Abstract

Thailand has introduced the civil forfeiture measure, which influenced by models under the common law system, though its Anti-Money Laundering Act B.E. 2542 in order to enhance effectiveness of crime control. It is necessary to review justifications for the civil forfeiture measure in terms of its effects on human rights, due process, suitability within civil law context of Thai legal system, as well as problems arisen from its implementation.

This study found civil forfeiture is unfair and punitive without proper proof of guilt beyond reasonable doubt. This is therefore not in accordance with the theory that views the defendant as the so-called subject, instead of object, of the criminal procedure. In addition, the criminal procedure of Thailand is significantly different from those with the common law system. There should be no special need for a civil law country like Thailand to adopt the civil forfeiture measure while it has not been proved that it can help close the loopholes as it was supposed to.

As a result, the recommendation is to differentiate the concept of criminalizing money laundering from civil forfeiture measure because these two things have different functions and objectives. Further more, Thailand should review if it is really necessary to continue using the civil forfeiture measure or it should opt to the value-based confiscation through normal criminal procedure instead.