

## Online Gambling Handling Strategies through a *Civil Forfeiture Legal Approach*

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Received: 8 August 2024; Revised: 10 February 2025; Accepted: 3 March 2025

**Abstract:** *The rise of online gambling poses significant legal and social challenges, requiring effective countermeasures. This study examines the strategy for addressing online gambling through a civil forfeiture legal approach. Utilizing a normative juridical method, the research analyzes regulations, case studies, and legal frameworks related to asset confiscation from online gambling activities. The findings indicate that civil forfeiture provides a preventive and repressive mechanism to disrupt illegal financial flows and deter perpetrators. However, implementation faces obstacles such as legal inconsistencies and enforcement limitations. The study concludes that strengthening legal instruments, interagency coordination, and public awareness are essential to optimizing civil forfeiture in combating online gambling.*

**Keywords:** *online gambling; civil forfeiture; legal strategy*

### How to Cite:

Ujung, S. Y. (2025). Online Gambling Handling Strategies through a Civil Forfeiture Legal Approach. *Journal of Governance*, 10(1), 156–172.  
<https://doi.org/http://dx.doi.org/10.31506/jog.v10i1.31248>



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## **Introduction**

The rapid development of information technology has brought significant changes in various aspects of life, including in crime patterns. One of the negative impacts of technological advances is the rise of online gambling practices that are increasingly difficult to control. Online gambling not only damages the economy of individuals and families, but also creates a wider social problem. Based on data from the Financial Transaction Reports and Analysis Center (PPATK), the turnover of money in online gambling in Indonesia reached around Rp 100 trillion in just the first three months of 2024, with 3.2 million citizens involved as online gambling players (Tempo, 2024).

In addition, despite a decrease in the number of cases from 1,196 in 2023 to 792 cases until April 2024, the National Police still emphasized that the impact of online gambling is very destructive, especially in increasing crime due to economic pressure experienced by players (Tirto.id, 2024). The government through the Ministry of Communication and Digital (Komdigi) and the Financial Services Authority (OJK) has made efforts to eradicate online gambling by blocking nearly 2 million accounts and 4,921 accounts related to online gambling throughout 2024. This step is carried out as a form of protection for the community from the adverse effects of online gambling which can cause addiction, family economic destruction, and increasing crime rates.

Law enforcement against online gambling in Indonesia has so far still relied on a conventional approach that focuses on taking action against perpetrators, both bookmakers and players. However, this approach has proven to be ineffective in

eradicating online gambling thoroughly. For example, in 2023, the National Police handled 1,196 cases of online gambling with 1,987 suspects, but online gambling activities are still rampant (Detik News, 2024). Bookies continue to take advantage of legal and technological loopholes, such as using servers abroad and transactions through bank accounts that are difficult to track, to avoid detection.

The criminal penalties applied often do not provide an adequate deterrent effect, especially because the financial benefits obtained are much greater than the legal risks faced (Listyanto, 2021). In addition, the slow and complex justice system often benefits the perpetrators of these crimes, with many cases taking a long time to reach a verdict with permanent legal force. In the study of international law, a civil forfeiture approach has been applied in several countries to eradicate financial crime and illegal gambling. That countries, such as the United States and the United Kingdom, have used this mechanism to confiscate assets originating from illegal activities without having to wait for criminal convictions.

For example, in the United States, the federal government uses Non-Conviction Based (NCB) Asset Forfeiture to seize assets related to organized crime, including illegal gambling, even without a criminal conviction against the owner of the asset. This approach allows for the seizure of assets based on evidence that they originated from or were used in illegal activities, without requiring criminal charges against specific individuals. Meanwhile, in the UK, the Proceeds of Crime Act 2002 allows authorities to seize assets suspected of originating from criminal activity through civil proceedings, even if no criminal

charges have been filed. This approach is considered a more effective legal instrument in tackling online gambling compared to conventional methods.

The concept of civil forfeiture basically allows the government to confiscate assets that are suspected of originating from illegal activities without having to prove the criminal involvement of the owner. This is different from the criminal approach which requires proof in court before assets can be confiscated. In the context of online gambling, this mechanism can be applied to confiscate the financial benefits obtained by bookies without having to wait for a judicial process that often takes a long time. Therefore, the study of the effectiveness of civil forfeiture in eradicating online gambling is becoming increasingly relevant.

Several countries that have implemented civil forfeiture have shown significant results in eradicating financial crime, including online gambling. For example, in the United States, this mechanism is used in the eradication of money laundering and other organized crime activities. As a result, assets confiscated from illegal activities can be used to fund government programs in crime eradication. To illustrate, in 2010, the United States Department of Justice through its Equitable Sharing program distributed more than \$500 million to state and local law enforcement agencies to support various law enforcement initiatives.

