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# SHOW ME THE MONEY! UNEXPLAINED WEALTH AND CIVIL FORFEITURE IN MALAYSIA

[DI MANA WANG ITU! – KEKAYAAN YANG TIDAK DIJELASKAN DAN PELUCUTHAKAN SIVIL DI MALAYSIA]

[IIUM Law Journal](#) • Article • 2023 • DOI: 10.31436/iiumlj.v31i2.825

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## Abstract

Unlike criminal forfeiture, civil forfeiture allows corrupt assets recovery without the necessity of proving the corruption act. In Malaysia, a combination of criminal and civil mechanisms for recovering corrupt assets is available. Civil forfeiture removes capital for future corrupt activity, deprives a person of enrichment due to the corruption, escalates the cost of perpetrating corruption and improves the probability of detection and imprisonment. Still, there are critiques against this technique globally. Using the doctrinal approach, this study analyses the application and sufficiency of Section 41 of the Malaysian Anti-Corruption Commission Act 2009 and Section 56 of the Anti-Money Laundering, Anti-Terrorism Financing And Proceeds of Unlawful Activities Act 2001 in recovering corrupt assets in Malaysia. The legal framework, its benefits and drawbacks are investigated. The study takes a comparative approach by looking at the practice in the United Kingdom for benchmarking and lessons to be learned. The study discovers constraints in the present civil forfeiture laws, which prevented the law enforcers from successfully meeting the burden of proof. Hence, reform suggestions for its enhancement are made via the unexplained wealth order (UWO) route. The UWO can potentially accelerate the

process of recovering corrupt assets as it allows a court order requiring a person to provide details of the origin of specific assets. The assets could be recovered through the subsequent civil forfeiture proceedings. The study outcome may assist the government, policymakers and stakeholders in understanding the UWO concept in addressing corruption offences in Malaysia. © 2023, International Islamic University Malaysia-IIUM. All rights reserved.

## Author keywords

Asset Recovery; Civil Forfeiture; Civil Recovery Order; Corruption; Unexplained Wealth Order.

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