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Bridging Justice Systems: Asset Confiscation in Anti-Corruption Law and Islamic Jurisprudence

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Abstract

Under Indonesia's Anti-Corruption Law, asset confiscation is treated as a civil and in *personam* matter, further impeded by parliamentary opposition to the Asset Forfeiture Bill. This article examines deficiencies in Indonesia's asset recovery framework through a comparative legal analysis with Islamic jurisprudence. Employing a critical–comparative approach, the study conducts a normative analysis of Law No. 20 of 2001 on Corruption Eradication, Law No. 8 of 2010 on Money Laundering, the Draft Asset Forfeiture Bill, and Law No. 1 of 2023 (the new Criminal Code), alongside Islamic legal sources. Anchored in the Islamic principle of *radd al-maẓālim* (the restitution of unjustly acquired wealth), the findings reveal that corruption encompasses both criminal and civil aspects. The study contends that the adoption of a non-conviction-based (*in rem*) forfeiture mechanism—underpinned by a calibrated reverse burden of proof and robust judicial safeguards—could substantially improve Indonesia's capacity for asset recovery. In practical terms, this research highlights the imperative of enacting comprehensive asset confiscation legislation as a fundamental component of Indonesia's anti-corruption reforms.

Keywords

Asset Confiscation; Anti-Corruption Law; Islamic Jurisprudence; *Radd al-Maẓālim*; Extraordinary Crime

Introduction

The prolonged failure to enact specific legislation addressing the confiscation of assets derived from corruption reveals a structural deficiency within Indonesia's anti-corruption framework.[1] Although corruption is unequivocally classified as an extraordinary crime under the Anti-Corruption Law, asset recovery remains predominantly dependent on in *personam* criminal convictions. This reliance creates a procedural gap when perpetrators evade prosecution, die, or benefit from political protection.[2] The recent integration of certain corruption offenses into Law

[1] Edi Rosman, Aidil Alfin, and Bustamar Bustamar, "Politik Hukum Pidana Indonesia: Analisis Korelasi Siyasah Syar'iyah dan Pencegahan Korupsi," *Al-Manahij: Jurnal Kajian Hukum Islam* 13, no. 1 (June 25, 2019): 15–31. https://doi.org/10.24090/mnh.v0i1.1797; Amar Muammar Rahman and Muhammad Husnul, "Failure of Criminal Law in Recovering State Losses Due to Criminal Acts of Corruption," *Petita: Jurnal Kajian Ilmu Hukum dan Syariah* 9, no. 1 (January 29, 2024): 305-323. https://doi.org/10.22373/petita.v9i1.244.

[2] Khilmatin Maulidah et al., "The Urgency of Enacting the Asset Confiscation Bill for the Eradication of Corruption and Money Laundering in Indonesia," *Prophetic Law Review* 7, no. 1 (2025): 95–116. https://doi.org/10.20885/PLR.vol7.iss1.art5; K. Johnson Rajagukguk and KMS Herman, "Recovery of State Financial Losses as a Strategy for Combating Corruption Crimes: A Reform of Criminal Law," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi dan Keagamaan* 12, no. 1 (April 30, 2025): 114.

No. 1 of 2023 (Kitab Undang-Undang Hukum Pidana/KUHP) raises critical concerns regarding the scope and efficacy of existing legal instruments. Scholars have cautioned that the imposition of lighter penalties and the exclusion of essential restitution mechanisms in the KUHP may undermine the characterization of corruption as an extraordinary crime. Furthermore, parliamentary delays in enacting the Draft Asset Forfeiture Bill exacerbate the issue by depriving authorities of non-conviction-based mechanisms that are increasingly employed in other jurisdictions to recover illicit assets.[3]

From a normative perspective, the limitations inherent in Indonesia's asset recovery regime reveal the lack of a coherent legal philosophy that integrates punitive justice with restorative aims. The existing legal framework places disproportionate emphasis on in *personam* criminal convictions as a prerequisite for asset confiscation, thereby constraining the state's ability to recover illicit assets when offenders evade prosecution, die, or benefit from political protection.[4] This reliance on conviction-based mechanisms overlooks the public interest aspect of corruption eradication, wherein the ultimate objective extends beyond punishment to the restoration of social and economic justice.[5] In contrast, numerous jurisdictions have implemented in rem or non-conviction-based forfeiture systems, acknowledging their essential role as complements to criminal justice processes in recovering proceeds of corruption. The prolonged stalemate regarding the Asset Forfeiture Bill thus signifies more than mere legislative delay; it reflects a profound ideological conflict between retributive and restorative justice models.[6] The absence of such legislation not only undermines the deterrent effect of Indonesia's anti-corruption framework but also diminishes its moral authority to ensure that unlawfully acquired assets are returned to the public domain to which they rightfully belong.

Concurrently, Islamic jurisprudence provides a comprehensive normative framework that can inform and enrich the discourse on asset confiscation and anti-corruption governance in Indonesia. Central to this framework is the principle of *radd al-maẓālim*, or the restitution of unlawfully acquired wealth, which integrates moral accountability, distributive justice, and the protection of public welfare (*maṣlaḥah ʿāmmah*). Within the Islamic legal tradition, justice extends beyond mere retribution to encompass restoration and moral integrity—objectives that align closely with contemporary anti-corruption efforts.[7] By employing this moral-legal paradigm, the recovery of illicit assets is conceptualized not solely as a procedural or punitive measure but as an

https://doi.org/10.29300/mzn.v12i1.6940; Ronald Hasudungan Sianturi, "Optimizing the Recovery of Corrupt Assets from the Perspective of Economic Rights and Human Security in Indonesia," *Khazanah Hukum* 7, no. 2 (May 6, 2025): 121–39. https://doi.org/10.15575/kh.v7i2.44974.

3 Tri Indah Sakinah, Thoriq Ziyad Rahman, and Alfarezi Setiawan, "Urgency of Regulate Illicit Enrichment Through of Asset Forfeiture Bill to Corruption Eradication in Indonesia," *IJCLS (Indonesian Journal of Criminal Law Studies)* 8, no. 1 (May 31, 2023): 75–94. https://doi.org/10.15294/ijcls.v8i1.43728.

4 Ridwan Arifin, Cahya Wulandari, Muliadi Muliadi, Indah Sri Utari, and Tri Imam Munandar. "A Discourse of Justice and Legal Certainty in Stolen Assets Recovery in Indonesia: Analysis of Radbruch's Formula and Friedman's Theory." *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 6, no. 2 (2023): 159–81. https://doi.org/10.24090/volksgeist.v6i2.9596.

5 Ronald Hasudungan Siantur. "Optimizing the Recovery of Corrupt Assets from the Perspective of Economic Rights and Human Security in Indonesia." Khazanah Hukum 7, no. 2 (2025): 121–39. https://doi.org/10.15575/kh.v7i2.44974.

