

CONFISCATED ASSET MANAGEMENT ACCORDING TO THE ISLAMIC PERSPECTIVE



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Abstract

This research is conducted to comprehensively analyze the management practices of confiscated assets within the framework of Islamic law, emphasizing both its theoretical and practical implications. The study places primary importance on identifying key Islamic legal principles that govern the handling of confiscated assets, focusing on elements such as justice, trustworthiness, and the promotion of social welfare. Through a qualitative methodology, this research delves into classical and contemporary fiqh literature alongside the perspectives of various Islamic scholars, examining their insights on the ethical and legal management of wealth acquired through unlawful activities. The findings of this study reveal that asset management, according to Islamic law, prioritizes fair distribution and purposeful utilization, which is expected to yield positive impacts for society, particularly by enhancing social and economic support systems within communities. In conclusion, this study offers a series of recommendations aimed at aligning the management of confiscated assets with Sharia principles, with the dual goals of preserving ethical governance and contributing to sustainable social development grounded in Islamic values.

Penelitian ini dilakukan untuk menganalisis secara komprehensif praktik pengelolaan aset yang disita dalam kerangka hukum Islam, dengan menekankan baik implikasi teoretis maupun praktisnya. Studi ini menempatkan prioritas utama pada identifikasi prinsip-prinsip hukum Islam kunci yang mengatur penanganan aset sitaan, dengan fokus pada elemen seperti keadilan, amanah, dan promosi kesejahteraan sosial. Melalui metodologi kualitatif, penelitian ini mendalami literatur fiqh klasik dan kontemporer serta perspektif dari berbagai ulama Islam, mengkaji pandangan mereka tentang pengelolaan kekayaan secara etis dan legal yang diperoleh dari aktivitas yang melanggar hukum. Temuan penelitian ini mengungkapkan bahwa pengelolaan aset menurut hukum Islam mengutamakan distribusi yang adil dan pemanfaatan yang bertujuan, yang diharapkan dapat memberikan dampak positif bagi masyarakat, khususnya dalam memperkuat sistem dukungan sosial dan ekonomi dalam komunitas. Kesimpulannya, penelitian ini menawarkan serangkaian rekomendasi yang bertujuan menyelaraskan pengelolaan aset sitaan dengan prinsip-prinsip syariah, dengan dua tujuan utama yaitu mempertahankan tata kelola etis dan berkontribusi pada pembangunan sosial yang berkelanjutan sesuai dengan nilai-nilai Islam.

INTRODUCTION

The management of confiscated assets represents a significant and multifaceted issue that has garnered considerable attention in contemporary legal and economic discussions, particularly within the framework of Islamic law.¹ Confiscated assets, which

¹ Mahmoud A.R. Assaf, 'Management Level of Intellectual Capital in the Palestinian Universities from the Perspective of Faculty Members in Relationship to the Aspects of Excellence', *The Arab Journal For Quality Assurance in Higher Education* 10, no. 32 (22 November 2017): 139–71, <https://doi.org/10.20428/ajqahe.v10i32.1244>.



are often derived from unlawful activities such as corruption, fraud, or various other forms of criminal behavior, present a unique challenge for legal systems and ethical governance alike. In addressing this complexity, Islamic law provides a comprehensive set of principles and guidelines that dictate the proper handling of such assets, placing a strong emphasis on the values of justice, accountability, and social welfare.² Understanding and internalizing these principles is crucial for ensuring that confiscated assets are managed in a manner that not only aligns with Islamic values but also contributes positively to the broader society, thereby fostering a sense of collective responsibility and ethical stewardship.

Within the Islamic context, the concept of ownership is intricately woven into ethical and moral considerations that reflect a deeper theological understanding.³ The Qur'an and Hadith explicitly establish that all wealth ultimately belongs to Allah, positioning human beings merely as trustees (*amanah*) of the resources they possess. This theological perspective imposes a significant responsibility on individuals and institutions alike to manage wealth, including confiscated assets, in a way that promotes fairness and yields benefits for the community at large.⁴ Consequently, any misappropriation or misuse of confiscated assets not only contravenes established legal frameworks but also constitutes a violation of fundamental Islamic principles, which prioritize collective well-being over individual gain.⁵ This highlights the necessity for adherence to ethical standards that transcend mere compliance with the law, calling for a holistic approach to asset management that integrates moral accountability.

Furthermore, the management of confiscated assets raises critical questions regarding transparency and accountability, issues that are paramount in ensuring the integrity of such processes. In many instances, the procedures surrounding the confiscation and subsequent management of these assets can be plagued by corruption, lack of oversight, and insufficient regulatory frameworks. Islamic law strongly advocates for transparency and accountability in all transactions, including the management of confiscated assets, to ensure that these resources are utilized effectively, justly, and in a manner that serves the public interest. This perspective underscores the urgent need for a regulatory framework that is not only compliant with legal standards but also aligns with Sharia principles, thereby ensuring that confiscated assets are preserved and effectively reintegrated into society in ways that support both social and economic development.

