

# Analysis of Strengthening the Regulation on the Handling of Corruption Evidence and Asset Forfeiture for the Economic Recovery of State Finances in the Perspective of Islamic Law

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## Abstract

The handling of corruption evidence and asset forfeiture has a crucial role in efforts to restore the economy and state finances. Regulations governing this process must be strengthened to be more effective in recovering state losses and providing a deterrent effect for perpetrators. This study analyzes the strengthening of regulations related to the handling of evidence and seizure of corruption assets from the perspective of Islamic law. With a normative approach and literature study, this research compares existing regulations with the principles of Islamic law that emphasize justice, benefit, and transparency in managing the proceeds of crime. The results show that Islamic law has a concept of confiscation of illicit assets that is in line with the aim of restoring the country's economy. Therefore, strengthening regulations can be done by adopting the values of Islamic law in the national legal system to create a fairer and more effective mechanism in combating corruption.

*Keywords:* Regulation, Evidence, Asset Forfeiture, Corruption, Islamic Law, Economic Recovery

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## 1. Introduction

Corruption has a wide-ranging impact on the country's economic and financial stability. In many cases, evidence of corruption proceeds and illegally obtained assets become an important part of the state financial recovery process. Regulations related to confiscation and seizure of corruption assets need to be strengthened to be more effective in supporting the country's economic recovery. In the perspective of Islamic law, the principles of justice, benefit, and the obligation to restore the rights that have been deprived become an important basis in handling assets resulting from corruption. Corruption is a form of extraordinary crime that harms state finances and hampers economic growth. (D. Lestari, 2023).

The handling of evidence and seizure of assets resulting from corruption are crucial aspects in efforts to recover state finances. However, existing regulations often face various obstacles in implementation, including legal, administrative and technical aspects. In the perspective of Islamic law, the concept of illicit goods management and asset recovery has been strictly regulated through sharia principles, such as hisbah (supervision), istihqaq (legal ownership rights), and mazalim (justice in case settlement). Therefore, studies on strengthening regulations with an Islamic law approach are important in order to increase the effectiveness of state economic recovery due to corruption crimes. (Corruption Eradication Commission, 2023).

The crime of corruption is an extraordinary crime that has a broad impact on the economic, political and social stability of a country. Corruption not only harms state finances, but also hampers development and undermines public trust in government and legal institutions. Therefore, eradicating corruption is a top priority in an effort to realize clean and transparent governance. One of the effective strategies in fighting corruption is through asset forfeiture of criminal proceeds. Asset forfeiture aims to restore state losses and prevent perpetrators from enjoying the proceeds of their crimes. Legal instruments related to asset forfeiture continue to be developed in various countries, including Indonesia, to ensure that corruption crimes not only lead to corporal punishment, but also to the impoverishment of the perpetrators. (Airlangga University Team. 2023).

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In the legal context, asset forfeiture can be carried out through criminal or civil mechanisms, depending on the applicable legal system. Effective implementation requires coordination between law enforcement agencies, the judicial system, as well as international cooperation in handling cases involving transnational assets. Therefore, an in-depth understanding of corruption offenses and asset forfeiture strategies is important in strengthening overall corruption eradication efforts.

## **2. Literature Review**

### *2.1. Regulation*

Regulation is a set of rules or provisions made by a certain authority, such as the government or an authorized institution, to regulate a certain activity or field in society. Regulation aims to create order, legal certainty, and protect the public interest. Types of regulation: Government regulations are rules made by the government to regulate various aspects of life, such as trade, tax, environmental, and labor laws. Industry regulations are rules made by specific industry bodies or associations to ensure quality, safety and ethical standards within the sector. Internal regulations are rules set by organizations or companies to govern their internal operations. (Law No.30 Year 1999 on Arbitration and Alternative Dispute Resolution).

The purpose of regulation is to maintain order and security, protect public rights and interests, prevent harmful practices (such as monopoly or environmental pollution), and ensure quality and safety standards. Regulations are usually expressed in the form of laws, government regulations, or other policies that must be complied with by individuals and organizations.

### *2.2. Evidence*

Evidence is anything that can be used to prove an event or criminal offense in the judicial process. Evidence can be objects, documents, or information relevant to a legal case. In criminal law, evidence serves to assist investigations and investigations. Show the link between the suspect and the crime. Strengthen evidence. Evidence supports other evidence such as witness or expert testimony. Determine the judge's decision. Assist the judge in considering the sentence to be imposed. Examples of evidence in legal cases: physical crimes: weapons, fingerprints, CCTV footage. Narcotics cases: drugs, scales, money from transactions. Cyber crime: emails, electronic messages, computer activity logs. In Indonesia, the regulation of evidence is regulated in the Criminal Procedure Code (KUHAP). (Indonesian Center for Law and Policy Studies, 2023).