6 Kms Herman and K. Johnson Rajagukguk. "Recovery of State Financial Losses as a Strategy for Combating Corruption Crimes: A Reform of Criminal Law." *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi dan Keagamaan* 12, no. 1 (2025): 114-127. https://doi.org/10.29300/mzn.v12i1.6940.

7 Akhmad Akhmad, Zico Junius Fernando, and Papontee Teeraphan. "Unmasking Illicit Enrichment: A Comparative Analysis of Wealth Acquisition Under Indonesian, Thailand and Islamic Law." *Journal of Indonesian Legal Studies 8* no. 2 (2023): 899–934. https://doi.org/10.15294/jils.v8i2.69332.

expression of collective ethical responsibility. Incorporating these principles into Indonesia's legal reform discourse establishes a conceptual nexus between positive law and religious morality, presenting an alternative paradigm that emphasizes both deterrence and restitution.[8] This approach highlights the potential contribution of Islamic legal thought to the advancement of a more just, effective, and ethically grounded asset confiscation system in Indonesia's ongoing struggle against corruption.

This article addresses three interrelated research questions that collectively examine the coherence and prospective development of Indonesia's asset recovery regime. First, it analyzes the extent to which Indonesia's statutory mechanisms for asset confiscation—including the Anti-Corruption Law (UU Tipikor), the new Criminal Code (KUHP), and Law No. 8 of 2010 on Money Laundering—conform to or diverge from Islamic legal principles regarding the confiscation and restitution of unlawfully obtained assets. Second, it investigates the procedural, institutional, and political obstacles that have consistently hindered the enactment of the long-debated Asset Forfeiture Bill, thereby obstructing the implementation of non-conviction-based mechanisms increasingly acknowledged in comparative legal systems. Third, it endeavors to propose a model of legal and policy reform capable of reconciling in rem forfeiture and reverse evidentiary principles with Indonesia's constitutional protections and human rights commitments. By addressing these questions, the article seeks to elucidate pathways toward a more effective, equitable, and ethically grounded asset recovery framework within Indonesia's anti-corruption regime.

Literature Review

The reversed burden of proof in Indonesia's corruption cases serves as a crucial mechanism in combating corruption by obligating defendants to demonstrate that their wealth is not derived from illicit activities. Nevertheless, its implementation encounters challenges, including inconsistencies in enforcement and limited statutory provisions, which compromise legal certainty.[9] The integration of Islamic legal principles—emphasizing justice and legal certainty—within the existing positive law framework may enhance both fairness and efficacy in anti-corruption efforts. It is recommended to adopt the "beyond a reasonable doubt" standard to strengthen the evidentiary process.[10] Efforts to eradicate foreign bribery in Indonesia underscore the necessity for comprehensive legal reforms that align with international standards while incorporating ethical values derived from Islamic law. Despite Indonesia's commitment to international anti-corruption conventions, regulatory and practical gaps remain, particularly in addressing foreign bribery.[11] Reforming regulations to incorporate Islamic principles of fairness, transparency, and accountability, alongside bolstering international cooperation, is imperative for

8 Maswandi, Jamillah, Rizkan Zulyadi, Arie Kartika, and Fitri Yanni Dewi Siregar. "The Role of Islamic Law and Tradition in the Prevention of Corruption by Political Experts in Indonesia." *International Journal of Criminal Justice Sciences* 17, no. 2 (2022): 114–27. https://doi.org/10.5281/zenodo.4756114.

9 Ahmad Hadi Prayitno et al., "Reversed Burden of Proof in the Procedural Law of Corruption Cases: A Normative Study of Justice and Legal Certainty in Positive and Islamic Law," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi dan Keagamaan* 12, no. 1 (May 28, 2025): 376. https://doi.org/10.29300/mzn.v12i1.8182.

10 Prayitno et al.; Gunaldi Ahmad et al., "Principles of Reversal Burden of Proof in the Perspective of Indonesian Criminal Law and Islamic Law," *Jurnal Hukum Islam* 20, no. 2 (December 22, 2022): 355–78. https://doi.org/10.28918/jhi.v20i2.6749.

11 Herawan Sauni et al., "Beyond Borders: Shedding Light on Foreign Bribery through an Islamic Legal Lens," *Al-Istinbath: Jurnal Hukum Islam* 9, no. 2 (September 20, 2024): 649–78. https://doi.org/10.29240/jhi.v9i2.9752.

effective corruption control and the restoration of public trust.[12] Furthermore, embedding Islamic teachings into governance frameworks can provide a moral foundation to enhance transparency and accountability.[13]

Restorative justice, endorsed by Indonesia's largest Islamic organizations, presents a culturally grounded approach to addressing corruption cases by emphasizing social reconciliation, victim restitution, and offender reintegration.[14] This approach corresponds with Islamic principles such as *sulh* (reconciliation) and *maslahah* (public interest), thereby potentially enhancing the legitimacy and inclusivity of Indonesia's anti-corruption framework. Both Nahdlatul Ulama and Muhammadiyah underscore the importance of transparency, proportional sanctions, and ethical accountability, while cautioning against the misuse of restorative mechanisms as a means to evade accountability. The integration of restorative justice with Islamic normative ethics offers a promising avenue to reconcile contemporary justice reforms with traditional values, thereby fostering a more effective anti-corruption strategy.[15]

Existing research on corruption eradication in Indonesia has predominantly focused on three areas: the implementation of the reversed burden of proof in corruption cases, the incorporation of Islamic legal principles into anti-bribery and governance frameworks, and the exploration of restorative justice as a culturally grounded approach to corruption. Nevertheless, these studies remain fragmented and largely normative, lacking a comprehensive analytical framework that addresses doctrinal inconsistencies, legislative stagnation, and the absence of an effective asset confiscation regime. Few investigations have considered how delays in enacting the Asset Forfeiture Bill and the limited application of in rem mechanisms undermine both legal certainty and moral legitimacy in asset recovery. This study addresses this gap by integrating comparative legal analysis with Islamic jurisprudential principles to propose a cohesive model of asset confiscation that harmonizes positive law, human rights, and Islamic ethics.

Method

This study employs the normative juridical method as its primary approach, focusing on the analysis of the existing written laws in Indonesia concerning the confiscation of assets derived from corruption. The investigation centers on the provisions of Law No. 31 of 1999[16] in conjunction with Law No. 20 of 2001 on the Eradication of Corruption,[17] Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering, and the Draft Law on Asset Confiscation.[18] The initial phase involves the identification and collection of legal materials. Primary sources include statutes and implementing regulations governing asset seizure and confiscation, while

[12] Sauni et al.; Akhmad Akhmad, Zico Junius Fernando, and Papontee Teeraphan, "Unmasking Illicit Enrichment: A Comparative Analysis of Wealth Acquisition Under Indonesian, Thailand and Islamic Law," *Journal of Indonesian Legal Studies* 8, no. 2 (November 8, 2023). https://doi.org/10.15294/jils.v8i2.69332.

[13] Akhmad, Fernando, and Teeraphan, "Unmasking Illicit Enrichment: A Comparative Analysis of Wealth Acquisition Under Indonesian, Thailand and Islamic Law."

