

## LEGAL PROTECTION AGAINST THIRD PARTIES IN GOOD FAITH IN THE PROCESS OF ASSET CONFISCATION OF CORRUPTION CRIMES (STUDY ON PT. ASABRI)

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### ABSTRACT

This study examines legal protection for good-faith third parties in the process of asset confiscation for corruption crimes, focusing on the case of PT. ASABRI. The main issues examined include: (1) what form of legal protection for good-faith third parties takes under the Indonesian legal system; (2) the legal obstacles faced by third parties in defending their rights to confiscated assets; and (3) the implementation of legal protection in the practice of asset confiscation in the PT. ASABRI corruption case. The type of research used is normative juridical, namely research that emphasizes literature studies through analysis of laws and regulations, legal doctrine, court decisions, and relevant legal literature. This study uses Gustav Radbruch's legal value approach, which includes justice, legal certainty, and utility as a normative analytical framework for legal protection. The nature of this research is descriptive and analytical, aiming to provide a comprehensive overview of legal regulations and their implementation in practice, as well as to analyze the effectiveness of legal protection for good-faith third parties. The research results indicate that although legal protection is normatively available, its implementation still faces various obstacles, such as overlapping criminal and civil law, and the lack of adequate defense mechanisms for third parties in asset confiscation proceedings.

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### INTRODUCTIONS

Law plays an important role in the life of the nation and state, acting as an instrument of supervision and regulation to achieve the main goal, which is to create security, order, and justice. The role of law in Indonesia has not been fully able to achieve this goal optimally, especially when faced with an increasingly open and dynamic global situation. The development of globalization has also encouraged the increasing complexity of legal problems and in some ways hindered the achievement of the legal goals themselves. (Setyabudi et al., 2023)

Corruption is an *extraordinary crime* that has a systemic impact on social, economic, and public trust in the state. One of the important efforts in eradicating corruption is the recovery of state financial losses through asset forfeiture mechanisms. Asset confiscation often raises new problems, especially when it comes to third parties who are suspected of good faith. This occurs when assets resulting from corruption are transferred or sold to a third party before being identified by law enforcement officials. According to Nasution, asset confiscation in corruption crimes is a legal dilemma because it often clashes with the principle of protection of legitimate property rights, especially those belonging to third parties who do not know that the assets they obtain come from the proceeds of crime. (Kholifah et al., 2023)

One of the most crucial and worrying legal issues is corruption. Corruption is not only contrary to social values, but also creates discriminatory conditions and damages the sense of justice in society. Corrupt practices have caused multidimensional damage in various aspects of the life of the nation and state, both in terms of economy, politics, law, and socio-culture.

Corruption is a crime that can occur in various sectors of life, not only limited to a group of judicial institutions or government bureaucracy, but reaches private companies, political parties, foundations, religious institutions, and even hospitals. This phenomenon shows that corruption has been widely and systematically rooted in various joints of social life. (Karina, 2025)

Throughout 2020, Indonesia reportedly suffered state losses of Rp.39.2 trillion due to corruption. This figure reflects how massive and serious the impact is. Corruption is categorized as an organized transnational crime because it has an impact that crosses national borders and threatens social, economic, political, and international security and peace.

Advances in science and technology have brought great benefits in terms of global mobility and communication. But on the other hand, this progress also opens up opportunities for the development of new forms of corruption that are more complex, sophisticated, and difficult to detect. This is characterized by the increasing variety of modus operandi, characteristics, and perpetrators of corruption crimes. Today, corruption has evolved into an organized crime form with a wide network, both nationally and internationally. (Lineleyan et al., 2024)

The development and advancement of science and technology (science and technology) in addition to shaping human traffic from one place to another becomes easier, as well as causing negative impacts, namely growth, increase, diversity, and many corrupt practices. Today's corruption (tipikor) has developed into an organized crime that can be seen from the scope, character, modus operandi, and perpetrators. The perpetrators do not consist of just one individual, but are a systematic and planned network involving many parties across sectors.

