

Asset Disclosure as a Coercive Mechanism in the Execution of Civil Monetary Judgments: Reforming Indonesian Civil Procedure Law

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Abstract

This study examines the legal deadlock in the enforcement of civil monetary judgments in Indonesia, particularly arising from the inability of successful litigants to identify the assets of judgment debtors during the execution stage. This condition not only disadvantages the prevailing party but also undermines the authority and credibility of judicial institutions. The central issue addressed in this research lies in the inadequacy of Indonesian Civil Procedure Law, which fails to provide effective legal mechanisms to compel judgment debtors to disclose their assets during enforcement proceedings. Such regulatory gaps are frequently exploited by debtors through the concealment or transfer of assets to evade execution. This study aims to analyze the structural and substantive weaknesses within the existing framework governing the execution of civil monetary judgments and to propose an asset disclosure mechanism as an alternative institutional solution to achieve equitable enforcement. Employing normative legal research with a statutory approach, this article proposes a paradigm shift in civil execution through the adoption of a sworn asset disclosure mechanism. The findings are expected to contribute to the reform of Indonesian Civil Procedure Law in order to strengthen legal certainty, judicial effectiveness, and access to justice for litigants.

Keywords: Execution, Civil Monetary Judgments, Civil Procedure Law Reform, Justice, Asset Disclosure.

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INTRODUCTION

Civil disputes constitute one of the most common forms of legal conflicts arising within society. Such disputes emerge from violations of civil law norms governing relationships and interests among individuals in private legal matters. Civil law, as substantive law, functions to regulate and protect the diverse interests of members of society in order to maintain legal balance and social order. [1] Consequently, substantive civil law must serve as an instrument for realizing justice by ensuring that parties who suffer losses due to violations of civil obligations are able to obtain the legal rights and remedies guaranteed under the law. [2]

However, in relation to the pursuit of justice for losses arising from civil disputes, justice does not end with the issuance of a judgment. The pursuit of justice

also encompasses the implementation of the judgment itself, particularly regarding how the injured party obtains compensation. In this regard, courts should ensure that judgments that have been rendered can be effectively enforced so that justice may truly be realized for the aggrieved party. Regardless of how well-reasoned a civil judgment may be, if the judgment, particularly one containing an order to compensate losses, cannot be enforced, it will never provide meaningful justice to the injured party. [3]

In addition to the existence of courts as institutions exercising judicial power in Indonesia, particularly in resolving civil disputes, legal certainty is also required in the judicial process itself. Legal certainty can only be achieved where there are legal mechanisms capable of ensuring the realization of justice. This

¹ Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia*, Yogyakarta: CV Maha Karya Pustaka, 2021, p. 3.

² Ny. Retnowulan Sutantio and Iskandar Oeripkartawinata, *Hukum Acara Perdata, Teori dan Praktek*, Bandung: Mandar Maju, 2005, p. 1.

³ M. Khoidin, *Hukum Eksekusi Bidang Perdata*, Yogyakarta: LaksBang Justitia, 2019, p. 3.

requires procedural laws governing how substantive legal rights are enforced by courts. Laws regulating the enforcement of substantive law are known as formal law or procedural law. When concerning the enforcement of substantive civil law, such procedural law is referred to as Civil Procedure Law.

Court judgments in civil cases are rendered only after lengthy judicial proceedings. Generally, civil disputes proceed through several stages, beginning at the District Court, followed by appeal proceedings before the High Court, and finally cassation before the Supreme Court. [4] A civil judgment obtains final and binding legal force when the parties no longer pursue legal remedies, such as appeal or cassation, or where such remedies have been exhausted through the cassation stage. Consequently, except where no legal remedies are pursued, obtaining a final and binding judgment requires a long and time-consuming process. Such lengthy proceedings become meaningless when they ultimately fail to provide justice for litigants.

Therefore, in relation to condemnatory judgments, although a court judgment formally marks the end of judicial examination, it does not necessarily conclude the dispute itself. The subsequent issue is whether the losing party will voluntarily comply with and execute the judgment. If the losing party voluntarily complies with the judgment, justice is realized and the dispute is resolved. In practice, however, individuals often refuse to comply with judgments imposed upon them and even attempt to evade their obligations.