[14] Suparno Suparno, Rusli Rusli, and Ia Hidarya, "A New Restorative Justice Paradigm in the Sociology of Islamic Law in Indonesia: Nahdlatul Ulama and Muhammadiyah's Responses to Corruption Cases," *Syariah: Jurnal Hukum dan Pemikiran* 24, no. 2 (February 13, 2025): 480–502. https://doi.org/10.18592/sjhp.v24i2.16221.

[15] Suparno, Rusli, and Ia Hidarya; Rosman, Alfin, and Bustamar, "Politik Hukum Pidana Indonesia: Analisis Korelasi Siyasah Syar'iyah dan Pencegahan Korupsi."

[16] Republic of Indonesia, *Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on the Eradication of Corruption*.

[17] Republic of Indonesia, *Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering*.

[18] Republic of Indonesia, *Draft Law on Asset Confiscation*.

secondary sources comprise legal doctrines, scholarly articles, and expert opinions addressing the effectiveness and challenges of asset confiscation in Indonesia. The subsequent phase entails the classification and interpretation of positive law, wherein each legal provision is examined to elucidate the formal mechanisms of asset confiscation, spanning investigation, prosecution, judicial rulings, and the execution of asset seizure and restitution to the state. This phase also encompasses an analysis of legal gaps, implementation challenges, and the institutional roles of the Corruption Eradication Commission (Komisi Pemberantasan Korupsi, KPK), the Attorney General's Office, and the Corruption Court.[19]

The third phase applies a conceptual approach to integrate the principles of positive law with those of Islamic law, framing asset confiscation as a means of restoring public wealth unlawfully appropriated. Islamic legal principles provide an ethical foundation that reinforces the legal rationale.[20] The fourth phase involves a comparative analysis between Indonesian positive law and Islamic law, revealing shared objectives such as the restoration of justice and the return of public rights, while also identifying procedural distinctions—for instance, positive law mandates a judicial ruling, whereas classical Islamic law may allow more direct mechanisms based on evidentiary proof.[21] The fifth phase comprises a critical evaluation of the implementation of positive law, including case studies of court decisions on asset confiscation, the effectiveness of verdict enforcement, and structural obstacles such as difficulties in tracing assets abroad, legal resistance from convicts, and limitations within legislative instruments.[22] The final phase presents conclusions and recommendations, affirming that asset confiscation under Indonesian positive law aligns with the objectives of Islamic law despite procedural differences. Recommendations focus on policy harmonization, strengthening legal instruments, and regulatory reforms to better align with the principles of justice advocated in Islamic law.

Utilizing the normative juridical method, this study holds strategic importance in strengthening both the theoretical and practical foundations of anti-corruption initiatives in Indonesia, particularly through asset confiscation mechanisms. By thoroughly analyzing legislation, legal doctrines, and judicial decisions, and by comparing these with the principles of Islamic law, the research contributes to two key areas. First, it proposes a conceptual framework that integrates substantive Islamic justice values within the framework of Indonesia's positive law. Second, it offers concrete recommendations for policymakers aimed at harmonizing regulations and enhancing legal instruments to facilitate the effective recovery of public assets. The findings are anticipated to enrich scholarly discourse in the field of law and to serve as a practical resource for legislators, law enforcement authorities, and academics in developing anti-corruption strategies that are both responsive to contemporary challenges and grounded in universal ethical principles.

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19 Salma Aulia Farahdina Ariani, and Nanik Prasetyoningsih. "Fighting Corruption Post Revision of the Act of the Corruption Eradication Commission." *Media of Law and Sharia* 3, no. 3 (2022): 235-254.

20 Moh Yasir, Joko Widodo, and Ali Ashar. "Islamic Law and National Law (Comparative Study of Islamic Criminal Law and Indonesian Criminal Law)." *Al-Hurriyah: Jurnal Hukum Islam* 6, no. 2 (2021): 167-181.

21 Günter Frankenberg, "Critical Comparisons: Re-Thinking Comparative Law," in *Legal Theory and the Legal Academy* (Routledge, 2017): 245–89; Mathias Siems and Po Jen Yap, *The Cambridge Handbook of Comparative Law* (Cambridge University Press, 2024); Esin Örücü and David Nelken, *Comparative Law: A Handbook* (Bloomsbury Publishing, 2007).

22 Suprijati Sarib, and Sabil Mokodenseho. "Comparison Between Islamic Law and Positive Law in a Judicial Context." *West Science Islamic Studies* 1, no. 1 (2023): 34-41.

Results

Anti-Corruption Law in the Indonesian Context

The enactment of Law No. 1 of 2023 concerning the Indonesian Penal Code (Kitab Undang-undang Hukum Pidana, KUHP) has elicited considerable scholarly and public discourse, particularly regarding the integration of corruption offenses within its framework. This legislative change is widely regarded as a setback in Indonesia's anti-corruption efforts. Legal experts and anti-corruption advocates contend that this reclassification effectively diminishes the gravity of corruption by treating it as an ordinary criminal offense rather than a serious crime, thereby reducing the imperative for exceptional legal measures.[23] This shift raises critical issues concerning the interplay between the doctrines of *lex specialis* and *lex generalis*. Ideally, the Anti-Corruption Law (Law No. 31 of 1999, as amended by Law No. 20 of 2001, hereinafter UU Tipikor) should maintain its status as *lex specialis*, offering a specialized legal framework for prosecuting corruption. However, the overlap of provisions between the new Penal Code and the UU Tipikor, coupled with inconsistencies in sentencing, risks creating legal uncertainty. Such ambiguity may be exploited by vested interests to weaken anti-corruption enforcement.[24]

The problem is further exacerbated by the omission of additional penalties, such as restitution (*uang pengganti*), in the KUHP. Restitution has long been recognized as a crucial legal mechanism for the recovery of assets obtained through corruption. The absence of this provision is regarded as a significant setback to asset recovery efforts and is perceived by some scholars as granting undue advantage to corrupt individuals. This omission highlights an inconsistency between the state's declared commitment to combating corruption with rigor and urgency and the actual legal framework. One of the most serious criticisms directed at the KUHP concerns the reduction of statutory penalties for corruption. For instance, Article 603 of the KUHP, which addresses offenses resulting in financial losses to the state, prescribes a minimum imprisonment term of only two years, markedly lower than the four-year minimum mandated by Article 2 of the UU Tipikor.[25] Similarly, the minimum fine is reduced from IDR 200 million to IDR 10 million. These reductions are widely feared to undermine the law's deterrent effect, especially given that corruption sentences in Indonesia are already perceived as lenient. Moreover, these changes may facilitate "provision shopping" by law enforcement officials, who might selectively apply the more lenient KUHP provisions to the advantage of defendants.