### *2.3. Corruption*

Corruption is an act of abuse of power or authority committed for personal or group gain in ways that violate the law and ethics. This practice can appear in various forms, such as bribery, embezzlement, nepotism, extortion, and abuse of authority. Bribery, for example, occurs when someone gives or receives something to influence another party's decision (National Law Development Agency, 2023). Meanwhile, embezzlement involves illegally using or taking funds and assets for personal gain. Another form of corruption is nepotism, which is the practice of giving positions or benefits to family and relatives without going through a fair process. Extortion also falls under the category of corruption, which involves forcing someone to give money or goods with threats. Finally, abuse of power refers to the act of using power not to serve the public interest, but for personal gain (M. Siregar, 2023). All these forms reflect how serious the impact of corruption is on social order, law and clean government.

### *2.4. Asset Forfeiture*

Asset forfeiture is the act of expropriation or confiscation of a person or entity's property by authorities, usually for legal reasons. Asset forfeiture is often associated with cases such as corruption, money laundering, narcotics, or other crimes that benefit the perpetrator financially. Types of asset forfeiture. namely asset forfeiture in criminal law which is carried out as a punishment against the perpetrator of a crime. (A. Kurniawan, 2023).

Usually involving assets obtained from the proceeds of crime, asset forfeiture without conviction (Non-Conviction Based Asset Forfeiture/NCB) which does not require a criminal judgment against a particular individual. Asset

forfeiture by the state can occur in the context of public policy or national interest, such as the expropriation of assets due to nationalization policies, asset forfeiture in civil law which is usually related to dispute resolution or debts. (Syarif Hidayatullah State Islamic University Team Jakarta, 2023).

### *2.5. Economic Recovery*

Economic recovery refers to a series of efforts made by governments and financial institutions to restore stability to a country's economy after a crisis or economic downturn. This is usually done after a recession, natural disaster, pandemic, or global financial crisis. Important aspects in the economic recovery of state finances. Fiscal policy is an increase in state spending to encourage economic growth. Providing economic stimulus, such as subsidies, tax incentives, and social assistance. Infrastructure development to create jobs and increase people's purchasing power, Monetary policy, namely lowering interest rates by the central bank to encourage credit and investment. (Z, Arifin, 2023).

Money market intervention to maintain currency stability and inflation. Provision of liquidity for banks to continue lending, support for the real sector, namely assistance to MSMEs to continue operating and developing. Increase investment in strategic sectors, such as agriculture, manufacturing, and technology. Encouraging exports and reducing dependence on imports, financial stability by strengthening banks and financial institutions to avoid defaults. Debt restructuring for crisis-affected sectors. Strict supervision of financial activities to avoid excessive speculation, structural reforms to improve labor competitiveness through education and training. Regulatory reforms to attract foreign investment and improve bureaucratic efficiency. Digitalization of the economy to improve business efficiency and competitiveness. (Djamil Faturrahman, 2013).

The economic recovery of the country's finances requires coordination between the government, private sector, and society to ensure sustainable and inclusive economic growth.

### *2.6. Islamic Law*

Islamic law is a set of rules and regulations derived from Islamic teachings that aim to regulate the lives of Muslims in various aspects, ranging from worship, muamalah (social relations), to morals. The main sources of Islamic law include the Qur'an, Hadith, Ijma' (agreement of scholars), and Qiyas (legal analogy). In its implementation, Islamic law is divided into several categories. First, obligatory laws, which are commands that must be carried out; if carried out will be rewarded, but if abandoned will be sinful. Examples include the five daily prayers, fasting during Ramadan, and paying zakat. Secondly, sunnah rulings, which are recommended actions; performing them will bring rewards, but if they are not performed, there will be no sin, such as dhuha prayer and Monday-Thursday fasting. Third, the law of mubah, which is an action that can be done or left without consequences of reward or sin, an example is eating various types of halal food. Fourth, the makruh law, which is an action that should be avoided; if abandoned gets a reward, but if done is not sinful, such as eating onions before congregational prayer. Finally, the haram ruling, which is an action that is strictly prohibited; the perpetrator will be sinful, while those who avoid it will be rewarded, for example, drinking alcohol and gambling. Islamic law is not only limited to matters of ritual worship, but also covers social, economic, and governmental aspects, such as in marriage law, trade, and criminal law in Islam.