Where the losing party refuses to voluntarily comply with the judgment, coercive measures become necessary. This is because, in condemnatory judgments, the judgment itself does not constitute the final stage of dispute resolution; enforcement remains necessary. In civil procedure, the principle of *litis finiri oportet* requires that every dispute must eventually come to an end. A condemnatory judgment that cannot be enforced causes the dispute to remain unresolved or, even if formally concluded, renders the judicial process meaningless.

⁴ Not all civil disputes are resolved through three levels of judicial proceedings. Certain categories of civil disputes, including consumer disputes, industrial relations disputes, intellectual property disputes, and bankruptcy matters, are adjudicated through a two-tier judicial process consisting of the court of first instance and the Supreme Court. See Law Number 8 of 1999 on Consumer Protection; Law Number 2 of 2004 on the Settlement of Industrial Relations Disputes, as amended by Government Regulation in Lieu of Law Number 1 of 2005 and Law Number 1 of 2026; Law Number 28 of 2014 on Copyright, as amended by Law Number 1 of 2026; Law Number 20 of 2016 on Trademarks and Geographical Indications, as amended by Government Regulation in Lieu of Law Number 2 of 2022; Law

In relation to the compulsory enforcement of court judgments, Civil Procedure Law as formal civil law must operate in harmony with substantive civil law. The ultimate objective of civil dispute resolution in condemnatory judgments is the implementation of the judgment itself. The process of enforcing condemnatory judgments, whether involving the performance of certain acts or the payment of a sum of money, when not voluntarily carried out by the losing party, is referred to as execution. [5]

Discussions regarding execution often create the impression that the enforcement stage is relatively simple because the most difficult stage—the judicial examination leading to a final and binding judgment—has already been completed. In reality, however, execution frequently becomes more complicated and complex than the judicial examination itself. In many instances, execution proceedings may even consume more time than the litigation process.

A common problem arises when a litigant seeks compensation for losses suffered due to either tortious conduct or breach of contract and subsequently obtains a condemnatory judgment ordering the payment of money, yet the judgment remains unenforced. Frequently, the losing party refuses to voluntarily comply with the judgment, while the prevailing party is left with limited means to compel payment. In such circumstances, Civil Procedure Law should provide adequate legal mechanisms to anticipate and address such conduct by judgment debtors.

Indonesian Civil Procedure Law, both the *Herzien Inlandsch Reglement* (HIR) and the *Rechtreglement voor de Buitengewesten* (RBg), formally regulates the seizure of assets belonging to parties who refuse to comply with monetary judgments. Such seizure is known as execution seizure. Execution seizure refers to the confiscation of the losing party's assets after the expiration of a prescribed period in order to secure payment for the prevailing party. Execution seizure generally does not pose significant problems where provisional seizure (*conservatoir beslag*) has already

Number 13 of 2016 on Patents, as amended by Government Regulation in Lieu of Law Number 2 of 2022; and Law Number 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations. Furthermore, civil disputes resolved through the small claims procedure, involving claims not exceeding IDR 500,000,000, are adjudicated solely at the District Court level, including objections thereto. See Supreme Court Regulation Number 2 of 2015 on Procedures for Small Claims Court, as amended by Supreme Court Regulation Number 4 of 2019.

⁵ M. Yahya Harahap, *Hukum Acara Perdata Tentang Persidangan, Penyitaan, Pembuktian, dan Putusan Pengadilan*, Jakarta: Sinar Grafika, 2017, p. 274-275

been imposed during the litigation process. In such cases, courts merely convert the provisional seizure into an execution seizure.

However, where no provisional seizure has been imposed during the proceedings, execution seizure often becomes problematic. Civil Procedure Law merely provides that the prevailing party may file a request for execution seizure before the court. In practice, however, courts place the burden of identifying the assets to be seized upon the prevailing party and frequently require proof of ownership regarding those assets. Consequently, even after enduring lengthy judicial proceedings, the prevailing party remains burdened with identifying the losing party's assets. [6]

This circumstance frequently results in the failure or stagnation of execution seizure because the prevailing party encounters significant difficulties in identifying the assets of the losing party. Yet where the losing party refuses to voluntarily satisfy the monetary judgment, execution seizure plays a crucial role in ensuring payment. Without effective execution seizure, monetary judgments lose their practical meaning for parties seeking justice through civil litigation.

