

Building an Integrated Foreclosure Enforcement System in the Post-Auction Eviction Execution of Mortgage Rights

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Abstract

The post-auction eviction execution of Mortgage Rights objects constitutes a crucial stage in the enforcement of security rights because it determines the effectiveness of the auction winner's physical possession of the property. However, the Indonesian civil procedural law system still separates auction proceedings and eviction execution into two distinct processes, resulting in procedural uncertainty, additional litigation, and obstacles to enforcement implementation. This study aims to analyze the normative weaknesses and practical problems in the implementation of post-auction eviction execution and to formulate a reform model through the concept of an Integrated Foreclosure Enforcement System. This research employs normative legal research methods using statutory, conceptual, case, and comparative approaches. Legal materials are analyzed qualitatively through systematic, historical, and teleological interpretation. The findings indicate that the use of HIR and RBg as the legal basis for eviction execution is no longer compatible

with the needs of modern foreclosure enforcement because they fail to integrate auction proceedings, transfer of rights, and physical possession of the object into a unified enforcement mechanism. Furthermore, weak institutional coordination, the absence of limitations on procedural abuse, and social resistance also contribute to the ineffectiveness of post-auction eviction execution. Based on a comparative analysis with the Netherlands and South Korea, this study proposes the concept of an Integrated Foreclosure Enforcement System emphasizing procedural integration, strengthening enforcement institutions, digitalization of execution administration, limitations on obstructive lawsuits and *derden verzet*, and a human-rights-based enforcement approach. Such reforms are necessary to establish a foreclosure enforcement system that is effective, certain, equitable, and supportive of the modernization of Indonesian civil procedural law.

KEYWORDS *Eviction Execution; Mortgage Rights; Integrated Enforcement System.*

Introduction

The post-auction eviction execution of Mortgage Rights objects constitutes the most decisive stage in the enforcement of security rights because it is at this stage that the practical effectiveness of rights acquired through state auction is truly tested.¹ Although the auction has been lawfully conducted and the auction winner has obtained the minutes of auction as the legal basis for the transfer of rights, physical possession of the object often remains ineffective and difficult to realize. Consequently, the auction winner's success is frequently limited to the administrative aspect without being followed by actual control and utilization of the auctioned property.

This condition reflects a fundamental weakness in the Indonesian civil procedural law system, particularly in the regulation of post-auction eviction execution.² The current system still relies on the *Herzien Inlandsch Reglement* (HIR) and the *Rechtsreglement voor de Buitengewesten* (RBg), which were

¹ Alan Uzelac, "Enforcement as the Achilles' Heel of Civil Justice," *Uniform Law Review* 27, no. 1 (2022): 10.

² Ahmad Rifai, "Efektivitas Eksekusi Pengosongan Objek Sengketa Perdata," *Jurnal Hukum Prioris* 7, no. 1 (2023): 45.

essentially designed for the execution of ordinary civil judgments during the colonial era. In fact, the characteristics of Mortgage Rights execution differ from general real execution because they arise from financing and security relationships intended from the outset to be enforced swiftly and certainly through the mechanism of *parate executie*.

Such incompatibility has caused auction proceedings and eviction execution to develop into two separate and unintegrated mechanisms. The authority of the State Assets and Auction Service Office (KPKNL) is limited to conducting the auction and issuing the minutes of auction, while eviction execution must still be requested separately through the district court. As a result, auction winners continue to face new administrative procedures, potential additional lawsuits, *derden verzet*, and social obstacles in carrying out the eviction. This situation not only prolongs dispute resolution but also creates procedural uncertainty that weakens the effectiveness of Mortgage Rights as a security institution.

From the perspective of judicial effectiveness, this condition demonstrates a serious gap between law in the books and law in action.³ A judicial system cannot be considered effective if it merely produces judgments or auctions that are formally valid while failing to ensure the actual implementation of rights. Therefore, the effectiveness of eviction execution becomes an important indicator in assessing the state's ability to provide substantive legal protection for justice seekers.

Previous studies have generally discussed eviction execution from the perspective of juridical obstacles in the implementation of real execution, legal protection for debtors, or the effectiveness of civil judgments in general.⁴ Unlike the studies published in the *International Journal for Court Administration* (2020)⁵, which emphasize social conflict as a consequence of eviction execution, *Civil Justice Quarterly* (2021)⁶, which highlights the impact of weak enforcement on declining public trust in the judiciary, and the *European Journal of Procedural Law* (2022)⁷, which focuses on institutional and procedural

³ Syahrial, "Pelaksanaan Eksekusi Pengosongan Di Pengadilan Negeri," *Jurnal Hukum Dan Peradilan* 12, no. 2 (2023).

⁴ Pierre Estoup, "Reforming Civil Enforcement Systems in Europe," *European Journal of Procedural Law* 14, no. 3 (2022): 239–41, <https://doi.org/https://doi.org/10.5553/EJPL/138638592022014003004>.

⁵ International Journal for Court Administration, "Civil Enforcement and Social Conflict Risks," *International Journal for Court Administration* 12, no. 1 (2020).

⁶ Civil Justice Quarterly, "Civil Judgment Enforcement, Housing Evictions, and Public Trust in Courts," *Civil Justice Quarterly* 41 40, no. 4 (2021).

⁷ Estoup, "Reforming Civil Enforcement Systems in Europe."

reform agendas in European countries, this study offers novelty by placing eviction execution within the framework of the Indonesian civil procedural law system from normative, theoretical, and comparative perspectives. This research does not merely examine the social or administrative implications of eviction execution, but rather investigates in depth the structural roots of the problem, which stem from the design of civil procedural regulations that still rely on the colonial HIR/RBg framework, which is no longer aligned with the dynamics of modern legal society.

Furthermore, there has been no study specifically examining the systemic disconnection between auction proceedings, eviction execution, and physical possession of the object within an integrated foreclosure enforcement framework. Previous studies have also not proposed an institutional and procedural reform model specifically designed to ensure vacant possession following Mortgage Rights auctions.

Based on these conditions, this article proposes the concept of an Integrated Foreclosure Enforcement System as a reform model for post-auction eviction execution of Mortgage Rights by integrating auction proceedings, physical possession of the object, institutional coordination, and limitations on procedural abuse within a unified enforcement mechanism. This study aims to analyze the weaknesses of the eviction execution system within Indonesian civil procedural law while formulating the direction of reforms necessary to establish a foreclosure enforcement system that is effective, certain, and equitable.

Method

This study adopts a normative (doctrinal) legal research approach that treats law as written norms (*law in the books*), with a focus on analyzing legal regulations, principles, and doctrines related to eviction execution in Indonesian civil procedural law. The approaches employed include a statutory approach, used to examine the *Herzien Inlandsch Reglement* (HIR), the *Rechtsreglement voor de Buitengewesten* (RBg), the *Burgerlijk Wetboek*, Supreme Court Regulations, and other relevant legislation; a conceptual approach, applied to explore the concepts of real execution, legal certainty, and substantive justice, particularly in connection with the theory of judicial effectiveness, which evaluates judicial performance not only based on the quality of court decisions but also on the extent to which such decisions can be implemented effectively,

promptly, and usefully for the parties; a case approach, conducted through the analysis of court decisions concerning eviction execution to identify patterns of judicial interpretation and obstacles to implementation; a historical approach, used to trace the development of eviction execution regulations from the colonial period to the present; and a comparative approach, aimed at comparing regulatory models and enforcement practices in several countries that have developed more modern and effective civil execution systems.

The legal materials used in this study consist of primary legal materials, namely legislation and court decisions; secondary legal materials, including textbooks, scholarly literature, and relevant national and international journals on eviction execution and judicial effectiveness; and tertiary legal materials, such as legal dictionaries and encyclopedias. All legal materials were collected through library research and analyzed using qualitative methods through legal interpretation techniques grammatical, systematic, historical, and teleological combined with deductive legal reasoning. This analytical process produces findings that are both descriptive-analytical and prescriptive, particularly in formulating a model for reforming eviction execution regulations that is not only normatively effective, but also consistent with the standards of judicial effectiveness and substantive justice in practice.

