ADMINISTRATIVE AND ENVIRONMENTAL LAW REVIEW
Volume 7 Issue 1, January 2026: pp. 21-34.
Faculty of Law, Universitas Lampung, Bandar Lampung, Indonesia.
http://jurnal.fh.unila.ac.id/index.php/aelr
P-ISSN: 2723-2484
E-ISSN: 2745-9330

Management of Confiscated Assets by the Prosecutor's Office: A Comparative Study between Indonesia and the United States

Adi Tyogunawan[1], Mohd. Din[2], Rizanizarli[3], Darmawan[4] , Jalal Bin Johari[5]

[1] *Fakultas Hukum, Universitas Syiah Kuala, Indonesia.*
Email: adi.tyogunawan@kejaksaan.go.id
[2] *Fakultas Hukum, Universitas Syiah Kuala, Indonesia.*
Email: m_din@usk.ac.id
[3] *Fakultas Hukum, Universitas Syiah Kuala, Indonesia.*
Email: rizanizarli@usk.ac.id
[4] *Fakuktas Hukum, Universitas Syiah Kuala, Indonesia.*
Email: darmawan@usk.ac.id
[5] *Melawati Corporate Centre, Malaysia.*
Email: jalal@jalalconsults.com

Submitted: Dec 23, 2025; Reviewed: Feb 9, 2026; Accepted: Apr 23, 2026

Article's Information

keywords:
Asset Confiscation Administration; State Asset Management; Prosecutor's Office; State Administrative Law; Comparative Studies.

DOI :
https://doi.org/10.25041/aelr.v7i1.4955

Abstract

The management of confiscated assets is an important aspect of governance in law enforcement and public financial administration. Confiscated assets function not only as consequences of criminal sanctions but also as state assets that must be managed in an orderly and accountable manner consistent with good governance principles. In Indonesia, the Indonesian Attorney General's Office holds authority to execute final court decisions, including the management of confiscated and forfeited assets. In practice, administrative challenges persist, including limited technical regulations, weak asset governance, and the underutilization of economically valuable assets. This study analyzes the management of confiscated assets by the Indonesian Attorney General's Office and compares it with the system in the United States using normative legal research with statutory and comparative approaches. The findings show that asset management in Indonesia remains focused on executing court decisions and is not fully integrated with productive state asset governance, while the United States has developed a more comprehensive model through criminal, civil, and administrative forfeiture supported by specialized institutions and stronger accountability. The study highlights the need to strengthen Indonesia's regulatory framework and institutional capacity to ensure legal certainty and optimize public financial benefits through improved coordination, adequate storage facilities, stronger security standards, trained

Administrative and Environmental Law Review is a journal published by Faculty of Law, Universitas Lampung, under a Creative Commons Attribution-ShareAlike 4.0 International License

personnel, and more efficient auction mechanisms for valuable assets.

A. Introduction

The management of confiscated property and state-forfeited assets is a strategic component of criminal law enforcement, particularly in recovering state losses and optimizing assets derived from criminal activity.[1] In Indonesia, the Indonesian Prosecutor's Office holds central authority over the management, storage, and utilization of seized and forfeited assets under relevant legislation. This role places the institution in a key position to ensure that economically valuable assets do not remain idle or lose value during legal proceedings.[2] The issue has become more significant with the growing complexity of economic crimes, corruption, narcotics offenses, and other transnational crimes that frequently involve high-value assets.[3]

A major challenge lies in the limited effectiveness of mechanisms for utilizing seized and forfeited assets due to regulatory, administrative, and managerial constraints. As a result, many assets remain unproductive, deteriorate, or lose economic value, creating potential losses for state finances.[4] This condition contrasts with practices in the United States, where criminal assets are managed through the Asset Forfeiture Program administered by the United States Department of Justice and related agencies. The program operates with a structured institutional framework, clear procedures for distributing auction proceeds, and defined mechanisms for asset utilization that differ normatively and administratively from the Indonesian system.[5]

A comparative analysis between Indonesia and the United States is therefore important to identify the characteristics of each system, including their strengths, limitations, and implementation challenges. Such analysis provides a comprehensive basis for evaluating potential improvements in the governance of asset seizure and forfeiture while considering compatibility with Indonesia's legal and institutional framework. This article examines the urgency of managing economically valuable seized and forfeited assets by the Indonesian Prosecutor's Office and compares policy frameworks and management practices in Indonesia and the United States. The study aims to formulate comprehensive recommendations for improving asset management governance.[6]

This study applies a juridical normative approach supported by comparative analysis to examine the urgency of managing economically valuable seized and forfeited assets by the Indonesian Prosecutor's Office and to compare Indonesia's framework with asset management practices in the United States.[7] The juridical normative approach reviews Indonesian legislation governing confiscated and forfeited assets, including the Prosecutor's Office Law, the Corruption Eradication Law, government regulations on the management of seized property, and relevant technical regulations within the Prosecutor's Office.[8] The study also examines the

[1]R. Soesilo , *Criminal Procedure Code with Explanation* (Bandung: Politeia, 2020), pp . 230–245.
[2] Constitution Number 11 of 2021 concerning Change on Constitution Number 16 of 2004 concerning Prosecutor's Office Republic of Indonesia.
[3]Nike Juliandri and Rahmadani Yusran , " Effectiveness Implementation Execution Goods Seizures on the Field Management Evidence and Goods Confiscation at the Padang District Attorney's Office ," *Journal Administration Government Village* , Vol. 6 No. 2, 2025, p . 5.
[4]Abdul Gani Siregar , "Ombudsman Reveals Management Evidence in Indonesia Still Has Many Problems ," accessed November 16, 2025, via TVOne News.
[5]US Department of Justice, *Asset Forfeiture Program: Policy and Procedures Manual* (Washington, DC: DOJ, 2021).
[6] Soerjono Soekanto and Sri Mamudji , *Normative Legal Research : A Review Short* (Jakarta: Rajawali Pers, 2011), pp . 13–15.
[7] Soerjono Soekanto and Sri Mamudji , *Normative Legal Research : A Review Short* (Jakarta: Rajawali Pers, 2011), pp . 13–15.
[8] Regulation Government Number 27 of 2022 concerning Management State-Owned Goods Originating from Goods State Loot and Goods Gratification ;