Such conditions often encourage judgment debtors to intentionally refuse compliance with court judgments. As a result, civil dispute resolution is frequently perceived as incapable of delivering justice. This research therefore seeks to examine how the regulation of execution under Indonesian Civil Procedure Law may provide justice in the enforcement of civil monetary judgments.

METHOD

This study employs normative legal research using both statutory and conceptual approaches. [7] The statutory approach is utilized to examine various laws, regulations, and legal instruments governing the execution of civil monetary judgments in Indonesia, particularly those relating to Civil Procedure Law, execution mechanisms, banking secrecy, personal data protection, and coercive enforcement measures. Meanwhile, the conceptual approach is used to analyze legal doctrines, principles, and theoretical frameworks concerning judicial enforcement, substantive justice, legal certainty, effective remedies, and asset disclosure mechanisms within civil execution proceedings.

The collection of legal materials was conducted through library research and document analysis.

⁶ Syahiruddin Latif and Rizki Ramadani. "The Recovery of State Losses through Corruption Asset Confiscation: Policies and Obstacles." In *Iapa Proceedings Conference*, pp. 312-321. 2022.

⁷ Irwansyah. (2020). *Penelitian Hukum, Pilihan Metode & Praktik Penulisan Artikel*, Yogyakarta: Mirra Buana Media, p. 41.

Subsequently, all legal materials were analyzed qualitatively using content analysis and prescriptive legal analysis. The analysis focused on identifying normative weaknesses and juridical limitations within the existing civil execution framework, particularly regarding the absence of mechanisms compelling judgment debtors to disclose their assets. Through this analytical process, the study formulates legal arguments and proposes an asset disclosure mechanism as a reform-oriented model aimed at strengthening the effectiveness, fairness, and legal certainty of civil monetary judgment enforcement in Indonesia.

Conceptual Framework of the Execution of Civil Judgments

The executorial force of a court judgment, including judgments ordering the payment of a sum of money in civil cases, is reflected in the phrase "For the Sake of Justice Based on the Belief in the Almighty God" (in Bahasa: *Demi Keadilan Berdasarkan Ketuhanan Yang Maha Esa*). This phrase constitutes both a theological and juridical acknowledgment that judicial authority in Indonesia derives not only from the people or the state, but also from divine authority. [8] Consequently, judges are placed in a position carrying moral responsibilities that transcend worldly dimensions. Fundamentally, this phrase requires that every order contained in a judgment, including execution orders, be implemented with the understanding that justice constitutes a divine mandate that must be fulfilled absolutely.

This heading of judgment also embodies the principle of legal protection. Through the judiciary, the state functions as the protector of individuals whose rights have been violated. When the prevailing party fails to obtain its rights despite having won the case, the state may be regarded as failing to perform its protective function grounded in the values of divinity and justice. In relation to the first and fifth principles of Pancasila, this phrase integrates the vertical dimension of divinity with the horizontal dimension of social justice. Moreover, the phrase serves as a moral guideline for judges in exercising judicial discretion. Where existing Civil Procedure Law is considered excessively rigid and obstructive to execution, judges should return to the fundamental meaning of "justice." Judges must therefore be willing to engage in legal interpretation and judicial law-finding (*rechtsvinding*) to prevent judgments from becoming ineffective.

⁸ Ahmad Azhar Basyir, *Cita Hukum Islam*, (Yogyakarta: Perpustakaan FH UIL, 1990), p. 14. See also: Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana dalam Penanggulangan Kejahatan*, (Jakarta: Kencana, 2008), p. 55.

For the losing or condemned party, the existence of this heading should function as a moral warning. Ignoring a court judgment constitutes not only a violation of state law, but also a form of disobedience against the divine principles underlying the Indonesian legal order. In practice, however, this moral foundation is not adequately supported by legal norms capable of compelling compliance with judgments grounded in justice and divinity. This condition frequently creates a sense of impunity for judgment debtors, particularly in civil monetary judgments, who feel little obligation to comply with court orders.