Furthermore, between 2000 and 2013, an average of \$419 million per year has been distributed through this program, demonstrating a significant contribution of confiscated assets to the funding of government programs. However, it is important to note that the program has been the subject of

controversy and criticism regarding potential abuse and its impact on individual rights. Therefore, the implementation of civil forfeiture requires strict supervision and a clear legal framework to ensure fairness and accountability in the process. Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes gives investigators the authority to confiscate assets suspected of originating from criminal acts, including illegal gambling.

Although the asset forfeiture process usually follows a criminal verdict, in practice, investigators can apply for seizure through the mechanism set forth in the law to effectively accelerate the eradication of online gambling. This study will discuss how civil forfeiture is applied in the legal context in Indonesia and whether this mechanism can be a more effective solution in overcoming the rise of online gambling.

## **Method**

This research uses a normative juridical method with a focus on the analysis of laws and regulations, legal documents, and relevant legal concepts. After, the researcher analyzed the available documents, the researcher conducted interviews with several sources who have expertise in the field of government and criminal law, especially related to asset confiscation.

The data that has been processed by the researcher is then described after interviews with sources, data is identified patterns, categories, and relationships between existing regulations, and interprets how these regulations are applied in legal practice The data is then also presented by comparing the application in various countries as a form of support for the opportunity to apply

civil forfeiture in eradicating assets in Indonesia.

The data used in this study are categorized as follows:

**Table 1.** Research Data

Kind	Data source
Laws and Regulations	UU No. 8 Years 2010 (NDU)
	UU No. 11 Years 2008 (WITNESS)
	Law No. 7 of 2022 (PDP)
	Government Regulation No. 43 of 2017
	Perma No. 1 of 2013
Legal Documents	The Supreme Court's rulings related to TPPU and online gambling, regulations from the OJK and Bank Indonesia regarding suspicious financial transactions.
Legal Concepts	Civil forfeiture theory, due process of law principles, asset confiscation practices in the eradication of financial crimes in Indonesia.
Deep Interview	Dr. Sobandi, S.H., M.H. – Head of the Legal and Public Relations Bureau of the Supreme Court Kombes Pol Ferdy Irawan Saragih – Penyidik Bareskrim Polri (Kasubdit 2 Direktorat Siber Bareskrim Polri) Ajie Ramdan, S.H., M.H. – Criminal Law Academician, Padjadjaran University Rizky Karo Karo, S.H., M.H. – Criminal Law Academician,

	Universitas Pelita Harapan
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Source: (Researcher, 2025)

### **Learning from the experiences of other countries: The practice of *Civil forfeiture* in the Eradication of Online Gambling**

Online gambling crime is one of the main problems in today's digital era. This phenomenon not only has a negative impact on individuals and groups, but also has various adverse consequences. Within the legal framework regulated by the information and electronic transaction law, online gambling activities are categorized as criminal acts that can be subject to legal sanctions. The handling of online gambling crimes through conventional legal approaches still faces various significant obstacles. Although regulations such as the Electronic Information and Transaction Law (UU ITE) and the Criminal Code (KUHP) have regulated prohibitions and sanctions against online gambling activities, their implementation is often ineffective in eradicating gambling networks that continue to grow dynamically.

One of the main challenges in conventional law enforcement is the cross-border and digital-based nature of online gambling, making it difficult to track and enforce national law. Online gambling operators operate from abroad, taking advantage of the weaknesses of limited domestic legal jurisdictions in cracking down on offenders outside the country's borders. In addition, increasingly sophisticated payment methods, including the use of cryptocurrencies and decentralized transaction systems, have made it increasingly difficult for authorities to freeze assets and restrict the flow of illegal funds related to online gambling.

*Civil forfeiture*, or often known as *civil recovery*, *in rem forfeiture*, or *Non-Conviction Based Asset Forfeiture*, is applied when criminal proceedings followed by confiscation of assets (*confiscation*) cannot be carried out. This can be due to five factors: the owner of the asset is dead, the criminal proceedings end with the defendant acquitted, the criminal prosecution is successful but the asset takeover fails, the defendant is not in the appropriate jurisdiction, the name of the asset owner is unknown, or there is not enough evidence to initiate a criminal lawsuit. (Nasution, B. 2017)

Civil forfeiture *applications* vary by country. Initially, *Civil forfeiture* was applied in a domestic context, where civil lawsuits were filed to confiscate assets obtained from crimes that were in the country. However, when these assets are abroad, some countries that implement *civil forfeiture* domestically also adopt an extra-territoriality approach.