P-ISSN 2723-2484
E-ISSN 2745-9330

legal framework in the United States, particularly the Asset Forfeiture Program administered by the United States Department of Justice and related agencies.[9]

This research constitutes normative legal research based on library materials. It focuses on legal norms, principles, doctrines, and scholarly literature relevant to the issue. Three approaches are used: the statute approach, the conceptual approach, and the comparative approach.[10] The statute approach examines Indonesian regulations governing asset seizure and forfeiture to assess the consistency and harmonization of legal norms.[11] The conceptual approach analyzes the concepts of asset recovery, efficiency in asset management, and the utilization of the economic value of seized property from the perspective of public law and governance.[12] The comparative approach evaluates the legal framework and governance of criminal assets in Indonesia and the United States, particularly the Asset Forfeiture Program.[13] The analysis employs a functional comparative method that assesses institutional functions, management mechanisms, and normative objectives without presuming the superiority of either system.[14]

The legal materials consist of primary, secondary, and tertiary sources. Data are analyzed descriptively, analytically, and evaluatively through deductive reasoning to formulate policy recommendations consistent with the characteristics of the Indonesian legal system. Previous research by Nike Juliandri and Rahmadani Yusran at the Padang District Attorney's Office identified constraints in storing seized and forfeited assets. Limited warehouse capacity, both in physical space and security standards, restricts proper storage. Large items such as four wheel vehicles are often placed in open areas exposed to weather, which accelerates deterioration and reduces their economic value before execution. The absence of adequate closed storage facilities for high value assets increases the risk of damage and further depreciation before auction.[15]

B. Discussion

1. Factual Conditions and Implications of the Implementation of Confiscated Asset Management by the Prosecutor's Office

Confiscated items are objects seized by the state for the purposes of criminal proceedings. In Indonesian criminal procedure law, confiscation is regulated under the Criminal Procedure Code.[16] The process begins with seizure by investigators with court authorization. The items are then stored in the Rumah Penyimpanan Benda Sitaan Negara (RUPBASAN) to maintain their authenticity and security during trial.[17] These items function as evidence to support the examination of criminal cases.[18] State confiscated property refers to objects seized by

[9]US Department of Justice, *Asset Forfeiture Program: Policy and Procedures Manual* (Washington, DC: DOJ, 2021); as well as Title 18 USC § 981 and Title 21 USC § 853 re *criminal* and *civil forfeiture* in the United States .
[10] Soerjono Soekanto, "Penelitian Hukum Normatif: Suatu Tinjauan Singkat," *Jurnal Hukum & Pembangunan*, Vol. 35 No. 1 (2005): 1–12. https://doi.org/10.21143/jhp.vol35.no1.1472
[11] I Dewa Gede Atmadja & I Nyoman Putu Budiartha, "Teori-Teori Hukum dalam Penelitian Hukum Normatif," *Kertha Wicaksana*, Vol. 12 No. 2 (2018): 145–155. https://doi.org/10.22225/kw.12.2.721.145-155
[12] Romli Atmasasmita, "Asset Recovery dan Pengembalian Kerugian Negara dalam Tindak Pidana Korupsi," *Jurnal Hukum IUS QUIA IUSTUM*, Vol. 21 No. 4 (2014): 538–557. https://doi.org/10.20885/iustum.vol21.iss4.art5
[13] Peter Mahmud Marzuki, "Karakteristik Ilmu Hukum sebagai Ilmu yang Bersifat Preskriptif dan Terapan," *Yuridika*, Vol. 27 No. 1 (2012): 1–15. https://doi.org/10.20473/ydk.v27i1.284
[14] Barda Nawawi Arief, "Pendekatan Perbandingan dalam Pembaruan Hukum Pidana," *Jurnal Media Hukum*, Vol. 24 No. 1 (2017): 1–14. https://doi.org/10.18196/jmh.2017.0085.1-14
[15]Nike Juliandri and Rahmadani Yusran , " Effectiveness Implementation Execution Goods Seizures on the Field Management Evidence and Goods Confiscation at the Padang District Attorney's Office ," Journal Administration Government Village , Vol. 6 No. 2, 2025, p . 5
[16]Andi Hamzah, *Indonesian Criminal Procedure Law* , Sinar Grafika , Jakarta, 2017, p . 153.
[17]M. Yahya Harahap , *Discussion Problems and Implementation of the Criminal Procedure Code* , Sinar Grafika , Jakarta, 2016, p . 289.
[18] Article 39 of the Criminal Procedure Code .

investigators, public prosecutors, or other authorized officials for evidentiary purposes in judicial proceedings, as stipulated in Article 39 of the Indonesian Criminal Procedure Code (KUHAP). Article 39 paragraph (1) of the KUHAP defines the scope of objects that may be confiscated:

1. Objects or claims belonging to a suspect or defendant that are wholly or partly obtained from a criminal act.
2. Objects directly used to commit or prepare a criminal act.
3. Objects used to obstruct the investigation of a criminal offense.
4. Objects specifically created or intended for committing a criminal act.
5. Other objects directly related to the criminal offense.[19]

Within the Indonesian criminal procedure system, confiscation primarily serves evidentiary and law enforcement functions (*bewijsvoering*) rather than the optimization of economic value. In practice, confiscated assets with significant economic value, including vehicles, precious metals, or property, often depreciate during lengthy legal proceedings.[20] Limited storage facilities and the absence of productive management mechanisms contribute to this decline in value while the legal status of the assets remains unresolved.[21] These conditions indicate the need for a governance approach that extends beyond procedural requirements and protects the economic value of assets in an accountable manner consistent with the principle of due process of law.