From a historical perspective, the inclusion of the phrase “For the Sake of Justice Based on the Belief in the Almighty God” represents an antithesis to the secular colonial legal system. During the Dutch East Indies era, judgments were issued “In the Name of the King/Queen” (*In naam des Konings/Koningin*), thereby placing legal sovereignty under human authority. [9] Following independence, this transformation was not merely terminological, but represented a spiritual and constitutional shift that transferred the legitimacy of law from feudal power to transcendent authority. In contrast to many Western legal systems adhering to strict secularism, where legal authority is separated from religious morality, Indonesia adopted a distinct approach by integrating theocentric values into positive law. Consequently, obstruction of judicial execution in Indonesia should be viewed as a more serious form of legal disobedience because it contradicts the national commitment to the supremacy of law under divine values.

The responsibility of judges—particularly the Chief Judge of the District Court in the Indonesian civil execution system—to preserve the dignity of judgments as a “trust” derived from divine authority logically implies that the obligations of courts must not end at the adjudicative stage alone. Courts should not distance themselves after rendering judgments as though indifferent to failures in execution. On the contrary, courts carry a moral responsibility to ensure that orders issued in the name of justice are genuinely implemented.

JURIDICAL LIMITATIONS AND NORMATIVE CONSTRAINTS IN THE EXECUTION OF MONETARY JUDGMENTS

Judicial Passivity in Asset Tracing (Passivity of the Court)

Judicial passivity constitutes a fundamental characteristic of the Indonesian civil procedure system, positioning courts in civil disputes as neutral arbiters rather than investigative authorities. This principle, commonly known as *lijdelijkheid van de rechter*,

emphasizes that the initiation, conduct, and protection of civil rights are entirely dependent upon the parties to the dispute. Within the execution stage, this passive character limits the authority of courts, as judicial institutions will not actively pursue the restoration of rights unless a specific request and complete information concerning the assets to be seized are submitted by the execution applicant.

This passive characteristic is rooted in the liberal legal philosophy that views civil disputes as purely private matters between individuals. Under this perspective, the state is not expected to interfere extensively in matters concerning an individual’s property unless specifically requested by an interested party. In the contemporary legal context, however, such limitations have become a serious normative obstacle because they provide opportunities for bad-faith judgment debtors to conceal their assets behind the court’s inability to actively access financial and property information.

Judicial passivity further reduces the *aanmaning* process, or execution warning, to a mere administrative formality lacking effective coercive force. [10] Courts merely summon the losing party and warn them to voluntarily comply with the judgment. Yet when the losing party ignores such summons, courts remain unable to initiate automatic investigative measures. Judicial authority effectively stops at issuing formal warnings, while the burden of overcoming informational barriers regarding the debtor’s assets continues to rest entirely upon the prevailing party.

Normatively, Article 197 of the *Herzien Inlandsch Reglement (HIR)* and Article 208 of the *Rechtreglement voor de Buitengewesten (RBg)* presume that the prevailing party already possesses knowledge of the losing party’s assets, thereby enabling the filing of a request for execution seizure with specific details concerning the targeted property. Such provisions fail to accommodate the sociological realities of modern society, which differ significantly from the colonial era when property could be easily identified physically. In modern legal and economic systems, assets may be transferred, disguised, or hidden with relative ease. Moreover, various sectoral regulations continue to protect the confidentiality of personal financial and property information. The absence of investigative authority consequently causes execution seizure procedures to depend heavily upon the prevailing party’s ability and fortune in tracing assets, a condition that fails to ensure substantive legal certainty for judgment creditors.

⁹ Bernard Arief Sidharta, *Refleksi tentang Struktur Ilmu Hukum*, (Bandung: Mandar Maju, 2000), p. 210.

¹⁰ Mansari. "Konstruksi Pemeriksaan Bersyarat dalam Mengadili Perkara Perceraian Secara Verstek di

Pengadilan Agama." *Journal of Dual Legal Systems* 3, no. 1 (2026): 62-83.

This passive principle frequently conflicts with the ideals of justice embodied in judicial decisions themselves. Judges may wish to ensure that their decisions are effectively implemented; however, they remain formally constrained by procedural rules prohibiting them from investigating matters not expressly raised by the applicant. As a result, public confidence in the judiciary is often weakened because courts are perceived as incapable of enforcing their own judgments. [11] Such limitations reflect what may be described as a failure of the executorial function arising from judicial passivity. Economically disadvantaged litigants may ultimately lose the practical benefit of their legal victory because they lack the resources necessary to hire asset-tracing professionals or private investigators to compensate for the passivity of the court.

