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Asset Recovery For Victims of Investment Fraud in Money Laundering Offenses: A John Rawlsian Perspective

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Abstract: The growth of digital investment has contributed to a significant increase in investment fraud, resulting in substantial and collective financial losses for the public. In practice, proceeds of such crimes are frequently concealed through various money laundering schemes, thereby complicating the tracing and return of assets to victims. Although Law Number 8 of 2010 on the Prevention and Eradication of Money Laundering provides effective instruments for asset tracing, seizure, and forfeiture, its normative orientation and law enforcement practice remain predominantly focused on forfeiture for the benefit of the state. Consequently, asset recovery for victims does not operate as an automatic legal consequence of proving money laundering, but rather depends on other legal mechanisms that are fragmented and often ineffective. This study aims to critically examine asset recovery for victims of investment fraud in money laundering cases in Indonesia by applying John Rawls' theory of justice as fairness. Employing a normative juridical approach with prescriptive and evaluative analysis of legislation and judicial practice, the study finds a structural imbalance in asset recovery mechanisms that remains state-centered and has not yet reflected substantive justice for victims as the most disadvantaged group. Therefore, the study underscores the need for normative reconstruction and policy reorientation toward a victim-oriented asset recovery mechanism to ensure that victims' economic rights are restored in a fair, proportionate, and meaningful manner.

Keywords: Asset Recovery; Investment Fraud; Money Laundering; Justice as Fairness; John Rawls.

INTRODUCTION

The rapid development of investment instruments in the digital era has brought significant changes to public financial behavior, particularly by expanding access to capital accumulation and wealth management (Gomber, P., et al., 2019). However, alongside these advances, serious consequences have emerged in the form of a growing prevalence of

investment fraud, including fictitious investment schemes, Ponzi schemes, and misleading digital investment platforms (Zetsche, D. A., Arner, D. W., Buckley, R. P., & Weber, R. H., 2020). This phenomenon not only causes substantial financial losses for victims, but also produces systemic impacts by eroding public trust in the financial system, supervisory institutions, and the rule of law (Nasution, B. J., 2020).

In practice, proceeds of investment fraud are frequently disguised through various money laundering techniques, such as transaction layering, the transfer of assets through third parties, the conversion of funds into alternative assets, and cross-jurisdictional movement (Michael Levi & Peter Reuter, 2006). These patterns significantly complicate asset tracing and obstruct asset recovery. As a result, victims often fail to obtain compensation even when offenders have been prosecuted and convicted through the criminal justice process. This condition indicates that criminal justice responses still tend to prioritize the punishment of offenders and the forfeiture of assets, while paying insufficient attention to the interests of victim restoration.

In Indonesia, money laundering has been criminalized since the enactment of Law Number 15 of 2002, later amended by Law Number 25 of 2003, and currently replaced by Law Number 8 of 2010 on the Prevention and Eradication of Money Laundering. This statute comprehensively regulates the criminalization of various acts related to disguising or concealing the origin of assets derived from crime, as formulated, among others, in Article 3, which includes acts such as placing, transferring, diverting, spending, paying, granting, depositing, taking abroad, changing form, or exchanging assets known or reasonably suspected to be proceeds of crime (Yenti Garnasih, 2016).

Nevertheless, the normative construction of Law Number 8 of 2010 remains more oriented toward the effectiveness of enforcement against offenders and the forfeiture of criminal proceeds than toward guaranteeing the return of assets to victims (Yenti Garnasih, 2016). This tendency is reflected in judicial practice, in which assets proven to originate from investment fraud are frequently ordered to be forfeited to the state, without a clear and effective mechanism for returning them to the rightful victims (Yenti Garnasih, 2016). Such a pattern appears in a number of court decisions, including the Supreme Court of the Republic of Indonesia Decision Number 195 K/PDT/2018, the Bandung High Court Decision Number 1/PID.SUS/2023/PT.BDG in the Doni Salmanan case, and Decision Number 365 PK/Pid.Sus/2022, which, in essence, ordered the forfeiture of assets for the state even though those assets derived from losses suffered by victims of investment fraud.

Importantly, the General Explanation of Law Number 8 of 2010 explicitly states that, through the anti money laundering concept, proceeds of crime may be traced and subsequently forfeited to the state or returned to the rightful owner. This normative formulation indicates that the objective of returning assets to victims has, in principle, been recognized by the legislature (Ryder, N., 2018). However, at the implementation level, this objective has not been operationalized optimally, particularly in circumstances where victims' assets have been commingled with the offender's lawful assets or have passed through multiple layers of money laundering transactions (Michael Levi, 2017).

These conditions demonstrate a structural weakness in the mechanism for recovering assets for victims of investment fraud within money laundering cases (Ryder, N., 2018). While the existing legal regime is relatively effective as an instrument for asset tracing and enforcement, it has not fully provided adequate legal protection for victims of crime (Ryder, N., 2018). Consequently, victims of investment fraud remain in a vulnerable position and have not attained substantive justice, insofar as they lose their economic rights without a commensurate restoration mechanism an outcome closely linked to an asset forfeiture orientation that has not been effectively directed toward victims' interests (K. Ligeti & M. Simonato, 2020).

In this context, John Rawls' theory of justice as fairness is relevant as a normative framework for evaluating asset recovery mechanisms. Rawls' principles of equal basic liberties and the difference principle underscore that legal institutions have a moral obligation to protect, and to deliver the greatest benefit to, those who are worst off (Rawls, 2001). Victims of investment fraud, who suffer losses due to information asymmetry, supervisory failures, and organized economic crime, may rationally be positioned as the least advantaged group and therefore merit special protection (Michael Levi, 2000).

From a Rawlsian perspective, asset recovery in money laundering cases cannot be understood merely as a technical consequence of forfeiting proceeds of crime. Rather, it must be viewed as an integral component of distributive justice and corrective justice. The state is obliged not only to punish offenders, but also to restore victims' rights in a fair, proportionate, and meaningful manner. Failure to ensure restitution for victims ultimately reinforces inequality and contradicts the moral foundation of a just legal system (Rawls, 1999).

Based on the foregoing, this study aims to critically examine the legal framework for asset recovery for victims of investment fraud in money laundering cases in Indonesia by applying John Rawls' theory of justice as fairness. This inquiry integrates approaches from criminal law, victimology, and legal philosophy to assess the extent to which Indonesia's criminal justice system has accommodated victims' interests within mechanisms for recovering proceeds of crime.

More specifically, this study advances two main research questions. First, how is asset recovery for victims of investment fraud in money laundering cases currently implemented within Indonesia's criminal justice system? Second, how should the construction of asset recovery for victims of investment fraud in money laundering offenses be formulated from a Rawlsian perspective, particularly in relation to the protection of victims' economic rights and the proportional and just restoration of losses?