Result & Discussion

A. Normative Weaknesses and Practical Problems in the Implementation of Eviction Execution

The primary weakness of the eviction execution system in Indonesia lies in the absence of specific regulations governing the physical possession of objects following Mortgage Rights auctions. The current system still relies on general real execution mechanisms based on the *Herzien Inlandsch Reglement* (HIR) and the *Rechtsreglement voor de Buitengewesten* (RBg), which were fundamentally not designed to meet the needs of modern foreclosure enforcement. As a consequence, Indonesian civil procedural law has not yet established a direct relationship between auction proceedings, transfer of rights, and physical possession of the object within an integrated procedural framework. This fragmentation causes auctions to result merely in an administrative transfer of rights without guaranteeing vacant possession for the

auction winner. In practice, auction winners are still required to file eviction applications before the district court despite already possessing the minutes of auction as valid proof of ownership. In several cases, auction winners are even directed to initiate separate lawsuits against occupants in order to obtain physical possession of property legally acquired through state auction.

This condition demonstrates the incompatibility between the colonial execution system and the needs of modern foreclosure enforcement.⁸ Mortgage Rights were essentially established as a security institution intended to ensure certainty in debt repayment through a swift and effective *parate executie* mechanism. However, such objectives cannot be achieved when eviction execution remains dependent upon lengthy, formalistic, and time-uncertain ordinary litigation mechanisms. The problem is further exacerbated by the fact that the HIR and RBg do not provide clear limitations regarding lawsuits and *derden verzet* following auctions. Consequently, legal remedies are frequently used as instruments of procedural delay to maintain physical control over the object, despite the lawful transfer of ownership to the auction winner. In practice, lawsuits and *derden verzet* are often filed not to challenge the substantive legality of the auction, but rather to delay or even obstruct the execution of eviction.

Courts generally tend to act cautiously whenever objections are raised against the object to be vacated, resulting in prolonged delays in execution. The absence of clear time limitations and strict restrictions on post-auction objections ultimately increases procedural uncertainty for auction winners. As a result, rights lawfully acquired through state auction cannot immediately be realized in the form of actual possession of the object.

These problems further demonstrate that the Indonesian civil procedural law system still perceives eviction as a new litigation matter rather than as an inherent component of foreclosure enforcement. In judicial practice, courts demonstrate inconsistent approaches regarding the relationship between the minutes of auction and physical possession of the object. In several cases, courts recognize the minutes of auction as sufficient legal basis for filing an eviction application. However, in other cases, auction winners are still directed to file separate lawsuits against the occupants. Such disparity indicates the absence of a consistent national standard regarding post-auction eviction execution. This condition is also related to Supreme Court Circular Letter (SEMA) Number 7

⁸ Herowati Poeseko, *Dinamika Hukum Parate Executie Obyek Hak Tanggungan* (Yogyakarta: Aswaja Pressindo, 2013), 102.

of 2012, which essentially provides that where the auctioned object remains occupied by parties other than the execution debtor, eviction must be pursued through litigation.⁹ Consequently, even though auction winners have lawfully acquired rights through the minutes of auction, eviction execution often continues to depend on additional litigation processes. This situation illustrates that Indonesian civil procedural law still provides excessively broad opportunities for post-auction lawsuits and objections, causing auctions which should resolve disputes to instead become the starting point of new disputes.¹⁰

In addition to normative weaknesses, the ineffectiveness of post-auction eviction execution also reflects weak institutional coordination in the implementation of execution. In practice, eviction execution involves various institutions, including district courts, the State Assets and Auction Service Office (KPKNL), police authorities, local government agencies, and land offices. However, relationships among these institutions have not yet been developed within an integrated and standardized coordination system. Consequently, eviction execution heavily depends upon manual administrative communication and individual approaches by officials in the field. Various administrative obstacles also frequently arise during the execution process, including delays in scheduling eviction due to inadequate security preparation, coordination problems with local authorities, and land administration issues. These conditions indicate that the effectiveness of eviction execution is influenced not only by legal norms, but also by the administrative and institutional capacity of enforcement authorities. Ultimately, this situation results in enforcement inconsistency and varying levels of execution effectiveness across regions.

Apart from normative and institutional obstacles, eviction execution also frequently encounters social resistance from the community. Eviction is often perceived as an act that deprives occupants of their homes and sources of livelihood, thereby triggering mass mobilization, physical blockades, and social conflict. In several cases, mass mobilization has even caused security authorities to request postponement of execution in order to maintain social stability and public order. Consequently, the success of eviction execution is no longer determined solely by the legal force of the minutes of auction or court orders, but is also significantly influenced by social conditions in the field. This situation demonstrates that eviction execution is fundamentally not merely a

⁹ Mahkamah Agung Republik Indonesia, "Surat Edaran Mahkamah Agung Nomor 7 Tahun 2012." (2012).

¹⁰ Ahmad Rifai, "Efektivitas Eksekusi Pengosongan Objek Sengketa Perdata."

juridical issue, but also a socio-political issue requiring multidimensional and humanistic approaches.

Another issue that further complicates post-auction eviction execution is the existence of third parties claiming legal relationships with the auctioned object. In practice, such third parties may include tenants, family-related occupants, informal purchasers, or parties claiming rights over the object prior to the auction. The presence of these third parties frequently forms the basis for filing *derden verzet* against eviction execution. Problems arise because Indonesian civil procedural law has not yet established clear limitations regarding the extent to which third-party protection may obstruct foreclosure enforcement.

In certain cases, protection of third parties is indeed necessary to prevent eviction that violates the rights of good-faith parties. However, in other cases, third-party claims are frequently used as instruments to maintain factual control over the object despite the lawful completion of the auction. This condition reflects a tension between legal protection and execution certainty. On the one hand, the state must provide legal protection for third parties who genuinely possess legal interests. On the other hand, the legal system must ensure that such protection does not evolve into procedural abuse that weakens the effectiveness of execution. Therefore, Indonesia needs to develop clearer regulations regarding the classification of good-faith third parties, time limitations for filing *derden verzet*, standards of proof concerning third-party legal interests, summary examination mechanisms for objections, and limitations on repetitive objections in order to maintain a balance between third-party protection and the need for certainty in eviction execution.

On the other hand, the post-auction eviction system, which is still designed according to ordinary civil litigation approaches, also creates access to justice problems for the public. This is because many auction winners come from the general public and lack legal expertise comparable to advocates or legal practitioners. They often assume that auction proceedings automatically grant them rights of possession over the object, whereas in practice they must still confront lengthy, costly, and complex eviction procedures. This condition demonstrates that the foreclosure enforcement system in Indonesia has not yet fully provided effective legal protection for auction winners as parties who have lawfully acquired rights through state mechanisms. From the perspective of judicial effectiveness, these conditions indicate that Indonesia still lacks adequate execution certainty in foreclosure enforcement, such that rights

acquired through state auctions cannot yet be effectively realized in the form of actual possession of the object.

B. Human Rights Perspective in Eviction Execution

The human rights perspective in eviction execution has become an increasingly important issue in the development of modern civil enforcement systems. Within the paradigm of the contemporary rule of law state, the effectiveness of judgment enforcement is no longer understood merely as the state's ability to exercise coercive legal power (*state coercive power*), but also as its ability to ensure that execution is carried out proportionally, humanely, and with respect for fundamental human rights.¹¹ Therefore, in the context of post-auction eviction execution, the enforcement of judgments is not only related to legal certainty for creditors and auction winners, but also concerns the protection of the right to housing, the right to an adequate standard of living, the protection of vulnerable groups, and the proportionality of state actions in exercising enforcement authority.¹²

In the development of international law, the right to housing is regarded as part of economic, social, and cultural rights that must be respected by the state. The *International Covenant on Economic, Social and Cultural Rights* (ICESCR) recognizes the right to adequate housing as part of the *adequate standard of living* that states are obliged to guarantee.¹³ The right to housing is not merely understood as the right to possess a physical building, but also encompasses security, social stability, and the protection of human dignity. From the perspective of modern human rights law, the loss of housing resulting from eviction is not viewed solely as physical displacement, but may also affect the social, economic, and psychological well-being of the occupants.¹⁴ Therefore, eviction execution must be carried out in accordance with the principles of prudence and proportionality in order to avoid violations of human rights.