In this case, the financial system is a tool to disguise the flow of funds from corruption (*money laundering*) and the practice of asset transfer is carried out by complex methods, including by involving third parties in formal legal schemes such as buying and selling or transferring shares. This makes it difficult for law enforcement officials to distinguish which parties are consciously involved and which are well-meaning third parties. (Melisa & Son, 2025)

Based on the report of an independent survey agency, Indonesia is recorded as one of the countries with the highest level of corruption in Asia, surpassing India and Vietnam. Countries such as Thailand, Malaysia, and China occupy the next position, while Singapore, Japan, Hong Kong, Taiwan, and South Korea are among the countries with the lowest levels of corruption. The value of Indonesia's corruption perception index was recorded at 9.25 degrees, higher than India (8.9), Vietnam (8.67), Japan (3.5), and Singapore (0.5), with the assessment scale starting from 0 degrees (clean from corruption) to 10 degrees (very corrupt). (Partha et al., 2025)

Law enforcement for corruption crimes, especially in the context of asset confiscation, faces a dilemma between the purpose of punishing the perpetrators of crimes and recovering state losses with the principle of justice for innocent third parties. If the state is too aggressive in confiscating assets without strict verification procedures, it will violate property rights and create distrust of the legal system.

In the criminal law system, one of the main goals of law enforcement is to provide a deterrent effect to the perpetrator and recover state losses. This goal should not be achieved at the expense of the civil rights of individuals not directly related to crime. The basic principle of universally applicable law states that a person cannot be punished for an act he did not commit. Third parties who acquire assets in good faith should get strong legal protection. (Prince, 2025)

The eradication of corruption is a strategic issue that continues to be the main concern in law enforcement and the establishment of clean and integrity governance. One of the important instruments in this effort is the asset confiscation mechanism, which is legal action in the form of confiscation and repossession of assets obtained illegally through corruption. Asset forfeiture has a strategic purpose, namely to eliminate the economic benefits enjoyed by the perpetrators, recover state losses, and provide a deterrent effect to prevent the recurrence of similar criminal acts in the future. (Lineleyan et al., 2024)

The confiscation of assets is part of the state's financial recovery efforts by confiscating assets that are suspected to have come from the proceeds of corruption. In the practice of asset confiscation, legal issues often arise related to the existence of a third party in good faith. The third party is an individual or entity that owns or controls assets that are found to be related to a criminal act of corruption, but they do not know or are not involved in the criminal act. As a result, they become victims of legal uncertainty because property that is legally owned or controlled can be confiscated by the state without adequate protection mechanisms.

This phenomenon is reflected in the mega-corruption case of PT. ASABRI where a number of assets confiscated by the state have apparently been transferred to third parties who have no direct relationship with corruption crimes. These parties, such as property owners, stock buyers, or investors, purchase or receive such assets legally and within the framework of legal transactions. However, because the assets were traced to be from criminal acts, the state still confiscated them for the sake of recovering state financial losses. (Melisa & Son, 2025)

One of the cases that emerged and became the public's spotlight was the corruption case involving PT. ASABRI, a state-owned insurance company that manages the pension fund for TNI soldiers, members of the National Police, and civil servants within the Ministry of Defense and the National Police. This case resulted in state losses of Rp.22.78 trillion as revealed by the Financial Audit Agency (BPK). In the process of handling this case, a number of assets that were considered to have come from the proceeds of corruption crimes were confiscated by the Attorney General's Office, including assets claimed by third parties who felt innocent and had obtained these assets in good faith.

The selection of the case of PT. ASABRI in Medan as the object of research is based on the urgency and complexity of legal problems that arise in the practice of asset forfeiture of corruption crimes. These assets are not only concentrated in Jakarta as the center of the case, but are also spread across various regions, including the city of Medan. Asset confiscation often touches third parties who legally obtain ownership rights through legitimate transactions and without involvement in corruption crimes. This condition poses serious problems, because a third party in good faith also loses the right to his property only because of an indirect connection with the main perpetrator. (Setyabudi et al., 2023)

