. The research employs a normative legal method, applying both comparative and conceptual approaches. The findings indicate that Indonesia remains in a transitional phase between the orientations of state efficiency and defendant's rights, whereas Poland places greater emphasis on rights protection through the mechanism of extended confiscation. The criminalization of illicit enrichment can only be justified if it is formulated with precision and proportionality in order to maintain a fair balance between the effectiveness of anti-corruption enforcement and the protection of fundamental human rights.

Keywords: *Criminal Justice System, Digital Evidence, Responsive Legal.*

A. INTRODUCTION

Corruption is a crime that is globally categorized as a serious threat to democratic governance, the rule of law, and the protection of human rights (Lee, 2025)(Adam Ilyas, Felix Ferdin Bakker, 2021). In various international instruments

including the United Nations Convention against Corruption (UNCAC) 2003, corruption is positioned as a crime that has systemic impacts on economic stability and public trust (Orozco Menéndez, 2025). In Indonesia, acts of corruption are even classified as extraordinary crimes and the most serious crimes because they are carried out in a planned, systematic, and organized manner (Ridwan et al., 2025). The character is evident from practices of budget misuse, fictitious projects, and mark-ups that harm the state's finances and directly impact the socio-economic rights of the community. Therefore, the eradication of corruption is not only understood as a law enforcement agenda but also as an effort to protect the constitutional rights of citizens. In this context, the urgency to strengthen criminal law instruments arises, including thru the possibility of criminalizing illicit enrichment.

Article 20 UNCAC introduces the concept of illicit enrichment as a significant increase in the wealth of public officials that cannot be reasonably explained based on their legitimate income. Although this norm is non-mandatory, it reflects a global consensus that the disproportionate wealth can be an indicator of structural corruption that is difficult to prove thru conventional offenses such as bribery or abuse of power (Borlini, 2024). Conceptually, illicit enrichment emphasizes the disproportionality between assets and legitimate income without having to specifically prove the original crime (Bikelis, 2024). This approach is considered effective in closing legal loopholes that have been exploited by corrupt actors. However, this shift in the burden of proof simultaneously raises serious debates regarding the fundamental principles of modern criminal law. Thus, the criminalization of illicit enrichment lies at the intersection of the effectiveness of anti-corruption efforts and the protection of human rights.

The discourse on the criminalization of illicit enrichment in Indonesia and Poland often gets trapped in the dichotomy between State Efficiency and Defendant's Rights in practice (Bikelis, 2022). State Efficiency demands that the state design legal mechanisms that are effective and responsive to the increasingly sophisticated complexities of corruption crimes (Olasolo et al., 2025). On the other hand, modern criminal law requires respect for the presumption of innocence, the right against self-incrimination, and guaranties of a fair trial (Ozaki, 2025). This tension raises fundamental questions about how to achieve a fair balance between the public interest in combating corruption and the protection of the defendant's rights. Without that balance, criminalization can transform into a repressive instrument that potentially violates constitutional rights.

Indonesia regulates various forms of corruption thru Law No. 31 of 1999 jo. Law No. 20 of 2001, which includes 30 offenses in seven main categories (Hufon & Fikri, 2024). However, in those provisions, there is no explicit formulation regarding illicit enrichment as referred to in Article 20 UNCAC. Articles 2 and 3 of the Anti-Corruption Law still require proof of unlawful acts or abuse of authority as well as financial losses to the state (Masnun, Muh Ali, Prasetyo, Dicky Eko, Konara, 2026). Meanwhile, the instrument of the State Officials Wealth Report (LHKPN) is more administrative in nature and has not yet been effectively integrated into the criminal accountability mechanism for unjust wealth (Nuryanto & Jaelani, 2024). This condition indicates the presence of a normative gap that could be exploited by corrupt actors to enjoy the proceeds of their crimes without adequate risk of prosecution. In the context of democratic transition in Southeast Asia, Indonesia faces the challenge

of strengthening its criminal justice system without neglecting the principles of the rule of law.

Unlike Indonesia, Poland, as a country with a continental European legal tradition, is subject to strict human rights standards under the European Convention on Human Rights (ECHR) and the jurisdiction of the European Court of Human Rights (Tabaszewski, 2025). The Polish legal system regulates corruption offenses in the Penal Code, including bribery and abuse of office, and recognizes the mechanism of extended confiscation (Krajewska & Makowski, 2017). However, Poland does not explicitly criminalize illicit enrichment as a separate offense. The debate that arises there is more focused on the constitutionality of the reversal of the burden of proof and the potential violation of the principle of presumption of innocence (Lorenz et al., 2024). Poland represents a European rule of law model that places the protection of defendants' rights as a non-negotiable standard. This comparison becomes relevant because it presents two different legal contexts that face similar normative dilemmas.