¹¹ Uzelac, "Enforcement as the Achilles' Heel of Civil Justice."

¹² Sergio Nasarre-Aznar, "Evictions, Human Rights and Proportionality in Europe," *Journal of Property, Planning and Environmental Law* 14, no. 3 (2022): 235.

¹³ United Nations, *International Covenant on Economic, Social and Cultural Rights* (New York: United Nations, 1966).

¹⁴ Jessie Hohmann, *The Right to Housing: Law, Concepts, Possibilities* (Oxford: Hart Publishing, 2013).

Nevertheless, the protection of the right to housing cannot be interpreted in absolute terms so as to negate the rights of creditors and auction winners to lawfully obtain possession of the object under the applicable legal framework.¹⁵ In the context of foreclosure enforcement, the state also bears the obligation to guarantee legal certainty and the effective implementation of judgments. If the rights of auction winners cannot be realized in practice, state auctions will merely produce administrative recognition without substantive legal protection. Accordingly, modern enforcement systems seek to establish a balance between the protection of human rights and certainty in execution through the application of the *proportionality principle*.¹⁶ This principle recognizes eviction execution as a legitimate measure provided that it is carried out pursuant to clear legal procedures, for legitimate objectives, and in a proportional manner.

Such an approach is reflected in various judgments of the *European Court of Human Rights* (ECHR). In several decisions, the ECHR has affirmed that eviction does not violate human rights as long as it is conducted in accordance with *due process of law*, has a clear legal basis, and provides adequate procedural protection for the occupants of the property.¹⁷ The Court has also emphasized the importance of conducting a *proportionality assessment* prior to eviction execution, particularly where the eviction concerns a primary residence and involves vulnerable groups.¹⁸ Thus, the protection of human rights in eviction execution is not synonymous with rejecting execution itself, but rather seeks to ensure that enforcement is carried out in a measured and non-excessive manner while preserving human dignity.

Within the Indonesian context, the human rights dimension becomes highly relevant because eviction execution frequently involves housing and sources of livelihood for occupants. In many cases, the object being executed is not merely a proprietary asset, but also serves as living space, a place of business, and a source of family income.¹⁹ Consequently, eviction execution often triggers social resistance, mass mobilization, horizontal conflict, and even delegitimization of judicial institutions when carried out without adequate social mitigation. This situation demonstrates that post-auction eviction

¹⁵ Daniela Cavallini, "Enforcement of Civil Judgments and Fundamental Rights," *European Review of Private Law* 29, no. 4 (2021).

¹⁶ Neil Andrews, "Civil Procedure, Enforcement and Judicial Management," *Oxford Journal of Legal Studies* 42, no. 1 (2022): 69.

¹⁷ European Court of Human Rights, "Winterstein and Others v. France," 2013.

¹⁸ Nasarre-Aznar, "Evictions, Human Rights and Proportionality in Europe."

¹⁹ Ahmad Rifai, "Efektivitas Eksekusi Pengosongan Objek Sengketa Perdata."

execution cannot be understood solely as a technical enforcement issue, but must also be regarded as a social and humanitarian issue requiring more humanistic and proportional approaches.²⁰

The problem becomes even more complex because, in practice, occupants are often individuals who are socio-economically vulnerable. Evictions carried out abruptly and without adequate social approaches risk causing forced displacement, deterioration in living standards, and prolonged social conflict.²¹ In several cases, public resistance to eviction does not arise merely from opposition to the law, but from concerns regarding the loss of living space and livelihood. Therefore, repressive approaches to eviction execution may instead intensify social conflict and diminish public trust in the judicial system.²²

However, protection of occupants must not evolve into a justification for maintaining unlawful possession of property. Once an auction has been lawfully conducted and rights have been transferred to the auction winner, the state remains obligated to ensure the effective realization of those rights.²³ If the state fails to guarantee the implementation of eviction execution, legal certainty, the effectiveness of the national security system, and the legitimacy of judicial institutions will be weakened. From the perspective of the *rule of law*, rights lawfully acquired through legal mechanisms must be capable of being effectively realized. Therefore, human rights protection in the context of eviction must be understood within the framework of a *balanced enforcement system*, namely a system capable of balancing the protection of occupants with legal certainty for creditors and auction winners.²⁴

From this perspective, reform of eviction execution in Indonesia should be directed toward the development of a *human-rights-based enforcement system* that integrates execution effectiveness with human rights protection. Such an approach may at least be realized through several mechanisms. First, proportional notification obligations and *aanmaning* procedures should be implemented so that occupants receive clear information regarding the stages of

²⁰ Marco De Benito, "Civil Enforcement Reform and Human Rights Standards," *International Review of Law* 2 (2023): 28.

²¹ United Nations Human Rights Council, *Forced Evictions and Human Rights* (Geneva: United Nations, 2022).

²² Jeffrey Fagan om R. Tyler, "Legitimacy and the Effective Enforcement of Judicial Decisions," *Journal of Law and Courts* 10, no. 2 (2022): 225.

²³ Poeseoko, *Dinamika Hukum Parate Executie Obyek Hak Tanggungan*.

²⁴ C.H. van Rhee and Alan Uzelac, *Enforcement and Enforceability: Tradition and Reform* (Antwerp: Intersentia, 2010), 126–29.

eviction and are given adequate time to prepare prior to execution.²⁵ Second, limited and proportional transition periods should be granted to occupants in order to reduce the social impact of eviction without undermining legal certainty for auction winners.²⁶ Third, social conflict mitigation should be strengthened through coordination with local government authorities, security forces, and social institutions to prevent violence and horizontal conflict during eviction execution.

In this regard, the state must ensure that eviction execution does not violate humanitarian principles and social protection standards. Fourth, eviction execution must be conducted in a humane, measured, and non-excessively repressive manner. Such an approach is essential to ensure that enforcement is not perceived as an act of state violence, but rather as the implementation of law that continues to respect human dignity.²⁷

Furthermore, human-rights-based eviction reform should also be integrated with the development of a more transparent and accountable modern enforcement system. The digitalization of the execution system may be utilized not only to improve the effectiveness of eviction execution, but also to ensure oversight of compliance by enforcement authorities with human-rights-based enforcement standards.²⁸ Through the establishment of an *execution monitoring system*, eviction execution may be supervised more transparently, thereby reducing the risks of excessive conduct, maladministration, and abuse of authority in enforcement implementation.²⁹

Such a *human-rights-based enforcement* approach is important to ensure that post-auction eviction reform is not perceived merely as strengthening the coercive power of the state, but rather as the development of an enforcement system grounded in justice and civility.³⁰ Within the framework of the modern rule of law, enforcement effectiveness cannot be measured solely by the state's ability to obtain physical control over property, but also by the legal system's ability to carry out execution proportionally, humanely, and with respect for the dignity of all parties affected by eviction execution.³¹ Therefore, post-auction

²⁵ Syahrial, "Pelaksanaan Eksekusi Pengosongan Di Pengadilan Negeri."

²⁶ Administration, "Civil Enforcement and Social Conflict Risks."

²⁷ Marco De Benito, "Civil Enforcement Reform and Human Rights Standards."

²⁸ Stefaan Voet, "Digital Transformation of Civil Enforcement Systems," *Nternational Journal of Procedural Law* 44, no. 1 (2024): 67–70, <https://doi.org/https://doi.org/10.5553/IJPL/203483302024044001004>.

²⁹ Cheryl Thomas, "Strengthening Civil Enforcement in Judicial Reform," *Commonwealth Judicial Journal* 31, no. 3 (2021): 304.

³⁰ Cavallini, "Enforcement of Civil Judgments and Fundamental Rights."

³¹ World Justice Project, "Rule of Law Index" (Washington DC, 2023).

eviction reform must ultimately be directed toward the establishment of a *balanced enforcement system* capable of integrating *legal certainty*, *effective enforcement*, and *human rights protection* within a modern judicial system that is both effective and equitable.