Through prescriptive and evaluative analysis of legislation, judicial practice, and the theoretical framework of distributive and corrective justice, this study is expected to contribute conceptually to the development of an asset recovery model that is more responsive to victims' interests. In doing so, the study seeks not only to strengthen the dimension of substantive justice in the enforcement of money laundering law, but also to encourage a paradigm shift in Indonesia's criminal justice system toward a more inclusive, balanced, and victim-oriented justice approach (victim-oriented justice).

METHODS

This study employs a normative legal research method focusing on the regulatory framework and judicial practice of asset recovery for victims of investment fraud in money laundering cases in Indonesia. Primary legal materials include relevant legislation on money laundering offenses, criminal procedure, and victim protection, as well as pertinent court decisions. Secondary legal materials consist of legal doctrines, scholarly articles, and academic literature addressing asset recovery, restorative justice, and distributive justice. The research applies three complementary approaches: (1) a statutory approach to examine the structure and coherence of applicable laws and regulations; (2) a conceptual approach to analyze key theoretical concepts particularly victim-oriented justice, restorative justice, and distributive justice within the context of asset recovery; and (3) a case-based approach to assess how courts operationalize forfeiture and victim restitution in practice. Data are collected through a library-based study and analyzed qualitatively using a prescriptive analytical method. This method is used to identify normative gaps between the stated objectives of the legal framework and its implementation, and to formulate recommendations toward a victim-centered asset recovery model that advances fair, proportionate, and meaningful restoration for victims.

RESULTS AND DISCUSSION

Asset Recovery for Victims of Investment Fraud in Money Laundering Cases within Indonesia's Current Criminal Justice System

Indonesia's Anti-Money Laundering Law (UU TPPU) provides a strong legal basis for the state to conduct asset tracing, freezing, seizure, and confiscation of proceeds of crime (Michael Levi & Peter Reuter, 2006). Within its normative framework, investment fraud is expressly classified as a predicate crime whose proceeds may be subjected to the anti-money laundering regime, as affirmed in Article 2 paragraph (1) of Law Number 8 of 2010 on the Prevention and Eradication of Money Laundering.

From a juridical standpoint, there is no doubt that assets derived from investment fraud whether in the form of cash, movable property, immovable property, or digital assets may constitute objects of enforcement measures under Law Number 8 of 2010. Nevertheless, although Law Number 8 of 2010 was designed to disrupt the flow of illicit proceeds and neutralize the economic benefits obtained by offenders, the recovery orientation in enforcement practice continues to exhibit a strong tendency toward state-directed asset forfeiture rather than direct and automatic restitution to victims. This tendency is reflected, for example, in Supreme Court Decision of the Republic of Indonesia Number 1081 K/Pid.Sus/2014, which illustrates the practice of confiscating money laundering proceeds for the benefit of the state without an explicit order to return such assets to victims, except through separate legal mechanisms.

This condition raises serious concerns from the perspective of substantive justice and the protection of victims' rights, particularly for victims of investment fraud who typically suffer substantial financial losses, often collectively, and with long-term consequences. In practice, victims of economic crimes frequently fail to obtain fair and proportionate recovery, resulting in the continued neglect of their economic rights even when the criminal justice process against perpetrators has been carried out (Rena Yulia, 2010).

The Normative Framework of Asset Recovery under Indonesia's Anti-Money Laundering Law

Normatively, Law Number 8 of 2010 on the Prevention and Eradication of Money Laundering (UU TPPU) grants very broad powers to law enforcement authorities to conduct asset tracing, freezing, seizure, and confiscation of assets suspected to originate from criminal activity (Yunus Husein, 2008). These powers may, under certain mechanisms, be exercised without awaiting a final and binding criminal conviction, including through instruments such as provisional seizure and forfeiture supported by a limited form of reverse burden of proof (United Nations Office on Drugs and Crime (UNODC), 2012). This normative design indicates that UU TPPU is deliberately constructed as an extraordinary legal regime (extraordinary legal regime) oriented toward cutting off criminal financial flows and safeguarding the integrity of the national financial system (Financial Action Task Force (FATF), 2012).

Within this framework, the state is positioned as the party with the principal interest (primary stakeholder) in the confiscation of criminal proceeds (United Nations Office on Drugs and Crime (UNODC), 2012). Such an orientation aligns with the macro-objectives of UU TPPU: ensuring that offenders do not continue to enjoy the benefits of crime (*crime should not pay*), maintaining the stability of the financial system, and protecting broader public interests (Financial Action Task Force (FATF), 2012). Consequently, the provisions of UU TPPU predominantly affirm the legitimacy of the state to assume control over and confiscate assets derived from criminal conduct as part of criminal policy (*criminal policy*) (United Nations Office on Drugs and Crime (UNODC), 2012).

However, upon closer examination, the regulation of asset return to victims particularly victims of investment fraud as a predicate crime is not formulated explicitly, comprehensively, or operationally within UU TPPU (United Nations Office on Drugs and Crime (UNODC),

2012). The prevailing norms primarily emphasize procedural mechanisms and the state’s authority to confiscate assets, whereas victims’ interests are not governed in an explicit and systematic manner; rather, they are accommodated only indirectly and in a residual fashion (United Nations Office on Drugs and Crime (UNODC), 2012). As a result, the return of assets to victims does not function as an automatic legal consequence of confiscation in money laundering cases. Instead, it depends on separate legal avenues outside the AML regime, including restitution procedures under criminal procedure law, the joinder of civil claims within criminal proceedings, or separate civil litigation initiated after a final criminal judgment has been rendered (United Nations Office on Drugs and Crime (UNODC), 2012).

This condition reflects a normative gap in UU TPPU concerning an effective victim-oriented mechanism for asset return. The gap is not merely technical or procedural; it also implicates the philosophical foundations and justice orientation of the criminal justice system, which remains predominantly state- and offender-oriented, while victims’ interests are treated as residual and not systematically institutionalized (Barda Nawawi Arief, 2010). Where UU TPPU does not expressly integrate victims’ interests into the asset recovery scheme, victim compensation becomes uncertain, prolonged, and frequently disproportionate to the losses suffered (Yenti Garnasih, 2016). This is because the operative logic of recovery is directed primarily toward confiscation for the state and relies on supplementary legal instruments that are external to the AML framework and not consistently effective (Yusuf Shofie, 2013).

In judicial practice, the enforcement of money laundering offenses continues to demonstrate a strong orientation toward state asset forfeiture (*asset forfeiture*), without automatically linking confiscation to victim compensation, including in money laundering cases derived from investment fraud (Yenti Garnasih, 2016). In a number of court decisions, assets proven to constitute proceeds of money laundering are treated as objects of state confiscation aimed at breaking the chain of crime and eliminating offenders’ economic gains.

Accordingly, in certain investment-related cases, assets that represent victims’ losses have ultimately been confiscated for the state rather than distributed to victims through an integrated.