This phenomenon shows an imbalance between the state's goal in recovering losses due to corruption and the principle of human rights protection guaranteed by the constitution. Article 19 paragraph (1) of the Corruption Law actually expressly prohibits the seizure of goods that do not belong to the defendant if it harms a third party in good faith. However, in reality, this norm does not have a clear implementation mechanism, thus creating a legal loophole that makes third parties have to fight for their rights independently through lawsuits or resistance. The case of confiscation of securities accounts belonging to policyholders of PT. WanaArtha Life Insurance (WanaArtha Life) and a lawsuit by a foreign company Shining Shipping S.A. over the seizure of PT. Trada Alam Minera Tbk is clear

evidence that the protection of third parties in good faith has not been effective, including in Medan which is an important locus in this case. (Lineleyan et al., 2024)

The confiscation of assets in the Asabri case also includes land assets belonging to the convict that have been transferred on behalf of other parties, the confiscation of two plots of land belonging to Adam R. Damiri in Garut Regency based on the Supreme Court's Decision No. 5772 K/Pid.Sus/2022. The prosecutor's office stated that the land was the result of corruption, although there were indications that such assets had been transferred or disguised ownership through other parties. This condition shows that in the practice of asset confiscation, there is a potential clash between the state's interest in recovering losses and the protection of the civil rights of a third party in good faith.

Problems arise at the implementation level. To date, there is no clear, effective, and detailed legal mechanism on how protection for such third parties should be provided. The law only provides for a general prohibition for judges to confiscate the property of a third party in good faith, but does not explain the evidentiary procedure, burden of proof, or the appropriate legal forum for third parties to file objections. As a result, in practice, many third parties who feel aggrieved must fight for their rights independently through civil lawsuit mechanisms, third-party resistance (*derden verzet*) or material tests of acts of confiscation and confiscation carried out by law enforcement. (Melisa & Son, 2025)

Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 related to the Eradication of Corruption does provide a wide space for law enforcement officials to confiscate and confiscate assets resulting from corruption crimes. The regulation does not explicitly regulate the legal protection mechanism for third parties who acquire assets in good faith. The provisions of Article 38C of the Corruption Law, only mention that confiscation and confiscation of assets can be carried out against assets resulting from corruption, but do not explain in detail the legal protection for third parties who have obtained the assets legally and without knowledge of the origin of the assets in question. (Prince, 2025)

On the other hand, in civil law, there is a principle that provides protection for legally acquired property rights. The Civil Code in Articles 570 to 584 expressly protect property rights and provide space for individuals to defend their rights through civil lawsuits. The principle of *actori incumbit probatio* which means "whoever postulates is the one who must prove" is an important principle in the law of proof, including in disputes over asset ownership. When the state or the public prosecutor claims that an asset is the result of a criminal act, the state is obliged to prove it with valid and convincing evidence. But in practice, this burden of proof is often disproportionately shifted to a third party, who must prove that he or she does not know the origin of assets related to corruption.

## METHOD

The approach chosen in this study is a qualitative approach, which is descriptive and analytical. This study uses a normative juridical approach with a descriptive-analytical nature, which focuses on the study of legal norms, principles, and court decisions related to legal protection against well-intentioned third parties in the process of confiscating assets for corruption crimes. The location of the research was determined at PT. ASABRI Medan Branch because of its relevance as a state-owned enterprise involved in corruption and asset forfeiture cases, thus providing a concrete context to assess the application of the law as well as the value of justice, legal certainty, and usefulness as stated by Gustav Radbruch. (Sumarna & Kadriah, 2023) (Muhammad, 2024)

The source of research data consists of secondary data in the form of laws and regulations, legal doctrines, and court decisions, which are complemented by supporting data from the field through observations and interviews. The informant includes the internal parties of PT. ASABRI, legal practitioners, academics, and third parties who have good faith and are affected by asset confiscation. The use of this data is important to enrich normative analysis with an overview of law enforcement practices and impacts.

Data analysis is carried out qualitatively by interpreting and integrating legal materials and field findings systematically. This approach is used to assess the suitability between positive law and its implementation in asset

forfeiture practices, as well as to test the extent to which legal protection against third parties in good faith has met the values of justice, legal certainty, and usefulness as a basis for drawing conclusions and formulating legal recommendations.

