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Asset Recovery in Contemporary Islamic Law: Reconstructing Public Wealth Protection through *Maqāṣid al-sharīʿah*

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Abstract: Persistent corruption and the limited recovery of state losses expose significant weaknesses in contemporary asset recovery mechanisms. Although anti-corruption laws provide instruments for confiscation and compensation, recovered illicit assets remain substantially below the financial losses caused by corruption. This study analyses the effectiveness of asset recovery in Indonesia and reconstructs a framework for protecting public wealth from the perspective of *maqāṣid al-sharīʿah*. It employs normative legal research using statutory, conceptual, and *maqāṣid*-based approaches. Primary legal materials comprise anti-corruption and anti-money laundering legislation, judicial decisions, and relevant international instruments; secondary materials include scholarship on asset recovery, corruption, and Islamic legal theory. The materials are analysed through doctrinal interpretation and *maqāṣid*-based evaluation. The findings show that Indonesia's asset recovery regime remains predominantly conviction-based and is constrained by difficulties in asset tracing, weak enforcement of compensation orders, fragmented regulation, and barriers to recovering assets transferred to third parties or foreign jurisdictions. From a *maqāṣid* perspective, corruption violates *ḥifẓ al-māl* by diverting public resources from their social functions and undermining collective welfare. Asset recovery should therefore be understood not merely as punishment but as a means of restoring public rights, protecting collective wealth, and advancing distributive justice. The article proposes a *maqāṣid*-based framework that prioritises the protection of public wealth, strengthens asset-centred forfeiture mechanisms, and aligns anti-corruption governance with the objectives of Islamic law.

Keywords: Asset Recovery; *Maqāṣid al-Sharīʿah*; Public Wealth Protection; Wealth Protection.

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INTRODUCTION

Corruption remains a persistent threat to public governance and sustainable development. Its consequences extend beyond direct fiscal loss: corruption weakens institutions, distorts resource allocation, erodes public trust, and reduces the resources available for essential services. In Indonesia, the scale of the problem is illustrated by two datasets that must be read with caution, as they use different institutional mandates and methodologies. Indonesia Corruption Watch (ICW) identified 364 corruption cases under investigation in 2024 and estimated potential state losses of Rp279.9 trillion; the figure was heavily affected by the tin-trading case and represents potential losses identified through ICW's monitoring, not a final judicial determination. The Corruption Eradication Commission (KPK), meanwhile, reported Rp2.544 trillion in asset recovery for 2020–2024, including Rp731.549 billion in 2024 as of 15 December. These figures are not a single numerator and denominator for a national recovery rate, but their scale demonstrates why imprisonment alone cannot restore public resources diverted through corruption.[1]

The growing emphasis on asset recovery reflects a broader transformation in contemporary anti-corruption governance.[2] International legal instruments, particularly the United Nations Convention against Corruption, recognise asset recovery as a fundamental principle in combating corruption. The shift from offender-centred punishment to asset-centred enforcement is based on the premise that corruption is primarily motivated by economic gain. Consequently, effective anti-corruption strategies should not merely punish offenders but also deprive them of illicit benefits and restore public resources to their legitimate owners.[3] Despite this global trend, many jurisdictions, including Indonesia, continue to rely heavily on conviction-based confiscation

[1]Komisi Pemberantasan Korupsi, “Kinerja 2020–2024: KPK Kembalikan Kerugian Negara Senilai Rp2,5 Triliun,” December 19, 2024, https://kpk.go.id/id/ruang-informasi/berita/kinerja-2020-2024-kpk-kembalikan-kerugian-negara-senilai-rp25-triliun; Indonesia Corruption Watch, “Tren Penindakan Kasus Korupsi 2024,” September 30, 2025, https://antikorupsi.org/id/dokumen.

[2] Md Atiqur Rahman, “Asset Recovery under the United Nations Convention against Corruption: A Bangladeshi Perspective,” *Jindal Global Law Review* 16, no. 2 (2025): 513–541, https://doi.org/10.1007/S41020-025-00257-3/METRICS.