The passive nature of judicial authority in asset tracing represents a residual legacy of past legal policies that prioritized property privacy over legal accountability toward others. This limitation suggests that the state effectively relinquishes its responsibility to ensure the enforcement of judgments immediately after the final judgment is rendered. In reality, however, a credible legal system should not cease at the pronouncement of a judgment, but must continue until the rights recognized in the judgment are genuinely restored to the rightful party through active measures undertaken by state authorities possessing both coercive and investigative powers.

Personal Data Protection and Banking Secrecy in the Enforcement of Civil Monetary Judgments

One of the most significant normative challenges in the enforcement of civil monetary judgments in Indonesia lies in the tension between the protection of individual privacy rights and the effective realization of judicial decisions. Indonesian law provides extensive protection for personal financial information and banking confidentiality, [12] reflecting the state's commitment to safeguarding privacy and maintaining public trust in the financial system. Nevertheless, within the context of civil execution, these protective legal regimes frequently operate as legal barriers that enable judgment debtors to evade their obligations and frustrate the enforcement process. [13] As a result, legal instruments intended to protect citizens' rights may paradoxically obstruct the implementation of justice itself.

In practice, the successful enforcement of monetary judgments depends heavily upon the prevailing party's ability to identify and access information concerning the losing party's assets, particularly assets

held within financial institutions. However, Indonesian Banking Law strictly upholds the principle of banking secrecy and permits disclosure only under exceptional circumstances expressly regulated by law. Even where a civil judgment has obtained final and binding legal force, such status does not automatically authorize courts to penetrate banking confidentiality. Judicial institutions remain institutionally limited in verifying the existence of a debtor's financial assets, causing execution proceedings to stall at the administrative boundaries of the banking sector.

The enactment of the Personal Data Protection Law has further strengthened these informational barriers. Asset ownership records, financial transaction histories, and other wealth-related information are categorized as protected personal data subject to strict legal safeguards. Although exceptions for law enforcement purposes formally exist, Indonesian Civil Procedure Law does not provide clear procedural mechanisms enabling courts to access such information in civil execution proceedings. This regulatory gap often creates hesitation among judicial authorities and limits their ability to conduct effective asset tracing, particularly in cases involving digitally stored or financially concealed assets.

This conflict of norms ultimately reveals an imbalance within Indonesia's legal policy framework. In practice, the privacy interests of judgment debtors frequently receive greater protection than the constitutional right of prevailing parties to obtain effective legal remedies through the enforcement of final court judgments (*inkracht van gewijsde*). Conceptually, privacy rights are not absolute and may be restricted where necessary to uphold broader legal interests, including the enforcement of judicial authority. However, the absence of harmonized regulations reconciling execution powers with exceptions to banking and data confidentiality has effectively elevated privacy protection into a legal shield capable of undermining the authority and effectiveness of court judgments.

The Absence of Effective Coercive Sanctions (*Dwangmiddelen*) in Civil Execution

The effectiveness of a court judgment fundamentally depends upon the availability of coercive instruments (*dwangmiddelen*) capable of compelling judgment debtors to comply with legal obligations imposed by the court. Within the Indonesian civil procedure system, one of the most significant normative weaknesses lies in the limited diversity and insufficient coercive force of the sanctions available against non-compliant judgment debtors. Indonesian Civil Procedure

¹¹ Retnowulan Sutantio dan Oeripkartawinata, *Hukum Acara Perdata dalam Teori dan Praktek*, (Bandung: Mandar Maju, 2005), p. 21.

¹² Ioannidis, Michael. "The principle of confidentiality in banking supervision." *Archiv für Rechts-und Sozialphilosophie* 95 (2020): 223.

¹³ Sutan Remy Sjahdeini, *Perbankan dan Rahasia Bank*, (Jakarta: Grafiti, 2005), p. 92.

Law continues to rely heavily upon conventional mechanisms such as execution seizure and direct execution, while providing courts with very limited authority to impose sanctions capable of exerting personal, economic, or reputational pressure upon recalcitrant debtors. Consequently, where judgment debtors possess no identifiable assets under their personal ownership, court judgments often lose their practical coercive power.