## RESULT AND DISCUSSIONS

### Forms of Legal Protection for Third Parties in Good Faith in the Process of Asset Confiscation of Corruption Crimes According to the Indonesian Legal System

Legal protection for third parties in good faith is an important aspect in the implementation of asset confiscation of corruption crimes in Indonesia. A third party in good faith is a party who obtains assets legally without knowing that the assets come from a criminal act. In the context of Indonesian law, the protection of third parties is regulated in several regulations and legal principles, which are the basis for ensuring justice and legal certainty. (Abdullah et al., 2025)

The main basis for this protection is regulated in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (TPPU Law), especially Article 28 paragraph (2) which states that asset confiscation cannot be carried out against parties who have obtained assets in good faith and reasonable value1. This provision provides substantive protection to third parties so that they do not become victims in the law enforcement process that is oriented towards the return of assets resulting from corruption crimes.

In addition to the Anti-Corruption Law, provisions related to the protection of third parties can also be found in the Indonesian civil law system, especially those that regulate the principle of good faith (*good faith*) in legal transactions and protection of legal ownership. In Article 1338 of the Civil Code (KUHPer), it is stated that all agreements must be implemented in good faith2. This is the basis that third parties who have good faith in obtaining the right to assets must be legally protected so as not to be harmed by the legal consequences of criminal acts committed by other parties. (Aziz et al., 2025)

In addition to a positive legal basis, the protection of third parties in good faith is also in line with the fundamental legal principle, namely the principle of legal certainty (*legal certainty*), the principle of justice (*justice*), and the principle of legal protection (*protection of rights*). The principle of legal certainty requires that rights that have been legally obtained cannot be arbitrarily revoked without a correct and fair process. This is in accordance with Article 28D paragraph (1) of the 1945 Constitution which guarantees legal protection for everyone. In an effort to examine the form of legal protection against third parties who have good faith in the process of confiscating assets for corruption crimes, the researcher conducted interviews with employees of PT. ASABRI. (Al-Kavafi et al., 2025)

Based on the information of the source, it was explained that in practice, the process of confiscation of assets by the state is carried out through a criminal law mechanism based on a court decision that has permanent legal force (*inkracht*). However, often in the execution of the asset seizure, there are third parties who feel aggrieved, such as companies or individuals who have obtained ownership rights to assets legally and in good faith, but are not named in the trial process. The resource person mentioned that within the company, it is not uncommon to find administrative and communication obstacles that make it difficult to submit objections or clarifications to law enforcement officials. According to PT. ASABRI, there should be a clear space in the legal system to assess and recognize the legal position of third parties proportionately, including by opening up their access in pretrial proceedings or other legal mechanisms to defend their rights (Interview with Riani, 2025).

Mr. Dodi explained in detail about the internal challenges faced by companies when dealing with the legal process of asset forfeiture. This employee said that although PT. ASABRI structurally has a strict policy in terms of the administration and legality of assets, but in practice there are many legal complexities, especially when the court decides on the confiscation of assets that turn out to be related to a third party who is not involved in any corruption at all. The employee emphasized the need for stricter regulations to guarantee the rights of third parties, including

those in good faith, so as not to become victims of further criminal proceedings that should only target the perpetrators and the proceeds of their crimes (Interview with Dodi, 2025).

In the practice of law enforcement against corruption crimes, the confiscation of assets belonging to convicts often targets assets that have formally and materially been transferred to a third party in good faith. This inaccuracy occurs because the process of identifying asset ownership by law enforcement officials still often ignores the principles of civil law, especially related to the principle of legal ownership and the protection of legal transactions carried out without malicious intent. In fact, third parties in this position have a constitutional right to be protected based on the principles of justice and legal certainty as guaranteed by Article 28D paragraph (1) of the 1945 Constitution. (Siantar et al., 2025)

Meanwhile, the researcher conducted an interview with a legal practitioner who works as an advocate and legal consultant who has handled cases of asset forfeiture due to corruption, and obtained the view that protection for third parties with good intentions is still weak juridically and procedurally. The practitioner explained that in practice, third parties are often not given adequate space to prove that they are not part of the perpetrator of the crime or the proceeds of the crime. In fact, some courts tend to overrule third-party claims on the grounds that the criminal verdict against the main perpetrator is final. According to him, the criminal law system in Indonesia needs to open a civil or administrative law forum as a corrective mechanism to assess the legal status of confiscated assets. In addition, he emphasized the importance of the role of proving legal documents, such as sale and purchase deeds, proof of payment, and other proof of ownership, to show that a third party obtained the asset legally and had no connection to the crime that occurred (Interview with Rio, 2025).