Theoretically, criminal policy theory emphasizes that criminal law is a social instrument that must be designed to protect society effectively while remaining proportional (Ghoul, 2025). In this context, the criminalization of illicit enrichment is viewed as a preventive strategy to break the chain of illegal wealth accumulation. The theory of human rights and the principle of the rule of law demand that any restriction on individual rights be based on clear, necessary, and balanced laws (Schultz, 2025). From a human rights perspective, the regulation of illicit enrichment has the potential to raise issues related to the principle of legality (*nullum crimen sine lege certa*), the presumption of innocence, and the right to remain silent. If the formulation of the norm is too vague or the parameter of "significant increase" is not objectively determined,

the risk of abuse of power will increase. On the other hand, the state's failure to address the disproportionate wealth of public officials can also be viewed as a violation of the state's positive obligation to protect the social and economic rights of the community. Therefore, the debate regarding criminalization cannot be understood in black-and-white terms, but must be placed within the framework of constitutional balance.

The comparison between Indonesia and Poland with that background becomes significant because both represent two different configurations of legal systems. Indonesia as a democratic country strengthening anti-corruption institutions in Southeast Asia, and Poland as a country with a continental legal tradition integrated into the European human rights regime. These contextual differences provide an opportunity to evaluate how each system manages the tension between public interest and individual rights. This research starts from the assumption that the effectiveness of anti-corruption efforts should not sacrifice the fundamental principles of the rule of law. On the contrary, the protection of the defendant's rights should not become a loophole for impunity. Thus, the search for a fair balance between State Efficiency and Defendant's Rights becomes a central issue in the discussion of the criminalization of illicit enrichment from a comparative and human rights perspective.

Previous research shows that the discourse on illicit enrichment tends to focus on normative aspects and regulatory effectiveness without a comprehensive analysis based on human rights. Research by Virna Amalia and Aji Lukman in the *Awang Long Law Review* compares the application of the concept of illicit enrichment between Indonesia and Australia using a normative juridical method. The research findings state that the Australian model, which integrates a limited burden of proof reversal mechanism and non-conventional asset confiscation, can serve as a reference for

Indonesia. However, the study has not yet elaborated in depth on its implications for the principles of presumption of innocence and fair trial (Nur permata, 2025). Putra Andika et al., in *Kosmik Hukum*, highlight the urgency of regulating illicit enrichment in the Draft Asset Forfeiture Law in Indonesia and identify legislative challenges, particularly political resistance and potential disharmony with the Criminal Procedure Code (KUHAP), but have not conducted a comparative analysis across legal systems subject to strict regional human rights standards (Andika et al., 2023). Meanwhile, Bilokin in the *International Annals of Criminology* examines international scientific experiences from the dimensions of criminalistics and forensics, emphasizing the importance of financial investigation techniques and scientific proof in tracing the increase of illicit assets. However, the research focuses on the technical aspects of evidence rather than the design of criminal law policy from a human rights perspective (Bilokin, 2025). The limitation of these three studies lies in the absence of a comparative approach that simultaneously integrates criminal policy analysis, proof theory, and human rights standards.

The novelty of this research lies in the use of a comparative perspective between Indonesia as a transitional democracy in Southeast Asia and Poland as a continental legal system country subject to the strict standards of the European Convention on Human Rights (ECHR), to examine the design of the illicit enrichment criminalization policy within the framework of fair balance. Unlike previous studies that focused on the adoption of specific state models or the urgency of national legislation, this research places the issue of illicit enrichment within the dialectic between state efficiency and defendant's rights, by integrating criminal policy theory, proof theory, and human rights principles. The aim of this research is to comparatively

analyze how both legal systems formulate or limit the criminalization of illicit enrichment, as well as to formulate normative parameters that can ensure the effectiveness of anti-corruption efforts without sacrificing the principles of legality, presumption of innocence, and the right against self-incrimination. Thus, this research scientifically contributes by offering a conceptual model for the criminalization of illicit enrichment that is constitutional, proportional, and in line with international human rights standards.