For example, the United Kingdom through the *Proceeds of Crime Act 2002*, Article 316 (4), stipulates that the adopted *Civil forfeiture model* applies to all property or assets, regardless of their location. In the United States, pursuant to 28 U.S.C. § 1355(b)(2), if the object of the seizure is overseas, a civil lawsuit may be filed in the District Court of the District of Columbia. (Nasution, B. 2017) However, the implementation of *extraterritorial Civil forfeiture* is not without challenges, especially when there is no effective cooperation with the governments of other countries. In this context, mutual legal assistance is very important. This assistance is needed not only to support the recovery of assets through criminal proceedings, but also through civil lawsuits.

In the United States, the measures taken in the context of *Civil forfeiture* can be considered quite extreme. Courts in the

U.S. have the authority to issue seizure orders against assets located abroad, including the freezing of bank accounts abroad, if the assets are obtained from crimes committed in the United States. In practice, however, this procedure faces a number of obstacles, especially when there are no effective bilateral agreements, such as mutual legal assistance treaties, with foreign countries regarding civil forfeiture.

To address this challenge, the United States enacted 18 U.S.C. § 981(k). Although it is still considered controversial by some parties, this law is considered quite effective in recovering assets from crimes brought abroad. The rule comes in response to the difficulties U.S. courts face in imposing *civil forfeiture* orders abroad.

The basis behind 18 U.S.C. § 981(k) is two possible locations where money from crime can be deposited abroad, specifically in the form of U.S. dollars. First, the money can be in a foreign bank account as a bank debt to depositors (criminals). Second, the money may still be in the United States in the form of correspondent accounts held by most foreign banks to facilitate their customers' transactions. With a correspondent account, when a criminal in the US becomes a customer of a foreign bank and wants to transfer funds, the bank can debit its correspondent account in the US to make a transfer without any money physically crossing the country's borders.

Initially, the U.S. government had difficulty seizing funds in correspondent accounts owned by foreign banks, as these banks were protected by laws that classified them as "innocent owners." Therefore, foreign banks can avoid *Civil forfeiture* if they can show that the deposited funds did not originate from a crime. This causes the accounts of foreign

*bank correspondents in the United States to be often misused by criminals to store their criminal proceeds. This problem shows the complexity faced in implementing civil forfeiture internationally. Despite regulations aimed at tackling this problem, international coordination and cooperation remain key in combating transnational crime and recovering illegally acquired assets. It highlights the importance of developing legal aid agreements and collaborative efforts to improve the effectiveness of global law enforcement.*

However, the situation changed after the enactment of 18 U.S.C. § 981(k). With this regulation, the United States government can now directly seize funds in the accounts of foreign bank correspondents as long as they can show accurate and strong evidence. In this context, foreign banks have no right to file objections; only depositors, who are criminals, can do so. If the government can convincingly prove its case in court, the foreign bank is obliged to debit the same amount from the depositor's account to replace the funds that have been seized by the U.S. government.

The successful implementation of *civil forfeiture* in developed countries such as the United States can be an inspiration for Indonesia. By adopting this procedure, Indonesia has the potential to increase efficiency in the judicial process, especially in efforts to pursue the assets of corruptors. So far, prosecutors in Indonesia have often had difficulty proving corruption cases, especially because of the high standard of proof imposed in the criminal process.

### **What if *Civil forfeiture* is implemented in Indonesia?**

The implementation of *civil forfeiture* in developed countries can provide valuable lessons for Indonesia,

especially in the context of tackling rampant online gambling. Online gambling is often a means for criminals to launder money and hide assets resulting from illegal activities. With 18 U.S.C. § 981(k) in the United States, the government can seize funds from the accounts of foreign bank correspondents involved in online gambling, provided they can prove a connection between the funds and illegal activity.

In Indonesia, online gambling is often difficult to deal with due to the large number of platforms that operate abroad and use foreign bank accounts. The implementation of *the civil forfeiture* procedure can provide a stronger legal tool for the Indonesian government to pursue assets obtained through online gambling. If the government can show sufficient evidence that the funds in a particular account come from illegal gambling, they can make a direct seizure without having to rely on criminal proceedings that often require stricter proof.

Success in implementing *civil forfeiture* for online gambling will strengthen the government's efforts to enforce the law and eradicate this illegal practice. In this way, Indonesia can not only recover illegally acquired assets but also reduce incentives for individuals and groups to engage in online gambling.