## **3. Research Method and Materials**

This writing review uses a literature study. According to Burhan Bungin, the literature method is one of the data collection methods used in social research methods to trace historical data. This means that a literature study is a study that emphasizes data collection through the search/study of books related to research. In this case, the literature study is focused on the study of relevant social books. In this study, the authors used a type of library research, namely a series of activities related to library data collection methods. (Mahmud, 2011).

According to Abdul Rahman Sholeh, library research is research that uses ways to obtain information data by placing facilities in libraries such as books, magazines, documents, records of historical stories or pure library research related to the object of research. According to M. Nazir, literature study is a data collection technique by conducting a study of books, literature, notes, and reports that have something to do with the problem being solved. Literature study is an important step where after a researcher determines the research topic, the next step is to conduct a study related to the theory and research topic. In searching for theories, researchers will collect as much information as possible from related

literature. Literature sources can be obtained from books, journals, magazines, research results (theses and dissertations), and other appropriate sources (internet, newspapers and others) (Nur Ahmadi, 2016).

## **4. Results and Discussion**

### *4.1. Strengthening Regulations in the Handling of Evidence and Asset Forfeiture*

Evidence and assets from criminal offenses play a crucial role in the criminal justice system. Evidence is used to prove the guilt of the perpetrator, while asset forfeiture is the state's effort to restore losses caused by crime and prevent illegal profits for the perpetrator. However, in practice, the handling of evidence and asset forfeiture still faces various challenges, such as suboptimal regulations, long legal processes, and the risk of abuse of authority. Strengthening regulations is a strategic step to ensure the effectiveness of evidence handling and asset forfeiture. With more comprehensive regulations and strict implementation, the state can increase the effectiveness of crime eradication, prevent money laundering, and provide a deterrent effect for criminal offenders. (T. Prasetyo, 2023)

This approach is also in line with the principles of fairness and transparency in the legal system. Strong regulations will ensure that evidence is properly managed until the legal verdict is final and that assets resulting from crime can be returned to the state or the rightful parties. (Financial Transaction Reports and Analysis Center. 2023). Therefore, an in-depth study of existing policies and concrete recommendations are needed to strengthen regulations in the handling of evidence and asset forfeiture in Indonesia. Currently, regulations related to the seizure of assets resulting from corruption are regulated in various laws, such as:

- a) Law No. 31 of 1999 jo. Law No. 20 of 2001 on the Eradication of Corruption
- b) Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering (TPPU)
- c) Supreme Court Regulation No. 1 of 2013 on the Procedure for Seizing the Proceeds of Corruption.

However, in practice, there are still obstacles in the implementation of these regulations, such as:

- 1) A long and complicated legal process that makes it difficult for assets resulting from corruption to be returned to the state in a timely manner.
- 2) Lack of effectiveness in the execution of asset forfeiture decisions which often face challenges from related parties.
- 3) The existence of legal loopholes that allow perpetrators to hide or transfer assets before the confiscation process. Therefore, it is necessary to strengthen regulations in the form of: simplifying procedures for confiscation and seizure of assets to make it faster and more effective.
- 4) Implementation of Non-Conviction Based Asset Forfeiture (NCB-AF), namely asset forfeiture without the need for a criminal verdict first. Strengthening inter-agency cooperation in investigation and asset recovery including with financial institutions and international authorities. (Supreme Court of the Republic of Indonesia, 2023).

Strengthening regulations in the handling of evidence and asset forfeiture aims to increase the effectiveness of law enforcement, prevent abuse of authority, and ensure transparency and accountability. Stricter regulations are needed to accelerate the legal process, optimize the management of seized assets and maximize the utilization of assets resulting from crime for the benefit of the state or victims. With clear regulations, coordination between relevant institutions can be strengthened so that the asset seizure process becomes more efficient and is not hampered by legal loopholes.

### *4.2. Islamic Law Perspective on Corruption Asset Forfeiture*

Corruption is one of the extraordinary crimes that has a broad impact on the economic, social and political stability of a country. In an effort to eradicate corruption, various legal measures have been implemented, including asset forfeiture obtained from the proceeds of corruption. This asset forfeiture aims to restore state losses and provide a deterrent effect for the perpetrators. (Sukarno. 2023).

In Islamic law, the concept of asset forfeiture can be studied through various perspectives including the principles of justice, *maslahat* (public good) and punishment for criminals (*ta'zir*). Islam emphasizes the importance of halal-acquired wealth and prohibits the taking of other people's rights unlawfully. Therefore, the confiscation of assets from corruption can be justified in Islam as part of upholding justice and restoring the rights of the harmed community. Thus, examining the perspective of Islamic law in the seizure of corruption assets by examining the concept of justice in punishment for perpetrators of corruption, as well as the mechanism of asset seizure based on sharia principles. This is expected to provide insight into the relevance of Islamic law in the eradication of corruption and how it is applied in the modern legal system.