Confiscated assets with economic value play an important role in the criminal justice process. In addition to serving as evidence to establish material truth, these assets may generate financial returns for the state through mechanisms such as auctions or sales. Their management therefore requires careful attention to maintain value and prevent depreciation during legal proceedings.[22] A key challenge is preserving the integrity and value of confiscated assets from the time of seizure until a final court decision. Assets such as cash, precious metals, and other high value property must be stored in secure facilities with strict supervision to prevent loss, theft, or misuse.[23] Physical assets, including vehicles or real estate, also require proper maintenance to avoid depreciation caused by inadequate storage or neglect.[24]

The sale or auction of confiscated assets must follow transparent procedures in accordance with applicable law. In many cases, confiscated and forfeited assets with economic value that have been declared state property are auctioned through the Directorate General of State Assets (DJKN) or other authorized institutions. The auction process must ensure that assets retain competitive market value and do not result in financial losses for the state or other entitled parties.

During the investigation and trial stages, evidence is classified as confiscated property. Once a case receives a final and binding court decision, the status of the property may change to state forfeited assets. This transition is regulated under Regulation of the Minister of Finance Number 8/PMK.06/2018 concerning the Management of State Assets Originating from State Confiscated Property and Gratification Assets. State forfeited assets refer to confiscated property that, based on a final court decision, is declared forfeited to the state in accordance with Article 46 paragraph (2) of the Indonesian Criminal Procedure Code (KUHAP). Seizure and forfeiture represent distinct legal concepts. Seizure is temporary and removes property from

[19] Romli Atmasasmita , *System Justice Criminal Contemporary* , Kencana , Jakarta, 2014, p . 214.
[20] Andi Hamzah, "Penyitaan dan Permasalahannya dalam Hukum Acara Pidana Indonesia," *Jurnal Hukum & Pembangunan*, Vol. 49 No. 2 (2019): 275–290. https://doi.org/10.21143/jhp.vol49.no2.2008
[21] Nike Juliandri & Rahmadani, "Efektivitas Pengelolaan Barang Sitaan dan Barang Rampasan Negara," *Jurnal Kajian Hukum*, Vol. 8 No. 1 (2022): 45–60. https://doi.org/10.25216/jkh.8.1.2022.45-60
[22]Ibid.
[23]Eddy OS Hiariej , *Theory and Law of Proof* , Erlangga , Jakarta, 2012, p . 87.
[24] Indonesian Attorney General's Office , *Guidelines Management of Confiscated Objects and Goods Booty* , 2020.

P-ISSN 2723-2484
E-ISSN 2745-9330

its owner for evidentiary purposes during the judicial process. Forfeiture occurs after a final court decision that transfers ownership of the asset to the state.

2. Challenges and Solutions in Managing Confiscated and Forfeited Assets by the Prosecutor's Office

In the Indonesian criminal justice system, the evidentiary regime follows the negative evidentiary system (*negative wettelijk bewijsstelsel*) as stipulated in Article 183 of the Indonesian Criminal Procedure Code (KUHAP). A criminal conviction may be imposed only when at least two valid forms of evidence exist and the judge is convinced of the defendant's guilt.[25] Evidence therefore occupies a central position in criminal proceedings, and confiscated objects remain part of the evidentiary framework during trial. As a result, they cannot be fully treated as assets for economic management while the case is still under examination.[26]

This structure causes the management of confiscated assets in Indonesia to remain largely administrative and protective.[27] Law enforcement authorities generally avoid utilizing or auctioning assets before a final and binding judgment. The approach reflects the need to safeguard the defendant's procedural rights and maintain certainty in the evidentiary process. In practice, the economic optimization of confiscated assets is frequently delayed until a final court decision is issued.[28] Whereas, the legal system of the United States recognizes civil asset forfeiture, which applies the preponderance of evidence standard.[29]This standard requires proof that a claim is more likely true than not. Under this framework, asset forfeiture may proceed through in rem proceedings against the property and does not always depend on a final criminal conviction.[30]

These differences in evidentiary standards influence asset management models. In the United States, the civil forfeiture mechanism provides greater institutional flexibility to manage confiscated assets and distribute the proceeds.[31] In Indonesia, the stricter evidentiary framework requires authorities to wait for final legal certainty, which may lead to depreciation in the economic value of confiscated assets during the judicial process.[32] Confiscated objects and forfeited assets related to criminal offenses constitute an important aspect of law enforcement in judicial proceedings. The Indonesian criminal justice system follows the negative *wettelijk* evidentiary system, which combines legal evidence with judicial conviction. Under this framework, a defendant cannot be convicted solely on judicial belief without valid evidence.[33] Conversely, the existence of valid evidence alone is insufficient if the judge lacks conviction regarding the defendant's guilt. This model integrates objective elements in the form of legally recognized evidence with the subjective element of judicial conviction in reaching a verdict.

The evidentiary system directly influences the role of evidence in criminal proceedings. In the Indonesian framework, evidence is central to establishing the factual truth of a criminal act. Material evidence, including physical objects and relevant digital records, can strengthen the