Table 1. Automatic Recovery Mechanism

Case	Decision	Considerations
Investment Fraud Offense	Decision No. 195 K/PDT/2018	The court’s reasoning reflects that assets linked to victim losses in AML-related recovery were confiscated for the benefit of the state, rather than being directly returned to victims (Susanto, 2020).
Forex trading / binary options case involving Doni Salmanan	Bandung High Court Decision No. 1/PID.SUS/2023/PT.BDG	The judges held that assets constituting proceeds of Doni Salmanan’s crime were confiscated for the state.
Cooperative case CV GMS	Criminal Case Decision No. 222/Pid.Sus/2013/PN.Tng	The court considered that the proceeds of crime were subject to confiscation for the state.
Investment Fraud Offense	Decision No. 365 PK/Pid.Sus/2022	The court ruled that assets of PT Anugerah Karya Wisata were confiscated for the state.
Misappropriation of customer funds Indosurya Savings and Loans Cooperative	Supreme Court Decision No. 2113 K/Pid.Sus/2023	The judges’ reasoning indicates that criminal proceeds were confiscated for the state (Fathan Muhammad Ghifary & Handoyo Prasetyo, 2024).

Cryptocurrency Ponzi Scheme	Decision 589/Pid.Sus/2021/PN.Bks	No.	The court held that criminal proceeds were confiscated for the state (Fil Rizki & Pramukhtiko Suryokencono, 2023).
Dream For Freedom case	Decision 360/Pid.B/2017/PN.JKT.BRT	(as cited)	The court’s reasoning states that criminal proceeds were confiscated for the state (Eflin Christy, 2018).
Fraudulent investment scheme Fikasa Group	Supreme Court Decision No. 5136 K/Pidpsus/2022 (21 September 2022)		The judges held that criminal proceeds were confiscated for the state.
Fraud/embezzlement in investment activity involving sales of Cimory milk and Kanzler sausages	Pekanbaru District Court Decision No. 578/Pid.Sus/2024/PN Pbr		The court ordered the assets to be confiscated and auctioned, and the auction proceeds used to compensate victims as a form of recovery. Distribution was to be carried out proportionally according to each victim’s loss, through an agreement among victims to appoint and/or establish an association (Paguyuban) to manage allocation based on the association’s decision.

Source: The Supreme Court of the Republic of Indonesia Decision Directory.

In general, these decisions do not develop an explicit and systematic normative construction regarding mechanisms for returning assets to victims, even though victims’ losses are a direct consequence of the predicate offense. This condition underscores that the legitimacy of asset forfeiture within the AML (TPPU) regime has not been matched by a victim-recovery paradigm, so that victims’ interests remain residual in criminal justice practice (Barda Nawawi Arief, 2018).

In the relevant Supreme Court decision, the Court once again affirmed that assets proven to originate from the money laundering offense must be forfeited to the state, even though, in the *a quo* case, there were victims who demonstrably suffered financial losses. In its legal reasoning, the Court did not elaborate any restitution mechanism or the priority of victim recovery, thereby implicitly reinforcing a paradigm in which asset forfeiture is understood more as an instrument serving state interests than as an instrument of restorative justice for victims.

On the other hand, there are also decisions that show limited efforts to accommodate victims’ interests, although these remain casuistic and non-systemic. In Supreme Court Decision No. 327 K/Pid.Sus/2019, for example, the Court opened space for the return of a portion of assets to victims insofar as a clear causal link can be proven between the seized assets and the losses of a particular victim. However, this approach still depends heavily on the evidentiary construction in the concrete case and does not yet reflect an integrated normative standard within the TPPU Law regime.

From a legal-system perspective, this fragmentation of asset-return mechanisms indicates that Indonesia’s TPPU regime is still dominated by a state-oriented asset recovery approach, while a victim-oriented asset recovery approach has not become the mainstream (Courtney J. Linn, 2007). As a result, victims of investment fraud who are generally collective in nature, suffer massive losses, and occupy a weak bargaining position often do not obtain effective and meaningful recovery, even though the perpetrator has been convicted and the proceeds of crime have been successfully forfeited (M. Ali, et al., 2022).

Normatively, the TPPU Law has indeed been highly progressive in terms of enforcement and asset forfeiture, yet it still leaves structural weaknesses in guaranteeing the return of assets to victims (Rohan Bedi, 2015). The absence of firm and integrated rules on victim asset return creates legal uncertainty and may conflict with the principle of substantive justice (M. Ali, et al., 2022). Therefore, a normative reconstruction is required one that explicitly positions victims as primary subjects within asset-return policy so that asset recovery does not merely end in forfeiture to the state, but also functions as an instrument for restoring victims' economic rights in a fair, swift, and proportionate manner (Mark Pieth, 2014).

Field Practice: The Current Prevailing Tendency

In Indonesia's criminal justice practice, the handling of money laundering (TPPU/AML) cases originating from investment fraud generally ends with asset forfeiture to the state (Michael Levi, 2016). Assets that have been successfully traced, frozen, seized, and forfeited pursuant to a final and binding court decision are subsequently treated as state forfeited property and deposited into the state treasury or managed in accordance with the applicable laws and regulations (Mark Pieth, 2014). This pattern indicates that the prevailing orientation of AML enforcement remains anchored in state control over assets as a key indicator of enforcement success (Courtney J. Linn, 2007).

Within this framework, enforcement effectiveness is more often measured by law enforcement agencies' capacity to conduct asset tracing and asset seizure, as well as by the economic value of the assets ultimately forfeited (Michael Levi, 2016). Such a success metric places asset forfeiture as the terminal objective of the criminal process, while the recovery of victims' losses is not positioned as an inherent consequence of that success (Courtney J. Linn, 2007). As a result, the interests of investment-fraud victims tend to be marginalized, even though they are the parties who directly suffer losses from the predicate offense (Mark Pieth, 2014).

In many cases, even where offenders have been found guilty and proceeds of crime have been forfeited, victims do not automatically obtain reimbursement for their losses (Rohan Bedi, 2015). To obtain recovery, victims must still pursue additional legal mechanisms, such as seeking restitution within the criminal process, joining a civil claim, or filing a separate civil lawsuit after the criminal judgment becomes final and binding (Michael Levi & Peter Reuter, 2016). These mechanisms are procedural and complex, often requiring time and costs that are disproportionate to victims' capacities particularly in investment-fraud cases involving large numbers of victims and significant collective losses (Unger, Brigitte; Ferwerda, Joras, 2011).

This condition reflects an enforcement paradigm that remains state-centered. The state's interest in disrupting criminal networks and eliminating offenders' economic gains is indeed a central objective of the AML regime. However, in practice, that orientation tends to emphasize the state's fiscal and symbolic interests, while victims' interests are placed in a secondary position and made dependent on other, auxiliary legal instruments (Rohan Bedi, 2015). This paradigm assumes that state forfeiture is sufficient to represent justice, without ensuring that forfeiture outcomes contribute directly to victims' recovery (Karin van Wingerde and Pieter van der Leun, 2017).

Yet, in the context of investment fraud, the forfeited assets are, in substance, victims' property that has been unlawfully transferred by the offender. Accordingly, there is a strong moral and substantive relationship between the proceeds of crime and victims' right to be made whole (Nicholas Lord, Liz Campbell, dan Colin King, 2015). When those assets are fully converted into state property without a clear and effective mechanism for returning them to victims, the criminal justice system risks producing an inequality of justice: the state benefits from forfeiture while victims continue to bear economic losses that are often permanent (Jan van Dijk, 2009).