Additionally, examining the management of confiscated assets through an Islamic lens sheds light on the broader implications for social justice and communal equity. The distribution and utilization of these assets can significantly impact vulnerable

² Moch. Iqbal Afandy and Durrotun Nafisah, 'OPTIMIZING THE WAQF MANAGEMENT IN ISLAMIC BOARDING SCHOOLS: A STUDY OF THE BASMALAH FRANCHISE IN INDONESIA', *Al'Adalah* 25, no. 1 (21 April 2022): 35–48, <https://doi.org/10.35719/aladalah.v25i1.85>.

³ Syukriya Husni et al., 'Determination of Nasab of Children Outside of Marriage in the Islamic Legal System: The Role and Decisions of Religious Courts in Indonesia', *Hakamain: Journal of Sharia and Law Studies* 3, no. 1 (10 July 2024): 26–36, <https://doi.org/10.57255/hakamain.v3i1.332>.

⁴ H. Alegre et al., 'Public Policies as Strategic Asset Management Enablers: The Case of Portugal', *H2Open Journal* 3, no. 1 (1 January 2020): 428–36, <https://doi.org/10.2166/h2oj.2020.052>.

⁵ David Baglee, Khamis Salim Al Romaimi, and Derek Dixon, 'Strategic Asset Management Health Index for Predicting Power Transformer Health Conditions', *International Journal of Strategic Engineering Asset Management* 1, no. 1 (2024): 10064593, <https://doi.org/10.1504/IJSEAM.2024.10064593>.

communities, particularly in contexts where socioeconomic disparities are prevalent. By adhering to Islamic principles, stakeholders can devise and implement programs that leverage confiscated assets to address pressing social issues such as poverty alleviation, education, and healthcare. This proactive approach not only aids in restoring justice and rectifying past wrongs but also fosters a sense of communal responsibility and solidarity among members of society, thereby enhancing social cohesion and mutual support.

In conclusion, the management of confiscated assets from an Islamic perspective is a multifaceted issue that encompasses a rich tapestry of legal, ethical, and social dimensions. As societies continue to grapple with the pervasive challenges posed by crime and corruption, the Islamic framework offers valuable insights and practical guidance on how confiscated assets can be managed in a manner that promotes justice, accountability, and social welfare. This study aims to explore these principles in greater depth, providing a comprehensive analysis of the management practices surrounding confiscated assets and their implications for society at large. Specifically, the objective of this research is to identify effective management strategies that align with Islamic values, recommend best practices for the ethical utilization of confiscated assets, and ultimately contribute to the development of a framework that supports sustainable social and economic growth within communities. By effectively integrating Islamic legal principles into the management of confiscated assets, we can pave the way for more ethical governance, sustainable development, and a more just society that is firmly aligned with Islamic values.

METHOD

This study employs a qualitative research methodology that aims to thoroughly examine the management of confiscated assets through the lens of Islamic perspectives, thereby facilitating a nuanced exploration of the complex legal, ethical, and social dimensions that are intricately involved in this significant issue. To lay a solid foundation for this examination, the research will commence with a comprehensive literature review that encompasses both classical and contemporary Islamic legal texts (fiqh), alongside relevant academic sources, which will serve to identify the key principles that govern the management of assets, such as justice (adl), trustworthiness (amanah), and social benefit (maslahah). In addition to this extensive literature review, the research will incorporate semi-structured interviews with a diverse range of participants, including legal scholars, experts in Islamic finance, and practitioners who are actively involved in asset recovery processes; this approach will enable the collection of rich, contextual insights regarding the current practices and challenges faced in the management of confiscated assets. Moreover, the study will include case studies of various jurisdictions that have successfully implemented Islamic principles in their asset management strategies, thereby illustrating practical applications of these principles and examining their social and economic impacts on the communities involved. Following the data collection, a thematic analysis will be conducted to identify recurring patterns, challenges, and innovative solutions that emerge from the gathered information. This analysis will ultimately inform the development of actionable recommendations aimed at improving ethical governance and the effective utilization of confiscated assets in a manner that aligns with Islamic values and principles.

RESULT AND DISCUSSION

The Objective of Implementation of Confiscation Punishment

Confiscatory punishment aims to prevent harm and protect human beings. The public interest that is considered is a genuine interest based on the benefit of safeguarding five things that are not only reasonable and accepted by Islamic law but also easily understood by the general public. Abd al-Qadir Awdah said: "An act is considered a crime when doing it or abandoning it may cause harm to the system or faith of society, as well as to life, property, dignity, individual feelings, or other societal values that need to be protected and cannot be neglected."⁸ From a historical perspective, asset confiscation has been occurring since the time of The Messenger of Allah (PBUH), then during the era of the Khulafa' al-Rashidin (Rightly Guided Caliphs) and generations of the Umayyad, Abbasid, and Ottoman dynasties, continuing into the present era in both Islamic and non-Islamic countries.

