



Legal Certainty versus Substantive Justice: Confiscation of Good-Faith Third-Party Property in Natural Resource Crimes

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Abstract

This study examined the normative disharmony governing confiscated property owned by good-faith third parties in Indonesia's natural resource-related criminal cases. It addressed the tension between legal certainty and substantive justice arising from inconsistent confiscation standards across general criminal procedure and sectoral legislation. Using a normative juridical design, the study applied statute, conceptual, and comparative approaches to analyze KUHAP, forestry, fisheries, and mining regulations together with selected judicial decisions. The findings showed that the legal protection of third-party owners varies significantly across sectors because ownership, good faith, non-involvement, and proportionality were not governed by a uniform normative standard. Judicial decisions consequently displayed divergent approaches, with some courts recognizing lawful ownership and lack of involvement, while others prioritized confiscatory provisions. The study developed a harmonized normative framework that integrated ownership verification, good-faith assessment, owner knowledge or involvement, the property-crime nexus, and proportionality. The findings indicated that effective confiscation law should preserve state enforcement authority while preventing legal burdens from being imposed on innocent property owners.

A. Introduction

A person may lose legally owned property to the state even without committing, knowing of, or benefiting from the crime in which that property was used. In natural resource criminal cases, this possibility places good-faith third-party owners in a particularly vulnerable position because confiscation may transform an instrument of criminal enforcement into a deprivation of property rights imposed on individuals with no criminal responsibility (Hariyanto et al., 2024; Rahmah et al., 2024). The problem is therefore not merely procedural: it concerns how far the state may exercise confiscatory power without undermining legal certainty, proportionality, and the protection of individual rights (Sihombing et al., 2024). Natural resource-related crimes in Indonesia continue to present serious legal challenges, particularly when transportation equipment, vessels, heavy machinery, and other property connected to forestry, fisheries, and mining crimes belong to uninvolved third parties (Patramijaya, 2024).

Normatively, the regulation of confiscated evidence in Indonesia demonstrates significant disharmony between general criminal procedural law and sectoral natural resource legislation. The Indonesian Criminal Procedure Code (KUHAP), particularly Article 46 paragraph (1) and Article 194 paragraph (1), provides judges with discretionary authority to return evidence to its rightful owner when the property is not directly connected to a criminal act. Nevertheless, several sectoral laws adopt a stricter approach. Article 78 paragraph (15) of Law Number 41 of 1999 concerning Forestry, for instance, mandates confiscation of transportation equipment and tools used in forestry crimes without clearly distinguishing between property owned by offenders and that belonging to uninvolved third parties (Rifai & Triyono, 2015). Conversely, fisheries and mining legislation provides greater judicial flexibility in considering ownership and good faith. Such regulatory variation creates unequal levels of protection for similarly situated property owners.

The inconsistency of these norms is also reflected in judicial practice. Courts have returned confiscated property where owners were found to have neither participated in nor known about the unlawful use of their assets, while other decisions have ordered confiscation despite claims of lawful ownership and good faith (Nazrin et al., 2025). This divergence suggests that the legal status of third-party property may depend not only on the facts of a case but also on the sectoral regime and judicial interpretation applied to it. Comparable scholarship shows that regulatory

inconsistency, unclear normative standards, and interpretative variation can generate legal uncertainty and inconsistent judicial outcomes (Rannu & Adhari, 2025; Arifin et al., 2025). Consequently, the issue raises a broader tension between effective law enforcement and substantive protection of non-offending property owners.

The problem becomes increasingly complex because the current criminal procedural framework still places good-faith third parties in a relatively weak legal position. Existing mechanisms tend to position them passively during criminal proceedings even though confiscation may directly affect their property rights (Mardhatillah & Mahyani, 2019). In practice, their protection often depends heavily on the discretion of investigators, prosecutors, and judges rather than explicit procedural safeguards (Fachrina et al., 2024; Patramijaya, 2024). This concern corresponds with contemporary studies stressing that legal protection requires institutional and procedural safeguards capable of translating formally recognized rights into effective access to justice (Sihombing et al., 2024). Confiscation may therefore become substantively unjust when formal statutory enforcement imposes disproportionate consequences on persons who bear no criminal responsibility.