The dominance of an asset-forfeiture orientation has direct implications for the weak realization of substantive justice (Andrew Ashworth, 2002). Convicting offenders and forfeiting assets may satisfy the dimension of formal justice, but they do not necessarily produce justice that is meaningful for victims. Victims of investment fraud not only lose their economic rights, but also face legal uncertainty regarding the possibility of recovery even when the state has successfully taken control of criminal proceeds. In this context, law enforcement tends to function as a repressive instrument oriented toward the offender and the state, rather than as a recovery mechanism for victims (Carolyn Hoyle, 2011).

Therefore, AML enforcement practices that prioritize forfeiture to the state warrant critical reassessment, particularly in cases rooted in investment fraud. Without a paradigmatic reorientation toward a victim-centered approach, asset forfeiture risks perpetuating structural inequality within the criminal justice system. Such reorientation is essential so that forfeiture serves not only as an enforcement tool, but also as a recovery instrument that advances substantive justice and protects victims' rights (Colin King, 2016).

In practice, enforcement against digitally enabled investment fraud, including robot trading schemes, continues to exhibit a dominant orientation toward asset forfeiture to the state, while the restoration of victims' losses through restitution mechanisms has not been placed as a primary focus in judicial dispositive orders. Enforcement success tends to be assessed by the effectiveness of seizure and forfeiture of criminal proceeds, rather than by the direct and proportionate restoration of victims' economic rights.

This tendency is reflected in the Doni Salmanan case involving the Binomo robot trading platform. At the appellate level, the Bandung High Court ordered that most assets proven to derive from the offense be forfeited to the state, while victims' compensation claims were not granted in the criminal judgment (Bandung High Court Decision No. 1/PID.SUS/2023/PT.BDG in the Doni Salmanan (Binomo robot trading) case). This judicial construction places victim recovery outside the direct consequences of punishment and was subsequently affirmed through cassation, ultimately becoming final and binding.

After the decision became final (*inkracht*), the forfeited assets were executed by the Attorney General's Office of the Republic of Indonesia through the management and auction mechanisms for state forfeited property in accordance with applicable laws and regulations. However, the auction proceeds were not automatically allocated to compensate victims; instead, they were deposited into the state treasury or managed under the forfeited-property regime. Consequently, even though the state succeeded in disrupting the crime and eliminating the offender's economic gain, victims still did not receive commensurate recovery and were forced to pursue separate additional legal avenues such as civil litigation or restitution applications which often encounter procedural and evidentiary barriers.

This practice illustrates a fragmentation of victim recovery mechanisms within the criminal justice system. The existing legal regime is relatively effective as an instrument for asset tracing and enforcement, but it has not been systematically integrated with the objectives of corrective justice. In digital investment-fraud cases, victims' losses are typically massive, collective, and long-term. For that reason, the asset forfeiture mechanism must be normatively reconstructed and integrated with victim recovery, so that law enforcement is not merely repressive but also realizes substantive justice within a modern criminal justice system.

In criminal adjudication practice, the AML regime (TPPU) has proven effective as a legal instrument to enable proof of financial flows (*follow the money*) and to reach criminal proceeds concealed through various financial schemes. Through asset tracing and asset forfeiture mechanisms, law enforcement can more readily pursue offenders' wealth derived from predicate offenses, including large-scale investment fraud (UNODC, 2017).

Nevertheless, the effectiveness of AML enforcement in forfeiting assets does not automatically correspond to victims' recovery. In practice, the determination of the ultimate

recipient of forfeited assets whether the state or victims depends heavily on three main factors: (1) whether restitution is applied for and proven by victims; (2) whether judges explicitly include restitution orders or instructions to transfer assets to victims in the dispositive part of the judgment; and (3) whether an operational execution mechanism exists to channel those assets. The prevailing legal framework does not construct restitution as an automatic consequence of proving AML offenses; rather, it remains procedural and contingent upon victims' additional initiative (R. Siregar, R., Teguh Prasetyo, 2023).

Major cases, such as Indra Kenz, demonstrate that AML charges and asset forfeiture become the central focus of enforcement strategy. Yet, it is precisely at this point that a normative tension emerges between the state's punitive orientation and victims' recovery interests. Public and academic debate has intensified around whether enforcement success should be measured by the magnitude of assets forfeited to the state, or by the extent to which victims' losses are restored in a real and proportionate manner (Kompas, 2022).

This tendency is evident in a number of court decisions, including three Supreme Court decisions of the Republic of Indonesia Decision No. 1689 K/Pid.Sus/2022, Decision No. 3276 K/Pid.Sus/2023, and Decision No. 3535 K/Pid.Sus/2023 as well as two first-instance and appellate decisions, namely the Tangerang District Court Decision No. 1240/Pid.Sus/2022/PN Tng and the Banten High Court Decision No. 179/PID.SUS/2022/PT BTN. These decisions consistently affirm the legitimacy of forfeiting money laundering proceeds to the state, yet they have not systematically linked such forfeiture with an obligation to return assets to victims as a direct consequence of proving AML offenses. This pattern confirms that, although AML is effective as a repressive instrument against economic crime, victim recovery remains residual and has not been normatively integrated into the dispositive orders of judgments.

Restitution is a victim recovery mechanism that is normatively regulated under Law No. 31 of 2014 on the Protection of Witnesses and Victims and Government Regulation No. 7 of 2018 on the Provision of Compensation, Restitution, and Assistance to Witnesses and Victims. This pathway is pursued through a restitution application submitted by victims, either independently or with support from the Witness and Victim Protection Agency (LPSK), at the investigation, prosecution, or trial stages. The application requires a calculation of actual losses, proof of a causal link between the losses and the offense, and the explicit inclusion of restitution in the dispositive part of a judgment or in a court determination.

Normatively, restitution reflects an orientation toward victim protection and recognition of victims' rights to fair and proportionate recovery. However, in judicial practice, its effectiveness faces significant obstacles. Proving individual losses becomes complex in cases involving mass victims; causal links are frequently contested; and establishing a valid victim list is often inadequately documented from the earliest stages of the case. In addition, restitution execution depends heavily on the availability of executable offender assets, so that in many cases it ends without real recovery for victims.

Constructing Asset Recovery for Victims of Investment Fraud in Money Laundering Cases from a John Rawls Perspective

John Rawls's theory of justice as fairness provides a comprehensive normative framework to both evaluate and reconstruct asset recovery mechanisms in money laundering (ML) cases, particularly those originating from investment fraud. In Rawlsian terms, justice is positioned as the primary virtue of social institutions (justice is the first virtue of social institutions). Consequently, the legitimacy of a legal system cannot be assessed solely by the effectiveness of punitive enforcement, but rather by its capacity to secure basic rights and to distribute institutional benefits in a fair and defensible manner (Daniels, 1989; Freeman, 2006).