One coercive instrument theoretically available under Indonesian law is civil detention or *gijzeling*, which is intended to function as an ultimate enforcement mechanism against debtors who are financially capable yet intentionally unwilling to satisfy their obligations. In practice, however, the implementation of *gijzeling* is constrained by highly restrictive juridical and bureaucratic requirements. [14] Existing regulations under Supreme Court Regulations (PERMA) [15] and related statutes require clear evidence of bad faith, the existence of a certain minimum amount of debt, and approval from multiple authorities before detention may be imposed. Although these requirements are designed to safeguard human rights protections, they have rendered the mechanism largely ineffective and rarely applicable in ordinary civil and commercial disputes.

Similarly, the mechanism of coercive monetary penalties (*dwangsom*) remains largely ineffective in cases involving judgments ordering the payment of money. Doctrinally, *dwangsom* is traditionally applied only to judgments requiring a party to perform or refrain from performing certain acts (*factum praestandum*), rather than to monetary obligations. This doctrinal limitation deprives prevailing parties of an important financial pressure mechanism capable of compelling prompt compliance. As a result, judgment debtors frequently feel secure in delaying execution proceedings because no additional punitive financial consequences arise from prolonged non-compliance.

Another normative weakness is the absence of integrated administrative sanctions within the Indonesian civil execution framework. In many jurisdictions, parties who refuse to comply with court judgments may face administrative restrictions such as travel bans, denial of access to financial credit facilities, suspension of business licenses, or limitations on access to public services. Indonesian Civil Procedure Law, however, does not yet formally recognize a comprehensive blacklist mechanism for non-compliant judgment debtors. Consequently, debtors who openly disregard judicial decisions may continue enjoying economic and social

privileges without experiencing meaningful legal consequences for their non-compliance.

The ineffectiveness of coercive sanctions is further aggravated by the absence of a functional Contempt of Court doctrine within the civil law sphere. Juridically, deliberate refusal to comply with *aanmaning summonses* or intentional concealment of assets does not automatically constitute a criminal offense capable of immediate prosecution. The rigid separation between civil and criminal law inherited from the colonial legal system has significantly weakened judicial authority in responding to conduct that openly undermines the dignity and authority of court judgments through deliberate obstruction of execution proceedings.

Moreover, the absence of reputational sanctions creates additional incentives for non-cooperative behavior. In an era characterized by financial transparency and market accountability, commercial reputation should constitute a valuable economic asset. Nevertheless, because Indonesian law does not require public disclosure or formal publication of non-compliant judgment debtors (public shaming), such parties face neither social stigma nor market consequences arising from their disregard of judicial decisions. [16]

The Indonesian civil execution system likewise lacks mechanisms capable of disqualifying corporate actors or company directors who intentionally refuse to comply with judicial decisions. Normatively, company directors whose corporations fail to satisfy court-ordered obligations may continue operating businesses and conducting commercial activities without meaningful legal restrictions. The absence of coercive sanctions that directly affect corporate decision-makers enables legal entities to function as protective shields against the fulfillment of compensation obligations imposed through final court judgments.

ASSET DISCLOSURE AND THE FUTURE OF CIVIL EXECUTION REFORM IN INDONESIA

The continued reliance on the *Herzien Inlandsch Reglement (HIR)* and the *Rechtreglement voor de Buitengewesten (RBg)* as the principal foundations of Indonesian Civil Procedure Law represents a prolonged legal anomaly. Despite more than seven decades of Indonesian independence, the procedural framework governing civil execution remains largely dependent upon nineteenth-century colonial regulations inherited from the Dutch administration. The dominance of juridical formalism within these regulations prioritizes procedural compliance over the realization of substantive

¹⁴ Wijaya, Andika. "Implementation of the Doctrine of the Business Judgment Rule on Bankruptcy Law in Indonesia." *Yuridika* 35, no. 1 (2020): 1-14.

¹⁵ Supreme Court Regulation Number 1 of 2000 concerning the Civil Imprisonment Mechanism (*Lembaga Paksa Badan*)

¹⁶ Agung, Shaiful, Diana Zuhroh, and Gaguk Apriyanto. "Taxpayers' compliance from the tax officers' perspective: A grounded theory approach." *Universal Journal of Accounting and Finance* 10, no. 6 (2022): 953-966.

justice. Consequently, procedural law no longer functions as an instrument serving substantive civil rights, but instead frequently becomes an obstacle to the effective realization of such rights.