This research is a normative legal study that focuses on the analysis of norms, principles, and legal principles related to the criminalization of illicit enrichment from a human rights perspective (Masnun, Muh. Ali, Prasetyo, Dicky Eko, 2025). The approach used is a comparative approach between the Indonesian and Polish legal systems, as well as a conceptual approach to examine the concepts of illicit enrichment, state efficiency, defendant's rights, and the principle of fair balance within the framework of criminal policy theory and human rights. Primary legal materials include legislation such as the Anti-Corruption Law, the Polish Penal Code, as well as international instruments like the UNCAC and the European Convention on Human Rights (ECHR) along with relevant court decisions. Secondary legal materials consist of scientific literature, indexed journals, criminal law and human rights textbooks, as well as previous research results discussing illicit enrichment and the reversal of the burden of proof, while tertiary legal materials include legal dictionaries, encyclopedias, and other relevant supporting sources. The technique for processing legal materials is carried out thru inventory, classification, and systematization based on the legal issues being studied, while the data analysis technique uses qualitative methods with deductive and comparative reasoning to identify similarities, differences,

and normative gaps in order to formulate a legal policy construction that aligns with human rights principles.

B. RESULT AND DISCUSSION

1. The Construction of the Policy of Criminalizing Illicit Enrichment in the Legal Systems of Indonesia and Poland

Corruption in Indonesia is classified as an extraordinary crime, even the most serious crime, both juridically and sociologically (Saputra et al., 2025). This happens because corruption in Indonesia is carried out in a planned, systematic, and organized manner, causing victims on a large scale. This characteristic aligns with Mark A. Drumbl's view, which states that a crime can be categorized as the most serious crime if it meets two main criteria: it is carried out in a structured manner and has an impact on a large number of victims (Mayans-Hermida & Holá, 2023). In Indonesia, the financial losses to the state due to corruption directly impact the fulfillment of the social and economic rights of the people (Putra & Linda, 2022), so that corruption is no longer understood merely as an administrative violation, but rather as a threat to public welfare. Therefore, sociologically, there is a strong impetus to adopt extraordinary measures in its eradication. This impetus reflects an orientation toward state efficiency that demands maximum effectiveness in breaking the chain of illegal wealth accumulation by public officials.

Legally, Indonesia is still bound by the classical proof construction in criminal law. Articles 2 and 3 of the Anti-Corruption Law still require proof of unlawful acts or abuse of authority as well as state losses. The absence of the crime of illicit enrichment causes law enforcement to focus more on the "symptoms" of corruption such as bribery or gratuities, rather than the "root" of the problem, which is the accumulation of wealth

that is not justified. Criminal Policy Theory positions criminal law as a social instrument that should be designed to protect society effectively and preventively (Ananda Selly Manila Wati & Setiyawan, 2025). If the focus is only on conventional crimes, then the protection of the economic rights of the community becomes less optimal because the legal system fails to address the core issue of structural corruption. Thus, there is a tension between the need for effectiveness and the existing normative limitations.

Indonesia recognizes a limited reverse burden of proof mechanism in the Anti-Corruption Law, particularly related to gratuities. This mechanism allows the defendant to prove that the gratification they received is not a bribe, but the primary burden still lies with the public prosecutor. This model shows that Indonesia is in a transitional zone between the protection of the defendant's rights and the push for state efficiency. However, the mechanism has not yet reached the degree of illicit enrichment as referred to in Article 20 UNCAC, which emphasizes the disproportionality of assets in general. This means that, in terms of criminal policy, Indonesia has not yet fully dared to shift the burden of proof paradigm toward an approach based on unjust enrichment. This condition shows the ambiguity of orientation between state efficiency and defendant's rights.

From the perspective of proof theory, the distribution of the burden of proof must be maintained to prevent an absolute reversal (Hamer & Crofts, 2023). The presumption of innocence and the privilege against self-incrimination are fundamental principles in modern criminal law. The formulation of illicit enrichment without clear limitations opens up the risk of the accused being forced to prove their total innocence. Therefore, the normative design must consider a proportional balance between

effectiveness and the protection of rights. In the context of Indonesia, concerns about violations of that principle have become one of the factors of caution for legislators in adopting new offenses. Thus, the Indonesian approach remains relatively protective of the rights of the accused despite facing public pressure to enhance effectiveness.

Unlike Indonesia, Poland operates within the framework of European continental law, which is subject to the strict standards of the European Convention on Human Rights (ECHR). The Polish legal system conventionally regulates corruption offenses in the Polish Penal Code (Kodeks Karny), specifically in Article 228 (passive bribery), Article 229 (active bribery), and Article 230 (trading in influence). This regulation is still conventional because it requires evidence of a reciprocal action (*quid pro quo*) or a specific abuse of office, and does not explicitly recognize the offense of illicit enrichment (Białkowska, 2025). Every criminal policy in Poland must pass the proportionality test and comply with the fair trial standards set by the European Court of Human Rights (Mostowik, 2021). This causes Poland to tend to be cautious in expanding criminal offenses to avoid the risk of overcriminalization. This orientation demonstrates the dominance of the defendant's rights approach in its criminal policy design, where the state's efficiency in combating corruption is strictly limited by the protection of the defendant's fundamental rights.