This principle positions those who are worst off (the *least advantaged*) as the primary benchmark for evaluating justice. In the context of investment fraud, this group is concretely

represented by victims who have lost economic rights and lack access to effective recovery. However, criminal law scholarship and criminal policy literature indicate that modern enforcement practices including within anti money laundering (AML) regimes often measure institutional success by the intensity of asset seizure and confiscation, without simultaneously ensuring that the resulting benefits are distributed to those most affected (Ashworth & Zedner, 2014).

A similar critique emerges in money laundering studies, which emphasize that the effectiveness of *asset forfeiture* does not automatically correlate with the realization of substantive justice for victims, because forfeited assets are generally allocated to state interests rather than to individual restitution (Levi & Reuter, 2006; Ryder, 2011). From a Rawlsian perspective, this imbalance reflects a failure of the *difference principle*, since the distribution of benefits generated by law enforcement does not maximize gains for those who are most disadvantaged. Accordingly, *justice as fairness* provides a robust normative foundation for shifting asset recovery from a predominantly state-centered paradigm toward a more victim-oriented framework, making victim redress an integral component of the legitimacy of the criminal justice system in money laundering cases.

In money laundering cases derived from investment fraud, victims are, both normatively and empirically, situated as the *least advantaged*. Their harms are not merely economic; they also include psychological and social impacts and an erosion of trust in legal institutions and the state, which cumulatively deepens their vulnerability within social and legal structures (Daniels, 1989; Freeman, 2006). Under *justice as fairness*, this condition makes victims the central reference point for evaluating the legitimacy of enforcement institutions, because justice requires that the distribution of institutional benefits maximize the interests of those most harmed.

Yet, AML enforcement in Indonesia continues to display a strong tendency to prioritize confiscation of assets for state benefit (*state-centered asset forfeiture*), while victim recovery is frequently treated as an additional or even residual concern. Criminal policy and modern criminal law literature reiterate that a repressive orientation focused on seizure and forfeiture does not, by itself, guarantee substantive justice for victims, particularly when forfeited assets are not redistributed to those who suffered the direct harm (Ashworth & Zedner, 2014). Within AML regimes, this tension becomes more pronounced because asset forfeiture is often treated as a key indicator of enforcement success, even though the economic benefits of forfeiture flow primarily to the state rather than to the victims of the predicate offense (Levi & Reuter, 2006; Ryder, 2011). In Rawlsian terms, this reflects the non-implementation of the *difference principle*: inequalities produced by enforcement mechanisms are not designed to yield the greatest benefit for the least advantaged.

This structural tension between the repressive objectives of enforcement and the fulfillment of substantive justice for victims becomes even more salient when situated within Indonesia's AML legal framework. Normatively, the Law on the Prevention and Eradication of Money Laundering is designed to break the chain of crime and remove offenders' economic incentives through mechanisms of tracing, seizure, and confiscation. In practice, however, this normative orientation is frequently translated into a state-centered forfeiture paradigm, in which confiscated assets are treated as state revenue, while victim recovery does not follow automatically from enforcement success. This pattern indicates that the AML regime's success is still assessed primarily through the effectiveness of forfeiture and the intensity of punitive intervention, rather than by the extent to which the legal system returns the benefits of enforcement to the group most disadvantaged namely, victims of investment fraud (Ashworth & Zedner, 2014; Levi & Reuter, 2006).

From the standpoint of *justice as fairness*, such practice reflects an institutional failure to internalize the *difference principle*, because the inequalities produced by enforcement

mechanisms strengthen the state as the primary beneficiary while victims remain trapped in prolonged loss and insecurity (Daniels, 1989; Freeman, 2006). This imbalance is further reinforced by judicial practices that treat victim compensation as an ancillary issue dependent on mechanisms outside the AML regime such as criminal restitution orders or separate civil litigation which are procedural, complex, and not always effective in delivering real recovery (Levi & Reuter, 2006; Stessens, 2000; UNODC, 2017).

Thus, although the AML regime is normatively intended to remove offenders' illicit gains through asset confiscation, its implementation remains predominantly state-centered, measuring success through the state's repressive achievements while leaving victims' recovery as a residual concern within the enforcement structure (Gallant, 2014; Bantekas, 2006). This condition underscores the urgency of reconstructing the asset recovery framework in money laundering cases so that it functions not only as an instrument of punishment and prevention, but also as a mechanism for distributive justice that substantively restores the rights and dignity of victims as the least advantaged group within the criminal justice system (Rawls, 1999; Duff, 2001).

Although Indonesia's Anti Money Laundering Law (UU TPPU) has normatively provided strong instruments to trace, seize, and confiscate proceeds of crime, its implementational orientation has not yet fully aligned with the demands of substantive justice that place victims as primary subjects of legal protection. In practice, asset forfeiture mechanisms remain dominated by a state-centered enforcement paradigm that emphasizes punitive effectiveness and the state's fiscal interests, while victim loss recovery is treated as residual and contingent upon additional legal instruments outside the AML regime (Levi & Reuter, 2006; Stessens, 2000; Gallant, 2014). This condition underscores the urgency of reconstructing the asset return framework in money laundering cases in Indonesia so that it does not merely function as a repressive tool of the state, but also transforms into a distributive justice mechanism that substantively restores the rights and dignity of victims as the least advantaged group within the criminal justice system (Rawls, 1999; Duff, 2001; UNODC, 2017).

Rawls' first principle the principle of equal liberty affirms that each individual holds an equal claim to basic liberties compatible with the same liberties for all, including the guarantee of protection under the rule of law and equal access to justice (Rawls, 1999). In money laundering cases, this principle implies that victims of investment fraud should be treated as autonomous and dignified legal subjects, not merely as instruments of proof. International standards likewise position victims as rights-holders entitled to access justice mechanisms, respectful treatment consistent with human dignity, and effective remedies, including restitution; therefore, reducing victims to "mere witnesses" risks perpetuating inequalities in access to justice (United Nations General Assembly, 1985; Council of Europe, 2006). Consequently, regulatory designs that do not provide victims with meaningful standing in recovery schemes including asset return may be evaluated as deviating from the requirements of equal liberty, insofar as they produce unequal treatment of victims' rights to effective remedies and relevant participation within criminal proceedings (Council of Europe, n.d.; European Union, 2012).

Rawls' second principle the difference principle, coupled with fair equality of opportunity provides an even firmer normative justification for victim oriented asset recovery. This principle holds that social and economic inequalities are permissible only insofar as they yield the greatest benefit to those who are least advantaged (Rawls, 1999). In the context of AML enforcement, structural inequality becomes apparent when the state holds dominant authority to seize, manage, and ultimately benefit from confiscated assets, while victims face lengthy, complex, and costly recovery procedures to obtain restitution procedures that often fail to deliver effective recovery in practice (Levi & Reuter, 2006; Gallant, 2014; UNODC,

2017). This pattern indicates that the inequality produced by asset forfeiture regimes does not satisfy Rawlsian standards, because the primary benefits of confiscation do not flow to those most harmed but instead concentrate in state interests, thereby conflicting with the requirements of distributive justice and fair equality of opportunity in the criminal justice system (Bantekas, 2006; Duff, 2001).