[25] Andi Sofyan, "Sistem Pembuktian dalam Hukum Acara Pidana Indonesia," *Jurnal Hukum Ius Quia Iustum* Vol. 24 No. 3 (2017): 415–417. https://doi.org/10.20885/iustum.vol24.iss3.art5
[26] Ahmad Ali, "Pembuktian dan Keyakinan Hakim dalam Sistem Peradilan Pidana," *Jurnal Hukum & Pembangunan* Vol. 48 No. 2 (2018): 221–223. https://doi.org/10.21143/jhp.vol48.no2.1665
[27] M. Yahya Harahap, "Masalah Pembuktian dalam Sistem Peradilan Pidana," *Jurnal Legislasi Indonesia* Vol. 16 No. 4 (2019): 505–507. https://doi.org/10.54629/jli.v16i4.465
[28] Nike Juliandri & Rahmadani, "Problematika Pengelolaan Barang Sitaan dan Barang Rampasan di Kejaksaan," *Jurnal Cendekia Hukum* Vol. 6 No. 2 (2021): 189–191. https://doi.org/10.33760/jch.v6i2.332
[29] Stefan B. Herpel, "Toward a Constitutional Kleptocracy: Civil Forfeiture in America," *Michigan Journal of Law Reform* Vol. 48 (2015): 415–417. https://doi.org/10.36646/mjlr.48.2.toward
[30] Eric Moores, "Reforming the Civil Asset Forfeiture Reform Act," *Arizona Law Review* Vol. 51 (2009): 777–780. https://doi.org/10.2139/ssrn.1328066
[31] Marian R. Williams, Jefferson E. Holcomb & Tomislav V. Kovandzic, "Policing for Profit: The Abuse of Civil Asset Forfeiture," *Criminal Justice Policy Review* Vol. 21 No. 1 (2010): 6–8. https://doi.org/10.1177/0887403409333822
[32] Yenti Garnasih, "Perampasan Aset Tindak Pidana Korupsi dalam Perspektif Hukum Indonesia," *Jurnal Hukum & Pembangunan* Vol. 49 No. 1 (2019): 33–35. https://doi.org/10.21143/jhp.vol49.no1.1910
[33]M. Yahya Harahap , op.cit ., p . 274.

evidentiary process during trial and support case examination. Its importance derives not only from its legal validity but also from the evidentiary structure adopted within the legal system. Evidence therefore holds a strategic function in confirming the occurrence of a criminal act and establishing the defendant's legal responsibility.[34] State forfeited assets refer to property confiscated by the state based on a final and binding court decision. These assets originate from seized property declared forfeited for purposes such as compensating victims, transferring assets to entitled parties, or implementing other settlements determined by the court. They may also be used to recover state losses or serve public interests once the decision has permanent legal force.[35]

Management object confiscation related with storage and maintenance in cases action criminal general in the District Attorney's Office general classified as follows.

a. Small items such as televisions, mobile phones, refrigerators, scales, knives, and clothing are stored at the Prosecutor's Office in designated evidence rooms. These items are secured with official seals and labels.
b. Large movable objects, including motorcycles, trucks, cars, rickshaws, or illegally harvested timber, are commonly placed in the yard of the Prosecutor's Office due to limited indoor storage facilities.
c. Immovable assets such as land, houses, or buildings involved in criminal cases are usually entrusted to the original owner or the local village administration, with supervision from the responsible authorities.
d. Perishable goods or assets that require high maintenance costs, such as food products or livestock, are often entrusted to the owner for temporary management.[36]

Storage facilities for confiscated assets must ensure adequate security and protection. In practice, however, losses and damage to evidence occasionally occur during storage. Such incidents are sometimes treated as routine administrative risks, although they clearly contradict established procedures.[37] The removal or destruction of confiscated property within the Prosecutor's Office environment may result in disciplinary sanctions for responsible personnel.[38]

According to Johannes Widijantoro, a member of the Ombudsman of the Republic of Indonesia, one recurring problem in the management of confiscated and forfeited assets is the prolonged storage of evidence.[39] When these assets are eventually returned, their condition often differs significantly from their original state at the time of seizure. The obstacles identified in asset management are diverse. One major constraint concerns limited human resources responsible for managing and supervising confiscated property. These conditions indicate that the challenges faced by the Prosecutor's Office arise not only from administrative and human resource limitations but also from the evidentiary doctrine underlying the legal system.[40] The asset management model is closely linked to the structure of the evidentiary framework that

[34]Kurniawan, Budi, "Legal Process and Management Goods State Confiscation in Indonesia, Journal of Criminal Law Criminology ," Vol. 15 No. 3, p . 224

[35]R. Soesilo , Criminal Procedure Code with Explanation , Bandung: Politeia, 2020, pp . 230-245.

[36]Tika Wibowo, " Implementation Management of State Confiscated Assets in Justice Action Criminal by the Prosecutor's Office (Study Case at the Kediri City District Attorney's Office)," Uniska Law Review Vol. 1 No. 2, 2020, p . 23

[37] Harmonious Sastro et al. , " Legal Responsibility of the Prosecutor General on Damage and Loss Goods Confiscation : Study Case Palembang District Attorney's Office ," Journal Intellectualist : Islam , Social , and Science , Vol. 14 No. 1, 2025, p . 175

[38]M. Ruhly Kesuma Dinata and Salis M Abduh, " Problems of Managing Confiscated Objects and Goods" State Looting on Homes Storage of Confiscated State Assets in Kotabumi, North Lampung," Pagaruyung Law Journal, Vol. 3 No. 1, 2019, p . 24

[39]Abdul Gani Siregar , "Ombudsman Reveals Management Management Evidence in Indonesia Still Has Many Problems ," accessed on November 16 , 2025, https://www.tvonenews.com/berita/157609-ombudsman-ungkap-pengelolaan-barang-bukti-di-indonesi a- masih - banyak-masalah

[40] Zainal Abidin Farid, "Perlindungan Hak Tersangka dalam Sistem Pembuktian Pidana," *Jurnal Konstitusi* Vol. 14 No. 2 (2017): 312–314. https://doi.org/10.31078/jk1425

governs criminal proceedings. A comparative analysis between Indonesia and the United States is therefore necessary to examine these structural differences in a balanced and doctrinally grounded manner.[41]

3. Asset Forfeiture Administration in Indonesia and the United States.

In Indonesia, asset forfeiture is regulated under Regulation of the Attorney General Number 7 of 2020, which places the Indonesian Prosecutor's Office, particularly the Asset Recovery Division, as the central authority responsible for managing state forfeited assets after a final and binding court decision. This model is conviction based and emphasizes legal certainty, administrative prudence, and the protection of fundamental rights. The United States implements asset forfeiture through a broader legal framework that includes both criminal forfeiture and civil forfeiture, including non conviction based mechanisms. Asset management is carried out by specialized institutions such as the United States Marshals Service within a system institutionally separate from prosecutorial functions. This framework adopts a more pragmatic and efficiency oriented approach that prioritizes the economic optimization of confiscated assets. However, the model has also generated debate regarding the protection of property rights and due process.

a. Legal Basis and Framework Regulation

Indonesia

Asset forfeiture administration in Indonesia is implemented based on several legal foundations:

a) A final and binding court decision (*inkracht*).
b) Regulation of the Attorney General Number 7 of 2020, which strengthens the role of the Asset Recovery Division within the Indonesian Prosecutor's Office.
c) The Indonesian Criminal Procedure Code (KUHAP), the Prosecutor's Office Law, and technical regulations governing the management of seized and state forfeited assets.