The implementation of asset confiscation and confiscation is also regulated in the Supreme Court Regulation (Perma) which provides directions for the implementation of asset execution, although it has not specifically regulated the protection of the rights of third parties in detail<sup>6</sup>. In practice, it is still necessary to improve regulations so that the asset confiscation process does not ignore the rights of third parties in good faith. Supreme Court Regulation Number 2 of 2022 concerning Procedures for Settling Objections of Third Parties in Good Faith is a very important technical regulation. This PERMA regulates in detail the mechanism for third parties who have good faith to object to the confiscation or confiscation of assets that have been carried out in criminal law proceedings, including criminal acts of corruption. This PERMA provides clear, transparent, and measurable procedures, so that the third party gets a fair opportunity to prove its good faith and defend rights to the disputed assets<sup>6</sup>. With this PERMA, the legal protection process for third parties becomes more systematic and can provide better legal certainty in the practice of asset forfeiture in Indonesia (Interview with Rio, 2025).

Asset forfeiture cases involving a third party in good faith often create a conflict between law enforcement interests and civil rights protection. In practice, it is not uncommon to find that individuals who buy or control assets legally then become victims of the unclear legal status of the asset because the asset turns out to be related to corruption. This causes legal and economic losses, and has the potential to harm the principles of justice and legal certainty, especially for third parties who are not involved in crimes but are directly affected by the confiscation of assets by the state. (Karsono & Syauket, 2025)

Mr. Hendra admitted that he never knew that the asset was related to a crime. In fact, the entire buying and selling process was carried out legally in front of a notary, with the payment in full and the title certificate having been reversed in his name. However, when the investigation and confiscation process was carried out, the assets were still confiscated and declared as evidence of crime. According to his confession, efforts to defend themselves were made by writing to law enforcement officials and filing objections, but the response received was minimal. He feels that the legal system does not provide enough protection for parties with good intentions, and prioritizes the confiscation of assets for the sake of law enforcement, without considering substantive justice for aggrieved third parties (Interview with Hendra, 2025).

This shows the weak substantive legal protection mechanism in the Indonesian judicial system for third parties. Although there are legal instruments such as PERMA No. 2 of 2022, in practice the implementation of the objection procedure by third parties has not been effective and responsive. The existence of PERMA should provide legal space to prove the legality of ownership and guarantee the principle of *audi et alteram partem* right to be heard. However, without the awareness and willingness of law enforcement officials and the courage of judges to consider justice in the civil context, third-party objections are often considered as obstacles in the criminal law enforcement process. Therefore, it strengthens the urgency of reforming the legal approach to asset confiscation so that it is more balanced between state interests and individual rights. (Imron, 2024)

The case of PT. ASABRI is a clear example of the complexity of legal protection against well-meaning third parties. In this case, the assets seized for the recovery of state losses do not only belong to corruption suspects, but also assets that have transferred to third parties through legitimate transactions. When law enforcement officials conduct seizures, often these third parties have to struggle to prove their good faith through complicated and time-consuming legal avenues. (Arianto, 2024)

The results of the interview at PT. ASABRI indicated that clearer regulations and efficient mechanisms are still needed to protect the rights of third parties without reducing the effectiveness of law enforcement against corruption. This is important so that substantive justice and legal certainty can be upheld simultaneously in the Indonesian legal system.

Legal protection for third parties in good faith in the process of confiscating assets of corruption must be optimized through regulatory harmonization, strengthening of evidentiary mechanisms, and providing transparent and fair legal procedures. This is important so that the eradication of corruption does not sacrifice the rights of legitimate citizens, while maintaining the basic principles of the law and the value of justice that must be upheld in the Indonesian legal system.

### **The implementation of legal protection for third parties in good faith in the practice of asset forfeiture in the case of corruption crimes of PT. ASABRI**

Legal protection for third parties in good faith in the practice of confiscating corrupt assets in Indonesia is regulated in the Law on the Eradication of Corruption Crimes (Corruption Law) and strengthened by Supreme Court Regulation (PERMA) No. 2 of 2022. A third party in good faith can appeal an asset forfeiture order if their rights are harmed.