Several previous studies have approached this problem from different directions. Chandra (2022) examined conflicts between criminal confiscation and general confiscation in bankruptcy and demonstrated the resulting uncertainty regarding ownership rights. Kartika et al., (2024) identified disparities in judicial rulings involving confiscated assets and victim restitution, while Irwan et al., (2025) connected judicial discretion with tensions between legal certainty and substantive justice under ambiguous legal norms. Beyond confiscation studies, Rahmah et al., (2024) demonstrated how regulatory complexity may create dilemmas between legal certainty and protection of property-related interests, while Hariyanto et al., (2024) emphasized the relationship between state regulation, property ownership, legal certainty, and human-rights protection. Rannu and Adhari (2025) further showed that insufficiently precise criminal-law regulation can lead to divergent legal interpretation and application. Together, these studies demonstrate that normative fragmentation has consequences for both predictability and rights protection.

A second body of scholarship highlights the role of harmonization and judicial interpretation in responding to fragmented legal regimes. Arifin et al., (2025) found that regulatory inconsistency and the absence of clear harmonization mechanisms may generate legal uncertainty and weaken substantive protection within Indonesia's legal system.

Judicial studies likewise indicate that courts may employ contextual reasoning when rigid application of formal norms is insufficient to achieve substantive justice (Fitriyati et al., 2025). Meanwhile, Susantin et al. (2025) identified disparities among judicial decisions in protecting legally recognized economic rights, illustrating how inconsistent adjudication may produce unequal substantive outcomes. These findings reinforce earlier arguments that harmonization is essential for balancing legal certainty, state interests, and substantive justice within complex regulatory systems (Kadir et al., 2026; Chandra, 2022).

However, these strands of scholarship remain largely disconnected. Studies on confiscation have predominantly addressed bankruptcy, asset recovery, victim restitution, or judicial discretion in general criminal cases (Chandra, 2022; Kartika et al., 2024; Irwan et al., 2025), whereas studies on legal fragmentation, property protection, and substantive justice generally examine other regulatory contexts (Hariyanto et al., 2024; Rahmah et al., 2024; Arifin et al., 2025; Fitriyati et al., 2025). Limited attention has been directed specifically to the interaction between KUHAP and forestry, fisheries, and mining legislation when confiscated property belongs to a good-faith third party. More importantly, the existing literature has not yet integrated these sectoral confiscation regimes into a comparative framework capable of explaining how similarly situated innocent owners may receive different legal treatment (Rannu & Adhari, 2025; Sihombing et al., 2024). Thus, the unresolved problem concerns not simply whether confiscation is legally authorized, but what normative standard should govern confiscation when its consequences are imposed on a person who has no involvement in the underlying crime.

This study addresses that gap by developing a harmonized normative framework for the treatment of confiscated property owned by good-faith third parties in natural resource-related crimes. Its novelty lies in bringing KUHAP, forestry, fisheries, and mining legislation into a single comparative analysis and connecting their normative differences with judicial practice. Rather than treating confiscation merely as a procedural consequence of criminal enforcement, the study positions it at the intersection of state confiscatory authority and the legal protection of non-offending property owners. The proposed framework integrates ownership status, good faith, proportionality, legal certainty, and substantive justice as interconnected considerations for evaluating whether confiscation or return of property is normatively justified.

Accordingly, this research aims to analyze the legal status of evidence owned by good-faith third parties, examine the disharmony of legal norms regulating confiscated

evidence in natural resource-related crimes, and evaluate judicial decisions in balancing legal certainty, property rights, proportionality, and substantive justice.

B. Method

This research employs a normative juridical method to examine the legal treatment of evidence owned by good-faith third parties in natural resource-related criminal cases. Normative legal research is relevant for examining legal inconsistencies, interpreting statutory provisions, and identifying normative gaps within overlapping legal regimes (Negara, 2023). The study focuses on the relationship between the Indonesian Criminal Procedure Code (KUHAP) and sectoral legislation governing forestry, fisheries, and mining crimes, particularly regarding the confiscation and return of property belonging to good-faith third parties. The unit of analysis consists of statutory provisions and judicial decisions that address ownership, confiscation, return of evidence, and the legal position of third-party property owners.