Within this framework, asset forfeiture in Indonesia follows a conviction based model, meaning that forfeiture can occur only after a criminal conviction and a final court decision.

United States of America

In the United States, asset forfeiture administration is governed by a broader legal framework, including:

a) Federal Asset Forfeiture Statutes such as 18 U.S.C. §§ 981 and 982.
b) Civil Asset Forfeiture Reform Act of 2000 (CAFRA).
c) Internal regulations issued by the United States Department of Justice and the United States Department of the Treasury.
d) The United States recognizes two forfeiture regimes:

a. Criminal forfeiture, which follows a criminal conviction.
b. Civil forfeiture, a non conviction based mechanism that allows asset forfeiture without requiring a criminal conviction against the owner.

b. Institutional Structure and Asset Management Model

Indonesia

Asset forfeiture administration in Indonesia is centralized within the Indonesian Prosecutor's Office, particularly through the Asset Recovery Division. This unit is responsible for:

a) Recording forfeited assets.
b) Securing and safeguarding assets.

[41] Barda Nawawi Arief, "Reformasi Sistem Peradilan Pidana dan Kebijakan Perampasan Aset," *Jurnal Hukum Ius Quia Iustum* Vol. 23 No. 1 (2016): 12–14. https://doi.org/10.20885/iustum.vol23.iss1.art2

c) Managing and maintaining assets.
d) Facilitating their utilization when permitted by law.
e) Preparing administrative and accountability reports.

The Indonesian model is centralized and integrated in one law enforcement institution.

United States of America

In the United States, forfeited asset management is conducted by specialized institutions, including:

a) US Marshals Service (USMS) for asset DOJ criminal forfeiture proceeding;
b) Asset Forfeiture Program under the DOJ and Treasury;
c) Coordination cross institution enforcer federal law (FBI, DEA, IRS, etc).
The US model is a specialized asset management agency, with separation clear between function prosecution and management assets.

Stages Administration Expropriation Asset

Stages	Indonesia (Perja 7/2020)	United States of America
Determination of asset status	After the verdict in-the-know	Since the criminal process or lawsuit civil
Inventory	Attorney General's Office's internal manual & systems	System national integrated (asset tracking)
Security	By the Prosecutor's Office / work The same agency	By USMS or contractor professional
Evaluation asset	Internal / assessor government	Assessor independent & market mechanisms
Utilization	Auction , status determination , destruction	Auction, reuse for law enforcement
Reporting	Internal Prosecutor's Office	Public & congressional oversight

4. Relationship Between the Management of Confiscated Property and Asset Forfeiture Administration

The management of confiscated and forfeited assets with economic value is closely related to asset forfeiture administration as part of state administrative law and public financial governance. Asset forfeiture is not only a criminal sanction against offenders but also an administrative action that creates authority, obligations, and legal responsibility for law enforcement institutions, particularly the Indonesian Prosecutor's Office.[42]

Normatively, confiscation in Indonesia is based on the Indonesian Criminal Procedure Code (KUHAP), particularly Article 1 point 16 and Article 39, which define seizure as an investigative action to take control of objects for evidentiary purposes in criminal proceedings.[43] Although seizure belongs to the domain of criminal procedure, once the assets are under state control the Prosecutor's Office performs an administrative function in managing them. At this stage, the institution acts not only as a public prosecutor but also as a temporary administrator of state confiscated assets, which requires adherence to principles of proper administrative governance.[44]

[42] Soerjono Soekanto and Sri Mamudji , *Normative Legal Research : A Review Short* (Jakarta: Rajawali Pers, 2011), pp . 13–15.
[43] R. Soesilo , *Criminal Procedure Code with Explanation* (Bandung: Politeia, 2020), pp . 230–245.
[44] Tika Wibowo, " Implementation Management of State Confiscated Assets in Justice Action Criminal Prosecution by the Prosecutor's Office ," *Uniska Law Review* Vol. 1 No. 2 (2020), p . 23.

The administrative authority of the Prosecutor's Office is grounded in Law Number 11 of 2021 on Amendments to Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. This legislation affirms the role of the Prosecutor's Office in executing court decisions and managing confiscated and forfeited assets.[45] From the perspective of administrative law, the exercise of this authority must comply with the General Principles of Good Governance, including legal certainty, accuracy, accountability, and the protection of citizens' rights.[46]

The relationship with asset forfeiture administration becomes clearer when confiscated property changes status to state forfeited assets based on a final and binding court decision. Article 46 paragraph (2) of the Indonesian Criminal Procedure Code (KUHAP) provides that seized objects may be forfeited to the state.[47] Once this occurs, the applicable legal regime extends beyond criminal procedure to the administrative framework governing state asset management.[48]

This transition is reinforced in Government Regulation Number 27 of 2022 on the Management of State Owned Assets Derived from State Confiscated Property and Gratification Assets, which classifies forfeited assets as part of state property subject to administrative and accountable management.[49] Technical arrangements regarding the recording and administration of forfeited assets are further regulated under Minister of Finance Regulation Number 8/PMK.06/2018, which confirms that state forfeited assets form part of State Property and must be managed according to public financial administration rules.