[3] Tommaso Trinchera, “Confiscation And Asset Recovery: Better Tools To Fight Bribery And Corruption Crime,” *Criminal Law Forum* 31, no. 1 (2020): 49–79, https://doi.org/10.1007/S10609-020-09382-1/METRICS.

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mechanisms, creating significant challenges in recovering assets concealed through complex financial transactions, third-party ownership arrangements, and transnational money laundering schemes.

Previous studies have extensively examined asset recovery from legal, governance, and anti-corruption perspectives. Existing literature generally agrees that asset recovery plays a crucial role in combating corruption by removing illicit economic gains and restoring state losses.[4] Several studies have highlighted the limitations of conviction-based confiscation systems and emphasised the importance of strengthening asset tracing, asset forfeiture, and anti-money laundering mechanisms.[5] Other scholars have explored corruption within Islamic legal discourse through the concepts of *ghulul*, *risywah*, *khiyānah*, public trust, and *maqāṣid al-sharīʿah*, arguing that corruption violates the principle of *ḥifẓ al-māl* by unlawfully diverting wealth intended for public benefit.

Despite these contributions, important gaps remain. Most studies focus on procedural and institutional aspects of asset recovery without developing a comprehensive normative framework for protecting public wealth.[6] Likewise, research employing *maqāṣid al-sharīʿah* primarily discusses corruption in general terms and rarely examines asset recovery as a mechanism for safeguarding collective wealth and restoring public rights. Furthermore, limited attention has been paid to integrating contemporary asset recovery regimes with broader Islamic legal objectives, such as distributive justice, public welfare, and protection of public wealth.

This study addresses these gaps by reconstructing asset recovery through the perspective of *maqāṣid al-sharīʿah*. Unlike previous studies, it positions asset recovery not

[4] Samuel Sittlington and Jackie Harvey, "Prevention of Money Laundering and the Role of Asset Recovery," *Crime, Law and Social Change 2018 70:4* 70, no. 4 (2018): 421–441, https://doi.org/10.1007/S10611-018-9773-Z.

[5] Tantimin Tantimin, "Penyitaan Hasil Korupsi Melalui Non-Conviction Based Asset Forfeiture Sebagai Upaya Pengembalian Kerugian Negara," *Jurnal Pembangunan Hukum Indonesia* 5, no. 1 (2023): 85–102, https://doi.org/10.14710/JPHI.V5I1.85-102.

[6] Dian Eka Kusuma Wardani et al., "Legal Strategies for Corruption Asset Recovery and Public Trust," *Arena Hukum* 18, no. 3 (2025): 340–372, https://doi.org/10.21776/UB.ARENAHUKUM2025.01803.1.

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merely as a punitive legal instrument but as a mechanism for protecting public wealth, restoring collective rights, and achieving social welfare. By placing *ḥifẓ al-māl* at the centre of the analysis, this article contributes to contemporary Islamic legal discourse and offers a normative framework for strengthening anti-corruption governance by protecting public wealth.[7]

METHOD

This study employs normative legal research to examine the adequacy of Indonesia's asset recovery framework and to reconstruct it in line with the objectives of Islamic law. Rather than measuring empirical effectiveness, the study evaluates the coherence, limitations, and normative orientation of the legal instruments governing the recovery of assets derived from corruption. Three approaches are employed. First, the statutory approach examines the Indonesian legal framework, particularly Law No. 31 of 1999 as amended by Law No. 20 of 2001 on the Eradication of Corruption, Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering, relevant provisions of the Indonesian Criminal Procedure Code, Law No. 7 of 2006 ratifying the United Nations Convention against Corruption, and regulations concerning asset seizure, confiscation, compensation orders, and international legal cooperation. Second, the conceptual approach analyses asset recovery, conviction-based confiscation, non-conviction-based asset forfeiture, beneficial ownership, public wealth, and distributive justice. Third, the *maqasid al-shariah* approach is used to assess whether the existing framework adequately protects collective wealth and restores public rights, particularly through the principles of *hifz al-mal*, *maslahah*, justice, and the prevention of harm.