During the time of The Prophet (PBUH), he ordered Abdullah bin Umar to destroy vessels of liquor that had been brought from Syria and break the vessels that were present in all markets. Confiscation also occurred on the prizes obtained by the Amil during the collection of zakat (alms). This story is explained in the Hadith utterance of the Prophet Muhammad by Ibn al-Lutaibah, as well as the return of war booty taken by one of the soldiers before it was distributed. During the time of the Khulafa' al-Rashidin (Rightly Guided Caliphs), Sayyiduna (Our master) 'Umar bin al-Khattab confiscated assets from his chiefs and workers that exceeded the limits, as happened to Abu Hurairah, Khalid bin al-Walid, Amru bin al-Ash, and Saad bin Abi Waqas based on the principle question: "How did you acquire the property?" During the Umayyad dynasty, some Caliphs like Muawiyah bin Abi Sufian confiscated assets from his workers, as well as a portion of their inheritance, as was applied to Ziyad upon his death with a value of 600,000 Dinar (the principal currency unit).⁹ During the era of Abdul Malik bin Marwan, he ordered al-Dohak bin Abdul Rahman to confiscate the assets of his own writer, Abdul Aziz, who was in Egypt. Meanwhile, Sayyiduna (Our master) 'Umar bin Abdul Aziz was also notorious for restoring all mistreated assets and fulfilling owners' rights immediately after becoming Caliph. Every day, people were shouting, "Where is the man who has debt? Where are the married people? Where are the paupers? Where are the orphans?" until everything is sufficient. Some even shout, "Let it be known that whoever is mistreated should make a report, even if they are not among the Muslim ahl zimmah (non-Muslim citizens living in Islamic state)."

'Umar bin Abdul Aziz confiscated his wife's ornaments and placed them in the Baitulmal (State Treasury). He also forbade his nobility from receiving gifts. Al-Hajjaj bin Yusuf al-Thaqafi confiscated the assets of al-Mahlab bin Abi Safrah. During the era of Khalifah (Caliph) Yazid bin Abdul Malik, he had to confiscate the assets of the newly appointed nobility in Madinah al-Munawwarah, totaling 40,000 dirhams (monetary unit), from the previous nobility, Abdul Rahman bin al-Dohak. There were occasional cases of confiscated assets under the peace flag during this era. For instance, the confiscation of Yusuf bin Umar Khalid al-Kisri's assets and those of his companion, amounting to a total value of 900,000 dirhams (monetary unit). Similar conditions occurred during the Abbasiyyah (Abbasid) era. During that time, Khalifah (Caliph) al-Mutawakkal reconciled

⁸ Baglee, Al Romaimi, and Dixon, 'Strategic Asset Management Health Index for Predicting Power Transformer Health Conditions'.

⁹ Andrea Campioli et al., 'Win-Win Cooperation for the Value Enhancement of Confiscated Assets', *TECHNE - Journal of Technology for Architecture and Environment*, no. 27 (10 June 2024): 237-48, <https://doi.org/10.36253/techne-15135>.

with Muhammad bin Ahmad bin Abi Daud and his father for a fee of 1 million dinars (principal currency unit). The same fate befell Khalid bin Barmak, as his assets worth 300,000 dirhams (monetary unit) were seized by Abu Jaafar al-Mansur. In the Uthmaniyyah (Ottoman) era, asset confiscation occurred on a large scale, particularly during and after the First World War. All farmers' properties were confiscated to accommodate the Uthmaniyyah (Ottoman) armies¹⁰ Nowadays, most confiscation cases are related to customs departments in Arab countries and Islamic countries.

The Views of Scholars on the *Ta'zir* (discretionary) Punishment on Asset

The *ta'zir* (discretionary) punishment should not be imposed on the offender by taking his asset according to *rajih* opinion (preferable opinion) among the *Imams* (prominent Muslim scholars in Islamic schools) as its contain the element of authority grant to seize human asset by force, then used for it. Ibn Tamiyyah and his student, Ibn Al-Qayyim determined that *ta'zir* (discretionary) punishment in the form of penalty is allowed in certain places in the famous view of Imam Malik, view of Ahmad's group and one of the two opinions of Imam Shafi'i. For example, in the *Sunnah* (tradition) of *Rasulullah* (The Messenger of Allah) (PBUH), he ordered breaking the vessels of liquor, imposing penalties on thieves who stole lots of fruits, taking half of assets that belonged to someone that refuse to issue *zakat* (alms) as an obligation by Allah. Besides, *Khalifah* 'Umar and 'Ali burned some liquor-selling places. Those who agree that punishment in the form of an asset has been repealed totally indeed they, have made mistake in taking opinion and *dalil* (proof) of *imam* (scholar).¹²