Under the formalistic structure of HIR and RBg, the state is considered to have fulfilled its obligations once procedural requirements have formally been completed. Yet substantive justice in the execution of civil monetary judgments is closely connected to the protection of property rights as part of fundamental human rights. Permitting the continued failure of execution proceedings effectively constitutes a failure of the state to protect the rights of prevailing parties whose claims have already been legally recognized through final court judgments.

The passive character of courts under HIR and RBg reflects a legal paradigm rooted in classical liberal individualism, which treats civil disputes as purely private matters. Within this framework, state intervention into the process of tracing a debtor's assets is viewed as an intrusion upon personal privacy. However, within the context of the Pancasila Rule of Law, justice constitutes a collective constitutional responsibility rather than a purely individual concern. Requiring prevailing parties to independently locate the assets of judgment debtors without institutional assistance from the state reflects a failure to provide effective legal protection.

Substantive justice therefore requires a paradigmatic shift from a passive execution model toward an active execution model. Under an active model, the state bears responsibility not merely for adjudicating disputes, but also for ensuring that judgments are effectively implemented. Nevertheless, the formalistic structure of HIR and RBg continues to preserve an outdated passive approach. As a result, even where material truth has been established through judicial proceedings, justice effectively "dies" at the execution stage because procedural law fails to provide the state with adequate mechanisms to identify and trace the assets of judgment debtors.

This excessive formalism also creates structural inequality within access to justice. Wealthier prevailing parties may possess sufficient financial resources to hire private investigators or asset-tracing professionals, whereas economically disadvantaged litigants may become entirely incapable of enforcing their judgments. In this sense, HIR and RBg fail to uphold the principle of equality before the law, because access to effective enforcement becomes dependent upon financial capacity rather than equal legal protection.

Referring to Satjipto Rahardjo's theory of progressive law, [17] HIR and RBg may be viewed as examples of a legal system that constrains rather than serves humanity. Rigid execution procedures have confined judges and bailiffs within administrative structures inherited from the colonial era. The realization of substantive justice therefore requires the courage to move beyond excessive formalism and develop execution mechanisms oriented toward practical legal benefits and effective protection of rights.

Accordingly, where a judgment debtor refuses to voluntarily comply with a civil monetary judgment after being formally warned through *aanmaning*, [18] the legal system should provide mechanisms enabling the state to assist the prevailing party in accessing information regarding the debtor's assets. One possible mechanism is the establishment of an asset disclosure procedure requiring the judgment debtor, under oath, to disclose assets before the court through a simplified judicial process.

Such asset disclosure proceedings should constitute an integral continuation of the execution warning process rather than a separate legal action. Through sworn asset disclosure, false statements or intentional concealment of assets would carry legal and potentially criminal consequences for the judgment debtor. Information obtained through this process would enable the prevailing party to identify assets suitable for execution seizure in satisfaction of rights recognized under a final and binding judgment.

At the same time, an asset disclosure mechanism must also provide safeguards for the judgment debtor. Asset disclosure should be limited exclusively to the enforcement of final court judgments and should not be used for unrelated purposes. Information disclosed during the process should remain confidential and should not become publicly accessible documents. In this manner, the mechanism would preserve the debtor's privacy rights while simultaneously ensuring justice for the prevailing party seeking compensation or fulfillment of legal obligations.

The introduction of an asset disclosure mechanism would strengthen legal certainty by ensuring that civil proceedings culminate in the actual realization of substantive justice. Prevailing parties would no longer face uncertainty arising from informational blindness regarding the debtor's assets, while judgment debtors would no longer perceive civil litigation as a process lacking meaningful legal consequences.

¹⁷ Satjipto Rahardjo, *Hukum dalam Jagat Ketertiban*, (Jakarta: UKI Press, 2006), p. 82.

¹⁸ Alluvian, Laksmana Noor, Gibran Abdul Jabar Maulani, and Gavin Adiva Ramudia. "Legal Protection

for Holders of Ownership Right Certificates Against Non-Procedural Land Execution." *Notaire* 8, no. 3 (2025): 317.

It is therefore unfortunate that the current Draft Bill on Civil Procedure Law being discussed by the House of Representatives has yet to accommodate asset disclosure mechanisms within the framework of executing civil monetary judgments. The continued absence of such regulation risks prolonging systemic failures in achieving justice through civil litigation. Alternatively, the regulation of asset disclosure mechanisms could be introduced through a Supreme Court Regulation (PERMA). Although such an approach may appear temporary or incremental, it would nevertheless provide greater legal certainty and improve the effectiveness and fairness of civil execution proceedings in Indonesia.