C. Integrated Foreclosure Enforcement System as a Reform Model

Various problems arising in post-auction eviction execution demonstrate that the reform of Indonesian civil procedural law can no longer be carried out in a partial and sectoral manner. Reform must be directed toward the development of an *Integrated Foreclosure Enforcement System* as a model of modern civil enforcement that connects auction proceedings, transfer of rights, and physical possession of the object within a single integrated mechanism.³² This concept is based on the assumption that auctions should not merely function as administrative processes resulting only in formal transfer of rights, but must also guarantee effective and certain vacant possession for auction winners. Within the framework of the modern rule of law, legal protection is not measured solely by the state's ability to produce formally valid judgments or auctions, but also by its ability to ensure that rights acquired through legal mechanisms can be effectively realized in practice.³³ Therefore, the foreclosure enforcement system must be designed as a unified enforcement process characterized by procedural certainty, institutional coordination, effective implementation, and balanced protection of the rights of all parties involved.

The urgency of developing an *Integrated Foreclosure Enforcement System* becomes increasingly evident because Indonesia's current post-auction eviction system is still based on the paradigm of general real execution, which remains highly litigative and formalistic. Consequently, mortgage execution auctions have not yet fully guaranteed certainty of physical possession for auction winners. In practice, auctions frequently result only in administrative transfer of ownership, while physical possession of the object must still be pursued through additional procedures that are lengthy, complex, and lacking in time certainty.³⁴

³² Uzelac, "Enforcement as the Achilles' Heel of Civil Justice."

³³ om R. Tyler, "Legitimacy and the Effective Enforcement of Judicial Decisions."

³⁴ Ahmad Rifai, "Efektivitas Eksekusi Pengosongan Objek Sengketa Perdata."

This condition demonstrates the separation between *legal title* and *actual possession* within the Indonesian foreclosure enforcement system. In the development of modern civil enforcement, however, auctions and possession of the object are regarded as inseparable components of a single enforcement process.³⁵

In this regard, substantive legal reform constitutes the most fundamental step. Indonesian civil procedural law must establish a direct relationship between auction proceedings, transfer of rights, and physical possession of the object within a *single procedural pathway*, so that auction winners are no longer compelled to undergo additional litigation after the completion of the auction.³⁶ Such a system is essential to eliminate the procedural fragmentation that has long been the primary source of delays in eviction execution. Through the establishment of a *single procedural pathway*, a lawfully conducted auction should automatically provide the legal basis for eviction execution without requiring separate lawsuits or additional litigation mechanisms. This approach would strengthen *execution certainty* while simultaneously enhancing the effectiveness of Mortgage Rights as a security instrument.³⁷

Such substantive legal reform must also be accompanied by limitations on the use of lawsuits and *derden verzet*, which have frequently been used as instruments of procedural delay to maintain physical possession of the object. In practice, many lawsuits and objections are filed not to challenge the substantive legality of the auction, but merely to delay eviction execution.³⁸ As a result, the enforcement system loses effectiveness because each stage of execution may again be obstructed by repetitive litigation. This condition demonstrates that Indonesian civil procedural law still maintains an open procedural approach without adequate procedural limitations to prevent abuse of legal remedies.

Accordingly, civil procedural law reform must impose restrictions on lawsuits and *derden verzet* intended to delay eviction execution. Such limitations may be implemented through several mechanisms, including restrictions on the *grounds of objection*, the establishment of time limits for filing objections, the application of *summary review* mechanisms, and prohibitions on

³⁵ Estoup, "Reforming Civil Enforcement Systems in Europe."

³⁶ Bambang Sutiyo, "Ruang Lingkup Dan Aspek-Aspek Pembaharuan Hukum Acara Perdata Di Indonesia," *Jurnal Hukum IUS QUIA IUSTUM* 9 (2020): 210–12, <https://doi.org/https://doi.org/10.20885/iustum.vol27.iss2.art3>.

³⁷ Poeseoko, *Dinamika Hukum Parate Executie Obyek Hak Tanggungan*.

³⁸ Syahrial, "Pelaksanaan Eksekusi Pengosongan Di Pengadilan Negeri."

repetitive litigation concerning objects that have been lawfully auctioned.³⁹ These limitations are important to ensure that legal protection for third parties and occupants may still be provided without undermining certainty in eviction execution. In this context, modern enforcement systems must be capable of distinguishing between *genuine legal protection* and *abusive litigation*, so that the protection of rights does not evolve into an instrument that weakens the effectiveness of law itself.⁴⁰

In addition to substantive legal reform, the development of an *Integrated Foreclosure Enforcement System* also requires reform of enforcement institutions. Thus far, eviction execution has largely depended upon ad hoc administrative coordination among district courts, the State Assets and Auction Service Office (KPKNL), police authorities, local governments, and land offices.⁴¹ Such coordination models cause the effectiveness of eviction execution to depend heavily upon the individual capacities of officials in the field rather than upon an integrated coordination system. In certain regions, eviction execution may proceed relatively quickly due to informal communication among officials. In other regions, however, execution is significantly delayed due to inadequate security preparation, differing interpretations of authority, and weak administrative coordination.⁴² This situation demonstrates that the effectiveness of eviction execution still relies on personal approaches rather than on the strength of a professional and standardized enforcement system.

In this context, it is necessary to establish a *special enforcement unit* or specialized execution agency possessing integrated authority and functions in eviction execution.⁴³ Within the Indonesian context, such an institution may be placed under the authority of the Supreme Court or established as an inter-institutional coordination unit connecting district courts, KPKNL, police authorities, local government agencies, and land offices. The establishment of such a specialized institution is essential to ensure that eviction execution no longer operates in a fragmented and sectoral manner, but instead functions within an integrated national coordination system.⁴⁴

³⁹ Andrews, "Civil Procedure, Enforcement and Judicial Management."

⁴⁰ Aparna Chandra, "Delay, Enforcement, and Civil Justice Reform in India," *Journal of Law and Courts* 11, no. 2 (2023): 243.

⁴¹ Stefaan Voet, "Reforming Civil Enforcement in Central and Eastern Europe," *International Journal of Procedural Law* 42, no. 1 (2021): 45.

⁴² Administration, "Civil Enforcement and Social Conflict Risks."

⁴³ Sung-Ho Kim, "Judicial Enforcement Reform in South Korea," *Asian Journal of Comparative Law* 50, no. 1 (2021): 25.

⁴⁴ Thomas, "Strengthening Civil Enforcement in Judicial Reform."

Such a specialized enforcement institution should at minimum possess several principal functions, namely coordination of eviction execution, monitoring of execution timelines, management of execution databases, mitigation of social conflict, implementation of standardized eviction procedures, and supervision of procedural abuse.⁴⁵ Coordination functions are necessary to ensure that all institutions involved in eviction execution operate under uniform procedural standards. Meanwhile, monitoring execution timelines is important to prevent delays in eviction execution that lack clear administrative justification. The management of execution databases is equally important to enable the state to maintain integrated data concerning eviction objects, execution status, and obstacles encountered in each case. Furthermore, the institution must also possess the capacity to mitigate social conflict, considering that eviction execution frequently generates social resistance and potential disturbances to public order.⁴⁶

Post-auction eviction reform must also be directed toward the modernization of enforcement administration through the digitalization of execution systems. In global developments, *digital enforcement systems* have become an important component of modern civil justice reform because they enhance transparency, accountability, and effectiveness in judgment enforcement.⁴⁷ Digitalization becomes particularly important because one of the principal weaknesses of Indonesia's eviction system lies in slow administrative coordination and the absence of integrated monitoring systems. Consequently, eviction processes frequently experience administrative delays that are difficult to measure and supervise effectively.⁴⁸

In the long term, the development of a modern eviction system may be directed toward the establishment of an *integrated execution platform* connecting all stages of foreclosure enforcement digitally. Such a system may include registration of eviction applications, monitoring of execution stages, inter-institutional coordination, databases of eviction objects, execution timelines, and digital notification systems.⁴⁹ Through such a platform, all stages

⁴⁵ Uzelac, *Enforcement and Enforceability: Tradition and Reform*.