*Civil forfeiture* can be a more effective method than conventional criminal approaches. This mechanism is able to eliminate economic incentives for bookies by directly confiscating assets resulting from crime, speeding up legal processes because there is no need to wait for criminal verdicts, and providing flexibility in handling cross-border assets. The Supreme Court can see *civil forfeiture* as a strategy that can directly target economic gains obtained from crimes,

which is a key element in the sustainability of illegal gambling operations.

One of the main drawbacks in conventional criminal law approaches is the length of the investigation and evidentiary process in court, especially in online gambling cases that often involve cross-border networks with the use of digital assets and complex payment systems. Online gambling operators often use bank accounts in various jurisdictions or utilize cryptocurrencies to disguise the flow of funds, so law enforcement officials have to face major challenges in tracking and proving ownership of assets originating from illegal activities. In the conventional penal system, even if the perpetrator has been convicted, recovering the assets proceeds of crime is often a long and difficult process, especially if the assets have been diverted or hidden abroad. Therefore, *civil forfeiture* is a more efficient solution because it targets assets as the main object of confiscation, without the need to wait for criminal proof against the owner.

However, although *civil forfeiture* offers various advantages in the effectiveness of eradicating online gambling, its application must still pay attention to the principles of procedural law and protect the rights of parties in good faith. As stipulated in PERMA 1 of 2013, the mechanism for objecting to asset confiscation in the case of Money Laundering Crime (TPPU) provides legal protection for individuals or entities who feel harmed by illegal confiscation actions.

The application of *civil forfeiture* in Indonesia can be integrated in the handling of wealth obtained from gambling crimes, especially if the assets are transferred back into the financial system through transactions involving money laundering. In this case, if the proceeds of the crime from gambling are

involved in money laundering activities, then the law can take advantage of existing regulations to confiscate assets without having to wait for a binding criminal verdict.

As stipulated in Article 1 of PERMA Number 1 of 2013 concerning Procedures for Settlement of Requests for Handling Assets in Money Laundering or Other Criminal Acts, this regulation provides a legal basis for the handling of assets allegedly related to criminal acts, even though the perpetrators of such crimes have not been found or have not been proven through the criminal legal process. In this case, if the gambling crime is related to the crime of money laundering, the wealth obtained from gambling can be confiscated and returned to the state in accordance with existing procedures.

Furthermore, Article 10 of the PERMA emphasizes that assets related to criminal acts can be decided by the judge to become state assets or returned to the entitled, based on a request from the investigator. This process is an implementation of the principle of *civil forfeiture*, which allows the confiscation of assets suspected to be derived from the proceeds of crime without the need to wait for a final criminal decision.

The application of *civil forfeiture* can be more effective in providing a deterrent effect to online bookies because this mechanism allows law enforcement officials to immediately confiscate all property allegedly obtained from gambling crimes without having to wait for a criminal justice process which often takes a long time. In *civil forfeiture*, the burden of proof shifts to the owner of the property who must prove that the property does not originate from illegal gambling activities. If the owner of the property fails to prove the origin of the property, then the property will be taken

over by the state and considered as a state asset.

*Civil forfeiture* can be applied to a limited extent when the proceeds of crime from gambling are disguised by inserting them into the financial system, so that the money from gambling becomes "clean" again. If the act is committed by an individual who is suspected of being involved in a criminal act, then this has met the criteria for a money laundering crime. Article 1 of PERMA Number 1 of 2013 concerning Procedures for Settlement of Requests for Handling of Assets in Money Laundering or Other Criminal Acts states that this regulation applies to applications for handling assets submitted by investigators, even though the perpetrators of criminal acts have not been found as referred to in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes. Article 2 of Law Number 8 of 2010 also emphasizes that gambling is a form of crime that can be the origin of money laundering crimes. In addition, the Supreme Court has issued Circular Letter Number 3 of 2013 concerning Guidelines for Case Handling, which states that if the judge decides that the property that is requested to be settled is declared as state assets, then in its decision it must be stated that the property is confiscated for the state.

Currently, the draft law on asset forfeiture has become one of the priorities of national legislation in the House of Representatives, which is part of the implementation of *civil forfeiture*. Therefore, if *civil forfeiture* has been regulated in the Supreme Court Regulation, it is no longer a priority. However, if in 2025 the House of Representatives has not passed the asset forfeiture bill and the problem of online gambling is getting more acute in the

community, the Supreme Court should immediately act to regulate *civil forfeiture* procedures through the Supreme Court Regulation. Thus, assets obtained from gambling crimes can be confiscated by the state as a step for eradicating gambling in Indonesia.