In practice, Poland prefers the mechanism of extended confiscation over pure criminalization of illicit enrichment. This mechanism allows for the confiscation of assets that cannot be legally explained, but does not always require the imposition of a new criminal offense (Hryniewicz-Lach, 2023). This approach is considered more proportional because it targets the outcomes of crime without drastically expanding the scope of criminalization. From the perspective of the overcriminalization theory,

this choice minimizes the risk of disproportionate state power expansion over individual freedoms. Thus, Poland strives to maintain a balance between the effectiveness of anti-corruption efforts and the protection of constitutional rights. This strategy demonstrates a more restrictive yet controlled model of corruption control.

Table 1
Construction of Illicit Enrichment Policy in Indonesia and Poland

Aspect	Indonesia	Poland
Illicit Enrichment Offense Status	Not yet criminalized	Not explicitly criminalized
Proof Orientation	Conventional, with limited reverse proof	Strict, subject to ECHR standards
Focus on Effectiveness	High in discourse, limited in norms	Controlled by human rights standards
Protection of the Rights of the Accused	Relatively strong	Very strong

Source : Author

The comparison table above shows that Indonesia and Poland have not yet criminalized illicit enrichment. Indonesia faces a normative gap that affects its effectiveness, while Poland is constrained by strict constitutional and supranational controls. The difference in the burden of proof reflects Indonesia's position in a transitional phase, while Poland has been in an established human rights system. Thus, although the end point is the same, the policy rationales of the two are fundamentally different.

This shows that Indonesia is positioned in the middle spectrum between state efficiency and defendant's rights. The sociological impetus due to the character of corruption as the most serious crime drives the strengthening of state efficiency. However, from a legal perspective, the principle of legality and classical proof still

serve as normative limits. This condition indicates a dissonance between social needs and the design of positive law. In the framework of Criminal Policy Theory, this situation illustrates a criminal policy that is not yet fully adaptive to the dynamics of modern crime. As a result, the effectiveness of protecting the economic rights of the community is not yet optimal.

On the other hand, Poland shows a more stable model in maintaining fair balance. Restrictions thru the ECHR prevent the formation of offenses that could potentially violate the principles of proof and the rights of the accused. However, this approach also has the potential to create limitations in addressing unjust enrichment that is difficult to link to specific offenses. In this context, Poland prioritizes constitutional legitimacy over the expansion of criminalization. This model demonstrates the supremacy of defendant's rights as the foundation of the legal system. Nevertheless, effectiveness is maintained thru asset forfeiture instruments.

The tension between the two poles shows that the debate is not merely about the existence or non-existence of the illicit enrichment offense, but how to design it proportionally. The theory of overcriminalization reminds us that the expansion of offenses without clear parameters can erode individual freedoms and create opportunities for abuse of power (Vegh Weis, 2023). On the contrary, criminal policy theory asserts that the state's failure to adopt effective instruments can broadly harm public interests. Therefore, balance does not mean a weak compromise, but rather a precise normative design. Parameters such as the threshold for "significant improvement," time periods, and standards of proof must be formulated rigorously. This is where the urgency of a fair balance-based approach becomes relevant.

The construction of illicit enrichment criminalization policies in Indonesia and Poland reflects a difference in emphasis between effectiveness and the protection of rights. Indonesia shows a strong push toward state efficiency due to the massive and systemic nature of corruption, but is still constrained by the classical proof paradigm. Poland places defendant's rights as a top priority thru ECHR control and chooses more proportional mechanisms such as extended confiscation. This comparison shows that the ideal model is not extreme at one end, but rather the integration of both within a framework of proportionality. Thus, the pursuit of fair balance becomes the main foundation in designing effective yet constitutional criminalization policies.

2. Integration of Human Rights Principles in the Normative Design and Law Enforcement Practices of Illicit Enrichment in Indonesia and Poland

The principle of presumption of innocence must be placed as the main constitutional limit in any design of criminalizing illicit enrichment. Any construction of norms that implicitly shifts the burden of proof to the defendant has the potential to reduce that fundamental right. In the perspective of human rights theory, particularly as reflected in the ICCPR and ECHR, the reversal of the burden of proof can only be justified if it meets the tests of legality, necessity, and proportionality (Friedman & Sangiuliano, 2026). Therefore, Indonesia should not adopt a formulation that makes asset imbalance automatic evidence of a criminal offense. Wealth inequality can only be positioned as prima facie evidence that triggers the obligation for further proof by the public prosecutor (Aikin et al., 2025). Thus, the presumption of innocence protection remains integrated within the framework of effective anti-corruption efforts.