From a justice-as-fairness standpoint, such inequality cannot be justified, because the distribution of benefits resulting from AML enforcement advantages the state more than victims as the least advantaged group, thus failing the Rawlsian difference principle, which requires that any inequality must deliver the greatest benefit to that group (Rawls, 1999). In this context, confiscation practices that culminate in state revenue while victims are left with uncertain prospects of recovery through supplemental mechanisms constitute a deviation from distributive justice and fair equality of opportunity (Levi & Reuter, 2006; Gallant, 2014). Therefore, legal reconstruction of asset recovery should be directed toward mechanisms that explicitly prioritize victim restitution, insofar as a clear causal nexus can be established between the investment fraud predicate offense and the seized assets, consistent with international victim-based asset recovery standards (UNODC, 2017). This approach does not negate the state's interests in enforcement and the prevention of economic crime; rather, it positions victims' interests as the primary normative parameter in distributing the proceeds of confiscation, thereby aligning with the aims of substantive justice and the moral legitimacy of the criminal justice system (Bantekas, 2006; Duff, 2001).

In Rawls' account, justice is not only distributive but also essentially procedural. Justice is not assessed solely by the end result such as the offender's punishment but by the fairness of the process that leads to that outcome, including whether the process is designed and implemented in a manner that is fair to all affected parties (Rawls, 1999). In the context of recovering assets derived from money laundering, procedural justice requires meaningful victim participation from the earliest stages of the criminal process, including in seizure decisions, asset tracing, and the determination of the ultimate allocation of criminal proceeds. Such participation forms part of victims' rights to access justice and obtain effective remedies (UNODC, 2017; United Nations General Assembly, 1985). Absent inclusive, transparent, and accountable procedures, asset recovery mechanisms risk losing their moral and social legitimacy because, even if formally lawful under positive law, they fail to satisfy procedural justice standards that function as a prerequisite for institutional legitimacy within the criminal justice system (Tyler, 2006; Duff, 2001).

Within Indonesia's criminal justice framework, a victim-oriented approach also has strong normative correspondence with Pancasila, particularly the fifth principle on social justice for all Indonesians, which positions justice as the guiding objective in distributing benefits and burdens in public life. This orientation is likewise consistent with constitutional guarantees of equality before the law and the right to fair legal certainty, as affirmed in Article 27(1) and Article 28D (1) of the 1945 Constitution of the Republic of Indonesia (Asshiddiqie, 2010; Mahfud MD, 2011). Accordingly, applying Rawls' *justice as fairness* should not be viewed as contradicting Indonesia's philosophical and constitutional foundations; instead, it can be understood as reinforcing the social justice orientation of national legal development by recognizing victims as dignified and equal subjects of legal protection (Rawls, 1999; Latif, 2015).

A Rawlsian reconstruction of asset recovery for victims of investment fraud in money laundering cases therefore requires a paradigmatic shift from a predominantly state-centered approach toward a more victim-centered framework. This shift is not intended to weaken the state's authority to trace, seize, and confiscate proceeds of money laundering, but rather to rebalance enforcement objectives with the obligation to restore victims' rights as the parties most harmed (Rawls, 1999; Levi & Reuter, 2006). In this framework, the state continues to

perform its repressive and preventive functions disrupting offenders' economic incentives and preventing further crime while simultaneously ensuring that the fruits of enforcement, especially confiscated assets, are distributed in a manner that provides real and proportionate benefits to victims, consistent with the difference principle and the demands of substantive justice (Gallant, 2014; UNODC, 2017).

By using Rawls' theory of justice as the normative benchmark, a victim-oriented asset recovery framework is directed toward three main objectives. First, it seeks to secure legal certainty and the effectiveness of asset restoration for victims as prerequisites for protecting basic rights and realizing substantive justice. Second, it aims to prevent structural discrimination within the criminal process that has tended to position the state as the primary beneficiary of confiscated assets while relegating victims to a residual status. Third, it seeks to achieve a more equitable distribution of justice by prioritizing the recovery of victims' losses as the least advantaged group, as required by the difference principle and the principle of fair equality of opportunity (Rawls, 1999; Levi & Reuter, 2006). Within this approach, anti money laundering law is no longer understood merely as an instrument of repression and prevention of economic crime, but also as a concrete vehicle for realizing substantive social justice grounded in human dignity and consistent with the moral legitimacy of the criminal justice system (Gallant, 2014; UNODC, 2017).

Normatively, the regulation of asset recovery in money laundering cases in Indonesia is grounded in the Anti-Money Laundering Law (UU TPPU), which is conceptually designed to disrupt criminal enterprises by enabling asset tracing, seizure, and confiscation of criminal proceeds. The core orientation of this framework is to prevent offenders from enjoying illicit economic gains while safeguarding the public interest and the stability of the financial system (Levi & Reuter, 2006; UNODC, 2017). However, when examined through the lens of *justice as fairness*, the normative construction of UU TPPU still exhibits a pronounced state-centered tendency: the state is positioned as the primary recipient of crime-derived assets, while victim loss recovery is not articulated as an explicit and integrated normative objective within the money laundering regime (Rawls, 1999; Gallant, 2014). This tendency generates a structural tension between the law's repressive objectives and the requirements of substantive justice, which demand that the distribution of enforcement benefits prioritize those most harmed.

Across various provisions of UU TPPU, asset confiscation is primarily framed as a repressive instrument aimed at deterrence, severing offenders' economic incentives, and protecting the general interest. Confiscated proceeds of crime are typically treated as state revenue and transferred to the state treasury, whereas mechanisms for victim redress are not formulated as an equally salient normative objective within the AML regime (Levi & Reuter, 2006; Gallant, 2014; UNODC, 2017). As a consequence of this normative design, victims' interests tend to occupy a subordinate position, both at the level of regulatory architecture and in law enforcement practice, because victim recovery depends on supplementary mechanisms outside UU TPPU that are procedural, fragmented, and not consistently effective (Rawls, 1999; Bantekas, 2006).

From a Rawlsian standpoint, this condition raises serious concerns simultaneously in the domains of distributive and procedural justice. The *equal liberty* principle requires that every individual including crime victims enjoy equal access to legal protection and effective remedial mechanisms as part of the basic liberties secured by the rule of law (Rawls, 1999). Yet, in enforcement practice involving investment fraud that culminates in money laundering, victims are often compelled to pursue additional avenues beyond the AML framework, such as civil litigation or restitution applications. Empirically, these routes demand financial resources, time, and legal capacity that victims do not always possess (Gallant, 2014; UNODC, 2017). This dynamic produces unequal access to justice, because only victims with adequate economic capital and legal knowledge are realistically able to secure recovery, while others remain

excluded from the benefits of enforcement. Such exclusion conflicts with the requirement of equal basic liberties and the ideal of fair equality of opportunity within *justice as fairness* (Rawls, 1999; Levi & Reuter, 2006).