Furthermore, the Indonesian Criminal Code (KUHP) recognizes only state financial losses as determined by official audit institutions, such as the Audit Board of Indonesia (Badan Pemeriksa Keuangan, BPK). This requirement may hinder investigations due to the often-lengthy duration of audit procedures. Additionally, this provision diverges from the jurisprudence of the Constitutional Court, which has expanded the authority of law enforcement agencies to independently ascertain the existence of state financial losses.[26] This development contrasts with the historical evolution of Indonesia's anti-corruption legal framework. Law No. 31 of 1999

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23 Henry Kristian Siburian, et al. "Comparative analysis of corruption criminal regulations between the New Criminal Law and the Corruption Act." *Awang Long Law Review* 5, no. 2 (2023): 535-544.

24 Guyus Kemal. "Authority of the Prosecutor as Single Prosecution System in Criminal Corruption Cases." *Journal of Legal System and Novelty* 1, no. 2 (2024): 93-106.

25 Andi Muhammad Alief. "Reconstruction of special sentencing guidelines on state loss crime in the Indonesian Criminal Code." *Integritas: Jurnal Antikorupsi* 10, no. 1 (2024): 149-160.

26 Ewaprilyandi Fahmi Saputra, and Hery Firmansyah. "Politik Hukum dalam Upaya Pemberantasan Tindak Pidana Korupsi melalui Pembaharuan Pengaturan Tindak Pidana Korupsi sebagai Extraordinary Crime dalam KUHP Nasional." *UNES Law Review* 6, no. 2 (2023): 4493-4504.

represented a pivotal moment in establishing a specialized legal regime to combat corruption, enacted in response to systemic corruption that had severely undermined the national economy, eroded public trust, and threatened political stability. The statute provides a comprehensive definition of corruption, enumerates its various forms, and prescribes stringent criminal sanctions, conceptualizing corruption as encompassing both unlawful enrichment and abuse of power resulting in state financial losses.[27]

Over time, the practical enforcement of Law No. 31 of 1999 exposed significant deficiencies. In response, Law No. 20 of 2001 was enacted to address these shortcomings by refining statutory definitions, broadening the scope of corrupt conduct, and strengthening criminal sanctions. Notably, the amendment explicitly regulated gratification as a covert form of corruption, thereby providing prosecutors with an expanded legal framework for prosecution.[28] Additionally, Law No. 20 of 2001 introduced a partial reversal of the burden of proof, requiring certain defendants to demonstrate the lawful origin of their assets. This provision aimed to counteract the clandestine nature of corruption, which frequently operates through opaque and complex networks. Furthermore, the statute institutionalized public participation in oversight, acknowledging the eradication of corruption as a collective societal responsibility.[29] Complementing this framework, Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering was enacted to address the evolving nature of financial crimes. Although money laundering constitutes a distinct offense, its connection with corruption is well established.[30] Consequently, Law No. 8 of 2010 provides comprehensive mechanisms for freezing, tracing, seizing, and confiscating assets derived from illicit activities. Preventive measures mandated by the law include the implementation of Know Your Customer (KYC) protocols and the reporting of suspicious transactions to the Financial Transaction Reports and Analysis Center (PPATK). In terms of enforcement, the statute grants extensive investigative powers aimed at disrupting the financial foundations of criminal enterprises.[31]

The interrelationship between the Anti-Corruption Law and the Anti-Money Laundering Law holds strategic significance. The former establishes and prosecutes predicate offenses, while the latter facilitates the tracing and recovery of illicit proceeds. Collectively, these laws form an integrated legal framework aimed at eradicating corruption and its associated financial infrastructure. With the enactment of Law No. 31 of 1999, Law No. 20 of 2001, and Law No. 8 of 2010, Indonesia has developed a comprehensive legal regime to combat corruption and related financial crimes. However, the effectiveness of this framework depends fundamentally on the integrity of law enforcement institutions, active civic participation, and sustained political will. In the absence of these conditions, even the most advanced legal instruments risk ineffectiveness.[32] In this regard, the repositioning of corruption offenses within the KUHP poses a threat to the

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27 Samuel Issacharoff. "The corruption of popular sovereignty." *International Journal of Constitutional Law* 18, no. 4 (2020): 1109-1135.

28 Febri Handayani. "The pernicious consequences of political corruption in Indonesia." *Prophetic Law Review* (2019): 1-20.

29 Richo Andi Wibowo. "When anti-corruption norms lead to undesirable results: learning from the Indonesian experience." *Crime, Law and Social Change* 70, no. 3 (2018): 383-396.

30 Ariman Sitompul. "Eradication Of Corruption By Tracing Money Laundering As An Integral Legal System That Can Not Be Separated." *International Asia of Law and Money Laundering (IAML)* 2, no. 3 (2023): 111-118.

31 Firmansyah, Hadrawi Kasma and Mikdar Rusdi. "Addressing Corruption of Village Funds: A Perspective from Islamic Criminal Law and Positive Law on Asset Recovery." *Jurnal Ilmiah Al-Syir'ah* 22, no. 1 (2024): 13-24.

32 Haris Maiza Putra, and Hisam Ahyani. "Internalization in Islamic law progressive in criminal law changes in Indonesia." *Jurnal Ilmiah Al-Syir'ah* 20, no. 1 (2022): 68-90.

progress achieved over the past two decades. Rather than strengthening the specialized anti-corruption regime, the KUHP risks diluting the exceptional legal status of corruption, weakening sanctions, and undermining asset recovery mechanisms. To prevent such regression, legislative or judicial interventions are essential to ensure that Indonesia's anti-corruption framework remains consistent with the goals of legal reform, good governance, and the preservation of public trust.

The Draft Law on Asset Forfeiture

The Draft Law on Asset Forfeiture (Rancangan Undang-Undang Perampasan Aset), initially introduced in 2008, has re-emerged as a critical component of Indonesia's anti-corruption framework. Its prolonged stagnation highlights a disconnect between public political commitments and the entrenched institutional resistance within the legislative process. Despite repeated emphasis on its urgency by both the executive branch and anti-corruption agencies, parliamentary dynamics have persistently impeded its advancement. Consequently, Indonesia continues to lose trillions of rupiah annually due to unrecovered criminal assets.[33] The fundamental issue lies in the inadequacy of the existing legal framework. Currently, asset forfeiture is governed by an in *personam* model, whereby confiscation is permitted only as an ancillary penalty following a final and binding criminal conviction. This model proves ineffective in circumstances where the offender dies, absconds, or cannot be prosecuted. The Draft Law advocates a structural reform by dissociating asset forfeiture from the requirement of a criminal conviction, thereby enabling recovery proceedings regardless of the perpetrator's legal status.