In Indonesian criminal law, asset confiscation is one of the efforts to recover state losses due to corruption. The regulations governing this practice are contained in several legal instruments, such as Law No. 31 of 1999 jo. Law No. 20 of 2001 related to the Eradication of Corruption Crimes (Tipikor), and Law No. 8 of 2010 related to the Prevention and Eradication of Money Laundering Crimes (TPPU). The confiscation and confiscation of assets is carried out based on a court decision that has obtained permanent legal force (*inkracht*) as part of the criminal execution. (Mahmud et al., 2021)

The first interview with legal officials at PT. ASABRI revealed that in the implementation of asset confiscation, the company seeks to coordinate with law enforcement officials so that assets that have been in the hands of a third party in good faith can be protected in accordance with the provisions of the law. However, the resource person said that the implementation of this legal protection still faces various challenges, such as the limitations of explicit legal procedures and the time limit in the confiscation process which is often carried out quickly without an in-depth assessment of the ownership status of the asset. (Pramudita et al., 2025)

According to the provisions in Article 39 paragraph (2) of the Criminal Procedure Code (KUHAP), the confiscation of goods suspected of being the proceeds of a criminal act must be carried out legally and not detrimental to the rights of other people in good faith. However, the application of this provision in the field often encounters

various obstacles, especially related to proving the good faith of third parties. Legal staff of PT. ASABRI revealed that in practice, third parties must file a civil or pretrial lawsuit to prove their good faith, which not only takes a long time but also considerable costs<sup>4</sup>. This creates injustice for third parties who are basically not involved in corruption but have to bear the consequences of the legal process. (Afrian & Merita, 2025)

Formally, legal protection against third parties has been regulated, the implementation is still far from ideal. The lengthy and complex process, coupled with procedural uncertainty, makes legal protection for third parties difficult to access and less effective. On the other hand, law enforcement officials are still oriented towards the aspects of criminal enforcement and the recovery of state losses so that they do not consider the side effects of deprivation on the civil rights of third parties. This creates a gap between written law and practice on the ground that must be immediately corrected through policy updates and training for law enforcement officials. (Kholifah et al., 2023)

The implementation of legal protection for third parties who have good faith in the practice of asset confiscation in the case of corruption crimes of PT. ASABRI still has significant shortcomings. Although the legal basis already exists, implementation in the field still faces various obstacles both in terms of procedures, time, and attention of law enforcement officials to the rights of third parties. Therefore, reform and improvement of the implementation mechanism are needed so that this legal protection can run effectively and fairly.

To overcome these problems, several recommendations need to be considered, including:

- 1) The preparation of special regulations that regulate procedures and mechanisms for legal protection of third parties in good faith in cases of corruption, including evidentiary procedures and easily accessible objection mechanisms.
- 2) Strengthening coordination between law enforcement agencies and providing transparent access to information for third parties during the process of confiscation and asset confiscation.
- 3) Provision of adequate legal assistance to third parties so that they can defend their rights effectively and efficiently.
- 4) The establishment of a special forum in criminal justice to deal with third-party claims related to confiscated assets as a form of quick and fair dispute resolution. (Kurdi et al., 2025)

#### **Legal obstacles faced by a third party who has good faith in defending his rights to the assets confiscated in the case of corruption in the case of PT. ASABRI**

Corruption cases such as those that occurred at PT. ASABRI not only has an impact on the main perpetrators, but also has wide legal consequences, including for third parties in good faith. In this case, not a few assets were then confiscated or confiscated by the state because they were considered the proceeds of a criminal act, even though they had legally changed hands to other parties. This third party faces a number of legal obstacles that are quite complex in defending their rights to these assets. The following is a description of the legal obstacles faced.