### **Challenges of Regulation and Practice of Eradication of Online Gambling**

Based on data from the Criminal Investigation Agency of the Republic of Indonesia Police (Bareskri Polri), the process and procedures for investigating online gambling involve various stages that must be carried out in accordance with applicable regulations in Indonesia. Investigators from the Directorate of Cyber Crimes (Dittipidsiber) of the National Police started an investigation based on the provisions of the Criminal Procedure Code (KUHP) and Law No. 1 of 2024 concerning Information and Electronic Transactions (ITE).

In the early stages, investigators collect relevant digital evidence, such as online transaction data, the identity of gambling site users, and other digital traces that can be used as evidence. Furthermore, if sufficient evidence is found, the investigator will issue a seizure order for the necessary evidence, including electronic devices or data stored on the server. In addition, other investigative steps carried out include examining witnesses, summoning suspects for questioning, and analysis by information technology experts to delve further into the operational system of the online gambling site.

Law enforcement against online gambling is not only limited to the investigation of the crime itself, but also involves the implementation of the Money Laundering Crime (TPPU), which is an important instrument in tracing the flow



of funds from illegal online gambling activities. In this case, investigators follow *the money*, namely tracking the flow of funds related to gambling and finding out who benefits from these activities. To explore further, investigators can collaborate with the Financial Transaction Reports and Analysis Center (PPATK), which functions as an expert in analysis suspicious financial transactions. By using the legal basis of Article 72 and Article 95 in Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, investigators can trace and identify assets involved in online gambling, as well as follow up with appropriate legal action.

However, this law enforcement process is not without challenges. One of the main obstacles faced is the difference in regulations between countries regarding gambling. Since not all countries prohibit gambling, online gambling sites often operate in countries that have looser regulations or even do not prohibit gambling at all. This makes it difficult for investigators to track down perpetrators who may be operating abroad or hiding behind technology that allows them to remain anonymous, such as the use of VPNs and *cryptocurrencies*.

Coordination with other agencies, such as the Ministry of Communication and Digital (Komdigi) and PPATK, is also an integral part of the investigation process. Investigators coordinated with Komdigi to request the blocking of sites that were indicated as illegal online gambling places. This is important to prevent widespread access to these sites. Meanwhile, with PPATK, investigators submitted a request to conduct an analysis of financial transactions to further explore the flow of funds related to gambling activities. In this case, PPATK plays the role of an expert in analysis suspicious

transactions that can lead to the proof of money laundering crimes.

Regarding the mechanism for confiscating evidence in the investigation process, investigators refer to the Regulation of the National Police Chief Number 14 of 2012 concerning Criminal Investigation and Perkap No. 10 of 2010 concerning Procedures for the Management of Evidence. The confiscation was carried out after investigators found sufficient evidence and considered relevant to the criminal act being investigated. The confiscated evidence can be in the form of electronic devices, transaction documents, or electronic data that supports the proof of the online gambling crime. Investigators are required to manage evidence very carefully and comply with existing procedures, so that the confiscated evidence is not lost or damaged, and can be used optimally in court to support the prosecution process against online gamblers.

The limitations of conventional law in cracking down on online gambling are a big challenge that needs to be overcome immediately with stricter regulatory adjustments. Although the current legal framework is quite adequate, its implementation still needs more attention, especially related to more selective arrangements in the creation and management of online gambling websites. More-strict and directed rules in control of these sites would greatly support more effective law enforcement. One of the main obstacles faced is the difficulty in taking direct action against website managers operating abroad. This is because the jurisdiction of Indonesian law cannot fully reach the territory of other countries where these sites operate. In addition, the use of *the civil forfeiture* mechanism in the context of confiscating online bookie assets has proven to be quite effective, but

law enforcement has implemented this regulation, one of which is by using Perma No. 1 of 2013 to handle related cases. However, another obstacle arises when the suspect has assets that are abroad. The difficulty of tracking and confiscating these assets abroad shows how important it is to have international regulations or rules that support cooperation between countries in tackling online gambling practices. Law enforcement must be provided with adequate access and clear regulations to trace and seize assets located outside the country with legal and effective procedures (Haidar, 2022; Irawan, 2023; Lestari, 2022). The role of the police as part of the government in dealing with online gambling is very important, although it still faces various obstacles related to the authority and available resources. In terms of authority, the police are limited to the task of disclosing cases against perpetrators or online bookies, while for preventive measures such as termination of financial access and blocking of sites, it is the authority of other institutions such as Komdigi and PPATK. This shows that although the police have a crucial role in cracking down on perpetrators, for more comprehensive prevention, cooperation with relevant parties with greater authority in the field of technology and finance is needed (Sebayang, 2024).