The bill centers on the implementation of an in rem, or non-conviction-based, asset forfeiture mechanism. In contrast to the offender-focused in *personam* approach, in rem proceedings treat the asset itself as the defendant within a civil process. Consequently, the focus shifts from determining "who committed the crime" to assessing "whether the asset originates from illicit activity." This conceptual shift enables the recovery of unlawful assets even in the absence of an identified or convicted perpetrator.[34] The bill operationalizes in rem proceedings through the introduction of "unexplained wealth orders" accompanied by a reverse burden of proof. Under this provision, individuals possessing assets suspected of constituting unexplained wealth are required to demonstrate their lawful origin; failure to do so authorizes the state to classify and confiscate such assets as proceeds of crime. This reversal of evidentiary burden addresses longstanding challenges in tracing and recovering illicit wealth, particularly in cases of corruption.[35]

The proposed framework draws on comparative legal models, notably Australia's unexplained wealth regime, which permits asset seizure without a criminal conviction. International experience underscores the effectiveness of such mechanisms in dismantling organized crime and corruption by eliminating their economic incentives. Nonetheless, the bill's repeated removal from priority legislative agendas, despite the issuance of a Presidential Letter (Surpres) in May 2023, reflects persistent political resistance. Analysts attribute these delays to the bill's potential to implicate politically exposed persons and disrupt entrenched networks of illicit wealth.

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[33] Hufron, and Sultoni Fikri. "The urgency of regulating forfeiture of assets gained from corruption in Indonesia." *Legality: Jurnal Ilmiah Hukum* 32, no. 2 (2024): 292-310.

[34] Isnaini Nur Fadilah. "In Rem Asset Forfeiture dalam Bandul Asset Recovery dan Property Rights." *AML/CFT Journal: The Journal of Anti Money Laundering and Countering The Financing of Terrorism* 1, no. 1 (2022): 87-99.

[35] Fitri Aliva Rachmarani, Anita Afriana, and Rai Mantili. "Analysis Of In Rem Lawsuit In The Draft Asset Forfeiture Law Based On The Perspective Of Indonesian Civil Procedure Law." *Acta Diurnal Jurnal Ilmu Hukum Kenotariatan* 8, no. 1 (2024): 45-62.

Critics have expressed constitutional and human rights concerns, particularly with respect to property rights, the presumption of innocence, and the potential for abuse by enforcement authorities. Consequently, safeguards for bona fide third parties—those who acquire assets without knowledge of their illicit origin—are essential to ensure procedural fairness. Conversely, proponents, including the Corruption Eradication Commission (KPK) and Indonesia Corruption Watch (ICW), view the bill as a crucial instrument for recovering state losses and deterring corruption.[36] From an Islamic legal perspective, asset forfeiture corresponds with the doctrine of *radd al-maẓālim* (restoration of rights), especially in addressing corruption, which is classified in Islamic criminal law (*fiqh jināyah*) as an extraordinary crime (*al-jināyah al-kubrā*) that undermines justice and trustworthiness.[37] The 2012 fatwa issued by the Indonesian Ulema Council (MUI) explicitly endorses the confiscation of both proven proceeds of corruption and assets of unverifiable origin, thereby providing theological justification for the bill's reverse burden of proof.[38] In summary, the Draft Law on Asset Forfeiture represents a strategic advancement in Indonesia's anti-corruption policy, shifting from a perpetrator-focused punitive approach toward a restitution-oriented framework that prioritizes state loss recovery. Its enactment would signify a substantial strengthening of the legal framework, provided that it incorporates robust safeguards against rights violations. Ultimately, the decisive factor will be the political will to overcome vested interests and establish a system in which corruption is no longer economically viable.

Corruption in Islamic Legal Sources

One of the Qurʾanic passages most frequently referenced in discussions of corruption and related offenses is al-Baqarah (2):188.[39] Classical exegetical sources associate this verse with the case of Imruʾ al-Qays b. ʿĀyish al-Kindī, who became involved in a dispute with Rabiʿah b. ʿAbdān al-Ḥaḍramī concerning the ownership of a parcel of land. Rabiʿah presented the matter before the Prophet Muḥammad, asserting, "He has unlawfully taken my land." The Prophet inquired whether Rabiʿah possessed any evidence. Upon receiving a negative response, the Prophet stated, "In that case, you are entitled only to an oath from him." When Imruʾ al-Qays prepared to swear the oath, the Prophet cautioned, "Whoever swears an oath to wrongfully appropriate the property of his brother will meet Allah while He is angry with him." In another narration, the Prophet warned, "Indeed, if he swears to consume that wealth unjustly, he will meet Allah while Allah turns away from him."[40]

The concept of *asbāb al-nuzūl* (occasions of revelation) highlights a categorical prohibition against the manipulation of oaths or judicial rulings to unjustly dispossess individuals of their rights. Although such actions may possess formal legal validity within procedural frameworks, they

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36 M. Said Karim. "The Concept of Non-Conviction Based Asset Forfeiture As a Legal Policy in Assets Criminal Action of Corruption." *Legal Brief* 11, no. 5 (2022): 2613-2622.

37 Hasbullah. "Law as Commander in Chief in the Era of Reform in Indonesia: A Critical Study of Corruption Prevention and Enforcement." *Beijing L. Rev.* 14 (2023): 1954.

38 Muhammad Rais, and Harya Pramata. "Regulating Sharia financial transactions: The role of the Indonesian Ulema Council (MUI) and implications for Islamic finance in Indonesia." *Law and Economics* 18, no. 1 (2024): 1-11.

39 *"Do not consume one another's wealth unjustly, nor offer it to the judges in order that you may consume a portion of the wealth of others sinfully, while you know [it is wrong]."*

40 Muḥammad b. Ismāʿīl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī, Kitāb al-Shahādāt, Bāb Kayfa Yustaḥlaqu Mālu Akhīhi bi al-Yamīn*, no. 2669, vol. 3 (Beirut: Dār Ṭawq al-Najāh, 1422 H), p. 164; Muslim b. al-Ḥajjāj al-Qushayrī al-Naysābūrī, *Ṣaḥīḥ Muslim*, *Kitāb al-Īmān, Bāb Ghilāẓ Taḥrīm Istihqāq al-Māl bi al-Yamīn al-Kādhibah*, no. 138 vol. 1 (Riyadh: Dār Ṭayyibah, 2006), p. 71.

are considered *bāṭil* (invalid) in the sight of God. While the verse's immediate historical context does not explicitly address contemporary forms of corruption, such as the embezzlement of public funds, the term *bil-bāṭil* (unjustly) has been argued by several contemporary jurists to be sufficiently broad to encompass these acts through analogical reasoning. Reports from the *salaf* (early generations) further clarify the verse's scope. Ibn ʿAbbās explained that it pertains to individuals who deny legitimate debts or financial obligations and, despite lacking counter-evidence, bring the matter to court while knowing their opponent's claim to be valid. Mujāhid interpreted it as a prohibition against litigating while in the wrong. Qatādah asserted that one who assists an adversary in injustice shares in their sin until they return to the truth; accordingly, a judicial verdict cannot alter the fundamental moral status of an act. Al-Suddī understood *bāṭil* as causing harm to others and appealing to the judiciary to deprive them of their rights. ʿIkrimah cited the example of returning purchased goods while wrongfully demanding additional payment. Ibn Zayd extended the prohibition to those who employ superior rhetorical skills to unjustly win cases, linking this behavior to exploitative practices such as pre-Islamic gambling. Collectively, these interpretations present the verse as a stern admonition against the use of procedural mechanisms or persuasive abilities to conceal injustice.