This research applies to three interconnected legal approaches. First, the statute approach is used to analyze the consistency and interaction between KUHAP and the Forestry Law, Fisheries Law, and Mineral and Coal Mining Law. The analysis compares the formulation, scope, and legal consequences of confiscation provisions to identify normative conflicts, regulatory gaps, and differences in the protection afforded to third-party owners. Second, the conceptual approach examines legal certainty, justice, legal protection, judicial discretion, good faith, and proportionality as analytical concepts for assessing whether confiscation norms provide adequate protection for persons who are not involved in the underlying criminal conduct (Negara, 2023).

Third, the comparative approach is used to compare the regulatory characteristics and judicial application of confiscation provisions across forestry, fisheries, and mining cases. This comparison identifies patterns of judicial disparity and differences in interpreting the distinction between offenders' property and assets owned by innocent third parties. Judicial decisions are compared on the basis of ownership status, evidence of good faith, knowledge or involvement of the owner, statutory grounds for confiscation, and the final disposition of the property. This allows the study to examine how courts balance legal certainty, state enforcement interests, proportionality, and substantive justice across different natural resource sectors.

The legal materials consist of primary, secondary, and tertiary sources. Primary legal materials include statutory regulations, court decisions, and Supreme Court Circular Letter Number 1 of 2008 concerning the handling of forestry crime cases. Secondary materials comprise scholarly books, journal articles, legal doctrines, and previous studies concerning confiscation, third-party protection, judicial disparities, and criminal law enforcement. Tertiary materials include legal dictionaries and supporting reference sources. These materials were selected according to their direct relevance to confiscation norms, good-faith ownership, natural resource crimes, and judicial interpretation.

The materials are analysed qualitatively through statutory interpretation, systematic legal interpretation, comparative analysis, and synthesis of judicial reasoning. Court decisions are examined not merely to describe outcomes but to identify patterns of reasoning, inconsistencies in applying confiscation norms, and the extent to which judicial considerations reflect legal certainty and substantive justice. The findings from statutory and judicial analysis are then integrated to formulate a harmonized normative framework for the treatment of property owned by good-faith third parties in natural resource-related criminal cases. As the study uses only publicly accessible legal documents and involves no human participants or personal data, formal ethical approval was not required. Academic integrity, accurate citation, and responsible use of legal sources were maintained throughout the research.

C. Results and Discussion

This section presents the findings and their interpretation in two interconnected parts. The Result section reports the main findings derived from the analysis of statutory provisions and judicial decisions concerning confiscated property owned by good-faith third parties. The Discussion section subsequently interprets these findings in relation to legal certainty, proportionality, judicial discretion, legal protection, and substantive justice. This structure is intended to distinguish clearly between what the study found and how those findings are theoretically and normatively understood.

1. Results

The analysis reveals that the treatment of confiscated property owned by good-faith third parties are shaped by both normative differences and judicial interpretation.

Across the legal frameworks and court decisions examined, the findings consistently point to variations in the recognition of ownership, good faith, owner involvement, and the legal consequences attached to confiscated property. These patterns are presented below to show how statutory structure and judicial reasoning jointly influence the legal protection afforded to third-party owners.

a. Legal Status of Evidence Owned by Good-Faith Third Parties

The findings demonstrate that the legal treatment of evidence owned by good-faith third parties in natural resource-related criminal cases remain inconsistent across legal regimes. Differences in statutory formulations determine whether ownership and good faith can materially affect the disposition of confiscated property. The comparative statutory analysis identifies four relevant elements: the legal basis of confiscation, the degree of judicial discretion, recognition of third-party ownership, and the possibility of returning the property to its lawful owner. These elements differ substantially between general criminal procedure and the forestry, fisheries, and mining regimes.

Table 1. Comparative Normative Framework for Confiscated Property

Legal Framework	Provision	Regulatory Model	Third-Party Protection	Disposition
KUHAP	Articles 46(1) and 194(1)	General procedural framework	Entitlement to the property may be considered	Property may be returned to the entitled party under applicable conditions
Forestry Law	Article 78(15), Law No. 41/1999	Relatively rigid/mandatory confiscatory approach	No clear distinction between offender-owned and good-faith third-party property	Equipment and instruments used in forestry crimes may be confiscated for the state
Fisheries Law	Articles 76A and 76C, Law No. 45/2009	Greater judicial discretion	Ownership circumstances can receive judicial consideration	Greater space exists for determining whether property is confiscated or otherwise disposed of
Mineral and Coal Mining Law	Article 164(a), Law No. 3/2020	Discretionary formulation ("may" be confiscated)	Allows interpretative space regarding third-party interests	Final disposition depends more heavily on judicial interpretation

Source: Authors' analysis of KUHAP and sectoral natural resource legislation.