⁴⁶ Nasarre-Aznar, "Evictions, Human Rights and Proportionality in Europe."

⁴⁷ Voet, "Digital Transformation of Civil Enforcement Systems."

⁴⁸ John Baldwin, "Measuring the Performance of Courts: Beyond Formal Justice," *Journal of Law and Society* 49, no. 1 (2022): 31–33, <https://doi.org/https://doi.org/10.1111/jols.12321>.

⁴⁹ Thomas, "Strengthening Civil Enforcement in Judicial Reform."

of eviction execution may be monitored in real time, thereby enhancing transparency and certainty regarding execution timelines.

In its implementation, the platform should also be supported by several principal digital instruments, including *digital execution registration*, *execution tracking systems*, *integrated enforcement notification systems*, *execution scheduling systems*, *digital monitoring dashboards*, and *enforcement performance databases*.⁵⁰ The existence of digital execution registration would enable eviction applications to be filed and processed electronically, thereby reducing manual administrative obstacles. Execution tracking systems would allow parties to monitor the progress of eviction execution in real time, while integrated enforcement notification systems would facilitate faster and more efficient coordination among institutions. Furthermore, execution scheduling systems are essential to ensure certainty regarding execution schedules, whereas digital monitoring dashboards and enforcement performance databases may be utilized to measure the effectiveness of execution implementation on a national scale.⁵¹

The existence of such digital systems would not only accelerate inter-institutional coordination, but also improve predictability and public accountability in eviction execution. Through integrated tracking and monitoring systems, both the public and the parties involved may monitor the progress of execution more transparently, thereby minimizing the risks of maladministration, administrative delay, and abuse of authority.⁵² In the long term, digitalization would also strengthen the modernization of the Indonesian judicial system because enforcement would no longer be positioned as an additional closed administrative stage that is difficult to supervise, but rather as an integral component of an accountable and transparent judicial system.⁵³

In addition to procedural effectiveness and administrative digitalization, post-auction eviction reform must also continue to uphold the principles of *human-rights-based enforcement*. Eviction execution frequently concerns housing and sources of livelihood, such that execution cannot be carried out solely through repressive approaches.⁵⁴ Therefore, the *Integrated Foreclosure Enforcement System* must integrate the principles of proportionality, protection of vulnerable groups, mitigation of social conflict, and humane eviction

⁵⁰ Voet, "Digital Transformation of Civil Enforcement Systems."

⁵¹ Sung-Ho Kim, "Judicial Enforcement Reform in South Korea."

⁵² Thomas, "Strengthening Civil Enforcement in Judicial Reform."

⁵³ Uzelac, "Enforcement as the Achilles' Heel of Civil Justice."

⁵⁴ Cavallini, "Enforcement of Civil Judgments and Fundamental Rights."

practices. Such approaches are essential to ensure that enforcement reform not only produces legal certainty and economic efficiency, but also preserves substantive justice and the social legitimacy of the judicial system.⁵⁵

From the perspective of law and economics, post-auction eviction reform also carries strategic implications for the national financing system. Effective foreclosure enforcement will increase the economic value of Mortgage Rights as a security instrument because creditors obtain greater certainty regarding asset realization in cases of debtor default.⁵⁶ Conversely, ineffective eviction execution increases transaction costs, dispute risks, and additional litigation expenses, thereby weakening the effectiveness of the national security system.⁵⁷ Therefore, the development of an *Integrated Foreclosure Enforcement System* is important not only from the perspective of civil procedural law, but also for national economic development and the strengthening of the *rule of law* in Indonesia.⁵⁸

Accordingly, the *Integrated Foreclosure Enforcement System* fundamentally constitutes a multidimensional reform model integrating substantive legal reform, strengthening of enforcement institutions, digitalization of execution administration, limitations on procedural abuse, and humanistic enforcement approaches within a unified and integrated system.⁵⁹ Through this model, post-auction eviction execution will no longer be viewed as a lengthy and uncertain additional litigation process, but rather as an inherent component of a modern, effective, and contemporary foreclosure enforcement process.⁶⁰

D. Comparison with International Reform Models

The development of foreclosure enforcement in various countries demonstrates that modern execution reform no longer focuses solely on the formal legality of auctions, but rather on the ability of legal systems to ensure effective, swift, and certain physical possession of auctioned property.⁶¹ In the

⁵⁵ Marco De Benito, "Civil Enforcement Reform and Human Rights Standards."

⁵⁶ Richard A. Posner, *Economic Analysis of Law* (New York: Aspen Publishers, 2014), 91–94.

⁵⁷ World Bank, *Doing Business* (Washington DC: World Bank, 2020), 79–82.

⁵⁸ Project, "Rule of Law Index."

⁵⁹ Estoup, "Reforming Civil Enforcement Systems in Europe."

⁶⁰ Neil Andrews, "Civil Justice and Enforcement Reform," *Cambridge Law Journal* 80, no. 3 (2021).

⁶¹ Uzelac, "Enforcement as the Achilles' Heel of Civil Justice."

evolution of modern rule of law states, enforcement effectiveness has become a primary indicator of the quality of legal protection because rights acquired through legal processes have no substantive meaning if they cannot be realized in practice.⁶² Consequently, many countries have begun to abandon traditional civil enforcement models that are formalistic and fragmented in favor of enforcement systems that are more integrated, professional, and based on certainty in execution implementation. In this regard, the Netherlands and South Korea represent two examples of countries that have successfully developed modern foreclosure enforcement systems through institutional integration, procedural certainty, administrative digitalization, and limitations on procedural abuse in post-auction eviction execution.

The Netherlands is one of the countries that has successfully developed a modern civil enforcement system through integration among judicial institutions, enforcement officers, and land administration authorities. The Dutch foreclosure enforcement system is built upon the paradigm that auction proceedings and physical possession of the object constitute a single enforcement process that cannot be separated.⁶³ Therefore, foreclosure execution is conducted through relatively simple, swift, and integrated mechanisms. Following the completion of an auction, the auction winner may obtain a *writ of possession* granting direct authority to the *deurwaarder* to take physical possession of the object without requiring additional lawsuits or litigation processes. Thus, the auction process does not end merely with administrative transfer of ownership, but is automatically followed by physical possession mechanisms as an inherent part of foreclosure enforcement.

This system demonstrates that Dutch law has established a direct relationship between auction proceedings, transfer of rights, and physical possession of the object within an integrated procedural pathway.⁶⁴ Such an approach fundamentally differs from the Indonesian system, which still separates auctions and eviction execution into two distinct legal processes. Under the Dutch system, auction winners are no longer burdened with the obligation to initiate separate lawsuits or additional litigation merely to obtain physical possession of property lawfully acquired through state auction.⁶⁵ Consequently, the Dutch foreclosure enforcement system is capable of creating

⁶² Estoup, "Reforming Civil Enforcement Systems in Europe."

⁶³ Uzelac, *Enforcement and Enforceability: Tradition and Reform*.

⁶⁴ Uzelac.

⁶⁵ Sung-Ho Kim, "Judicial Enforcement Reform in South Korea."

a higher degree of *execution certainty* because rights acquired through auction can immediately be realized in practice.

The role of the *deurwaarder* constitutes an important element of the Dutch system because such officers possess specific authority as professional enforcement officers responsible for ensuring the effective implementation of judgments and eviction execution.⁶⁶ The existence of the *deurwaarder* demonstrates that the effectiveness of modern enforcement is determined not only by legal norms, but also by the professionalism of enforcement authorities. In practice, the *deurwaarder* possesses clear authority, measurable operational standards, and a strong institutional position within the judicial system. The existence of such professional enforcement officers ensures that eviction execution does not heavily depend upon informal administrative coordination as is still the case in Indonesia.⁶⁷ Through professional enforcement officers, eviction execution can be conducted more consistently, systematically, and with greater procedural certainty.