Medieval exegetes elaborated on these insights in considerable detail. Al-Baghawī observed that the term *amwālakum* (your wealth) implies social solidarity, indicating that the property of others should be regarded as one's own due to the fraternal bond among Muslims. He interpreted *bāṭil* as encompassing all illicit means of acquisition, including fraud, theft, usury, bribery, and corruption.[41] Al-Qurṭubī emphasized that the prohibition extends to all unlawful transactions, even those conducted with mutual consent, when they contravene Sharia law. He identified the phrase *wa tudlū bihā ilā al-ḥukkām* (and offer it to the judges) as an explicit reference to judicial bribery, supported by the prophetic hadith: "Allah has cursed the one who gives a bribe and the one who receives it." Ibn Kathīr highlighted the moral and social implications of the verse, asserting that initiating legal proceedings with false evidence to obtain another's right constitutes a major sin, even if sanctioned by a judicial ruling. He cited a report from Umm Salamah in which the Prophet stated: "Whoever I judge in his favour, taking from his brother's right, I am in fact giving him a piece of the Fire." This demonstrates that procedural legality does not absolve moral culpability.[42] Al-Ṭabarī, through linguistic analysis, noted that *idlāʾ* originally means "to lower a bucket into a well" but is metaphorically employed to mean "presenting an argument" before a judge. He underscored that the prohibition applies to those who intentionally distort the truth through rhetoric or falsified evidence. Furthermore, he observed that variant Qurʾanic readings influence whether the prohibition functions independently or in direct connection with the unlawful consumption of wealth.[43]

Contemporary exegetes, including Ibn ʿĀshūr, have interpreted Qur'an 2:188 as integral to the ethical foundations of the Islamic economic system. Ibn ʿĀshūr argued that the term *bāṭil* encompasses not only explicitly unlawful acts but also transactions that, while formally legal, undermine justice and public welfare. The concluding phrase *wa antum taʿlamūn* (while you know)

41 al-Baghawī, al-Ḥusayn ibn Masʿūd. *Tafsīr al-Baghawī*, vol. 1 (Riyadh: Dār Ṭayyibah, 2010) p. 211.

42 Ibn Kathīr, Ismāʿīl ibn ʿUmar al-Qurashī al-Dimashqī. *Tafsīr Ibn Kathīr*, vol. 1 (Riyadh: Dār Ṭayyibah, 2002) p. 521.

43 al-Ṭabarī, Muḥammad ibn Jarīr. *Jāmiʿ al-Bayān ʿan Taʾwīl Āy al-Qurʾān*, vol. 3 (Cairo: Dār al-Maʿārif, 2012) p. 548.

emphasizes the perpetrator's conscious awareness of wrongdoing, thereby intensifying the severity of the offense.[44] Collectively, these exegetical perspectives demonstrate that Qur'an 2:188 incorporates legal, ethical, and socio-moral dimensions. From a legal standpoint, it prohibits the unlawful appropriation of wealth; ethically, it mandates integrity and fairness in both interpersonal and institutional interactions; socially, it aims to maintain trust and solidarity within the community. When analyzed through this tripartite framework, contemporary issues such as bribery, corruption, and legal manipulation clearly fall within its scope. Consequently, this verse functions as a foundational text in Islamic legal and ethical discourse, underscoring that genuine justice is measured not solely by procedural legality but also by adherence to moral truth and the safeguarding of the public good.

Punishment for Corruption in Islamic Jurisprudence

In Islamic jurisprudence, the concept of "corruption" as it is understood in contemporary legal discourse does not appear explicitly. However, practices that are substantively equivalent to corruption—such as the embezzlement of state property (*ghulūl*), bribery (*rishwa*), and the abuse of entrusted authority—are extensively addressed within the chapters of *fiqh*. The four Sunni schools of law (Ḥanafī, Mālikī, Shāfiʿī, and Ḥanbalī) maintain a consensus regarding the prohibition of such acts, although they differ in their classification of legal categories and the types of sanctions imposed. The Ḥanafī school regards *ghulūl*, defined as the unlawful appropriation of public wealth, including assets from the *bayt al-māl*, as a form of betrayal that is categorically forbidden and constitutes a grave sin. When the misappropriated wealth reaches the threshold (*niṣāb*) of theft and satisfies the legal elements of *sariqah* (theft), the offender is subject to the ḥadd penalty of amputation. If these elements are not fulfilled, the sanction falls within the domain of *taʿzīr* (discretionary punishment determined by the ruler). Concerning bribery, Ḥanafī jurists assert that both the giving and receiving of *rishwa* are prohibited, except in cases of necessity aimed at averting injustice, wherein the sin is attributed to the recipient.[45]

Furthermore, the Mālikī school, drawing upon the traditions recorded in al-Muwaṭṭaʾ of Imām Mālik, regards *ghulūl* as a grave sin that may result in eternal damnation, as exemplified by the account of the slave Midʿam, who was killed at Wādī al-Qurā. The Prophet is reported to have stated that even a single piece of cloth unlawfully taken from the spoils of war prior to their distribution would become fuel for Hellfire. Mālikī jurists also reference the hadith of Jābir ibn ʿAbd Allāh al-Anṣārī, which exempts certain offenses—such as betrayal, highway robbery, and covert embezzlement—from the penalty of amputation, on the grounds that these crimes pose significant threats to societal stability. Within this legal framework, corruption is understood to share the same underlying rationale (*ʿillah*) as armed robbery, namely the disruption of public security and socio-economic order. Consequently, corruption may warrant the most severe punishments, including financial penalties, imprisonment, deprivation of civil rights, and even capital punishment, in order to preserve public welfare and maintain the integrity of the state.[46]

Within the Shāfiʿī school of Islamic jurisprudence, *ghulūl*—the misappropriation of public or

[44] Ibn ʿĀshūr, Muḥammad al-Ṭāhir. *Al-Taḥrīr wa al-Tanwīr*, vol. 2 (Tunis: Dār Saḥnūn, 2017) p. 188.
[45] Rohmansyah. "Contextualization of Hadical Understanding about Corruption." *ESENSIA: Jurnal Ilmu-Ilmu Ushuluddin* 20, no. 2: 147-157.
[46] Firqah Annajiyah Mansyurah. "Hand Cut Sentence for Corruptors (Thematic Study of Tafsir Ahkam Surah Al-Maidah Verse 38)." *Syariah: Jurnal Hukum dan Pemikiran* 19, no. 2 (2019): 159-170.