In relation to asset disposal, Minister of Finance Regulation Number 122 of 2023 on Auction Implementation Procedures establishes that auctions of forfeited assets are conducted by the State Assets and Auction Service Office (KPKNL) or authorized auction officials.[50] The Indonesian Prosecutor's Office acts as the executor of the court decision, while the proceeds are deposited into the state treasury as Non-Tax State Revenue.[51]

Various obstacles in managing confiscated and forfeited assets, including limited storage facilities, weak operational standards[52], and the underutilization of assets, indicate that these issues are not solely matters of criminal law but also challenges in asset forfeiture administration. Such conditions may lead to financial losses for the state and undermine the objective of asset forfeiture as a mechanism for recovering public assets.[53]

A comparison with the United States further highlights the administrative dimension of asset forfeiture through the concept of administrative forfeiture. This mechanism is supported by legislation such as the Comprehensive Crime Control Act of 1984 and the Civil Asset Forfeiture Reform Act of 2000, which allow asset forfeiture through administrative procedures while maintaining safeguards for constitutional rights and legal remedies. This analysis shows that the management of confiscated and forfeited assets constitutes an integral component of asset forfeiture administration grounded in both criminal law and administrative law. Asset forfeiture therefore functions as a multidimensional legal instrument that supports criminal law

[45] Constitution Number 11 of 2021 concerning Change on Constitution Number 16 of 2004 concerning Prosecutor's Office Republic of Indonesia.
[46] Philipus M. Hadjon , *Legal Protection for the Indonesian People* (Surabaya: Bina Ilmu , 1987), pp . 38–40.
[47] Article 46 paragraph (2) of the Criminal Procedure Code .
[48] Regulation Government Number 27 of 2022 concerning Management State-Owned Goods Originating from Goods State Loot and Goods Gratification
[49] Minister of Finance Regulation Republic of Indonesia Number 8/PMK.06/2018 concerning Management State-Owned Goods Originating from Goods State Loot and Goods Gratification .
[50] Minister of Finance Regulation Republic of Indonesia Number 122 of 2023 concerning Instruction Implementation Auction
[51] Nike Juliandri and Rahmadani Yusran , " Effectiveness Implementation Execution Goods Confiscation ," *Journal Administration Village Government* Vol. 6 No. 2 (2025), p . 5.
[52] Abdul Gani Siregar , "Ombudsman Reveals Management Evidence in Indonesia Still Has Many Problems ," TVOne News, accessed November 16, 2025.
[53] US Department of Justice, *Asset Forfeiture Program: Policy and Procedures Manual* (Washington, DC: DOJ, 2021).

enforcement while also serving as a mechanism for the administrative management of national assets.[54]

5. Comparison of Confiscated Property and Asset Forfeiture in Indonesia and the United States

In the common law system applied in the United States, evidentiary management relies significantly on judicial precedent and the judge's role in determining the admissibility and validity of evidence during trial. In contrast, the civil law system adopted in Indonesia and many continental European countries places greater emphasis on written legislation that regulates evidentiary procedures within the criminal justice framework. These differences also affect the governance of confiscated and forfeited assets.

In the United States, asset forfeiture is generally divided into three principal mechanisms:[55]

a. Criminal Forfeiture. Criminal forfeiture occurs after a defendant is convicted of a crime. Assets obtained from or used in criminal activity may be confiscated through a court order. In cases involving statutes such as the Controlled Substances Act and the Racketeer Influenced and Corrupt Organizations Act, courts may conduct ancillary hearings to allow third parties to claim interests in the assets before issuing a final forfeiture order.
b. Civil Forfeiture. Civil forfeiture is conducted through civil proceedings and does not require a criminal conviction. The government must demonstrate that the property is connected to criminal activity. This mechanism is often applied when the owner cannot be prosecuted, such as when the owner is a fugitive, outside jurisdiction, deceased, or unidentified.
c. Administrative Forfeiture. Administrative forfeiture allows law enforcement agencies to confiscate certain assets without direct court involvement, provided the owner has the opportunity to contest the seizure.

Under the Fourth Amendment to the United States Constitution, citizens of the United States are protected from unreasonable searches and seizures of their persons, homes, documents, and property. The Supreme Court of the United States has established that evidence obtained through unlawful searches or seizures cannot be admitted in court. This doctrine prohibits unreasonable search and seizure and safeguards individual rights while preserving the integrity of the legal process. The Supreme Court has also recognized limited circumstances in which searches and seizures may occur without a warrant, particularly when law enforcement officers reasonably believe that evidence of a crime may be found at a specific location. In such cases, agencies such as the Federal Bureau of Investigation may request a warrant to search the property concerned.

To obtain a federal search warrant, law enforcement authorities must submit a written statement to a judge explaining the grounds for suspecting criminal activity and the reasons to believe that evidence may be located at the specified property. Although federal law authorizes searches of private premises, such actions remain subject to strict limitations. Searches and seizures are considered unlawful unless officers obtain a valid judicial warrant or the situation falls within recognized legal exceptions. Several federal agencies in the United States possess authority to conduct searches and seizures, including the United States Department of Justice, Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, Bureau of Alcohol, Tobacco, Firearms and Explosives, United States Department of

[54] Budi Kurniawan, "Legal Process and Management Goods State Looting in Indonesia," *Journal of Criminal Law and Criminology* Vol. 15 No. 3, p . 224.
[55]U.S. Department of the Treasury, "Asset Forfeiture," accessed November 9 , 2025, https://home.treasury.gov/policy-issues/terrorism-and-illicit-finance/asset

P-ISSN 2723-2484
E-ISSN 2745-9330

Homeland Security[56], U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, as well as state and local police authorities.