Table 1 shows that the principal normative difference lies not simply in whether confiscation is permitted, but in the degree to which the applicable regime allows ownership and good faith to affect the final disposition of property. Forestry legislation represents the most restrictive model because the statutory formulation provides limited

space for distinguishing property owned by an offender from property belonging to an uninvolved third party. By contrast, fisheries and mining legislation provides relatively greater interpretative space.

The resulting legal position of a good-faith third party is therefore not uniform. The same factual characteristics—lawful ownership, absence of knowledge, and non-participation in the offense—may acquire different legal significance depending on the sectoral regime applied. This constitutes the first major finding of the study: third-party protection is structurally differentiated by sector rather than governed by a uniform confiscation standard.

b. Normative Disharmony between KUHAP and Sectoral Legislation

The study further finds significant inconsistencies between KUHAP and sectoral natural resource legislation. Article 46 paragraph (1) and Article 194 paragraph (1) of KUHAP provide a general procedural basis for returning property to the party entitled to receive it, whereas sectoral legislation regulates confiscation through different formulations. The Forestry Law adopts a relatively restrictive confiscatory approach, the Fisheries Law provides greater judicial discretion, and the Mineral and Coal Mining Law uses the formulation that property “may” be confiscated.

This variation produces three distinct normative patterns: mandatory-oriented confiscation, discretionary confiscation, and general procedural return of property. More importantly, the statutory comparison does not reveal a common cross-sectoral standard defining how lawful ownership, good faith, lack of knowledge, and non-involvement should be assessed when confiscated property belongs to a third party.

The normative disharmony therefore operates at two levels. The first concerns the legal consequence attached to property used in a crime: confiscation is treated more rigidly in some sectors than in others. The second concerns the legal position of the owner: the legislation does not provide a uniform test for determining when a third-party ownership claim should override the confiscatory interest of the state. Consequently, the protection available to good-faith owners remains dependent on the specific statutory regime governing the underlying offense.

c. Judicial Disparities in the Treatment of Good-Faith Third Parties

The statutory differences identified above are reflected in judicial practice. The selected decisions show variations in how courts assess ownership, knowledge or

involvement of the owner, good faith, and the legal consequence imposed on the property. To make this disparity observable rather than merely descriptive, Table 2 compares the principal judicial decisions analysed in this study using the indicators established in the Method section.

Table 2. Judicial Treatment of Third-Party Property

Decision		Property	Third-party Position	Court Consideration	Disposition
Meulaboh Court	District No. 18/Pid.B/2006/PN Mbo	Truck used in criminal activity	Owner had no knowledge of the criminal use	Absence of owner knowledge was recognized	Returned to the owner
Meulaboh Court	District No. 195/Pid.B/2009/PN Mbo	Property connected to criminal activity	Third-party interest and livelihood implications	Socio-economic consequences for the owner were considered	Court applied individualized consideration
Ambon Court	District No. 25/Pid.Sus/2021/PN Amb	Motor vessel used by lessee in a fisheries offense	Owner had no knowledge of unlawful use	Lawful ownership and absence of owner involvement were considered	Returned to the owner
Tenggarong Court	District No. 105/Pid.B/LH/2022 /PN Trg	Third-party-owned truck	Third-party ownership was asserted	Limited consideration of ownership and owner involvement	Confiscated
Pekanbaru Court	District No. 103/Pid.B/2020/PN Pbr	Heavy equipment used in illegal mining	Owner claimed no involvement	Non-involvement claim did not prevent confiscation	Confiscated for the state

Source: Authors' analysis of the selected judicial decisions.