entrusted property—is regarded not merely as an ethical transgression but as a breach of trust (*khiyānah*) and a major sin (*kabīrah*) that compromises the moral integrity of governance. When the act fulfills the classical criteria of sariqah—specifically, the unlawful taking of property from a place of secure custody (*ḥirz*), without the owner's consent, and reaching the prescribed *niṣāb*—it warrants the *ḥadd* penalty of amputation. Conversely, if any of these conditions are unmet, the punishment is reduced to *taʿzīr,* which is determined by the judge according to the severity of the offense. Shāfiʿī jurists also uphold a stringent prohibition against *rishwah* (bribery) in both judicial and administrative contexts, considering it a distortion of justice and a corruption of divine mandate. The sole exception occurs when an individual is compelled under duress to offer payment in order to reclaim a right unjustly withheld; in such cases, culpability rests solely with the bribe recipient.[47]

The Ḥanbalī school similarly regards *ghulūl* as an act of betrayal that necessitates restitution and punishment. If the act meets the legal criteria for theft, the *ḥadd* penalty is applied; otherwise, it is subject to *taʿzīr*. Ḥanbalī jurists emphasize that ghulūl involves the wrongful consumption of wealth and engenders social corruption (*fasād fī al-arḍ*), thereby justifying the imposition of stringent sanctions. Regarding bribery, Imām Aḥmad ibn Ḥanbal prohibits both the giving and receiving of bribes, even when such payments are made to prevent injustice, as these actions perpetuate systemic corruption. Collectively, the four Sunni schools of law concur that what is contemporarily termed "corruption" is categorically forbidden, constitutes a major sin, and warrants firm sanctions. The primary differences pertain to technical classifications—whether the offense falls under *ḥadd* or *taʿzīr*—and the specific forms of punishment prescribed. The overarching principle shared by all schools is the protection of public trust, the prevention of the usurpation of communal rights, and the obstruction of pathways that lead to widespread harm and disorder.

Discussion

Corruption constitutes both a criminal and a civil law issue, as it involves not only criminal liability—punishable by imprisonment or fines—but also results in financial losses to the state or private parties, which may be addressed through civil litigation to obtain restitution. Within the criminal law framework, the primary objectives are to punish the offender and deter future offenses. Conversely, the civil law approach emphasizes asset recovery or compensation for the aggrieved parties. This dual-track mechanism embodies the principles of restorative justice in contemporary jurisprudence and aligns with Islamic law, which regards the confiscation or restitution of assets acquired through corruption as both a religious and legal obligation to restore unlawfully appropriated rights. Islamic criminal law adopts a more integrated paradigm, simultaneously incorporating punitive, preventive, and restorative elements. In contrast, Indonesia's positive law remains fragmented across the Criminal Code, the Anti-Corruption Law, and the Draft Law on Asset Forfeiture. Regulatory harmonization is essential to ensure that corruption continues to be recognized as an extraordinary crime, subject to stringent and effective

[47] Akram Shafeei, Mahnaz Salimi, and J. R. Salman. "Jurisprudential investigation of crimes requiring death penalty with the approach of mitigating punishment in the Hanbali and Shafi'i schools of thought and its comparison with the laws of Iran." *Geography (Regional Planning)* 14, no. 54 (2024): 161-176.

sanctions, while incorporating more progressive mechanisms for asset recovery.[48]

Within Islamic legal doctrine, the enforcement of anti-corruption measures is fundamentally rooted in the principle of *amanah* (trustworthiness) and the prohibition against unlawfully acquiring wealth, as delineated in Qurʾan 2:188. Corrupt practices, including *ghulūl* (embezzlement), *rishwah* (bribery), and abuse of office, are regarded as major sins that undermine societal integrity. The second caliph, ʿUmar ibn al-Khaṭṭāb, exemplified the rigorous application of this principle by actively monitoring the wealth of state officials and confiscating assets obtained through illicit means without awaiting formal judicial proceedings, provided there was compelling evidence of power abuse. Historical precedents substantiate this approach: ʿUmar confiscated a portion of Abū Hurayrah's wealth during his governorship of Bahrain due to unexplained asset accumulation; he acted against Saʿd ibn Abī Waqqāṣ following allegations of authority misuse in Kufa; and he intervened in the case of ʿAmr ibn al-ʿĀṣ, governor of Egypt, upon identifying discrepancies between his wealth and official salary. Additionally, he audited the assets of ʿUthmān ibn Ḥunaif and Yazīd ibn Abī Sufyān, concluding that their wealth was disproportionate to their official positions. This system prioritized prevention and restitution through the registration of assets both prior to and following tenure, with any unexplained increases subject to confiscation for the *bayt al-māl* (public treasury). This mechanism bears resemblance to the contemporary concept of unexplained wealth orders as envisaged in the Draft Law on Asset Forfeiture, albeit situated within a moral and spiritual framework of accountability.

All four principal Sunni legal schools agree that corruption is *ḥarām* and constitutes a serious offense, although they differ regarding the precise application of sanctions. When the act satisfies the definitional criteria for theft, *ḥudūd* punishments may be applicable; otherwise, *taʿzīr* sanctions are imposed, allowing for discretionary penalties commensurate with the severity of the offense. Importantly, Islamic jurisprudence emphasizes both the enforcement of appropriate punishments and the restitution of illicit gains to the public.[49] In Indonesian law, corruption offenses have traditionally been governed by the Anti-Corruption Law, a *lex specialis* that prescribes more severe sanctions and broader procedural mechanisms than the KUHP. However, the enactment of Law No. 1 of 2023 (the revised KUHP) integrates corruption offenses into the general criminal code, imposing comparatively lighter penalties. This development has raised concerns that corruption may be reclassified from an extraordinary crime to an ordinary one, potentially weakening deterrence.[50] The inconsistency between the sentencing frameworks of the KUHP and the Anti-Corruption Law creates a risk of "forum shopping" by law enforcement officials, who might strategically invoke provisions with lighter penalties. Furthermore, the KUHP lacks provisions for compensation payments, a critical mechanism for recovering state losses, thereby diverging from the Islamic legal principle of *radd al-maẓālim*, which underscores the restitution of rights.[51]

The Draft Law on Asset Forfeiture seeks to address existing gaps by introducing in rem, or

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48 Hartini Atikasari, Btari Amira, and Ridwan Arifin. "Law enforcement in the practice of bribery in business and trade in Indonesia: Between theory and practice." *Asy-Syir'ah: Jurnal Ilmu Syari'ah dan Hukum* 54, no. 2 (2020): 319-339.

49 Syawaluddin Hanafi. "The Reality of Eradicating Corruption in Indonesia; A Comparative Legal Study." *International Journal on Advanced Science, Education, and Religion* 6, no. 1 (2023): 1-13.

50 Muhammad Rahmadianto. "Study of Law Number 1 of 2023 concerning the Criminal Code (KUHP)." *Enigma in Law* 1, no. 2 (2023): 41-44.