Abu Yusuf narrated that a government is undoubtedly allowed to impose *ta'zir* (discretionary) punishment by confiscating an asset. According to some prominent Muslim scholars, the meaning of *ta'zir* (discretionary) punishment in the form of asset confiscation is to take something from the criminal's assets for a specific period to prevent them from repeating the crime. Then, the judge must return the asset back to the owner instead of keeping it for themselves or for the *Baitulmal* (State Treasury), as that could lead to tyranny since a Muslim is not allowed to take another person's assets without the permission of Shar'i (Islamic law). According to Ibn 'Abidin's view, the ruler can seize the criminal's assets and freeze them until the criminal repents, and they must be returned after that. However, if there is no hope that the criminal will repent, government could use the assets for the public interest. Confiscated assets by the government should not be taken by anyone wealthy, except for government treasury employees, under the condition that they must be brought into the government treasury.¹³ Our master, Sayyidina 'Umar r.a, once seized food from a beggar who had more than they needed. He also seized assets that were acquired from unauthorized business dealings in accordance with *syara'* (Islamic jurisprudence). Not all asset confiscations are allowed by *syara'* (Islamic jurisprudence),

¹⁰ N. Carrizo et al., 'Data Integration for Infrastructure Asset Management in Small to Medium-Sized Water Utilities', *Water Science and Technology* 82, no. 12 (15 December 2020): 2737-44, <https://doi.org/10.2166/wst.2020.377>.

¹² Yunyue Chen and Guanggui Chen, 'Optimization of the Intelligent Asset Management System Based on WSN and RFID Technology', ed. Chih-Cheng Chen, *Journal of Sensors* 2022 (4 February 2022): 1-11, <https://doi.org/10.1155/2022/3436530>.

¹³ Agus Iskandar Darmawan et al., 'Implementation Of ISO 55001 Framework for Waqf Asset Management System: Study At One of The Professional Waqf Institutions in Bandung', *Journal of Economics, Management, and Entrepreneurship* 1, no. 2 (30 January 2024): 80-93, <https://doi.org/10.55208/jeme.v1i2.114>.

some are allowed, and some are forbidden. Thus, all Islamic scholars have different views, which can be divided into two groups:

They stated that confiscation punishment is prescribed in Islam based on the sources from al-Quran, *Hadith* (utterance of Prophet Muhammad), and *ijma' ulama'* (consensus among scholars). There are also those 'hypocrites' who set up a mosque 'only' to cause harm, promote disbelief, divide the believers, and as a base for those who had previously fought against Allah and His Messenger. They will definitely swear, "We intended nothing but good," but Allah bears witness that they are surely liars. Do not 'O Prophet' ever pray in it. Certainly, a mosque founded on righteousness from the first day is more worthy of your prayers. In it are men who love to be purified.¹ And Allah loves those who purify themselves. Which is better: those who laid the foundation of their building on the fear and pleasure of Allah, or those who did so on the edge of a crumbling cliff that tumbled down with them into the Fire of Hell? And Allah does not guide the wrongdoing people. The building which they erected will never cease to fuel hypocrisy in their hearts until their hearts are torn apart. And Allah is All-Knowing, All-Wise. (Al-Tawbah, 11:107-110). Prophet Ibrahim (Upon him be peace) broke the statues of gods in his time, as described in the Quran. Allah (The Most Glorified, The Most High) said: "So he smashed them into pieces, except the biggest of them, so they might turn to it (for answers)" (Al-Anbiya). Prophet Musa also burned the cow of Saamiri. He said again: "Musa said, "Go away then! And for (the rest of your) life, you will surely be crying, 'Do not touch (me)!'. Then, you will certainly have a fate that you cannot escape. Now look at your god to which you have been devoted: we will burn it up, then scatter it in the sea completely."

The verses above give the impression that destroying places of immorality, statues of gods, and musical instruments that are not allowed by *syara'* (Islamic jurisprudence) should be punished by seizing and confiscating the assets as a form of punishment, either through assets or *ta'zir* (discretionary) penalties. From Anas (may Allah be pleased with him), he said, "The Prophet (peace be upon him) prohibited men from wearing saffron-dyed clothes." Additionally, Abdullah bin 'Amr bin al-'As (may Allah be pleased with him) said, "The Prophet (peace be upon him) saw me dressed in two saffron-colored garments and asked, 'Has your mother commanded you to wear these?' I asked him, 'Should I wash them out?' He replied, 'You had better set them on fire.'" Another narration states that the Messenger of Allah (peace be upon him) said, "These are garments of the disbelievers, so do not wear them." It is narrated in Sahih Muslim (a collection of hadith compiled by Imam Muslim) that the Prophet (peace be upon him) removed a gold ring from a companion's hand and discarded it.