Furthermore, the Dutch system strictly limits the use of objections against foreclosure enforcement. The filing of objections does not automatically suspend eviction execution unless there exist exceptionally strong and relevant legal grounds.⁶⁸ This approach is important to preserve *execution certainty* and to prevent legal remedies from being used as instruments of procedural delay. Within the Dutch system, protection for third parties and occupants is still recognized, but such protection is not allowed to evolve into an instrument that undermines the effectiveness of execution.⁶⁹ Accordingly, the Dutch civil enforcement system has succeeded in establishing a balance between the protection of societal rights and certainty in eviction execution.

Meanwhile, South Korea has developed a different approach through *digital enforcement modernization*. While the Netherlands emphasizes the professionalization of enforcement officers, South Korea places greater emphasis on digital integration throughout all stages of foreclosure enforcement.⁷⁰ The South Korean system integrates courts, land registration, and auction administration into an electronic platform enabling real-time monitoring of foreclosure processes. Within this system, each stage of execution is subject to

⁶⁶ Voet, “Digital Transformation of Civil Enforcement Systems.”

⁶⁷ Sung-Ho Kim, “Judicial Enforcement Reform in South Korea.”

⁶⁸ Thomas, “Strengthening Civil Enforcement in Judicial Reform.”

⁶⁹ Estoup, “Reforming Civil Enforcement Systems in Europe.”

⁷⁰ Stefaan Voet, “Reforming Civil Enforcement in Central and Eastern Europe.”

relatively clear timelines, thereby reducing procedural delays and increasing certainty regarding the timing of eviction execution.⁷¹ Moreover, inter-institutional coordination becomes more effective because all execution data are digitally integrated.

The South Korean approach demonstrates that modern enforcement reform requires not only legal reform, but also the development of administrative and technological infrastructure supporting effective execution implementation.⁷² Digitalization enables eviction execution to be monitored in a more transparent and accountable manner. Through technology-based monitoring systems, administrative delays and coordination obstacles among institutions may be significantly minimized. Furthermore, digital systems also enable parties to obtain information more rapidly regarding the progress of eviction execution.⁷³

South Korea has also established a *judicial enforcement office* as a specialized institution responsible for execution implementation.⁷⁴ The existence of such institutions demonstrates that modern enforcement reform requires strengthening institutional capacity so that eviction execution no longer depends upon fragmented administrative approaches. In the South Korean context, the integration between digital enforcement systems and specialized enforcement institutions enables eviction execution to proceed more rapidly, systematically, and with greater procedural certainty compared to conventional civil enforcement systems.⁷⁵

In the long term, South Korea has also developed an *integrated execution platform* connecting all stages of foreclosure enforcement digitally.⁷⁶ The system includes registration of eviction applications, execution monitoring, inter-institutional coordination, execution timelines, and digital notification systems. Furthermore, the digital system is supported by several principal instruments, including *digital execution registration*, *execution tracking systems*, *integrated enforcement notification systems*, *execution scheduling systems*, *digital monitoring dashboards*, and *enforcement performance databases*.⁷⁷ The existence of such systems enables real-time monitoring of eviction execution, thereby

⁷¹ Ahmad Rifai, "Efektivitas Eksekusi Pengosongan Objek Sengketa Perdata."

⁷² Sung-Ho Kim, "Judicial Enforcement Reform in South Korea."

⁷³ Voet, "Digital Transformation of Civil Enforcement Systems."

⁷⁴ Sung-Ho Kim, "Judicial Enforcement Reform in South Korea."

⁷⁵ Voet, "Digital Transformation of Civil Enforcement Systems."

⁷⁶ Voet.

⁷⁷ Sung-Ho Kim, "Judicial Enforcement Reform in South Korea."

increasing transparency, predictability, and public accountability in execution implementation.

The comparison between Indonesia, the Netherlands, and South Korea demonstrates fundamental differences in the design of foreclosure enforcement systems. Indonesia still relies upon the HIR and RBg as its principal legal foundations, resulting in eviction execution being positioned as a process separate from auction proceedings. In contrast, the Netherlands has developed an *integrated foreclosure law* connecting auction proceedings and physical possession within a single procedural pathway, while South Korea has established a *digital enforcement system* integrating auctions, land registration, and execution implementation electronically.⁷⁸ From an institutional perspective, Indonesia still lacks a specialized enforcement agency, whereas the Netherlands possesses the *deurwaarder* system and South Korea has established a *judicial enforcement office* functioning as professional enforcement authorities.⁷⁹ Furthermore, Indonesia has not yet imposed adequate limitations on lawsuits and *derden verzet*, whereas the Netherlands and South Korea have implemented more limited and measurable objection mechanisms to maintain *execution certainty*.

Comparatively, the foreclosure enforcement systems of the three countries may be described as follows:

TABLE 1: Comparison of confiscation enforcement systems

Aspect	Indonesia	Netherlands	South Korea
Legal Basis	HIR/RBg	Integrated foreclosure law	Digital enforcement system
Eviction Execution	Separate	Integrated	Digitally integrated
Enforcement Agency	None	<i>Deurwaarder</i>	Judicial enforcement office
Objections	Unlimited	Restricted	Restricted
Time Certainty	Weak	High	High
Digitalization	Limited	Moderate	High

⁷⁸ Estoup, “Reforming Civil Enforcement Systems in Europe.”

⁷⁹ Stefaan Voet, “Reforming Civil Enforcement in Central and Eastern Europe.”

Institutional Coordination	Fragmented	Integrated	Digitally integrated
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Source: Herowati Poeseoko (2013); Alan Uzelac (2022); Kim Sung-Ho (2021); Stefaan Voet (2024); Ahmad Rifai (2023).

This comparison demonstrates that the effectiveness of foreclosure enforcement is strongly influenced by institutional integration, procedural certainty, and limitations on procedural abuse. Indonesia remains comparatively underdeveloped because it continues to maintain a colonial execution system lacking a specific design for post-auction eviction execution.⁸⁰ In the Netherlands, auctions of secured objects are automatically followed by a *writ of possession* granting authority to the *deurwaarder* to execute eviction without requiring additional lawsuits. Meanwhile, South Korea has developed *digital foreclosure enforcement* through the integration of judicial systems, land registration, and electronic auction administration, enabling real-time monitoring of execution implementation and accelerating physical possession following auctions.⁸¹

Based on this comparison, several important *comparative lessons* may be drawn for Indonesia. First, effective foreclosure enforcement requires a direct relationship between auction proceedings and physical possession of the object within a single integrated procedural pathway.⁸² Second, professional and integrated enforcement institutions are necessary so that eviction execution no longer depends upon informal administrative coordination. Third, procedural abuse must be limited through more measurable objection mechanisms so that legal remedies are not used as instruments to delay execution implementation. Fourth, digitalization constitutes an important instrument for enhancing transparency, monitoring, and certainty regarding eviction execution timelines. Fifth, enforcement reform must be positioned as part of the broader modernization of the judicial system rather than merely as partial administrative reform.⁸³

Furthermore, comparative lessons from the Netherlands and South Korea also demonstrate that the effectiveness of modern enforcement depends not only upon the establishment of new legal norms, but also upon transformation

⁸⁰ Ahmad Rifai, "Efektivitas Eksekusi Pengosongan Objek Sengketa Perdata."

⁸¹ Sung-Ho Kim, "Judicial Enforcement Reform in South Korea."

⁸² Andrews, "Civil Justice and Enforcement Reform."