The legal materials consist of primary and secondary sources. Primary legal materials include legislation, international conventions, implementing regulations, and selected judicial decisions involving corruption-related asset confiscation and compensation orders. Judicial decisions are selected purposively based on three criteria: the

[7] Saheed Abdullahi Busari et al., "Maqasid Al-Shariah-Based Strategies for Enhancing Digital Adoption Among B40 Muslim Entrepreneurs," *Journal of Islamic Finance* 14, no. 2 (2025): 160–169.

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case involves substantial state financial losses, the judgment contains an asset recovery or compensation order, and the case demonstrates a significant problem in tracing, confiscating, or executing assets. Secondary legal materials comprise peer-reviewed journal articles, scholarly books, institutional reports, and policy documents published by institutions such as the Corruption Eradication Commission, the Attorney General's Office, the Financial Transaction Reports and Analysis Centre, the United Nations Office on Drugs and Crime, and the World Bank–Stolen Asset Recovery Initiative. Statistical and institutional reports are used only to contextualise the practical consequences of the legal framework and not as a substitute for empirical field research.

The materials are analysed through doctrinal, comparative, and prescriptive legal analysis. The analysis proceeds in four stages. First, the relevant legal norms are identified and classified by the stages of asset recovery: asset tracing, freezing, seizure, confiscation, execution, repatriation, and management of recovered assets. Second, the internal coherence and limitations of these norms are examined, particularly regarding reliance on criminal convictions, the enforcement of compensation orders, third-party ownership, beneficial ownership, and cross-border recovery. Third, the identified legal mechanisms are evaluated using a *maqasid*-based analytical matrix consisting of four criteria: protection of collective wealth through *hifz al-mal*, realisation of public benefit through *maslahah*, procedural and distributive justice, and prevention of further harm. Fourth, the results are synthesised to formulate a reconstructed asset recovery framework that balances due-process protection, effective recovery of illicit assets, restoration of collective rights, and transparent utilisation of recovered wealth for public benefit. This analytical procedure enables the study to move beyond a general ethical justification of asset recovery and to employ *maqasid al-shariah* as a structured framework for legal evaluation and reform.

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RESULTS AND DISCUSSION

Contemporary Challenges of Asset Recovery in Corruption Cases

Asset recovery has emerged as one of the most significant developments in contemporary anti-corruption governance.[8] While traditional criminal justice systems primarily focused on prosecuting and imprisoning offenders, modern anti-corruption frameworks increasingly recognise that punishment alone is insufficient to address the broader consequences of corruption. Corruption is fundamentally an economically motivated crime in which perpetrators seek financial gain through the abuse of public authority, bribery, embezzlement, procurement fraud, or other illicit activities.[9] Consequently, the effectiveness of anti-corruption efforts should not be measured solely by the number of convictions secured or prison sentences imposed, but also by the extent to which illegally acquired assets can be identified, confiscated, and returned to the public.[10] This shift has encouraged many jurisdictions to adopt asset recovery as a central component of anti-corruption policy.

The urgency of strengthening asset recovery is evident in the KPK's official performance data. For 2020–2024, the KPK reported Rp2,544,426,279,509 in recovered assets, including Rp731,549,197,475 in 2024 as of 15 December. The reported total included cash and non-cash recovery, such as proceeds from confiscated property, state-use determinations, and grants. Consequently, the figure should be understood as the KPK's institutional recovery output rather than a comprehensive national recovery rate covering every corruption case handled by the police, the prosecution service, and the courts.[11]

[8] Rahman, "Asset Recovery under the United Nations Convention against Corruption: A Bangladeshi Perspective."

[9] Laurence R. Helfer et al., "Flexible Institution Building in the International Anti-Corruption Regime: Proposing a Transnational Asset Recovery Mechanism," *American Journal of International Law* 117, no. 4 (2023): 559–600, https://doi.org/10.1017/AJIL.2023.32.