51 Chad Brown, Jeronimo Carballo, and Alessandro Peri. "Forum Shopping and Legal Labor Markets: Evidence from the Court Competition Era." *The Journal of Law and Economics* 67, no. 2 (2024): 415-444.

non-conviction-based, asset forfeiture. This approach is consistent with the practices of ʿUmar ibn al-Khaṭṭāb and aligns with Sharia principles, allowing for the confiscation of assets even when the perpetrator is deceased, has fled, or cannot be criminally prosecuted, with the focus placed on the illicit nature of the assets themselves. A notable innovation of the draft law is the reversal of the burden of proof in cases involving unexplained wealth, whereby asset owners are required to demonstrate the lawful origin of their property. This principle is theologically supported within Islamic jurisprudence and has been endorsed by the Indonesian Ulema Council (Majelis Ulama Indonesia, MUI) in the interest of the public good.[52] Nonetheless, the implementation of this reversed burden of proof must be carefully structured to uphold the presumption of innocence and to protect bona fide third parties. Islamic law provides guidance in this regard, stipulating that confiscation must be based on strong evidence (*qarīnah qawiyyah*), adjudicated through fair judicial procedures, and accompanied by appropriate procedural safeguards.

From a policy standpoint, several strategic measures are proposed to enhance the effectiveness of Indonesia's anti-corruption framework. First, the Anti-Corruption Law should be preserved as *lex specialis* to maintain its stringent penalties, specialized procedural mechanisms, and its symbolic status as the nation's principal anti-corruption statute. Upholding the principle of *lex specialis derogat legi generali* is essential to ensure that incorporating corruption provisions into the KUHP does not undermine their enforcement. Second, the enactment of the Draft Law on Asset Forfeiture should be expedited, incorporating robust human rights protections to facilitate in rem confiscation of illicit assets irrespective of the perpetrator's criminal conviction status. Third, the legal framework should incorporate the principle of reversed burden of proof, accompanied by procedural safeguards that ensure due process, thereby aligning domestic regulations with international best practices and the ethical foundations of Islamic legal tradition. Finally, preventive oversight mechanisms must be reinforced by adopting the ʿUmarian model of pre- and post-tenure wealth audits, extending beyond the current State Officials' Asset Declaration (Laporan Harta Kekayaan Penyelenggara Negara—LHKPN) system to include rigorous field verification, independent audits, and enforceable sanctions for non-compliance. This comprehensive approach would not only strengthen deterrence but also promote systemic integrity and public trust.

Prioritizing asset recovery alongside criminal sanctions ensures that corruption becomes unprofitable, aligning with both contemporary deterrence theory and Islamic jurisprudence, which mandates the restitution of unlawfully acquired wealth. A legal framework that integrates punitive, preventive, and restorative measures—harmonized across statutory and religious law—would strengthen Indonesia's capacity to combat corruption while upholding the principles of integrity, accountability, and public welfare. Within Islamic legal tradition, mechanisms for preventing and addressing illicit enrichment emphasize administrative and moral accountability rather than solely punitive sanctions. For instance, Caliph ʿUmar ibn al-Khaṭṭāb institutionalized the examination of public officials' assets (*muḥāsabah al-ʿummāl*), requiring officials to justify any increase in wealth following their assumption of office. Similarly, the doctrine of *radd al-maẓālim* offers a quasi-judicial mechanism to restore misappropriated property to the public treasury without necessitating a full criminal conviction. These mechanisms embody the principle that effective corruption control must combine deterrence with restitution. These examples illustrate that

[52] Nathanael Gratias Sumaktoyo, and Burhanuddin Muhtadi. "Can Religion Save Corrupt Politicians? Evidence from Indonesia." *International Journal of Public Opinion Research* 34, no. 1 (2022): 29.

integrating Islamic normative principles into positive law is not merely theoretical but feasible within contemporary legal systems.

Conclusion

Corruption in Indonesia constitutes a multifaceted issue encompassing both criminal and civil aspects, necessitating a comprehensive legal framework that ensures punishment, restitution, and systemic prevention. This study demonstrates that, despite the presence of robust statutory instruments such as the Anti-Corruption Law and the Anti-Money Laundering Law, procedural limitations and legislative decisions—particularly the delayed enactment of the Draft Asset Forfeiture Bill and the incorporation of certain corruption provisions into Law No. 1 of 2023 (KUHP)—have created gaps that allow illicit assets to evade effective recovery. The prevailing in *personam* approach restricts the state's capacity to recover assets when offenders evade prosecution, pass away, or benefit from immunity. Policy harmonization should advance along four interconnected dimensions. First, the Anti-Corruption Law should be maintained and reaffirmed as *lex specialis* to preserve specialized procedural mechanisms and enhanced penalties. Second, an *in-rem* asset forfeiture regime should be established, enabling the recovery of assets whose illicit origin is demonstrated on the balance of probabilities, while incorporating robust human rights safeguards to prevent arbitrary deprivation. Third, calibrated reverse burden-of-proof provisions should be adopted, confined to clearly defined circumstances and accompanied by judicial oversight and explicit protections for bona fide third parties, thereby ensuring that unexplained wealth orders function as tools of accountability rather than instruments of oppression. Fourth, preventive oversight should be reinforced through expanded pre- and post-tenure asset audits, mandatory independent verification of LHKPN declarations, and enhanced international cooperation to trace assets held abroad.

The effective implementation of asset forfeiture reforms in Indonesia must be both politically viable and legally justifiable within the country's constitutional framework. Comparative analyses of jurisdictions such as Malaysia, the United Kingdom, and South Africa reveal that non-conviction-based forfeiture (NCBF) can function effectively when underpinned by transparent procedural safeguards, judicial oversight, and well-defined appellate mechanisms. Within the Indonesian socio-legal context, the incorporation of Islamic legal principles, notably *radd al-maẓālim* (the restitution of unjustly acquired wealth), enhances the ethical legitimacy of asset recovery processes and aligns them with the moral expectations of a predominantly Muslim society. This integration serves to reinforce both state authority and public trust. Ultimately, a reconfigured legal framework that harmonizes punitive, restorative, and preventive elements will render corruption financially unviable, facilitate the restitution of misappropriated public assets, and restore citizens' confidence in state institutions. Should the Draft Asset Forfeiture Bill be enacted with these enhancements—ensuring due process, proportionality, and transparency—it has the potential to function as an effective intermediary between normative Islamic jurisprudence and modern anti-corruption governance.

The research offers a thorough analysis of statutory instruments and Islamic legal principles; however, it lacks quantitative or field-based data to evaluate the practical functioning of asset recovery mechanisms within judicial settings. As a result, the findings may not fully reflect the institutional, political, and enforcement factors that shape the real-world implementation of asset confiscation laws in Indonesia. Additionally, the comparative analysis of Islamic jurisprudence remains predominantly textual and conceptual, without addressing the varied implementation

models present across Muslim-majority jurisdictions. Future studies should therefore incorporate empirical investigations into prosecutorial and judicial practices related to asset recovery, including case studies and interviews with policymakers, judges, and anti-corruption officials. Moreover, comparative socio-legal research that examines cross-jurisdictional experiences—particularly in Middle Eastern and African contexts—would enhance understanding of how radd al-maẓālim and non-conviction-based forfeiture mechanisms can be effectively operationalized within contemporary legal frameworks.

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