Moreover, Rawls’ *difference principle* requires that any inequality in authority and benefit distribution between the state and victims can be justified only insofar as it yields the greatest benefit to victims as the least advantaged group (Rawls, 1999). However, when confiscated assets in money laundering cases are dominantly allocated to the state—whether as fiscal receipts or as symbolic indicators of enforcement success—while victim recovery is not materially prioritized, the resulting inequality loses moral legitimacy within the Rawlsian framework (Levi & Reuter, 2006; Gallant, 2014). In this context, the application of UU TPPU and prevailing judicial tendencies risk producing a formalistic notion of justice: legality and procedural certainty may be satisfied, yet substantive justice defined by the maximization of protection and recovery for victims as those most harmed remains under-realized (Rawls, 1999; UNODC, 2017).

Judicial practice in money laundering cases further indicates that the primary focus remains on proving the elements of the offense, punishing the offender, and confiscating assets as evidence or as proceeds of crime. Under this logic, enforcement success is commonly measured by the severity of the sentence and the value of assets seized, while victim interests are marginal and seldom function as a decisive basis for determining the ultimate disposition of confiscated property (Albanese, 2018; Levi & Reuter, 2006). As a result, even when offenders receive substantial penalties and illicit assets are successfully confiscated by the state, victims frequently fail to obtain proportional recovery. The criminal justice process thus risks extending victims’ suffering through the neglect of their right to effective remedies an effect often conceptualized as *secondary victimisation* (Doak, 2008; Van Dijk, 2009; UNODC, 2012). This pattern reinforces the conclusion that a predominantly repressive and state-centered orientation in judicial decisions yields formally compliant outcomes, but does not fully meet the demands of victim-oriented substantive justice (Rawls, 1999; Zedner, 2010).

From the perspective of *justice as fairness*, these conditions suggest that procedural justice in money laundering cases may be formally satisfied through compliance with due process and the technical requirements of criminal procedure, yet substantive justice remains unfulfilled because enforcement outcomes do not proportionally restore victims’ losses (Rawls, 1999; Fuller, 1964). Procedural compliance without a fair distribution of benefits risks reducing law to mere legality valid in a formal sense but deprived of moral legitimacy because it fails to treat victims as meaningful rights-holders (Dworkin, 1977; Ashworth, 2000). Accordingly, a reconstruction of both the norms and practices of the AML regime is required so that asset recovery mechanisms explicitly prioritize victims, insofar as a clear causal nexus between the predicate offense and the seized assets can be established. In this way, enforcement outcomes would not only meet standards of legal certainty, but also strengthen substantive justice and the social legitimacy of the criminal justice system (Tyler, 2006; UNODC, 2021; Van Ness & Strong, 2015).

Table 2. Conceptual Matrix: Rawls’ Justice as Fairness vs. Asset Recovery Practice in Indonesia

Analytical Aspect	Rawls’s Theory of Justice (Justice as Fairness)	Asset Recovery Practice under Indonesia’s Anti Money Laundering Law (UU TPPU)	Critical Evaluation
Basic Orientation	Justice as the first virtue of social institutions; priority on protecting individual rights	Crime control and safeguarding state interests	The orientation remains predominantly state-centered, not victim-centered

Victim's Position	Victims (as <i>the least advantaged</i>) are central rights-bearers within the scheme of justice	Victims are commonly treated as witnesses or secondary parties	Inconsistent with the equal basic liberties principle
Distributive Principle	Difference principle: inequalities are justified only if they maximize benefit for the least advantaged	Proceeds of crime are typically confiscated and deposited into the state treasury	Inequality in outcomes does not generate optimal benefit for victims
Procedural Justice	Fair, inclusive, and bias-free procedures grounded in the "original position"	Formally lawful procedures, with limited victim participation	Procedural justice tends to be formalistic, not substantively inclusive
Ultimate Aim	Restoration of individual rights and human dignity	Punishment of offenders and deterrence	Victim restoration has not become a primary objective
Moral Legitimacy	Grounded in rational agreement and substantive justice	Grounded in state authority and formal legality	Moral legitimacy is contestable from the victim's standpoint

Source : author's analysis 2026

This conceptual matrix demonstrates a significant normative tension between the construction of justice under *justice as fairness* and the practice of asset recovery within Indonesia's anti-money laundering (AML) regime. This tension is not merely technical or procedural; rather, it reaches a more foundational philosophical dimension concerning the ultimate orientation of the criminal justice system particularly regarding *to whom* the primary benefits of law enforcement should be distributed (Rawls, 1999). Within a Rawlsian framework, justice requires that the institutional structure of law be designed to maximize protection and recovery for those who are most disadvantaged, whereas asset recovery practice in the AML regime continues to exhibit a predominantly *state-centered* orientation that positions the state as the principal recipient of confiscated assets (Levi & Reuter, 2006; Gallant, 2014). This misalignment indicates a *normative gap* between the moral aspirations of substantive justice and the implementation-oriented logic of enforcement, a gap that ultimately affects the social and moral legitimacy of the criminal justice system itself (Fuller, 1964; Duff, 2001).

First, in terms of basic orientation, Rawls's theory places justice as the first virtue of social institutions, meaning that legal institutions are just insofar as they are designed and administered to protect individuals' basic rights especially those who occupy the position of the *least advantaged* (Rawls, 1999). On this view, the legitimacy of a legal system is not determined solely by the success of coercive enforcement, but by its capacity to deliver meaningful protection and tangible benefits to those most directly harmed by crime. By contrast, asset recovery under Indonesia's Anti-Money Laundering Law (UU TPPU) remains largely oriented toward crime control and the protection of state interests through the confiscation of proceeds for the public treasury, treating the disruption of offenders' economic incentives as a primary objective (Levi & Reuter, 2006; Gallant, 2014). The dominance of this state-centered orientation suggests that victims' interests have not been fully internalized as a central normative aim in the architecture of asset recovery, thereby generating tension with the demands of substantive justice as envisioned by *justice as fairness* (Rawls, 1999; Duff, 2001).

Second, regarding the status of victims, Rawls explicitly treats the *least advantaged* as the primary reference point in the design of justice, such that institutional structures should prioritize protection and the distribution of benefits to those in that position (Rawls, 1999). In the context of investment fraud that subsequently generates money laundering, victims are

factually situated as the least advantaged because they suffer direct economic loss and enduring social consequences. However, in positive legal practice, victims are more often positioned as witnesses or secondary parties within the criminal process, while the state emerges as the main beneficiary of confiscated criminal assets (Levi & Reuter, 2006; Gallant, 2014). This construction creates a mismatch with the principle of *equal liberty*, because victims' rights to economic recovery and equal access to the benefits of enforcement do not receive protection commensurate with the state's interests, thereby weakening the legitimacy of substantive justice within the AML regime (Rawls, 1999; Doak, 2008).