The right against self-incrimination cannot be compromised in the name of state efficiency. The obligation to explain the origin of wealth in the crime of illicit

enrichment risks becoming a form of coercive pressure if not formulated carefully. The theory of the rule of law demands that the state must not force individuals to contribute to proving their own guilt (Paleri, 2022). Therefore, the normative design must separate the administrative obligation to report wealth from the criminal obligation to prove its legality. The defendant's clarification should be positioned as a right of defense, not an absolute obligation that, if not fulfilled, is directly considered an admission of guilt. Without those limitations, criminalization will shift into a repressive instrument that contradicts the principle of a fair trial.

In the context of Indonesia, the limited recognition of reverse burden of proof indicates that the national legal system does not entirely reject the shifting of the burden of proof. However, such a shift must remain within the limits explicitly defined by the law. If Indonesia wishes to adopt illicit enrichment, then the norm must emphasize that the primary burden of proof remains with the public prosecutor. The defendant's explanation can only be interpreted as a means to test the rationality of asset disproportionality, not as an absolute condition for release from criminal liability. This model aligns with human rights theory, which places restrictions on rights as exceptions that must be interpreted narrowly. Without that clarity, the risk of violating the presumption of innocence principle becomes very high.

The principle of legality (*nullum crimen sine lege certa*) demands that the formulation of offenses be designed precisely and not be open to multiple interpretations (Akhavan, 2022). Phrases such as "significant increase" and "not reasonably explainable" must be quantified thru objective normative parameters. In the perspective of the rule of law, the ambiguity of norms opens the space for abuse of power and selective criminalization. Therefore, Indonesia needs to establish

quantitative thresholds, measurable time periods, and clear comparative indicators between legitimate income and actual assets. The standard of proof must also be explicitly determined to prevent fluctuating interpretations at the law enforcement level. Legal certainty is an absolute prerequisite so that effectiveness is not built on the sacrifice of constitutional rights (Dicky Eko Prasetyo, Muh Ali Masnun, 2024).

Poland provides an important precedent regarding the integration of human rights principles into criminal policy. Compliance with Article 6 ECHR makes the presumption of innocence and the right to remain silent non-negotiable standards. The approach taken by Poland shows that criminalization should not be an automatic response to the problem of corruption. The mechanisms adopted must pass a strict proportionality test. This reflects the application of human rights theory that places the restriction of rights as a last resort. Thus, Poland demonstrates that effectiveness can be achieved without the need to aggressively expand criminal offenses.

Poland's choice of the extended confiscation mechanism should be understood as a proportional strategy, not as a weakness in law enforcement. Asset confiscation based on objective proof of financial transactions is considered more in line with the principle of self-incrimination protection. The state can still eliminate the economic benefits of crime without having to prove a new offense that is potentially ambiguous. From the perspective of human rights theory, this approach more easily meets the tests of necessity and proportionality compared to pure criminalization. Indonesia can consider this model as an alternative before adopting a new offense. This strengthens the argument that normative design must comprehensively consider the impact on individual freedom.

The standard of fair balance must be the main evaluative parameter in both legal systems. A fair balance does not mean a political compromise, but rather a rational integration between public interests and individual rights. In the context of Indonesia, the character of corruption as the most serious crime does indeed provide a sociological justification for strengthening state efficiency. However, human rights theory emphasizes that the severity of the crime does not automatically justify the disregard of fair procedures. Therefore, any expansion of criminalization must be accompanied by strict judicial oversight mechanisms. Without such control, state efficiency has the potential to turn into state domination over individuals.

The distribution of the burden of proof must be designed in a tiered and proportional manner. The public prosecutor is required to prove the significant increase in assets and the imbalance with legitimate income based on an independent audit (Dewi et al., 2025). Only after this initial burden is met can the defendant be given the space to provide voluntary clarification. This tiered model maintains the integrity of the presumption of innocence while allowing for the effectiveness of proof. In the perspective of the rule of law, this approach is more constitutionally defensible compared to a complete reversal of the burden of proof. Thus, the normative design can simultaneously integrate both interests.

The greatest potential for human rights reduction arises when illicit enrichment is used as a tool for political criminalization. Imprecise norms open the door to selective interpretation by law enforcement officials. Therefore, the normative model must be designed to include strict standards of proof and procedural transparency. Supervision by an independent judiciary is an absolute requirement in maintaining the integrity of the system. Within the framework of human rights theory, judicial

independence is a central element of the rule of law (Prasetio, Masnun, & Widodo, 2025). Without such guaranties, the protection of the defendant's rights is merely a formality.