The companions of the Prophet Muhammad (PBUH) implemented confiscation as a punishment during their time, as mentioned by Ibn Taimiyyah and Ibn Qayyim. Specifically, Sayyidina Umar (may Allah be pleased with him) burned a liquor marketplace, and Sayyidina Ali (may Allah bless his face) also burned a village involved in the sale of liquor, among others. Confiscation punishments and penalties related to the assets are supposed to reject harm, protect the public interest, and prevent crimes. All of this is aligned with the *maqashid al-Shariah* (objectives of Sharia) and Islamic legal proceedings. They reject the execution of the confiscation punishment based on the sources of the al-Quran, *Hadith* (utterance) of the Prophet (PBUH), the consensus of Muslim scholars (*ijma' ulama'*), and rational sense. The verses generally forbid taking someone else's assets without a valid reason, according to *syara'* (Islamic jurisprudence). For example, Allah SWT (The Most Glorified, The Most High) said: "O you who have

believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is ever Merciful." (Al-Nisa', 4:29). He also said: "And do not consume one another's wealth unjustly or send it [in bribery] to the rulers in order that [they might aid] you [to] consume a portion of the wealth of the people in sin, while you know [it is unlawful]." Seizing or confiscating assets as a way of punishment is not allowed by *syara'* (Islamic jurisprudence) and is regarded as consuming others' assets with no right and is tyrannical. Therefore, it is forbidden in Islam.

Verily, your blood, property, and honor are as sacred and inviolable as the sanctity of this day, this month, and this town of yours. It is not allowed to seize Muslim rights except with his willingness in his heart. He who wrongly took a span of earth will be made to wear around his neck seven earths on the Day of Resurrection. Whatever is found or stated in hadiths (utterances) of the Prophet (PBUH) that allow for the seizure and confiscation of an asset is only applicable in certain cases and should not be generalized, as the reasons for such actions are limited. According to Qiyas (the deductive analogy), the *illah* (reasoning) must exist not only in the text but also in the place where it is being applied. Therefore, conditions that differ from Qiyas cannot be compared. All scholars agreed that the punishment of ta'zir (discretionary) by seizing an asset is prohibited. Therefore, destroying something will not result in a fine unless it is of equal value or similar. Though the claim of *ijma'* (consensus) by this group does not exist based on many *dalail* (proofs or argumentation) that allow it, as explained by al-Imam al-Syatibi.¹⁴

They claimed that the punishment of confiscation at the beginning of Islam is prescribed, but it has been abrogated or repealed. Nevertheless, the *ijma'* (consensus) claimed by this group does not exist, as some groups hold contrary opinions, especially to the first group, as stated by al-Syatibi in his book "al-Iktisham." The allegation that this punishment has been repealed is untrue, as there is no date for the abrogation of the punishment. Furthermore, this punishment is based on the *mashlahat* (public interest). The view chosen here is the view that accepts that confiscation punishment or asset seizure is allowed at the discretion of the government. It is not obligatory to implement but should be based on the general principles of *syara'* (Islamic jurisprudence) and public interest, as well as crime prevention. The terms of confiscation are necessary as determined by *syara'* (Islamic jurisprudence), which will be explained later. This preference highlights the weakness of the argument submitted by the second group. The first argument is rejected by providing evidence that allows the confiscation of assets in cases that occur without implying that the evidence is repealed. On the contrary, we can compile and combine the evidence. The law in the evidence is maintained for ordinary situations, such as illegally confiscating other assets without rights. Meanwhile, the allegation that the punishment has been repealed is incorrect, as it contradicts the evidence that allows it, and there is no known date of abrogation.¹⁵

Confiscation Method That Allowed by Islamic Law

Confiscation is based on the supervision of *mashlahah* (public interest), and the conditions for it, according to Imam Ghazali, are fivefold. Firstly, it should be based on

¹⁴ Afandy and Nafisah, 'OPTIMIZING THE WAQF MANAGEMENT IN ISLAMIC BOARDING SCHOOLS'.

¹⁵ Dian Lailatullailia, Arin Setiyowati, and Abdul Wahab, 'The Role of Sharia Banks as Nazhir Partners in the Management of CWLS Retail SWR001 Investment Products', *Perisai: Islamic Banking and Finance Journal* 5, no. 1 (6 May 2021): 95, <https://doi.org/10.21070/perisai.v5i1.1317>.