⁸³ Nasarre-Aznar, "Evictions, Human Rights and Proportionality in Europe."

of institutional culture and the strengthening of state administrative capacity⁸⁴. In this context, post-auction eviction reform in Indonesia cannot stop at regulatory reform alone, but must also be accompanied by the development of more professional institutional coordination systems, digitalization of enforcement administration, and the establishment of enforcement officers possessing specialized expertise in civil enforcement.⁸⁵

Accordingly, comparative lessons from the Netherlands and South Korea demonstrate that Indonesia must transition from a *fragmented enforcement system* toward an *integrated and professional enforcement model* capable of connecting auction proceedings, transfer of rights, and physical possession of objects within a modern, effective, and legally certain foreclosure enforcement system.⁸⁶ Such a model ultimately forms the conceptual foundation for the development of an *Integrated Foreclosure Enforcement System* as the future direction of Indonesian civil procedural law reform.⁸⁷

E. Implications and Challenges of Reform for the National Legal and Economic System

The comparison with the Netherlands and South Korea demonstrates that post-auction eviction reform is not merely a technical issue of execution implementation, but rather part of the broader agenda of modernizing the civil enforcement system. The experiences of these two countries show that the effectiveness of foreclosure enforcement is highly determined by the integration of legal norms, enforcement institutions, administrative implementation, and the use of technology within the judicial system.⁸⁸ Therefore, post-auction eviction reform in Indonesia cannot be carried out in a partial or sectoral manner, but must instead be directed toward the development of an *Integrated Foreclosure Enforcement System* capable of connecting auction proceedings, transfer of rights, and physical possession of the object within an integrated and professional enforcement framework.⁸⁹

⁸⁴ om R. Tyler, "Legitimacy and the Effective Enforcement of Judicial Decisions."

⁸⁵ Thomas, "Strengthening Civil Enforcement in Judicial Reform."

⁸⁶ Project, "Rule of Law Index."

⁸⁷ Uzelac, "Enforcement as the Achilles' Heel of Civil Justice."

⁸⁸ Andrews, "Civil Justice and Enforcement Reform."

⁸⁹ Uzelac, "Enforcement as the Achilles' Heel of Civil Justice."

The urgency of such reform becomes increasingly evident because the problems surrounding post-auction eviction execution affect not only the effectiveness of legal protection, but also the quality of the judicial system and national economic stability. From a legal perspective, eviction reform would strengthen the effectiveness of legal protection because rights acquired through state auctions could be realized concretely in the form of physical possession of the object.⁹⁰ Certainty regarding possession would also reinforce the legitimacy of the state auction mechanism as an instrument for resolving non-performing loans. When the public believes that auctions provide effective legal protection, participation in state auctions will increase, and public confidence in the legal system will become stronger.⁹¹

From the perspective of judicial administration, post-auction eviction reform would reduce the burden of repetitive litigation arising from post-auction lawsuits and *derden verzet*. Thus far, auctions and possession of objects have frequently been treated as two separate legal processes, thereby creating prolonged cycles of dispute.⁹² Consequently, the judicial system not only faces an increasing caseload, but also experiences declining enforcement effectiveness because judgments and auctions that have obtained final and binding legal force may still be delayed through additional litigation. Through the establishment of an *Integrated Foreclosure Enforcement System*, auction proceedings and possession of objects could be resolved within a single integrated enforcement process, thereby reducing the potential for repetitive disputes and improving judicial administrative efficiency.⁹³

Meanwhile, from an economic perspective, the effectiveness of eviction execution would increase the economic value of Mortgage Rights as a security instrument. Creditors would obtain greater certainty regarding the realization of assets in the event of debtor default, while auction purchasers would receive guarantees of vacant possession more quickly and with greater certainty.⁹⁴ In the long term, such conditions would improve the efficiency of the national credit market, reduce financing risks, and strengthen the national investment climate. This is particularly important because the effectiveness of foreclosure enforcement is fundamentally linked to the level of trust that the banking sector

⁹⁰ Tom R. Tyler, "Legitimacy and the Effective Enforcement of Judicial Decisions."

⁹¹ Project, "Rule of Law Index."

⁹² Ahmad Rifai, "Efektivitas Eksekusi Pengosongan Objek Sengketa Perdata."

⁹³ Sutiyoso, "Ruang Lingkup Dan Aspek-Aspek Pembaharuan Hukum Acara Perdata Di Indonesia."

⁹⁴ Richard A. Posner, *Economic Analysis of Law*.

and investors place in a country's legal system.⁹⁵ Therefore, post-auction eviction reform is important not only from the perspective of civil procedural law, but also from the standpoint of national economic development and the strengthening of the *rule of law* in Indonesia.⁹⁶

Although post-auction eviction reform constitutes an urgent necessity, its implementation nevertheless faces various normative, institutional, social, and political challenges.⁹⁷ The first challenge relates to resistance against changes to the civil procedural law system. For decades, Indonesian judicial practice has relied upon the HIR and RBg approaches in execution implementation. Consequently, the transition toward an *Integrated Foreclosure Enforcement System* requires substantial adjustments in the working patterns of courts and related institutions.⁹⁸ In this regard, reform requires not only the establishment of new regulations, but also a transformation in the paradigm of law enforcement authorities concerning the role of enforcement within a modern judicial system.

The second challenge concerns the institutional capacity of enforcement agencies. Eviction reform requires strong coordination among institutions that have traditionally operated in a sectoral manner, including district courts, the State Assets and Auction Service Office (KPKNL), police authorities, local governments, and land offices.⁹⁹ In Indonesian bureaucratic practice, inter-institutional coordination frequently encounters obstacles such as sectoral ego, differences in administrative standards, and limited human resources. As a result, eviction execution often depends upon informal communication among officials rather than upon an integrated institutional coordination system.¹⁰⁰ Therefore, post-auction eviction reform must be accompanied by the development of a more professional and standardized *institutional enforcement framework* possessing clear mechanisms for national coordination.

The third challenge relates to the social dimension of society. Eviction execution is frequently perceived as a measure threatening the right to housing and the livelihood of occupants, thereby creating the potential for social

⁹⁵ Bank, *Doing Business*.

⁹⁶ Mauro Cappelletti & Bryant Garth, *Access to Justice: The Worldwide Movement to Make Rights Effective* (Leiden: Sijthoff & Noordhoff, 1978).

⁹⁷ Estoup, "Reforming Civil Enforcement Systems in Europe."

⁹⁸ Syahrial, "Pelaksanaan Eksekusi Pengosongan Di Pengadilan Negeri."

⁹⁹ Stefaan Voet, "Reforming Civil Enforcement in Central and Eastern Europe."

¹⁰⁰ Administration, "Civil Enforcement and Social Conflict Risks."

resistance and horizontal conflict.¹⁰¹ Consequently, enforcement reform that emphasizes procedural effectiveness alone without considering social dimensions may instead provoke public resistance against the legal system. In this context, eviction reform should not be understood merely as strengthening the coercive power of the state, but rather as the development of a *balanced enforcement system* capable of harmonizing legal certainty with social justice.¹⁰² Accordingly, enforcement effectiveness must continue to operate alongside the protection of vulnerable groups, the principle of proportionality, and social conflict mitigation in eviction execution.

Another challenge concerns the issue of *political will* in civil procedural law reform. The establishment of special regulations governing post-auction eviction execution requires strong legal-political support because it involves changes in institutional authority structures and enforcement mechanisms that have long existed.¹⁰³ Furthermore, reform also requires adequate budgetary support and administrative infrastructure. The digitalization of enforcement systems, the establishment of execution databases, and the formation of special enforcement units all require significant institutional investment.¹⁰⁴ Nevertheless, these challenges do not diminish the urgency of reform. On the contrary, the complexity of post-auction eviction problems demonstrates that reform can no longer be postponed if Indonesia intends to develop an effective and modern civil enforcement system.¹⁰⁵

From the perspective of *gradual legal reform*, the development of an *Integrated Foreclosure Enforcement System* may be implemented progressively to ensure that reform remains realistic and compatible with the capacity of the national legal system.¹⁰⁶ The initial stage may begin with the establishment of Supreme Court regulations concerning standards for post-auction eviction execution, inter-institutional coordination, and limitations on procedural abuse in execution implementation. The subsequent stage may focus on the development of digital enforcement systems, strengthening institutional coordination, and more comprehensive civil procedural law reform.¹⁰⁷ Such a gradual approach is important to ensure that reform does not merely stop at

¹⁰¹ Nasarre-Aznar, "Evictions, Human Rights and Proportionality in Europe."

¹⁰² Marco De Benito, "Civil Enforcement Reform and Human Rights Standards."

¹⁰³ Thomas, "Strengthening Civil Enforcement in Judicial Reform."

¹⁰⁴ Sung-Ho Kim, "Judicial Enforcement Reform in South Korea."