Furthermore, for preventive measures, there needs to be a more massive campaign regarding the dangers of online gambling at all levels of society. Education about the negative impact of online gambling must be intensified through various media so that the public is more vigilant and understands the risks that can be caused. In addition, the necessary strategic step is the preparation of a broader legal product and comprehensively regulating online

gambling. International cooperation is urgently needed, considering that many online bookies operate abroad. Regulations that allow Indonesia to cooperate with other countries in arresting online bookies, as well as efforts to restrict access to online gambling sites, are essential to strengthen countermeasures.

Cooperation between the Indonesian National Police (Polri), the Ministry of Communication and Digital (Kemenkomdigi), the Financial Transaction Reports and Analysis Center (PPATK), and the State Cyber and Cryptography Agency (BSSN) needs to be strengthened, considering that each institution has a complementary role in handling online gambling. The police are responsible for the investigation and disclosure of cases, while the Ministry of Communication and Communication and BSSN play a role in the aspects of site blocking and cyber protection, as well as PPATK which handles suspicious financial transaction problems. For this reason, clearer regulations and stronger cooperation between institutions are needed to overcome various existing challenges. With solid collaboration and better regulations, online gambling in Indonesia can be more effective and directed.

In the face of these challenges, *the civil forfeiture approach* is beginning to be considered as a more effective strategy in breaking the financial ecosystem of illegal online gambling networks. *Civil forfeiture* allows the confiscation of assets suspected of originating from or being used for gambling activities without having to wait for a criminal verdict against the perpetrator. This approach focuses on the economic aspect of crime, namely by targeting the assets of crime proceeds so

that bookies lose the incentive to continue operating.

The main advantage of *civil forfeiture* lies in its flexibility in handling assets spread across various jurisdictions, including bank accounts, property, to digital assets such as *cryptocurrencies*. In addition, the standard of proof in this mechanism is lighter than that of criminal law, allowing for faster and more effective legal action. However, the effectiveness of *civil forfeiture* remains dependent on clear and transparent regulation, including the protection of legitimate individual rights.

The criminal approach to dealing with online gambling and corruption is often hampered by various obstacles, such as lengthy judicial processes, difficult proof, and limited effectiveness in prevention. Protracted judicial proceedings can result in many cases being hampered, providing an opportunity for criminals to shift assets or escape legal responsibility.

The application of *Civil forfeiture* can be a more efficient solution in the case of online gambling. By using this procedure, the government can immediately confiscate assets allegedly related to online gambling activities or corruption without having to go through a lengthy criminal process. This reduces the time it takes to follow up on a case, so that assets are not lost or moved by the perpetrator (Fuadi, 2024). In addition, evidence in criminal cases often demands high standards, which can be a big challenge for prosecutors. In the case of online gambling, for example, proving that the funds used for gambling came from illegal activities can be very difficult. However, with civil forfeiture, the focus shifts from criminal acts against individuals to the seizure of assets allegedly obtained illegally. If the government can show that certain assets

are derived from online gambling, they can make a seizure without having to prove the individual's guilt in a criminal context.

The limitations of effectiveness in prevention can also be overcome by the implementation of civil forfeiture. By enacting swift and decisive confiscation measures, the government can send a strong signal to the public that online gambling and corruption activities will not be tolerated. It can serve as a deterrent, preventing individuals or groups from engaging in illegal activities due to the risk of losing their assets.

In general, *the Civil forfeiture* regime is more effective in retrieving assets stolen by corruptors than the penal regime. One of the main advantages of *Civil forfeiture* is the lighter process of proof, which comes from the use of the civil law system. The standard of proof in *Civil forfeiture* is much lower than that required in criminal cases, allowing the government to act more quickly. In practice, *Civil forfeiture* implements a reverse proof system, where the government only needs to show preliminary evidence that the assets to be confiscated are the result of a corruption crime (Bunga, 2019; Kurniawan, 2022; Lukito, 2020). For example, if the government can calculate the income generated by corrupt actors and compare it with the assets owned, then if the assets exceed the amount of revenue, the burden of proof shifts to the corrupt actors to prove that the assets were obtained legally.

This advantage is especially relevant when associated with the need to quickly cut off the flow of funds from crime. In a criminal approach, the judicial process is often hampered by various factors, such as long durations and strict evidentiary demands. Therefore, the action to confiscate illegally obtained assets can be hampered, providing an

opportunity for perpetrators to divert or hide the funds.