One of the main obstacles is "*There is no special regulation that explicitly protects a third party in good faith in the case of confiscation of assets resulting from corruption*". The Law on Corruption (Law No. 31 of 1999 jo. Law No. 20 of 2001) and the Criminal Procedure Code do not regulate in detail how the ownership status of third parties can be protected if it turns out that the assets obtained legally come from the proceeds of crime. (Umara & Priambodo, 2024)

The implementation of legal protection against third parties in good faith in cases of asset forfeiture of corruption crimes requires a balance between the state's interests in recovering state financial losses and the protection of legitimate citizens' civil rights. According to Satjipto Rahardjo, the law should not only be seen from the normative side, but also as a means to create social justice. Thus, legal protection for third parties must be interpreted as part of substantive justice. In an effort to uncover the legal obstacles faced by third parties who have good faith in defending

their rights to assets seized in the case of corruption in the case of PT. ASABRI, the researcher conducted an interview with legal staff at PT. ASABRI. (Bayangkara et al., 2024)

Legal staff at PT. ASABRI revealed that one of the main obstacles is the incompatibility between the asset confiscation process carried out by law enforcement officials and the protection of legal property rights according to civil law. According to him, in practice, the confiscation process takes place based on a criminal verdict that ensnares the main perpetrator, so that third parties who legally have rights to these assets are often ignored in the legal process. In addition, the limited access of third parties in the legal process of confiscation or pretrial makes it difficult for them to prove good faith and the legality of ownership of their assets, so that third parties have difficulty defending their rights. Legal staff of PT. ASABRI also added that the lack of socialization and information related to legal protection procedures for third parties is a significant obstacle that exacerbates this condition.

The results of the interview with the Legal Staff of PT. ASABRI revealed a number of real problems faced in the implementation of legal protection for third parties in good faith in the case of asset confiscation. He stated that the confiscation process is often carried out on the basis of criminal verdicts against the main perpetrators, without first identifying or verifying the legal status of third party ownership. This shows the weak implementation of the precautionary principle (*due process of law*) in the process of asset confiscation. (Ginting & Josoef, 2025)

Limited access to third parties to self-defense mechanisms such as pretrial or other legal forums. They often do not have sufficient opportunity or information to prove that their ownership is legitimate and acquired in good faith. In the theory of legal standing, third parties who are harmed by state actions should have the right to sue or defend their interests. But in practice, this third party's position is very weak.

The fact that the legal process runs unilaterally without the participation of a third party raises the potential for a violation of the principle of non-retroactivity and the right to defense, as guaranteed in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. The implementation of legal protection becomes ineffective when legal proceedings are carried out without providing space for third parties to raise legitimate objections. The statement illustrates the reality that the criminal procedure law system in Indonesia has not fully provided a fair and proportionate space for third parties to defend their rights. The incompatibility between the criminal law approach and the principles of civil law regarding the protection of property rights shows the existence of regulatory disharmony. In addition, limited access to the pretrial process and the unavailability of a special mechanism for filing objections by third parties are serious challenges that cause legal uncertainty and violations of the principles of justice. This fact also emphasizes the need for legal reform that specifically regulates the mechanism for the protection of third parties in good faith in cases of corruption. (Prince, 2025)

The implementation of legal protection against third parties in good faith in cases of asset forfeiture of corruption crimes is a major challenge in the legal system in Indonesia. Although the Law on the Eradication of Corruption and the Criminal Procedure Code have provided a legal framework regarding the confiscation and confiscation of assets, there is no mechanism that expressly regulates the protection of third parties who acquire assets legally and without knowing the origin of the criminal act of these assets. Third parties are often in a vulnerable position because in civil law they are the rightful owners, but in criminal law such assets are considered part of the proceeds of the crime. (Setyabudi et al., 2023)

Mr. Dodi who works at PT. ASABRI added that the most obvious obstacle is the overlap of regulations between criminal law and civil law, especially in terms of proving ownership of assets that are the object of confiscation. He explained that internally, PT. ASABRI always strives to ensure that every transaction and asset management is properly recorded and in accordance with the law, but when a seizure process occurs, the aspect of legitimate third-party ownership is sometimes difficult to distinguish from assets that are directly sourced from corruption. This puts third parties at risk of losing their rights without a fair and transparent testing process. The employee emphasized that

there is no special regulation that effectively regulates the protection of third parties in good faith in the context of corruption cases, especially in PT. ASABRI (Interview with Dodi, 2025).