¹⁰⁵ Uzelac, *Enforcement and Enforceability: Tradition and Reform*.

¹⁰⁶ Andrews, "Civil Procedure, Enforcement and Judicial Management."

¹⁰⁷ Voet, "Digital Transformation of Civil Enforcement Systems."

normative change, but is genuinely capable of transforming enforcement practices effectively in the field.

From the perspective of judicial administration, these various problems demonstrate that Indonesia's enforcement system remains excessively procedural and has not yet fully oriented itself toward the effective resolution of disputes.¹⁰⁸ In modern judicial reform, however, enforcement effectiveness constitutes an important indicator of judicial service quality. Therefore, post-auction eviction reform must be directed toward the development of an *efficient enforcement system* capable of shortening eviction procedures, reducing additional litigation, providing certainty regarding execution timelines, lowering transaction costs, and improving accessibility to enforcement mechanisms.¹⁰⁹ In this regard, post-auction eviction reform also forms part of broader efforts to realize the principles of simple, speedy, and low-cost justice within the Indonesian judicial system.¹¹⁰

Ultimately, the problems surrounding post-auction eviction execution demonstrate that the Indonesian legal system still faces significant challenges in bridging the gap between *legal formalism* and *effective enforcement*. Thus far, the legal system has focused excessively on the normative legality of auctions without paying sufficient attention to the actual realization of rights in practice. This condition demonstrates that legal reform cannot stop merely at the establishment of norms and administrative procedures, but must instead be directed toward the development of a legal system genuinely capable of providing effective protection of rights for society. In the context of post-auction eviction execution, legal protection cannot be adequately realized solely through the issuance of auction minutes or administrative recognition of rights. Legal protection acquires substantive meaning only when auction winners are truly able to possess and enjoy the object acquired through lawful mechanisms.¹¹¹

Therefore, post-auction eviction reform fundamentally constitutes part of a broader agenda, namely the development of an *effective rule of law* within the Indonesian judicial system.¹¹² A modern rule of law state requires the capacity to ensure that every right acquired through legal processes can be realized

¹⁰⁸ Baldwin, "Measuring the Performance of Courts: Beyond Formal Justice."

¹⁰⁹ Tom R. Tyler, "Legitimacy and the Effective Enforcement of Judicial Decisions."

¹¹⁰ Mauro Cappelletti & Bryant Garth, *Access to Justice: The Worldwide Movement to Make Rights Effective*.

¹¹¹ Ahmad Rifai, "Efektivitas Eksekusi Pengosongan Objek Sengketa Perdata."

¹¹² Project, "Rule of Law Index."

concretely, swiftly, and fairly. When the state fails to guarantee the implementation of such rights, public confidence in law and the judiciary will continue to decline.¹¹³ Through the concept of an *Integrated Foreclosure Enforcement System*, this study emphasizes that post-auction eviction reform must be implemented comprehensively by integrating reforms in legal norms, institutions, administration, technology, and humanistic approaches.¹¹⁴ Only through such integrated reform can Indonesia develop a post-auction eviction system that is no longer fragmented and reactive, but instead evolves into a modern enforcement system that is effective, equitable, and aligned with the demands of a contemporary rule of law state.

Conclusion

Based on the overall discussion, it can be concluded that the problems surrounding post-auction eviction execution in Indonesia are not merely technical issues concerning execution implementation, but rather structural problems involving normative, institutional, social, economic, and legal-political dimensions. From the normative perspective, the principal weakness lies in the incompatibility of the HIR and RBg with the needs of modern foreclosure enforcement, resulting in auction proceedings and physical possession of objects still being positioned as two separate processes. Consequently, auction winners who have lawfully acquired rights must still confront eviction procedures that are lengthy, complex, and lacking in time certainty. From the institutional perspective, Indonesia's enforcement system remains fragmented because there is no integrated coordination among district courts, the State Assets and Auction Service Office (KPKNL), police authorities, local government agencies, and land offices. Meanwhile, from the social perspective, eviction execution frequently encounters public resistance because it relates to housing and the economic livelihood of occupants, such that execution implementation becomes not merely a juridical issue, but also a social and humanitarian issue. On the other hand, from an economic perspective, ineffective eviction execution adversely affects financing stability, the effectiveness of the national security system, and public confidence in the state auction mechanism. These conditions collectively demonstrate that post-auction eviction reform must be carried out

¹¹³ Richard A. Posner, *Economic Analysis of Law*.

¹¹⁴ Andrews, "Civil Justice and Enforcement Reform."

comprehensively and multidimensionally. The problems surrounding post-auction eviction execution also demonstrate that the Indonesian legal system still faces a significant gap between *legal formalism* and *effective enforcement*. Thus far, the success of auctions has largely been understood as an administrative success in the form of transfer of rights, whereas genuine legal protection is only realized when auction winners are able to obtain actual possession of the object. From the perspective of *access to justice*, this condition demonstrates that the legal system has not yet fully succeeded in providing effective protection of rights for society. As emphasized by Mauro Cappelletti and Bryant Garth, *access to justice* concerns not merely access to courts, but also the ability of the legal system to provide substantive protection of rights. In the practice of post-auction eviction execution, *access to justice* problems arise when auction winners who have lawfully acquired rights must still face additional litigation and complicated administrative procedures merely to obtain possession of the object. This condition becomes even more problematic because most auction participants originate from the general public and lack adequate legal expertise, thereby forcing them to confront an *asymmetry of legal capacity* against occupants who continue to maintain factual possession of the object. Accordingly, the current post-auction eviction system has not yet been fully designed in a *user-oriented* manner and remains excessively litigative and administrative.

In this context, this study proposes the concept of an *Integrated Foreclosure Enforcement System* as a reform model for post-auction eviction execution in Indonesia. This concept is built upon the assumption that auction proceedings, transfer of rights, and physical possession of objects must be positioned as a single integrated enforcement process. The model emphasizes not only enforcement effectiveness, but also institutional integration, procedural certainty, human rights protection, economic efficiency, and the expansion of *access to justice*. Such reform should at minimum encompass five principal agendas. First, substantive legal reform through the establishment of special regulations concerning post-auction eviction execution capable of connecting auction proceedings and possession of objects within a *single procedural pathway*. Second, institutional reform through the development of *integrated enforcement coordination* and the establishment of professional and integrated *special execution units*. Third, administrative reform through the digitalization of execution systems, including *digital execution registration*, *execution tracking systems*, *integrated enforcement notification systems*, *execution scheduling systems*,

digital monitoring dashboards, and *enforcement performance databases*. Fourth, social reform through *humanistic enforcement* approaches, protection of vulnerable groups, and mitigation of social conflict. Fifth, judicial reform through the development of a modern civil enforcement system that is more effective, simple, transparent, and responsive to societal needs. Furthermore, post-auction eviction reform must also be directed toward the development of *simplified enforcement procedures* capable of reducing administrative obstacles and additional litigation in execution implementation. A sound enforcement system should at minimum provide procedural certainty, procedural simplicity, certainty of execution timelines, transparency of implementation, and proportional costs. Accordingly, post-auction eviction reform is not merely intended to accelerate execution implementation, but also constitutes an important part of broader efforts to expand *access to justice* within the Indonesian civil justice system. Ultimately, post-auction eviction reform constitutes an important component of the broader agenda of modernizing Indonesian civil procedural law and developing an *effective judicial system*. An effective enforcement system is necessary not only to guarantee legal certainty for creditors and auction winners, but also to serve as an indicator of the quality of a modern rule of law state. When the state is capable of ensuring that every right acquired through legal processes can be effectively realized in practice, public trust in the judicial system will increase. Conversely, when judgments and auctions cannot be effectively enforced, law will merely be perceived as *legal formalism* lacking substantive coercive force. Therefore, the development of an *Integrated Foreclosure Enforcement System* should be understood not merely as a technical reform of post-auction eviction execution, but rather as part of the broader development of a national legal system capable of integrating *legal certainty, judicial effectiveness, economic efficiency, access to justice, and substantive justice* within a modern enforcement system that is effective, equitable, and consistent with the demands of a contemporary rule of law state.

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