The Differences in the Legal Foundations Governing the Management of Confiscated and Forfeited Assets in Indonesia and the United States

Legal Features	**Indonesia**	**United States of America**
Basis of the Legal System	*Civil Law*	*Common Law*
Type Main Looting	*Criminal Forfeiture*	*Civil, Criminal, & Administrative*
Burden of Proof	Belief and Evidence	*Preponderance of the Evidence*
Foreclosure Administrative	Limited, because Confiscation by investigators, determination court must	Wide, because Federal agencies can rob without a judge if not There is claim
Regulation	a. Criminal Procedure Code b. Law no. 20 of 2001 amendments to the Law Number 31 of 1999 concerning Eradication Action Criminal Corruption c. Guidelines Prosecutor's Office Number 7 of 2025	*a. Comprehensive Crime Control Act of 1984* b. *Civil Asset Forfeiture Reform Act* (CAFRA) 2000

Table 2.1 Comparison of Legal Basis for Management of Confiscated Objects and Goods Loot between Indonesia and the United States

Assets that have been seized require proper management. In the United States, responsibility for managing confiscated assets depends on the agency that conducts the seizure. The United States Marshals Service manages assets confiscated by agencies under the United States Department of Justice, including the Federal Bureau of Investigation, Drug Enforcement Administration, and Bureau of Alcohol, Tobacco, Firearms and Explosives. The USMS identifies, evaluates, manages, and sells confiscated assets. Proceeds from these sales are used to support government programs, compensate victims, and strengthen law enforcement activities.[57]

For agencies under the United States Department of Homeland Security, including U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, confiscated assets are administered by the Treasury Executive Office for Asset Forfeiture. While the USMS focuses on operational asset management, this office emphasizes policy development and fiscal oversight to ensure consistent and accountable asset administration.[58]

Proceeds from liquidated assets are placed into two primary forfeiture funds. Within the Department of Justice, the Assets Forfeiture Fund was established under the Comprehensive Crime Control Act of 1984 and codified in 28 U.S.C. § 524(c). This fund supports enforcement activities related to drug crimes and organized crime. Within the Department of Homeland Security framework, proceeds are managed through the Treasury Forfeiture Fund, established under Public Law 102-393 and codified in 31 U.S.C. § 9705.[59] In Indonesia, auctions of confiscated or forfeited assets are conducted by the State Assets and Auction Service Office (KPKNL), licensed auction houses, or Class II auction officials in accordance with Minister of

[56]Ibid.
[57]US Marshals Service, "Asset Forfeiture," accessed November 9, 2025, https://www.usmarshals.gov/what-we-do/asset-forfeiture
[58]Internal Revenue Service, "Introduction to Asset Forfeiture," *Internal Revenue Manual* (IRM) 9.7.1, accessed November 10, 2025, https://www.irs.gov/irm/part9/irm_09-007-001
[59] US Department of the Treasury, "Treasury Executive Office for Asset Forfeiture (TEOAF)," accessed November 10, 2025

Finance Regulation Number 122 of 2023. The Indonesian Prosecutor's Office acts as the executor of court decisions that have obtained permanent legal force. Proceeds from auctions are deposited into the state treasury as Non Tax State Revenue. The differences between Indonesia and the United States in managing confiscated and forfeited assets extend beyond procedure and reflect distinct legal traditions. Indonesia follows the civil law system derived from Dutch legal traditions, whereas the United States applies the common law system rooted in English law. These traditions shape the institutional design and legal mechanisms governing asset forfeiture in each country.

C. Conclusion

This study finds that the management of confiscated and forfeited assets in Indonesia is closely connected to the negative evidentiary system under the Indonesian Criminal Procedure Code (KUHAP). Because evidence plays a central role in criminal proceedings, asset management during the judicial process remains cautious and generally waits for a final and binding court decision. This condition often delays the optimization of the economic value of confiscated assets.

A comparison with the United States shows a more flexible framework through civil asset forfeiture using the preponderance of evidence standard, which allows asset confiscation without requiring a final criminal conviction. These differences are not explained solely by the distinction between the civil law system and the common law system. In Indonesia, many limitations arise from fragmented institutional authority, overlapping regulations, and the absence of an integrated asset management system.

The challenges in managing confiscated and forfeited assets therefore reflect structural and institutional issues. Effective reform requires comprehensive policy measures, including accelerating the enactment of the Asset Confiscation Bill (*Rancangan Undang-Undang Perampasan Aset*), introducing non conviction based mechanisms, establishing an integrated cross agency asset management system, and harmonizing regulations between the Criminal Procedure Code and state asset management rules. The effectiveness of asset management derived from criminal activity ultimately depends on institutional coordination, clear authority, and accountable governance rather than differences in legal traditions.

References

Abdul Gani Siregar , "Ombudsman Reveals Management Evidence in Indonesia Still Has Many Problems ," accessed November 16, 2025, via TVOne News.

Abdul Gani Siregar , "Ombudsman Reveals Management Management Evidence in Indonesia Still Has Many Problems ," accessed on November 16 , 2025, https://www.tvonenews.com/berita/157609-ombudsman-ungkap-pengelolaan-barang-bukti-di-indonesi a- masih - banyak-masalah

Ahmad Ali, "Pembuktian dan Keyakinan Hakim dalam Sistem Peradilan Pidana," *Jurnal Hukum & Pembangunan* Vol. 48 No. 2 (2018): 221–223. https://doi.org/10.21143/jhp.vol48.no2.1665

Andi Sofyan, "Sistem Pembuktian dalam Hukum Acara Pidana Indonesia," *Jurnal Hukum Ius Quia Iustum* Vol. 24 No. 3 (2017): 415–417. https://doi.org/10.20885/iustum.vol24.iss3.art5

Barda Nawawi Arief, "Pendekatan Perbandingan dalam Pembaruan Hukum Pidana," *Jurnal Media Hukum*, Vol. 24 No. 1 (2017): 1–14. https://doi.org/10.18196/jmh.2017.0085.1-14

P-ISSN 2723-2484
E-ISSN 2745-9330

Barda Nawawi Arief, "Reformasi Sistem Peradilan Pidana dan Kebijakan Perampasan Aset," *Jurnal Hukum Ius Quia Iustum* Vol. 23 No. 1 (2016): 12–14. https://doi.org/10.20885/iustum.vol23.iss1.art2

Constitution Number 11 of 2021 concerning Change on Constitution Number 16 of 2004 concerning Prosecutor's Office Republic of Indonesia.