The comparison reveals two contrasting judicial patterns. In the Meulaboh and Ambon decisions, courts gave substantive weight to the relationship between the owner and the offense. Absence of knowledge, non-involvement, lawful ownership, and—in one case—the socio-economic consequences of confiscation were relevant to judicial reasoning. By contrast, the Tenggarong and Pekanbaru decisions resulted in confiscation despite the existence of third-party ownership claims or assertions of non-involvement.

The disparity therefore does not arise solely from different final judgments. It is also visible in the different evidentiary and normative weight assigned to the same categories of facts. In some decisions, lack of knowledge and non-involvement operate as meaningful reasons for protecting the owner; in others, those circumstances do not prevent confiscation. This provides empirical support, within the selected judicial materials, for the finding that good faith does not yet function as a uniformly applied legal standard.

d. Determinants of Judicial Treatment of Third-Party Property

Cross-case analysis identifies four recurring determinants of judicial treatment: lawful ownership, knowledge of the criminal use of the property, participation or non-participation of the owner, and the degree of discretion permitted by the applicable statutory provision. A fifth factor—proportional or socio-economic consequences—appears in the Meulaboh decision but is not consistently visible across the other cases.

Table 3. Factors Affecting Property Disposition

Factor	Observed Pattern
Lawful ownership	Relevant but not independently sufficient to guarantee return
Good faith/ absence of knowledge	Decisive in some cases, but not uniformly applied
Owner involvement	Absence of involvement can support return, but does not consistently prevent confiscation
Statutory formulation	Influences the scope of judicial discretion
Proportionality/ socio-economic impact	Considered in particular decisions but not applied as a uniform criterion
Final disposition	Varies between return to the owner and confiscation for the state

Source: Authors' synthesis of statutory and judicial analysis.

The strongest pattern is that no single factor consistently determines the outcome. Lawful ownership does not automatically secure the return of property, while the absence of criminal involvement does not invariably prevent confiscation. Instead, the final disposition results from the interaction between the applicable statutory regime and the weight assigned by the court to ownership, knowledge, involvement, and proportionality.

This finding also clarifies the role of judicial discretion. Where legislation provides greater interpretative space, courts can more readily assess the individual position of the property owner. Where confiscatory provisions are formulated more rigidly, the legal connection between the property and the criminal offense may receive greater weight than the personal culpability—or absence of culpability—of its owner.

e. Integrated Findings and the Need for Harmonization

Taken together, the statutory and judicial findings demonstrate a structural rather than incidental inconsistency in the treatment of good-faith third-party property. The problem is not confined to isolated contradictory decisions. It originates in differences among the underlying statutory regimes and is subsequently reproduced through variations in judicial interpretation.

Four regulatory deficiencies emerge from the analysis. First, there is no uniform definition or test of good faith applicable across natural resource sectors. Second, lawful third-party ownership does not have a consistent legal consequence. Third, legislation provides no common standard for assessing an owner's knowledge or involvement. Fourth, proportionality between the owner's responsibility and the deprivation of property is not systematically required across the examined regimes.

These findings identify the substantive elements that any harmonized confiscation framework would need to address: (1) verification of lawful ownership; (2) objective criteria for establishing good faith; (3) proof of knowledge, participation, or benefit from the offense; (4) the legal nexus between the property and criminal conduct; and (5) proportionality in determining whether property should be returned or confiscated.

The central result of this study is therefore that judicial disparity cannot be resolved solely by expanding judicial discretion. Without a shared normative standard across KUHAP and sectoral natural resource laws, discretion itself may continue to generate different outcomes for similarly situated third-party owners. Harmonization must consequently operate at the level of substantive criteria governing the legal status and disposition of third-party property.

2. Discussion

The findings reveal that the legal treatment of evidence owned by good-faith third parties in natural resource-related crimes is characterized by significant normative disharmony. Although KUHAP provides a procedural basis for returning confiscated property to the entitled owner, sectoral natural resource legislation establishes different levels of confiscatory authority. The significance of this finding lies in the fact that legal protection is determined not only by the owner's conduct but also by the regulatory sector in which the offense occurs. Thus, two equally innocent owners may receive different legal protection merely because their property was used in different categories of natural resource crime. Similar problems arise where fragmented legal regimes create unequal protection and uncertainty concerning legally recognized rights (Nasution et al., 2025; Aljamalulail et al., 2024; Zainuddin et al., 2024).