real features rather than assumptions. Secondly, it should provide greater benefits. Thirdly, it should be determined case-by-case, except in extreme circumstances or cases of superiority. Fourthly, it should be in accordance with the guidelines of *syara'* (Islamic jurisprudence). Finally, it should be carried out by a fair ruler. Therefore, not all confiscation is allowed by *syara'* (Islamic jurisprudence). A fair Imam (Scholar), Hakim (Judge), or ruler. Punishment must be implemented on all citizens without exception. Don't disgrace other parties for others' interest.¹⁶ No pardons should be given to anyone from the government side, government families, groups supporting the government, the rich, or corrupt persons. Confiscation can only be done on assets that are crime-related or their replacements. Hence, the punishment is determined and explained by al-Syatibi: On *za'faran* (saffron) that is deceitful or fraudulent, if it is found in the hands of a deceitful person, it should be forfeited and given as charity to people experiencing poverty, whether it is a large or small amount. The act that leads to the confiscation punishment is hazardous to the *syarak* (Islamic jurisprudence) and should be punished by law, such as a Muslim selling liquor, pork, or engaging in fraudulent acts such as illegal drug business targeting specific individuals. If the punishment is related to the aftermath only, acts that are not subjected to *hudud* (prohibition) or *ta'zir* (discretionary), as determined by the ruler, such as acts related to the heart like envy or acts that are dubious, should not have their assets confiscated. This is because acts of the heart do not harm others, and dubious acts are avoided from punishment according to Islamic criminal law.

The acts that impose confiscation punishment cause general harm or are more extreme than the public interest agreed upon by the majority. If the harm is specific, such as unauthorized use causing harm to a neighbor, confiscation cannot be applied. Confiscation should have a deeper impact on criminals compared to other punishments.¹⁷ Therefore, *syara'* (Islamic jurisprudence) does not allow the confiscation of the assets of those who monopolize certain goods. Instead, the assets should be confiscated and sold in the market, and the profit should be returned to the group that monopolized the goods. This is because the public interest can be achieved without confiscation, allowing consumers to acquire goods such as food or other products. It is also not permissible to confiscate assets smuggled from Muslim countries because Islamic countries are united. However, if it is to preserve national interest or control national trade, other penalties besides confiscation, such as detention, whipping, threats, and others, may be imposed. Smuggled assets, such as manufacturing equipment from foreign countries, should be sold, and the value of the goods should be reimbursed. However, if the smuggled asset poses a danger, such as weapons or drugs, confiscation is allowed as a preventive measure. Confiscated weapons may be given to the army or security forces for their use and should never be given to certain individuals.¹⁸

¹⁶ M. Garramone et al., 'BIM AND GIS INTEGRATION FOR INFRASTRUCTURE ASSET MANAGEMENT: A BIBLIOMETRIC ANALYSIS', *ISPRS Annals of the Photogrammetry, Remote Sensing and Spatial Information Sciences* VI-4/W1-2020 (3 September 2020): 77-84, <https://doi.org/10.5194/isprs-annals-VI-4-W1-2020-77-2020>.

¹⁷ Kirill V. Kamchatov et al., 'Effective Management of Seized and Confiscated Assets as a Condition for Providing Victims with Access to Justice and Fairness of Procedures Used in Criminal Proceedings: International and Russian Experience': (Conference on current problems of our time: the relationship of man and society (CPT 2020), Yakutsk, Russia, 2021), <https://doi.org/10.2991/assehr.k.210225.029>.

¹⁸ Tetyana Kovalchuk and Andriy Verhun, 'IMPROVEMENT OF THE METHOD OF ANALYSIS OF ASSET MANAGEMENT EFFICIENCY', *Baltic Journal of Economic Studies* 5, no. 5 (8 February 2020): 61, <https://doi.org/10.30525/2256-0742/2019-5-5-61-66>.

Confiscation punishment can be categorized into two ways: (i) Original punishment or basic punishment for the committed crime, such as destroying drugs, deceitful saffron, or counterfeit milk. (ii) Completion or enhanced punishment as a ta'zir (discretionary) punishment. Ta'zir punishment should be submitted to the government for implementation in order to prevent criminals. The confiscated assets belong to the criminal and are not owned by others. If the asset is the property of others, such as stolen assets, confiscation punishment should not be imposed. The same applies to pawned assets, as they are meant to protect the owner of the collateral.¹⁹ Disposal of confiscated assets can be managed in several ways. Firstly, disposal can be beneficial to human health. This includes disposing of drugs, poisonous goods, harmful chemicals, spoiled food, and beverages, as well as killing harmful or poisonous animals like wild dogs, eagles, snakes, or rats. Disposal can be used to prevent tyranny or immorality. This involves demolishing houses or places that practice cruelty and tyranny, destroying crops, and killing livestock if it is determined to be the only way to prevent their harmful activities. It also includes retaliating against criminals who attack security forces and using force to defend against their attacks.²⁰ In addition, it may involve destroying the assets of infidels, such as burning or destroying their property, cutting down their trees, and killing their horses or camels during times of war. Furthermore, during the war, tearing the enemy's clothes may be done to weaken them, and children who participate in supporting the enemy may be killed. Disposal can target equipment that promotes immorality and poses harm to religion and society.²¹ This includes demolishing immoral places, idolatry sites, and locations where deviant teachings are propagated. It may also involve burning books that contain blasphemous or deviant teachings. There may be a need to demolish or destroy goods and places that violate Islamic law and pose a danger. For example, stores or warehouses used for storing liquor may be demolished or burned, liquor vessels may be broken, milk that has been adulterated may be poured out, and tools that do not comply with the determined measurement scales, such as weight measurement, scales, gauges, and others, may be destroyed. Confiscated assets are disposed of through various methods, depending on the specific objectives and circumstances.²²