Eric Moores, "Reforming the Civil Asset Forfeiture Reform Act," *Arizona Law Review* Vol. 51 (2009): 777–780. https://doi.org/10.2139/ssrn.1328066

Harmonious Sastro et al. , " Legal Responsibility of the Prosecutor General on Damage and Loss Goods Confiscation : A Case Study of the Palembang District Attorney's Office ," Journal Intellectualist : Islam , Social , and Science , Vol. 14 No. 1, 2025, p . 175

I Dewa Gede Atmadja & I Nyoman Putu Budiartha, "Teori-Teori Hukum dalam Penelitian Hukum Normatif," *Kertha Wicaksana*, Vol. 12 No. 2 (2018): 145–155. https://doi.org/10.22225/kw.12.2.721.145-155

Internal Revenue Service, "Introduction to Asset Forfeiture," *Internal Revenue Manual* (IRM) 9.7.1, accessed November 10, 2025, https://www.irs.gov/irm/part9/irm_09-007-001

Kurniawan, Budi, "Legal Process and Management Goods State Confiscation in Indonesia, Journal of Criminal Law Criminology ," Vol. 15 No. 3, p . 224

M. Ruhly Kesuma Dinata and Salis M Abduh, " Problems of Managing Confiscated Objects and Goods" State Seizure of Houses " Storage of State Confiscated Objects in Kotabumi, North Lampung," Pagaruyung Law Journal, Vol. 3 No. 1, 2019, p . 24

M. Yahya Harahap, "Masalah Pembuktian dalam Sistem Peradilan Pidana," *Jurnal Legislasi Indonesia* Vol. 16 No. 4 (2019): 505–507. https://doi.org/10.54629/jli.v16i4.465

Marian R. Williams, Jefferson E. Holcomb & Tomislav V. Kovandzic, "Policing for Profit: The Abuse of Civil Asset Forfeiture," *Criminal Justice Policy Review* Vol. 21 No. 1 (2010): 6–8. https://doi.org/10.1177/0887403409333822

Nike Juliandri & Rahmadani, "Problematika Pengelolaan Barang Sitaan dan Barang Rampasan di Kejaksaan," *Jurnal Cendekia Hukum* Vol. 6 No. 2 (2021): 189–191. https://doi.org/10.33760/jch.v6i2.332

Nike Juliandri and Rahmadani Yusran , " Effectiveness Implementation Execution Goods Seizures on the Field Management of Evidence and Goods Confiscation at the Padang District Attorney's Office ," *Journal Administration Government Village* , Vol. 6 No. 2, 2025, p . 5.

Peter Mahmud Marzuki, "Karakteristik Ilmu Hukum sebagai Ilmu yang Bersifat Preskriptif dan Terapan," *Yuridika*, Vol. 27 No. 1 (2012): 1–15. https://doi.org/10.20473/ydk.v27i1.284

R. Soesilo , Criminal Procedure Code with Explanation , Bandung: Politeia, 2020, pp . 230-245.

R. Soesilo , *Criminal Procedure Code with Explanation* (Bandung: Politeia, 2020), pp . 230–245.

Regulation Government Number 27 of 2022 concerning Management of State- Owned Assets from Goods State Confiscation and Gratification Goods;

Romli Atmasasmita, "Asset Recovery dan Pengembalian Kerugian Negara dalam Tindak Pidana Korupsi," *Jurnal Hukum IUS QUIA IUSTUM*, Vol. 21 No. 4 (2014): 538–557. https://doi.org/10.20885/iustum.vol21.iss4.art5

Soerjono Soekanto and Sri Mamudji , *Normative Legal Research : A Review Short* (Jakarta: Rajawali Pers, 2011), pp . 13–15.

Soerjono Soekanto, "Penelitian Hukum Normatif: Suatu Tinjauan Singkat," *Jurnal Hukum & Pembangunan*, Vol. 35 No. 1 (2005): 1–12. https://doi.org/10.21143/jhp.vol35.no1.1472

Stefan B. Herpel, "Toward a Constitutional Kleptocracy: Civil Forfeiture in America," *Michigan Journal of Law Reform* Vol. 48 (2015): 415–417. https://doi.org/10.36646/mjlr.48.2.toward

Tika Wibowo, " Implementation Management of State Confiscated Assets in Justice Action Criminal Prosecution by the Prosecutor's Office (Case Study at the Kediri City District Attorney's Office)," Uniska Law Review Vol. 1 No. 2, 2020, p . 23

U.S. Department of the Treasury, "Asset Forfeiture," accessed November 9 , 2025, https://home.treasury.gov/policy-issues/terrorism-and-illicit-finance/asset

US Department of Justice, *Asset Forfeiture Program: Policy and Procedures Manual* (Washington, DC: DOJ, 2021).

US Department of Justice, *Asset Forfeiture Program: Policy and Procedures Manual* (Washington, DC: DOJ, 2021); as well as Title 18 USC § 981 and Title 21 USC § 853 re *criminal* and *civil forfeiture* in the United States .

US Department of the Treasury, "Treasury Executive Office for Asset Forfeiture (TEOAF)," accessed November 10, 2025

US Marshals Service, "Asset Forfeiture," accessed November 9, 2025, https://www.usmarshals.gov/what-we-do/asset-forfeiture

Yenti Garnasih, "Perampasan Aset Tindak Pidana Korupsi dalam Perspektif Hukum Indonesia," *Jurnal Hukum & Pembangunan* Vol. 49 No. 1 (2019): 33–35. https://doi.org/10.21143/jhp.vol49.no1.1910

Zainal Abidin Farid, "Perlindungan Hak Tersangka dalam Sistem Pembuktian Pidana," *Jurnal Konstitusi* Vol. 14 No. 2 (2017): 312–314. https://doi.org/10.31078/jk1425