This differentiation indicates that the core problem is structural rather than incidental. Forestry legislation represents the most restrictive confiscatory model, whereas fisheries and mining regimes provide greater interpretative space for ownership and good

faith. The resulting asymmetry demonstrates how sector-specific regulation may transform procedural classification into substantive inequality. From Friedman's legal system theory, this condition represents a weakness in legal substance because an effective legal system requires coherence between legal structure, substance, and culture (Razak, 2023; Wijaya & Kurniawan, 2023). Fragmented legal substance forces courts to compensate for normative deficiencies through interpretation, thereby increasing dependence on judicial discretion (Pahlevi, 2022). Comparable studies demonstrate that regulatory fragmentation and insufficient harmonization can generate legal uncertainty and inconsistent institutional implementation (Arifin et al., 2025; Jayuska et al., 2025).

The importance of harmonization becomes clearer when confiscation affects a person who bears no criminal responsibility. Existing confiscation mechanisms may protect legitimate enforcement interests, but their legitimacy weakens when deprivation of property is detached from the owner's knowledge, participation, or benefit from the offense. The issue is therefore not whether the state may confiscate instrumentalities of crime, but whether the legal system adequately differentiates culpable property holders from innocent owners. Studies of legal protection similarly demonstrate that formal recognition of rights is insufficient when institutional mechanisms do not provide effective safeguards (Putra & Acela, 2023; Aljamalulail et al., 2024). This reinforces the broader observation that legal systems must reconcile regulatory authority with meaningful protection of affected rights (Rannu & Adhari, 2025; Fikri et al., 2023).

Good faith consequently emerges as more than an evidentiary circumstance; it should function as a substantive threshold in determining whether confiscation is proportionate. The absence of explicit criteria for assessing good faith allows similar facts to acquire different legal significance across courts. This helps explain why judicial discretion sometimes protects third-party ownership but, in other cases, validates confiscation despite the owner's non-involvement. Comparable judicial disparities have also been documented where judges operate under unclear or competing normative frameworks (Fauziati et al., 2025; Rannu & Adhari, 2025). The Indonesian confiscation problem therefore illustrates a broader jurisprudential difficulty: discretion becomes indispensable when legislation is incomplete, yet the same discretion can undermine predictability when its normative boundaries remain undefined.

The tension between legal certainty and substantive justice is particularly visible in the contrasting judicial decisions examined in this study. The Meulaboh and Ambon

decisions gave greater weight to ownership, absence of criminal involvement, and proportional consequences, whereas the *Tenggarong* and *Pekanbaru* decisions reflected a stricter orientation toward statutory confiscation. These differences should not be reduced to judicial inconsistency alone; they reveal competing conceptions of what legal certainty requires. One conception equates certainty with faithful application of statutory language, while another understands certainty as consistent protection of legally relevant distinctions, including the distinction between offenders and innocent owners. This tension corresponds with studies showing that formal certainty may conflict with substantive justice when legal rules are applied without sufficient contextual differentiation (Nadia et al., 2025).

Rawls's concept of justice as fairness helps clarify this distinction. Legal burdens should be distributed fairly and should correspond to the position and responsibility of those affected (Fikri et al., 2023). Applied to confiscation, proportionality requires a rational relationship between deprivation of property and the owner's responsibility for criminal conduct. Confiscating property from an owner who neither participated nor knew of the offense places a punitive burden on a legally distinct person. The problem is therefore distributive as well as procedural. Recent scholarship similarly treats justice as requiring proportional rather than mechanically identical treatment, emphasizing that context and responsibility matter in evaluating fairness (Wijaya et al., 2025; Mardhatillah & Saoki, 2025). This supports a conception of confiscation in which equal treatment requires equivalent criteria, not automatic identical outcomes.

Judicial interpretation nevertheless remains essential. Satjipto Rahardjo's progressive legal theory rejects the idea of judges as merely mechanical transmitters of statutory language and emphasizes the social purpose of law (Faisal, 2023; Hermansyah et al., 2025). The *Meulaboh* decision illustrates this orientation because the court considered the socio-economic consequences of confiscation alongside the owner's lack of involvement. Such reasoning reflects the view that legal enforcement should accommodate humanity and substantive fairness rather than rigid textualism alone (Setyawan, 2025). Yet progressive interpretation should not become an unrestricted substitute for legislative clarity. Its legitimate function is to bridge normative gaps while remaining anchored in identifiable principles such as ownership, good faith, proportionality, and non-involvement. Natural-justice scholarship similarly emphasizes fair decision-making as a constraint on the exercise of legal authority (Abubakar et al., 2025).