CONCLUSION

Asset disclosure mechanisms may serve as an essential bridge for realizing justice in civil dispute resolution, particularly in the enforcement of civil monetary judgments. The establishment and regulation of such mechanisms would provide greater legal certainty that civil proceedings, especially those aimed at restitution or compensation, will ultimately result in the actual fulfilment of the prevailing party's rights, except in circumstances where the judgment debtor genuinely no longer possesses recoverable assets. At the same time, the implementation of asset disclosure would strengthen public respect for substantive civil law, as parties would no longer be able to evade legal responsibility by hiding behind the absence of accessible information concerning their assets.

The introduction of an asset disclosure mechanism reflects the urgent need to reform Indonesian Civil Procedure Law from a passive execution system toward a more effective and justice-oriented enforcement model. The current execution framework, which relies heavily on procedural formalism and places the burden of asset tracing entirely upon the prevailing party, has proven insufficient in ensuring substantive justice.

REFERENCES

1. Agung, Shaiful, Diana Zuhroh, and Gaguk Apriyanto. "Taxpayers' Compliance from the Tax Officers' Perspective: A Grounded Theory Approach." *Universal Journal of Accounting and Finance* 10, no. 6 (2022): 953–966.
2. Alluvian, Laksmana Noor, Gibran Abdul Jabar Maulani, and Gavin Adiva Ramudia. "Legal Protection for Holders of Ownership Right Certificates Against Non-Procedural Land Execution." *Notaire* 8, no. 3 (2025): 317–330.
3. Arief, Barda Nawawi. *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana dalam Penanggulangan Kejahatan*. Jakarta: Kencana, 2008.
4. Basyir, Ahmad Azhar. *Cita Hukum Islam*. Yogyakarta: Perpustakaan FH UII, 1990.
5. Harahap, M. Yahya. *Hukum Acara Perdata Tentang Persidangan, Penyitaan, Pembuktian, dan Putusan Pengadilan*. Jakarta: Sinar Grafika, 2017.
6. Ioannidis, Michael. "The Principle of Confidentiality in Banking Supervision." *Archiv für Rechts-und Sozialphilosophie* 95 (2020): 223–240.
7. Irwansyah. *Penelitian Hukum: Pilihan Metode dan Praktik Penulisan Artikel*. Yogyakarta: Mirra Buana Media, 2020.
8. Khoidin, M. *Hukum Eksekusi Bidang Perdata*. Yogyakarta: LaksBang Justitia, 2019.
9. Latif, Syahiruddin, and Rizki Ramadani. "The Recovery of State Losses through Corruption Asset Confiscation: Policies and Obstacles." In *IAPA Proceedings Conference*, 312–321. 2022.
10. Mansari. "Konstruksi Pemeriksaan Bersyarat dalam Mengadili Perkara Perceraian Secara Verstek di Pengadilan Agama." *Journal of Dual Legal Systems* 3, no. 1 (2026): 62–83.
11. Mertokusumo, Sudikno. *Hukum Acara Perdata Indonesia*. Yogyakarta: CV Maha Karya Pustaka, 2021.
12. Rahardjo, Satjipto. *Hukum dalam Jagat Ketertiban*. Jakarta: UKI Press, 2006.
13. Retnowulan Sutantio, and Iskandar Oeripkartawinata. *Hukum Acara Perdata: Teori dan Praktek*. Bandung: Mandar Maju, 2005.
14. Sidharta, Bernard Arief. *Refleksi tentang Struktur Ilmu Hukum*. Bandung: Mandar Maju, 2000.
15. Sjahdeini, Sutan Remy. *Perbankan dan Rahasia Bank*. Jakarta: Grafiti, 2005.
16. Supreme Court Regulation Number 1 of 2000 concerning the Civil Imprisonment Mechanism (*Paksa Badan*).
17. Supreme Court Regulation Number 2 of 2015 concerning Procedures for Small Claims Court, as amended by Supreme Court Regulation Number 4 of 2019.
18. Wijaya, Andika. "Implementation of the Doctrine of the Business Judgment Rule on Bankruptcy Law in Indonesia." *Yuridika* 35, no. 1 (2020): 1–14.