Indonesia is in a transitional position that requires an innovative yet constitutional normative design (Prasetio, Masnun, & Noviyanti, 2025). The desire to improve state efficiency must not sacrifice the foundation of human rights. On the contrary, the protection of rights should not create structural impunity. Therefore, the integration of human rights principles must be explicitly formulated in every norm governing illicit enrichment. Legislators must explicitly define the limits of the authorities' powers and the procedural rights of the accused in detail. This approach ensures that effectiveness is built on legal legitimacy.

Poland shows that supranational control thru the ECHR serves as a corrective mechanism against the potential excesses of state power. Although Indonesia is not part of the ECHR regime, the same principles can be internalized thru the strengthening of judicial review and constitutional interpretation. The standard of fair balance must be tested concretely in each case, not merely as normative rhetoric. Thus, law enforcement practices become an arena for the actualization of human rights principles (Dicky Eko Prasetio, Muh. Ali Masnun, Arinto Nugroho, Denial Ikram, 2024). This integration shows that the protection of rights is not an obstacle, but rather the foundation for the legitimacy of criminal policy.

The criminalization of illicit enrichment can only be justified if it meets the parameters of legality, necessity, and proportionality. The principle of presumption of innocence, the right not to self-incriminate, and the principle of legality should not be compromised for the sake of temporary efficiency. The state has a positive obligation

to protect the economic rights of the community from corruption, but this obligation must be carried out within the framework of the rule of law. The ideal normative model is not an unlimited expansion, but rather a precise design that maintains a fair balance. Thus, the effectiveness of anti-corruption efforts and the protection of defendants' rights can operate harmoniously within the framework of a modern rule of law state.

C. CONCLUSION

Corruption in Indonesia, both juridically and sociologically, has met the characteristics of an extraordinary crime and the most serious crime due to its planned, systematic nature, and its widespread impact on the socio-economic rights of the community. This provides justification for strengthening state efficiency through extraordinary measures, including the potential adoption of the crime of illicit enrichment. However, Indonesia is still bound by the classical proof construction, so law enforcement tends to target the manifestations of corruption rather than the roots of the accumulation of ill-gotten wealth. On the other hand, Poland, within the framework of the ECHR, adopts a restrictive approach that prioritizes defendant's rights through a more proportional mechanism of extended confiscation. This analysis asserts that the criminalization of illicit enrichment can only be justified if it maintains a fair balance between state effectiveness and the protection of defendants' rights. The ideal model is not the aggressive expansion of offenses, but rather the integration of effectiveness and the protection of rights within the framework of a modern rule of law.

Indonesia needs to formulate strict normative parameters if adopting illicit enrichment, including tiered burden of proof distribution, quantitative asset limits, and independent audit standards as prima facie evidence. Legislators must ensure the

protection of the presumption of innocence and the privilege against self-incrimination thru judicial oversight. As a transitional alternative, strengthening the extended confiscation mechanism based on asset forfeiture without expanding criminal offenses can be considered. A comprehensive strategy should also include the integration of financial data and administrative transparency so that effectiveness does not solely depend on the expansion of criminalization. Further research is recommended to examine the empirical implications of the asset forfeiture model on Indonesia's constitutional framework to ensure policy reforms that possess both legitimacy and a high level of effectiveness.

REFERENCES

- Adam Ilyas, Felix Ferdin Bakker, D. E. P. (2021). Pluralisme Kewenangan Penyidikan Dalam Pemberantasan Tindak Pidana Korupsi Di Indonesia. *Kertha Semaya*, 10(1), 150–162.
- Aikin, S., Casey, J., & Stevens, K. (2025). *The Routledge Handbook of Argumentation Theory*. Routledge. <https://doi.org/10.4324/9781003666851>
- Akhavan, P. (2022). The Perils of Progressive Jurisprudence: The Nullum Crimen Sine Lege Principle in International Criminal Law. *Current Legal Problems*, 75(1), 45–70. <https://doi.org/10.1093/clp/cuac002>
- Ananda Selly Manila Wati, & Setiyawan, D. (2025). Indonesia's Capital Relocation: A Normative-Juridical Review of Governmental, Criminal Law, and State Stability. *Al-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam*, 7(2), 75–92. <https://doi.org/10.37680/almanhaj.v7i2.8471>
- Andika, P., Ahmad, S., & Rifai, A. (2023). Urgency and Challenges of Illicit Enrichment Regulation in the Draft Law on Asset Forfeiture in Indonesia. *Kosmik Hukum*, 24(1), 1. <https://doi.org/10.30595/kosmikhukum.v24i1.19577>
- Białkowska, P. (2025). Responsibility as a Key Guarantee and a Special Role in the Practice of the Profession of an Attorney-at Law in Polish Law: Selected Issue. *PRAWO I WIEŻ*, 56(3), 309–327. <https://doi.org/10.36128/PRIW.VI56.840>
- Bikelis, S. (2022). Chasing criminal wealth: broken expectations for the criminalization of illicit enrichment in Lithuania. *Journal of Money Laundering Control*, 25(1), 95–108. <https://doi.org/10.1108/JMLC-12-2020-0135>
- Bikelis, S. (2024). Confiscation Beyond the All-Crime Approach and the Proportionality Principle—A Case of the Lithuanian Illicit Enrichment Offence