In contrast, *civil forfeiture allows immediate action to stop the flow of proceeds of crime. With the ability to act quickly based on preliminary evidence, the government can seize assets before the perpetrator has a chance to take defensive measures. This not only speeds up the asset recovery process, but also serves as a powerful deterrent, reducing incentives for individuals to engage in corruption* (Hufron, 2024).

Civil asset forfeiture is carried out in a different context from cases tried in criminal courts. In this regime, the subject does not need to be proven to have committed a criminal act to be able to commit a robbery. If there is a suspicion that the money owned comes from a criminal act, the state can carry out asset forfeiture through a property lawsuit or *an in-rem lawsuit* (Hafid, 2021). This means that the act of expropriation is directed at the goods or money itself, not at the perpetrators of the crime. Thus, the state can still confiscate assets even if the perpetrator has died, has not been examined, or there has been no decision from the criminal court.

This approach, known as "non-criminal asset forfeiture," allows the state to take action without having to wait for lengthy criminal proceedings. Regulated in the Money Laundering Law (TPPU), specifically in Article 67, and further explained in the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2013, this procedure provides a legal framework to seize assets allegedly related to money laundering (Suprayitno, 2023).

However, in practice, there are limitations in the application of civil expropriation. Currently, assets that can be confiscated are limited to the accounts

of service users at financial service providers. This creates challenges, especially when the assets of perpetrators with wanted persons list (DPO) status can be transferred or used for movable and immovable assets that are not identified in blocked accounts (Karim, 2022; Noerdajasakti, 2024; Sianipar, 2024). Legal analysis shows that the new court will determine the forfeiture without penalty after the temporary suspension of transactions carried out by the Financial Transaction Reports and Analysis Center (PPATK). If investigators do not find the perpetrator, but assets are found, the confiscation can be process (Septiana, 2022).

On the other hand, administrative expropriation allows the state to take over assets without involving judicial institutions, as stipulated in Articles 34-36 of the Anti-Corruption Law. In this context, the Directorate General of Customs and Excise is responsible for reporting any cash transactions entering or exiting Indonesia's customs territory. However, due to the limitation of the transaction value, individuals carrying cash can try to avoid customs inspection, which is a hole in supervision (Muntari, 2024).

Seeing the need to strengthen regulations regarding asset forfeiture, the Anti-Corruption Law can be a solid basis for the application of *Civil forfeiture* by expanding the definition of confiscated assets (Yusni, 2023). By expanding the definition, the government can be more effective in handling money laundering and corruption cases. For example, including movable and immovable assets within the scope of forfeiture can help close existing legal loopholes and improve law enforcement's ability to recover illegally acquired assets (Fuadi, 2024). The wider and more responsive implementation of *Civil forfeiture* will

allow for faster action in cutting off the flow of proceeds of crime, increasing the effectiveness of law enforcement, and sending a strong signal to the public that illegal acts will not be tolerated. Thus, the development of more comprehensive regulations in the Anti-Money Laundering Law will contribute to efforts to eradicate money laundering and corruption more effectively in Indonesia.

The civil forfeiture *approach* in handling online gambling offers a faster and more flexible mechanism compared to conventional criminal law, which often faces various obstacles in the law enforcement process. In the conventional criminal law system, as stipulated in Article 27 paragraph (2) and Article 45 paragraph (3) of Law 1/2024, a person who intentionally and without rights distributes, transmits, or makes gambling information accessible can be subject to criminal penalties in the form of imprisonment for up to 10 years and/or a maximum fine of IDR 10 billion (Nasution, 2017). This mechanism requires law enforcement officials to prove an individual's involvement in online gambling crimes with a high standard of proof, namely beyond reasonable doubt, before punishment can be imposed (Sherman, 2021). This process involves long stages ranging from investigations, investigations, prosecutions, to legally binding court decisions, so it often takes a long time before legal action can be taken effectively (Saputra, 2017). Moreover, online gambling operators often operate abroad by taking advantage of complex digital financial systems, such as the use of cryptocurrencies and bank accounts in various jurisdictions, which makes it increasingly difficult for law enforcement officials to confiscate assets and recover the proceeds of crime.