This qualification is important because judicial discretion can generate both protection and disparity. A system that depends primarily on a judge's willingness to

adopt progressive reasoning leaves third-party rights contingent on interpretative orientation rather than on predictable law. Soerjono Soekanto's framework emphasizes the need to balance certainty, utility, and justice in effective law enforcement (Girsang et al., 2026), while contemporary studies demonstrate that inconsistent interpretation can arise when legal rules lack technical or substantive guidance (Rannu & Adhari, 2025). Similar institutional problems occur in other regulatory fields when formally established policies lack coherent standards for implementation (Aulia & Surwandono, 2024; Rohmatika & Surwandono, 2025). The key issue, therefore, is not discretion itself but discretion without a common normative architecture.

The study accordingly advances a rights-sensitive model of harmonization rather than mere legislative synchronization. Harmonization should establish shared criteria for lawful ownership, objective indicators of good faith, evidence of knowledge or participation, the nexus between property and criminal activity, and proportionality of deprivation. These criteria would preserve the state's capacity to confiscate property genuinely connected to wrongdoing while preventing confiscation from operating as indirect punishment of innocent owners. This position extends existing harmonization scholarships by linking regulatory coherence directly to the distribution of legal burdens. Studies of Indonesian regulatory inconsistency likewise show that contradictory frameworks may undermine legal certainty when reforms focus on formal regulation without addressing substantive justice (Karjoko et al., 2025; Krismantoro, 2025).

Conceptually, this moves the debate from "confiscation versus return" toward a structured inquiry into the legitimacy of deprivation. The theoretical contribution is therefore an integration of legal-system coherence, justice as fairness, progressive interpretation, and proportionality within a single framework for third-party confiscation. Friedman explains why fragmented legal substance generates institutional inconsistency; Rawls explains why burdens imposed on non-responsible parties require justification; and progressive law explains why judicial reasoning must respond to substantive injustice. Together, these perspectives indicate that legal certainty and substantive justice are not opposing objectives. Properly designed standards make substantive differentiation more predictable and thereby strengthen, rather than weaken, legal certainty.

The Indonesian natural-resource context also illuminates a problem encountered in other regulatory environments: states increasingly use strong legal powers to pursue legitimate collective objectives, yet those powers may affect individuals whose

responsibility differs fundamentally from that of the primary offender. Comparative human-rights scholarship stresses that state regulation must remain institutionally accountable and rights-sensitive even when pursuing public objectives (Andini & Boer, 2025). Likewise, fragmented responses to cross-border and technologically evolving offenses demonstrate how sectoral legal structures can produce enforcement gaps and legal uncertainty when common standards are absent (Kadir et al., 2026). What the Indonesian case contributes to this wider debate is the importance of separating the legal relationship between property and crime from the personal responsibility of the property owner.

This distinction is particularly relevant to debates over legal pluralism and competing normative orders. Indonesian scholarship demonstrates that the coexistence of different legal regimes may enrich legal responsiveness but can also produce unequal protection when coordination mechanisms are weak (Zainuddin et al., 2024; Arifin et al., 2025). The same mechanism operates in confiscation law: sectoral specialization becomes problematic when each regime assigns different legal consequences to comparable third-party circumstances. The broader lesson is therefore not that legal diversity should be eliminated, but that specialized regimes require common minimum principles capable of protecting equivalent rights across regulatory boundaries. Interpretative scholarship also shows that contextual differentiation remains legitimate only when grounded in coherent principles of justice rather than arbitrary variation (Wijaya et al., 2025; Mardhatillah & Saoki, 2025).