- Concept. *Laws*, 14(1), 1–14. <https://doi.org/10.3390/laws14010001>
- Bilokin, R. (2025). International Scientific Experience in the Study of Illicit Enrichment: Criminalistics and Forensic Dimension. *International Annals of Criminology*, 1–23. <https://doi.org/10.1017/cri.2025.10095>
- Borlini, L. (2024). Monitoring and compliance mechanisms as a diagnostic and prognostic tool of international anti-corruption cooperation: A data-driven study. *International Journal of Constitutional Law*, 22(2), 487–513. <https://doi.org/10.1093/icon/moae033>
- Dewi, D. A. S., Wulandari, N. G. A. A. M. T., & Putri, L. P. Y. K. (2025). Asset Seizure Regulations Against Public Officials with Unexplained Wealth (A Comparative Study of the Philippines and Australia). *Jurnal Pembangunan Hukum Indonesia*, 7(3), 377–404. <https://doi.org/10.14710/jphi.v7i3.377-404>
- Dicky Eko Prasetyo, Muh. Ali Masnun, Arinto Nugroho, Denial Ikram, N. (2024). Discrimination Related to Labour Age Limitation in Indonesia : A Human Rights and Comparative Law Perspective. *Suara Hukum*, 6(2), 228–254.
- Dicky Eko Prasetyo, Muh Ali Masnun, B. W. (2024). Legal Uncertainty of Golf Game as Sports and Entertainment Branch in Local Tax Imposition. *Wawasan Yuridika*, 4(1), 76–93. <https://doi.org/10.25072/jwy.v8i1.4369.Abstract>
- Friedman, M., & Sangiuliano, A. (2026). Proportionality and precaution. *Global Constitutionalism*, 15(1), 11–32. <https://doi.org/10.1017/S2045381725000085>
- Ghoul, A. (2025). Criminal Policy: An Examination of Some Concepts and Variables. *Science, Education and Innovations in the Context of Modern Problems*, 8(1), 1226–1241. <https://doi.org/10.56334/sei/8.1.79>
- Hamer, D., & Crofts, T. (2023). The Logic and Value of the Presumption of Doli Incapax (Failing That, an Incapacity Defence). *Oxford Journal of Legal Studies*, 43(3), 546–573. <https://doi.org/10.1093/ojls/gqad010>
- Hryniewicz-Lach, E. (2023). Expanding Confiscation and its Dimensions in EU Criminal Law. *European Journal of Crime, Criminal Law and Criminal Justice*, 31(3–4), 243–267. <https://doi.org/10.1163/15718174-bja10046>
- Hufron, H., & Fikri, S. (2024). The urgency of regulating forfeiture of assets gained from corruption in Indonesia. *Legality : Jurnal Ilmiah Hukum*, 32(2), 292–310. <https://doi.org/10.22219/ljih.v32i2.35243>
- Krajewska, A., & Makowski, G. (2017). Corruption, anti-corruption and human rights: the case of Poland’s integrity system. *Crime, Law and Social Change*, 68(3), 325–339. <https://doi.org/10.1007/s10611-017-9710-6>
- Lee, M. (2025). Does corruption undermine fundamental rights protection level? The effects of corruption of lawmakers, judges, bureaucrats, and police and military on labour rights and freedom of association at the country level. *Japanese Journal of Political Science*, 26(2), 73–88. <https://doi.org/10.1017/S1468109924000185>