In Islam, corruption is an act that contradicts the principles of justice and trust. Some basic Islamic laws that are relevant in handling evidence and seizing assets from corruption include:

- a) The Principle of Al-'Adl (Justice) Islam emphasizes that every individual must get their rights fairly, and any property obtained by false means must be returned to the rightful owner. (QS. Al-Baqarah: 188).
- b) Prohibition of Ghulul (Misappropriation of Trust and Corruption). In the Hadith of the Prophet, it is stated that the perpetrator of ghulul (misappropriation of wealth) will not be forgiven before returning the property he took illegally. (HR. Ahmad and Abu Dawud).
- c) Ta'zir Law. In Islamic criminal law, the state has the right to provide flexible sanctions in accordance with the interests, including in the form of asset forfeiture for the public interest. Thus, in the perspective of Islamic law, the seizure of corruption assets is not only a punishment but also a form of restoration of rights and justice for the community. (Rozalinda, 2016).

In the perspective of Islamic law, seizure of corruption assets is allowed as a form of restoration of public rights that have been harmed. Corruption is considered a haram act because it harms the public and violates the principles of justice and trust. The concept of ta'zir in Islamic law allows flexible punishment including confiscation of property as a form of sanction in accordance with the level of crime. In addition, the principle of mazalim confirms that the government is authorized to take action to restore the rights of the people who have been deprived by corruptors.

#### *4.3. Implications for Economic Recovery of State Finances*

Corruption is one of the main problems that hinder economic growth and financial stability. Corruption not only directly harms state finances but also creates social inequality, reduces public trust in the government, and inhibits investment and development. Therefore, efforts to eradicate corruption must include various strategies, including the confiscation of assets resulting from corruption as an instrument of state economic recovery. Forfeiture of corruption assets has significant implications for the country's economic and financial recovery. By returning illegally acquired assets to the state, the government can cover financial losses due to corruption and reallocate resources for economic development and public welfare. In addition, asset forfeiture also provides a deterrent effect for perpetrators of corruption and strengthens the legal system and governance. (Supreme Audit Agency of the Republic of Indonesia. 2023).

Thus, the implications of corruption asset forfeiture for economic and financial recovery of the State include the benefits, challenges, and strategies that can be applied to optimize the effectiveness of this policy. Thus, it is hoped that asset forfeiture can become a more effective instrument in promoting transparency, accountability, and sustainable economic growth. Strengthening regulations in the seizure of assets resulting from corruption has a significant impact on economic recovery, among others. (Hendri Tanjung, 2020):

- a) Increase the effectiveness of recovering state losses through asset forfeiture in a fast and appropriate manner.
- b) Prevent money laundering and the use of illegal assets in the economic sector.
- c) Provide a deterrent effect for perpetrators of corruption so as to reduce the number of corruption crimes in the future.
- d) Encourage transparency and accountability in the management of state assets so as to create public trust in the government and the legal system.

Forfeiture of corruption assets has positive implications for the economic and financial recovery of the state. Returning assets from corruption can increase state revenue, reduce budget deficits, and strengthen public trust in the legal system and government. In addition, returned assets can be used to support development programs and public welfare, thereby accelerating overall economic recovery.

## **5. Conclusion**

Regulations related to the seizure of assets resulting from corruption crimes need to be strengthened to be more effective in supporting the country's economic recovery. In the perspective of Islamic law, the seizure of illegally obtained assets is a step in accordance with the principles of justice and benefit. Therefore, strategic steps are needed such as simplifying legal procedures, applying the concept of Non-Conviction Based Asset Forfeiture, and strengthening inter-agency coordination in asset recovery efforts. With these steps, it is hoped that efforts to eradicate corruption can be more effective and have a positive impact on the country's economy. Strengthening regulations in handling evidence of corruption and asset forfeiture is very important to support economic and financial recovery.

In the perspective of Islamic law, the concepts of justice ('adl) and the benefit of the people (maslahah) are the main foundations in managing assets resulting from corruption. Islamic law emphasizes that illegally obtained assets must be returned to the community or state for the public interest. Therefore, stricter regulations and transparent asset forfeiture mechanisms in accordance with Islamic principles of justice can increase the effectiveness of corruption eradication and accelerate the country's economic recovery.

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