Possessing assets to others, such as to the poor, like possessing the asset of fugitive assets in the forbidden land of Makkah to those who live there, giving deceived food and drink to the poor if it does not bring harm to health, breaking liquor from a Muslim if bought from *Nasrani* (Christian) seller, giving charity to the needy and giving charity from the fake *zakarfan* (saffron) to the poor.²³ Confiscate the assets of apostasy groups and place them in Baitulmal (House of Treasury). Seize the prizes, bribes, and ill – gotten

¹⁹ Seema Kumari and Prof. Silender Singh, 'An Analysis of Maturity Patterns and Interest Rate Risk in Public and Private Banks in India: An Asset Liability Management Approach', *Journal of Corporate Finance Management and Banking System*, no. 45 (1 August 2024): 10 – 27, <https://doi.org/10.55529/jcfmbs.45.10.27>.

²⁰ Tiram Sheenaranti Suci and Muhammad Firman Al Ghani, 'Rape Cases in Islamic Boarding Schools: How Are Victims Protected and Law Enforced?', *Indonesia Media Law Review* 2, no. 1 (31 January 2023), <https://doi.org/10.15294/imrev.v2i1.65860>.

²¹ David Whitmore et al., 'Digital Twins in the Asset Life Cycle: Are We There Yet?', *Proceedings of the Institution of Civil Engineers - Management, Procurement and Law*, 25 July 2024, 1 – 9, <https://doi.org/10.1680/jmapl.23.00003>.

²² Yanyu Liu, 'Broad Asset Portfolio Designed Based on the Mean – Variance Model', *BCP Business & Management* 26 (19 September 2022): 714 – 23, <https://doi.org/10.54691/bcpbm.v26i.2031>.

²³ Prabhu Prasad Panda et al., 'Application of Deep Learning for Factor Timing in Asset Management', 2024, <https://doi.org/10.48550/ARXIV.2404.18017>.

money from scammers who act as mediators between employees or officers and return them to the rightful owners instead of treating them as punishment. Confiscate stolen assets or those obtained through robbery when the owner is unknown. Seize some assets from those who refuse to pay zakat (alms). Confiscate assets that belong to the government if a specific group is controlling them without proper authority. Returning the asset to its original owner is a process that occurs after the asset has been detained due to legal cases. Once the court has made a decision to release the asset, it can be returned to its rightful owner. In the case of a monopolist's asset or smuggled goods, the asset is sold in the market, and the proceeds are used to settle any customs fees. Ibn Taimiyyah, in his work, categorizes punishments into three divisions: disposal, alteration, and possession.²⁴

The act of demolishing immoral places, objects, or features. For example, this includes destroying idolized equipment by breaking and burning it, as well as destroying immersive instruments. This view is held by the majority of fuqaha' (Islamic jurisprudence scholars). Additionally, it involves breaking and damaging liquor vessels and burning stores that sell liquor, in accordance with the well-known views of schools such as Ahmad and Malik, as well as the actions of 'Umar, who burned liquor shops, and 'Ali, who burned a village that sold liquor.²⁵ This is because the place of sale is considered the same as the vessels themselves. Similarly, 'Umar poured out milk that was mixed with water. Some fuqaha' (Islamic jurisprudence scholars) have issued a fatwa (a legal decision) regarding the same punishment mentioned above. Likewise, fraudulent objects in carpentry, such as fraudulent woven fabrics, should be destroyed. Punishment related to assets and sometimes limited to altering something.²⁶ For example, Prophet Muhammad (PBUH) prohibits damaging currency that has been used among Muslims, such as the dirham (monetary unit) and dinar (principal currency unit), except when there is something prohibited about it. Thus, it can be broken or torn apart. It is similar to the act of Prophet Muhammad (PBUH) toward idols in his house and the curtain that has an image of idols. He ordered to cut off the heads of the idols, then transformed them into something like a tree, and he ordered to cut the curtain and alter it into two pillows (to be used, not idolized).²⁷ Thus, fuqaha' (Islamic jurisprudence scholars) agree that every object or painting that is forbidden can be destroyed, such as destroying instruments that bring excitement and altering drawings and carved pictures. However, scholars have different opinions on the consent of destroying the storage place of forbidden instruments due to the permission to destroy the instruments themselves. Ibn Taimiyyah's opinion is, "It is allowed based on the Qur'an, Sunnah (Prophet's tradition), and Ijma' (consensus) of

²⁴ A.M. Novytskyi and N.B. Novytska, 'MODERN STATE POLICY IN THE FIELD OF DETECTION, TRACING AND ASSET MANAGEMENT', *Juridical Scientific and Electronic Journal*, no. 3 (2024): 328 – 31, <https://doi.org/10.32782/2524-0374/2024-3/77>.