- Lorenz, A., Anders, L. H., Müller, D., & Nėmec, J. (2024). The Rule of Law in Troubled Waters: Narrating Rights, Democracy and Challenges. In *Narrating the Rule of Law* (pp. 247–386). Springer. https://doi.org/10.1007/978-3-031-66332-1_6
- Masnun, Muh. Ali, Prasetyo, Dicky Eko, M. (2025). Reconstruction of the Normative Legal Research Paradigm in Responding to Global Challenges: An Epistemological Analysis. *Novum: Jurnal Hukum*, 12(3), 372–384. <https://doi.org/https://doi.org/10.2674/novum.v12i03.74364>
- Masnun, Muh Ali, Prasetyo, Dicky Eko, Konara, T. (2026). Financial Reconstruction of State-Owned Enterprises in Indonesia as Special State Finances: Public or Private Law? *Jurnal Hukum Bisnis Bonum Commune*, 9(1), 44–62. <https://doi.org/https://doi.org/10.30996/jhbhc.v9i1.132464>
- Mayans-Hermida, B. E., & Holá, B. (2023). Punishing Atrocity Crimes in Transitional Contexts: Advancing Discussions on Adequacy of Alternative Criminal Sanctions Using the Case of Colombia. *Oxford Journal of Legal Studies*, 43(1), 1–31. <https://doi.org/10.1093/ojls/gqac022>
- Mostowik, P. (2021). Interpretation of Fundamental Rights in Poland. In *Constitutional Reasoning and Constitutional Interpretation: Analysis on Certain Central European Countries* (pp. 401–467). Studies of the Central European Professors' Network. https://doi.org/10.54237/profnet.2021.zjtrci_7
- Nur permata, V. amalia. (2025). Concept Of Illicit Enrichment Application Comparison Between Indonesia And Australia. *Awang Long Law Review*, 8(1), 102–111. <https://doi.org/10.56301/awl.v8i1.1798>
- Nuryanto, A. D., & Jaelani, A. K. (2024). The role of State Official Wealth Report in realizing the principles of Maqashid Sharia. *Legality : Jurnal Ilmiah Hukum*, 32(1), 155–181. <https://doi.org/10.22219/ljih.v32i1.32879>
- Olasolo, H., Galain Palermo, P., & Blaise Maclean, R. J. (2025). The Case for Considering Corruption as a Central Element of Governance: Institutional and Organizational Corruption and Complex Corruption Networks. *International Criminal Law Review*, 25(2–3), 217–246. <https://doi.org/10.1163/15718123-bja10230>
- Orozco Menéndez, M. S. (2025). Deconstructing Corruption: From (Un)Fixed Definitions to Evolving Perspectives. *Laws*, 14(6), 88. <https://doi.org/10.3390/laws14060088>
- Ozaki, M. (2025). Basic Theory of the Law of Criminal Procedure. In *Basic Theory of Criminal Law* (pp. 31–79). Springer Nature Singapore. https://doi.org/10.1007/978-981-95-0816-7_2
- Paleri, P. (2022). Rule of Law and Role of Government: Law Making, Enforcing and National Security. In *Revisiting National Security* (pp. 303–340). Springer Nature Singapore. https://doi.org/10.1007/978-981-16-8293-3_8

- Prasetio, D. E., Masnun, M. A., & Noviyanti, N. (2025). Post-Election Reconciliation in 2024 as a Constitutional Convention in Indonesia: A Progressive Legal Culture Perspective. *Jambura Law Review*, 7(1), 176–196. <https://doi.org/10.33756/jlr.v7i1.26999>
- Prasetio, D. E., Masnun, M. A., & Widodo, H. (2025). Affirmative Action for Persons with Disabilities to Ensure the Right to be Elected in General Elections. *Nusantara Science and Technology Proceedings*, 1(1), 205–210. <https://doi.org/10.11594/nstp.2025.4824>
- Putra, N. R., & Linda, R. (2022). Impact Of Social Change On Society From The Crime Of Corruption. *Integritas: Jurnal Antikorupsi*, 8(1), 13–24. <https://doi.org/10.32697/integritas.v8i1.898>
- Ridwan, R., Setiadi, E., Sambas, N., Kartika, A., & Anditya, A. W. (2025). Reconsidering the Death Penalty for Bribery in Law Enforcement to Prevent and Eradicate Corruption in Indonesia. *Jambe Law Journal*, 8(2), 751–779. <https://doi.org/10.22437/41zyxg03>
- Saputra, R., Suwadi, P., Broto Laksito, F. H., & Santos, J. G. (2025). The Authority of Judges in Determining Suspects of Corruption: Rationality for the reform of Indonesia Criminal Justice in Corruption. *Indonesian Journal of Crime and Criminal Justice*, 1(2), 188–219. <https://doi.org/10.62264/ijccj.v1i2.145>
- Schultz, J. (2025). Revocation nation: the rule of law and precarious legal status in Norway. *Journal of Ethnic and Migration Studies*, 1–18. <https://doi.org/10.1080/1369183X.2024.2441596>
- Tabaszewski, R. (2025). The Protection of Human Rights under the ECHR and Central Europe: Poland. *European Integration Studies*, 21(2), 501–541. <https://doi.org/10.46941/2025.2.13>
- Vegh Weis, V. (2023). The Destruction of Criminology. In *Lawfare: The Criminalization of Democratic Politics in the Global South* (pp. 76–123). BRILL. https://doi.org/10.1163/9789004535152_005.