This is in line with the view of academics who state that protection against third parties should be provided through fair and transparent legal procedures, for example by strengthening the mechanism for asset verification through civil courts or special pretrial institutions before confiscation is carried out permanently. Without these procedures, third parties will continue to be in very detrimental legal uncertainty, even though they are not the perpetrators or part of the criminal act.

In practice, a third party who wants to retain the rights to the seized assets must "*prove that he really did not know that the asset was the result of a criminal act*". Evidence to be submitted includes:

- 1) Proof of a valid sale and purchase transaction before a notary;
- 2) Proof of full payment;
- 3) Certificate or ownership document that has been transferred;
- 4) And in some cases, the evidence has been done due *diligence*. (Melisa & Son, 2025)

However, in the case of PT. ASABRI, law enforcement officials continue to focus on "*the fact that the assets are derived from the proceeds of a criminal act, without considering the propriety aspect of the acquisition process by a third party*".

The process of confiscation or confiscation is often carried out at the stage of investigation or prosecution, "*before there is a court decision with permanent legal force (inkracht)*". In the case of PT. ASABRI, several assets that have legally changed hands to third parties were also confiscated by the Attorney General's Office based on allegations that these assets were part of the proceeds of corruption crimes. As a result, the third party does not have sufficient opportunity to make a defense or claim before the seizure is made. This causes "*the position of asset ownership to become uncertain and its rights are neglected*".

Therefore, it is necessary to formulate legal policies that strengthen the rights of third parties in good faith, including:

- 1) To develop a mechanism of reverse proof that is fair and allows for third parties to prove their good intentions;
- 2) Provide the right to notification and participation in every stage of the seizure/seizure of assets;
- 3) Establish a special court or special assembly in corruption cases involving third-party claims;
- 4) Provide legal assistance and procedural information to third parties who do not understand the law. (Partha et al., 2025)

Third parties can actually take legal remedies such as intervention, resistance (*Resistance*), or civil lawsuits. However, "*This mechanism rarely succeeds because criminal court forums do not effectively accommodate the interests of third parties who are not defendants*". The obstacles faced include:

- 1) Intervention is often considered to hinder the course of criminal proceedings;
- 2) Civil lawsuits are considered inappropriate forums;
- 3) Judges in criminal cases focus more on the main perpetrators.

The absence of special provisions in laws and regulations that clearly guarantee the rights of third parties in good faith, such as in the Corruption Law, the Criminal Code, and the Asset Forfeiture Law, creates a space for legal uncertainty and opens up potential for injustice in practice. Therefore, it is necessary:

- 1) Reformulation of strict regulations regarding the position and legal protection of third parties.
- 2) Establishment of an independent institution or mechanism to assess third-party claims in a fair and objective manner. Strengthening the principle of balance between the interests of the state and the protection of the civil rights of citizens. (Aziz et al., 2025)

## CONCLUSION

Legal protection for third parties who are normatively good faith actually has a fairly clear foundation in various provisions of laws and regulations, such as Article 28 of the Money Laundering Crime Law, Article 1338 of the Civil Code, and Supreme Court Regulation Number 2 of 2022. However, in law enforcement practice, the implementation of these protections has not been running optimally. Third parties who acquire assets legally are often not given adequate defense space, because the orientation of law enforcement officials is more focused on recovering state losses through asset confiscation, so that the civil legal interests of third parties are often marginalized and not considered fairly.

Another problem that arises is the absence of a fair proof mechanism for third parties to show good faith and legality of asset acquisition. In many cases, third parties do not have the opportunity to file objections or defenses before the seizure is carried out by law enforcement officials. This condition is exacerbated by limited access by third parties to information related to ongoing legal proceedings, as well as the lack of readiness of law enforcement officials in assessing and positioning the legal status of third parties proportionately in asset forfeiture cases.

In addition, the overlap between the criminal law and civil law regimes also causes confusion in determining the status of asset ownership. The process of asset confiscation in corruption criminal cases tends to override the principle of legal ownership as known in civil law, so that the test of the legality of ownership is not carried out comprehensively. As a result, well-meaning third parties are in a weak position, as the legal system has not provided an integrated mechanism to thoroughly assess and protect their property rights in criminal justice proceedings.

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