Third, in terms of distributive principles, Rawls's *difference principle* maintains that any social and economic inequality is justifiable only insofar as it produces the greatest benefit for those who are worst off (the *least advantaged*) (Rawls, 1999). In the context of recovering assets derived from money laundering, a prevailing practice of asset forfeiture that transfers criminal proceeds predominantly to the state treasury without an automatic and integrated mechanism for victim restitution suggests that such distributive inequality fails to meet Rawlsian moral prerequisites (Levi & Reuter, 2006; Gallant, 2014). The state obtains fiscal and symbolic gains from successful confiscation, while victims continue to bear substantial economic losses. As a result, the distribution of enforcement outcomes is not oriented toward restoring those most affected and does not realize the distributive justice that lies at the core of *justice as fairness* (Rawls, 1999; UNODC, 2017).

Fourth, from the perspective of procedural justice, Rawls requires that institutional rules and procedures be designed in a fair, inclusive, and bias-free manner, as imagined under the *original position*, so that all parties have an equal opportunity to benefit from the operation of legal institutions (Rawls, 1999). In the implementation of Indonesia's Anti-Money Laundering Law (UU TPPU), confiscation procedures generally satisfy formal legality and due process requirements. Nevertheless, victims' participation in asset tracing, management, and the determination of the final allocation of criminal assets remains highly limited, meaning that victims are not meaningfully integrated into the overall asset recovery process (UNODC, 2017; Ashworth, 2000). This condition renders procedural justice largely formalistic legally valid yet not fully substantive because it does not adequately secure victims' access to enforcement outcomes nor provide an equal participatory space in the distribution of the benefits produced by confiscation (Rawls, 1999; Tyler, 2006).

Fifth, with respect to the ultimate ends of justice, Rawls emphasizes that justice must be directed toward the restoration of individual rights and dignity as morally equal persons, rather than being reduced to the punishment of norm violators alone (Rawls, 1999). Under *justice as fairness*, institutional legitimacy is assessed by the extent to which legal and social structures contribute to improving the position of the least advantaged. Yet, asset recovery practice in Indonesia's money laundering regime continues to prioritize offender punishment and deterrence as dominant enforcement objectives, while victim compensation has not been systematically internalized as a normative aim in judicial orders or in policies governing the management of confiscated assets (Levi & Reuter, 2006; Gallant, 2014). Consequently, the justice produced tends to be retributive and symbolic formally lawful but not fully restorative because it fails to restore the rights and dignity of victims as those most affected by economic crime (Rawls, 1999; Duff, 2001; UNODC, 2017).

In terms of moral legitimacy, justice within the *justice as fairness* framework derives its justification from the rational consent of legal subjects imagined within the *original position* and from the achievement of substantive justice that concretely improves the position of those most disadvantaged (Rawls, 1999). This legitimacy is both moral and social, grounded in perceptions of fairness that can be rationally accepted by all parties. By contrast, the legitimacy of asset recovery practice in Indonesia's money laundering regime remains more heavily anchored in state authority and in compliance with formal legality through judicial decisions

that are valid in positive law (Fuller, 1964; Levi & Reuter, 2006). Where victims do not receive adequate and proportionate recovery from enforcement outcomes, the moral legitimacy of the system becomes problematic from a victim-justice standpoint: although formally lawful, the practice fails to satisfy the demands of substantive justice and may erode public trust in the criminal justice system (Tyler, 2006; Rawls, 1999).

Overall, this analysis indicates that asset recovery under Indonesia's Anti Money Laundering Law (UU TPPU) still exhibits a deficit of Rawlsian justice, particularly in the dimension of *victim-centered justice*. A predominantly state-centered enforcement orientation causes confiscation to function primarily as an instrument of repression and prevention in economic crime control, while victim restoration has not been systematically internalized as a principal normative objective (Levi & Reuter, 2006; Gallant, 2014). This condition underscores the urgency of reconstructing policy and enforcement practice so that confiscation does not operate merely as a coercive tool of the state, but also as a fair, proportionate, and meaningful mechanism of victim recovery provided there is a clear causal linkage between the predicate offense and the seized assets (UNODC, 2017). Accordingly, integrating the principles of *justice as fairness* especially *equal liberty* and the *difference principle* into the AML regime constitutes a normative prerequisite for achieving substantive justice in investment fraud and economic crime more broadly, while also strengthening the moral and social legitimacy of the criminal justice system (Rawls, 1999; Tyler, 2006).

CONCLUSIONS

Asset recovery for victims of investment fraud in money laundering (AML/TPPU) cases in Indonesia has not yet reflected substantive justice. Although Law No. 8 of 2010 provides effective instruments for asset tracing, seizure, and forfeiture of criminal proceeds, its normative design and enforcement practice still position the state as the primary beneficiary of asset forfeiture. Victims' interests are not explicitly and operationally integrated into the asset recovery scheme, so the return of assets to victims does not function as an automatic consequence of proving money laundering. In criminal justice practice, enforcement success is more often measured by the value of assets confiscated for the state rather than by the extent to which victims' losses are restored. As a result, victims of investment fraud must pursue additional legal avenues outside the AML/TPPU framework such as restitution procedures or civil litigation which are procedural, fragmented, and frequently ineffective, particularly in cases involving mass victims and collective losses. This condition reveals a normative gap and a structural weakness in a criminal justice system that remains state-centered. Indonesia's AML/TPPU regime thus tends to reflect formal legality more than substantive justice for victims. Accordingly, normative reconstruction and policy reorientation are required to explicitly integrate victims' interests into the asset recovery mechanism, so that confiscation does not function solely as an instrument of enforcement, but also as a fair, proportionate, and meaningful means of restoring victims' economic rights.

The mechanism of asset recovery for victims of investment fraud within Indonesia's money laundering (AML/TPPU) regime has not fully realized substantive justice as articulated in John Rawls's theory of *justice as fairness*. While the AML legal framework effectively provides instruments for tracing, seizing, and forfeiting criminal assets, its normative orientation remains dominated by a state-centered approach that prioritizes repressive enforcement over the restoration of victims' losses. From a Rawlsian perspective, investment fraud victims constitute the *least advantaged* group and therefore should receive priority in the distribution of benefits generated by law enforcement. However, prevailing practice demonstrates a structural inequality: confiscated assets largely benefit the state, whereas victims face recovery mechanisms that are fragmented, complex, and uncertain. This inequality is inconsistent with both the principle of *equal liberty* and the *difference principle*, because it

fails to maximize benefits for those most harmed. Procedurally, forfeiture may satisfy formal legality, yet it still provides limited space for meaningful victim participation, thereby weakening the moral legitimacy of enforcement outcomes. Therefore, this study underscores the need for a shift toward a victim-centered asset recovery framework that prioritizes restitution wherever a clear causal link exists between the offense and the seized assets. Integrating Rawlsian principles into the AML/TPPU regime is expected to strengthen moral legitimacy, reaffirm a commitment to social justice, and ensure that asset recovery operates not only as an instrument of enforcement, but also as a mechanism for restoring the rights and dignity of victims.

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