²⁵ Elvi Nasriandani, 'The Impact of Waqf from a Macroeconomic Perspective as An Instrument of State Revenue', *Transforma Jurnal Manajemen* 1, no. 2 (21 August 2023): 75–84, <https://doi.org/10.56457/tjm.v1i2.64>.

²⁶ Raden Aswin Rahadi et al., 'Review of Asset Management Practice in Indonesian State – Owned Enterprise', *Journal Integration of Management Studies* 2, no. 1 (7 March 2024): 61 – 70, <https://doi.org/10.58229/jims.v2i1.138>.

²⁷ Asmarani Ramli et al., 'The Importance of Non – Conviction Based (NCB) Regulations For Asset Confiscation in Illegal Investment', *Journal of Law and Legal Reform* 5, no. 1 (31 January 2024): 1 – 26, <https://doi.org/10.15294/jllr.vol5i1.2089>.

previous scholars. This is also the strongest view of Imam Malik, Imam Ahmad, and others.²⁸

Ownership is like a hadith (utterance) narrated by Abu Dawud and others by Prophet Muhammad (PBUH) about a person who stole dried dates before placing them in storage. The thief was charged with a few lashes and penalties with payment in double amount.²⁹ In another hadith (utterance) of Prophet Muhammad (PBUH) about a thief who stole livestock before it enters the cage, the thief was charged with a few lashes and penalties with payment in double amount. Likewise, the penalty imposed by Sayyidina (Our master) 'Umar on the person who hides the lost camel has been charged with a double penalty. This is the opinion of some groups of scholars like Imam Ahmad and others. Sayyidina 'Umar doubled the loss in the case of a Bedouin camel taken by hungry slaves. The owner was given double the price, and the person was released from the law of hadd (prohibition), which caused hand cutting.³⁰ 'Uthman imposed doubled *diyat* (injunction) penalties on Muslims who deliberately murdered non – Muslim citizens of the Islamic state (dhimmi). The killer was charged with the complete *diyat* (injunction), while the *diyat* (injunction) for dhimmi is only half compared to a Muslim. This view is held by Imam Ahmad and Imam Hanbal. Maliki scholars allow punishment on assets if the crime is related to the asset itself or its replacement. For example, fake saffron can be taken and divided among the poor. If a Muslim *bought* liquor from a Christian, it is then allowed to break the vessels, and the cost can be used for charity as a lesson to the Christian if the payment is still in progress.

CONCLUSION

In conclusion, the management of confiscated assets from an Islamic perspective presents a multifaceted challenge that intertwines legal, ethical, and social considerations, necessitating a comprehensive approach that upholds the core values of justice, accountability, and social welfare intrinsic to Islamic law. This study underscores the importance of understanding the theological foundations of ownership, which frame wealth as a trust from Allah, imposing an ethical obligation on individuals and institutions to manage confiscated assets in a manner that prioritizes the collective good over personal gain. Through qualitative methodologies, including extensive literature reviews, semi – structured interviews with key stakeholders, and the examination of successful case studies, the research reveals that the effective management of confiscated assets can significantly contribute to social development, particularly in vulnerable communities where socioeconomic disparities are prevalent. Furthermore, the study emphasizes the need for regulatory frameworks that promote transparency and accountability in the management processes, ensuring that these assets are utilized in ways that provide

²⁸ N Moretti et al., 'Digital Twin Based Built Environment Asset Management Services Development', *IOP Conference Series: Earth and Environmental Science* 1101, no. 9 (1 November 2022): 092023, <https://doi.org/10.1088/1755-1315/1101/9/092023>.

²⁹ Victoria Jeisy – Scott et al., 'A Framework for Response Escalation and Emergency Response Asset Management', *Journal of Public Health Management & Practice*, 11 July 2024, <https://doi.org/10.1097/PHH.0000000000002032>.

³⁰ Widiastuti Widiastuti et al., 'Return of Confiscated Property to Victims of Crime of Fraud in Indonesia's Legal System', in *Proceedings of the 1st International Conference on Law, Social Science, Economics, and Education, MALAPY 2022, 28 May 2022, Tegal, Indonesia* (Proceedings of the 1st International Conference on Law, Social Science, Economics, and Education, MALAPY 2022, 28 May 2022, Tegal, Indonesia, Tegal, Indonesia: EAI, 2022), <https://doi.org/10.4108/eai.28-5-2022.2320571>.

tangible benefits to society, such as funding social programs, education initiatives, and poverty alleviation efforts. Ultimately, the findings of this research advocate for the integration of Islamic principles into asset management practices, offering valuable recommendations aimed at enhancing ethical governance and fostering sustainable development aligned with Islamic values. This holistic approach not only contributes to the restoration of justice and social equity but also reinforces the broader objective of building a just and compassionate society grounded in the ethical teachings of Islam.

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