In contrast, *civil forfeiture* allows for more proactive legal action by directly targeting assets that are suspected of originating from or being used for illegal gambling activities without having to wait for a criminal verdict against their owners. This approach adopts the principle of reversal of the burden of proof, where the owner of the asset who feels aggrieved must prove that his or her assets are not related to the crime. In practice, *civil forfeiture* can be carried out through two main approaches, namely *In Rem Forfeiture*, which is a lawsuit against assets directly as the object of crime, and *In Personam Forfeiture*, which is a lawsuit against individuals who control assets allegedly derived from illegal online gambling activities (Junqueira, 2020). With this mechanism in place, the state can quickly freeze and confiscate assets allegedly related to online gambling, even without having to go through the often lengthy and complex criminal justice process. Fletcher N. Baldwin, Jr. emphasized that *the civil forfeiture* approach has a significant impact on asset recovery by accelerating the seizure mechanism without requiring a criminal verdict first, so it is often referred to as Non-Conviction Based Asset Forfeiture (*NCB Asset Forfeiture*) (Olujobi, 2021). The main advantage of this method is its ability to cut off the financial resources of online bookies immediately, eliminate economic incentives for perpetrators, as well as prevent the reuse of such assets to fund other illegal activities.

Compared to conventional criminal law that focuses on sentencing individuals, *civil forfeiture* is more oriented towards the prevention and eradication of crime by targeting its economic aspects. In the context of online gambling, which often involves cross-border financial transactions and the use of digital assets

that are difficult to trace, *the civil forfeiture* method is more effective in dealing with assets spread across multiple jurisdictions. With good international cooperation through the Mutual Legal Assistance Treaty (MLAT) or other cross-border seizure mechanisms, legal authorities can freeze accounts, seize property, or close financial channels used by online gambling operators without having to wait for criminal proceedings that are often hampered by jurisdictional and legal bureaucratic limitations (Nurdiansyah, 2024; Reandi, 2024). Thus, although conventional criminal law still has an important role in providing a deterrent effect on online gamblers, the *civil forfeiture approach* can be a faster, more effective, and strategic legal instrument in breaking the chain of crime and ensuring that the proceeds of crime can no longer be used by perpetrators. However, the effectiveness of the implementation of *civil forfeiture* still depends on clear regulations, transparent objection mechanisms, and strict supervision to prevent abuse of authority in the asset confiscation process.

## Conclusion

The implementation of *civil forfeiture* in Indonesia can be an effective tool in dealing with gambling crimes, especially when the proceeds of the crime are disguised through transactions involving money laundering. The *civil forfeiture* mechanism, law enforcement officials can confiscate assets allegedly obtained from gambling without having to wait for a long criminal justice process. This provides an advantage in accelerating legal action against criminals and cutting off the flow of funds used to fund illegal activities.

The application of *the principle of civil forfeiture* is supported by the

provisions in PERMA Number 1 of 2013 and Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, which allows the confiscation of assets suspected of originating from gambling crimes. In addition, the Supreme Court has also issued a Circular Letter regulating the procedure for confiscating assets suspected of originating from crimes, making it the first step towards *civil forfeiture* in Indonesia.

With the asset forfeiture bill now a priority for national legislation in the House of Representatives, Indonesia has the opportunity to adopt *civil forfeiture* in a more comprehensive manner. However, if the law is not immediately passed in 2025, then the implementation of *civil forfeiture* in the suppression of online gambling is worth eradicating illegal gambling practices that are increasingly troubling the community.

The application of *civil forfeiture* in Indonesia can be carried out in a limited way, especially if the proceeds of crime from gambling are disguised by being inserted into the financial system so that it becomes "clean" again. If the act is committed by an individual who is suspected of being involved in a crime, then it meets the criteria for a money laundering crime. Based on Perma Number 1 of 2013 and Law Number 8 of 2010, gambling can be a source of money laundering crimes, which allows the confiscation of related assets without waiting for a final criminal verdict.

The Supreme Court has also issued Circular Letter Number 3 of 2013 which supports the confiscation of assets resulting from criminal acts as state assets. Meanwhile, the asset forfeiture bill, which has been included in the national legislation priorities in the House of Representatives, can be the legal basis for

the wider and systematic implementation of *civil forfeiture*. If in 2025 the House of Representatives has not passed the law and the problem of online gambling is getting more acute, the Supreme Court needs to act immediately by regulating the *civil forfeiture* law through the Supreme Court Regulation, so that assets obtained from gambling crimes can be immediately confiscated by the state and used to eradicate gambling in Indonesia.

Cross-agency coordination, including with PPATK, the Prosecutor's Office, Komdigi, and OJK, also needs to be strengthened to ensure the effectiveness of asset confiscation and prevent perpetrators' efforts to hide the proceeds of their crimes through various modes, such as the use of third-party accounts or digital assets (Husain, 2024). Reform is needed in this case, by making a joint regulation on cooperation between law enforcement officials, especially the police, and applying *the follow the money* principle, which is not only focusing on arresting the perpetrators but also with assets.

### Acknowledgment

The Author would like to extend the gratitude towards mentor and friends for their assistance and valuable input, as well as the reviewer for the improvement of this publication.

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