Practically, harmonization would require courts and law-enforcement agencies to assess third-party claims through a structured sequence: proof of lawful ownership, evidence concerning knowledge and participation, identification of benefit from the offense, determination of the property–crime nexus, and proportionality of confiscation. Such a framework could reduce arbitrary variation without eliminating judicial judgment. It would convert discretion from an open-ended response to statutory ambiguity into principled discretion operating within legally defined boundaries. This approach is consistent with studies advocating reforms that combine legal certainty with substantive protection rather than privileging one at the expense of the other (Sutarjo & Pudjiastuti, 2026; Nadia et al., 2025; Abubakar et al., 2025).

This study is nevertheless limited by its normative juridical design, its focus on selected statutory regimes in forestry, fisheries, and mining, and its reliance on a limited

set of judicial decisions. The analysis establishes patterns of normative inconsistency and judicial reasoning but cannot determine how frequently these patterns occur across the Indonesian judiciary or how investigators, prosecutors, judges, and affected owners experience confiscation in practice. It also does not compare Indonesia's third-party confiscation framework systematically with foreign confiscation or asset-forfeiture regimes. Consequently, the proposed harmonized framework should be understood as a normative construction grounded in the legal materials examined rather than as an empirically validated account of confiscation practice across all natural resource crimes.

Taken together, these findings show that the central problem is not the existence of confiscation authority itself, but the absence of a coherent normative framework for distinguishing property connected to crime from property owned by persons who bear no criminal responsibility. The study therefore positions good faith, lawful ownership, non-involvement, and proportionality as core criteria that should guide the treatment of third-party property. When these criteria are applied consistently across sectoral regimes, legal certainty and substantive justice need not operate as competing values. Instead, they can function as mutually reinforcing principles that strengthen both the legitimacy of confiscation and the protection of innocent property owners.

D. Conclusion

This study demonstrates that the legal treatment of evidence owned by good-faith third parties in natural resource-related criminal cases in Indonesia remains characterized by significant normative disharmony. The inconsistency between KUHAP and sectoral legislation governing forestry, fisheries, and mining has produced disparities in judicial decisions and weakened substantive legal protection for innocent property owners. The central problem lies not merely in the existence of confiscation authority, but in the absence of uniform criteria for assessing lawful ownership, good faith, non-involvement, and proportionality. As a result, similar factual circumstances may generate different legal outcomes depending on the sectoral regime and the interpretative orientation of the court.

The study contributes a harmonized normative framework that integrates legal certainty, property protection, proportionality, and substantive justice in assessing third-party confiscation. By combining Friedman's legal system perspective, Rawls's justice as fairness, and progressive legal reasoning, the analysis shows that legal certainty and substantive justice need not be treated as competing values. Clearer cross-sectoral

standards can instead make judicial differentiation more predictable while preserving the state's legitimate interest in combating natural resource crimes.

Practically, the findings support the reformulation of confiscation standards through clearer criteria for ownership verification, good-faith assessment, owner knowledge or involvement, the nexus between property and criminal conduct, and proportionality in the final disposition of evidence. Such harmonization would reduce dependence on open-ended judicial discretion and strengthen consistency in the protection of third-party rights.

Future research should address the limitations identified in this study by expanding the number and diversity of judicial decisions examined, incorporating socio-legal evidence from investigators, prosecutors, judges, and affected property owners, and conducting comparative analysis with foreign confiscation or asset-forfeiture regimes. These directions are necessary to test whether the proposed normative framework operates consistently in practice and whether similar tensions between confiscation authority and third-party protection arise across different legal systems.

Finally, effective confiscation law must punish wrongdoing without transferring its legal burden to innocent owners, thereby ensuring that law enforcement remains both effective and consistent with legal certainty, proportionality, and substantive justice.

Declaration of Competing Interest

The authors declare that they have no known financial, professional, institutional, or personal competing interests that could have influenced the research, analysis, interpretation, or presentation of the findings in this article.

Declaration of Generative AI

Generative AI tools were used in a limited and supportive manner during the revision of this manuscript, primarily to assist with language refinement, academic expression, structural clarity, and consistency of presentation. The authors retained full responsibility for the research design, legal analysis, interpretation of statutes and judicial decisions, selection and verification of references, formulation of arguments, and final content of the manuscript. Generative AI was not used to generate research data, fabricate legal materials, replace substantive legal judgment, or independently determine the study's findings or conclusions. All AI-assisted content was critically reviewed, verified, and revised by the authors before inclusion in the manuscript.

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