[10] Anis Mashdurohatun et al., "Reconstructing Regulations on Compensation Payments in Corruption Cases Based on the Principles of Justice in Pancasila," *Nusantara: Journal of Law Studies* 5, no. 2 (2026): 1202–1225, https://doi.org/10.66325/nusantaralaw.v5i2.162.

[11] Komisi Pemberantasan Korupsi, "Kinerja 2020–2024: KPK Kembalikan Kerugian Negara Senilai Rp2,5 Triliun," December 19, 2024.

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The growing importance of asset recovery reflects a broader transformation in international anti-corruption law. The United Nations Convention against Corruption (UNCAC) identifies asset recovery as a fundamental principle of anti-corruption cooperation and encourages states to develop mechanisms to trace, freeze, confiscate, and repatriate assets derived from corruption.[12] The rationale for this approach is clear: corruption persists because it generates substantial economic benefits for perpetrators. If offenders are allowed to retain the proceeds of corruption, criminal punishment alone may fail to deter. Conversely, depriving offenders of their illicit gains reduces the economic incentives that drive corruption and strengthens public confidence in the rule of law.

Civil-society monitoring provides a different indicator of the scale of corruption losses. ICW's 2024 enforcement-trend report recorded 364 investigated cases involving 888 suspects and estimated potential state losses of Rp279.9 trillion. ICW attributed approximately Rp271 trillion of that estimate to the tin-trading case. Because these are monitoring-based estimates of potential losses, they should not be equated automatically with losses established by final court judgments. Nevertheless, the data reinforce the need for enforcement indicators that separately report assets traced, frozen, seized, finally confiscated, sold, and actually returned to the public treasury.[13]

Despite the increasing global emphasis on asset recovery, significant challenges continue to undermine its effectiveness. One of the most persistent problems is the substantial gap between the value of public losses from corruption and the amount of assets recovered by law enforcement agencies.[14] In many countries, including Indonesia, the financial losses from corruption cases often reach billions or even trillions of rupiah, yet only a relatively small proportion of those losses is ultimately returned to the state. This discrepancy demonstrates that recovering illicit assets is frequently more difficult than

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[12] Leonardo Borlini and Cecily Rose, "The Normative Development of Laws on Asset Preservation and Confiscation: An Examination of Emerging Best Practices," *International Journal of Constitutional Law* 22, no. 2 (2024): 514–537, https://doi.org/10.1093/ICON/MOAE036.

[13] Indonesia Corruption Watch, "Tren Penindakan Kasus Korupsi 2024," September 30, 2025.

[14] Redy Handoko et al., "Beyond Punishment: Reformulating Corruption Law Enforcement for State Loss Recovery," *Nusantara: Journal of Law Studies* 5, no. 2 (2026): 1260–1279, https://doi.org/10.66325/nusantaralaw.v5i2.165.

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proving criminal liability. While prosecutors may successfully establish the commission of corruption offences, locating, securing, and confiscating the proceeds of those offences often presents a far greater challenge.

A major factor contributing to this problem is the continued reliance on conviction-based confiscation systems. Under this model, asset confiscation generally depends upon the successful prosecution and conviction of the offender. Although conviction-based confiscation provides important procedural safeguards and respects due process principles, it also creates significant practical limitations. Assets cannot easily be confiscated when offenders die before trial, abscond from jurisdiction, evade prosecution, or conceal their involvement through complex financial arrangements. As a result, substantial amounts of illicit wealth may remain beyond the reach of law enforcement authorities even when strong evidence suggests that such assets originate from corruption.

The complexity of contemporary financial systems further complicates asset recovery efforts.[15] Modern corruption schemes rarely involve the direct possession of illegally obtained funds. Instead, perpetrators often employ sophisticated strategies to conceal the origins and ownership of illicit assets.[16] Corruption proceeds may be transferred through multiple bank accounts, invested in real estate, converted into corporate shares, hidden through nominee arrangements, or moved across international borders. In many cases, the proceeds of corruption are subsequently laundered through legitimate financial institutions, making it increasingly difficult to establish a direct connection between specific assets and the underlying criminal conduct. These developments have transformed corruption investigations into highly technical exercises requiring expertise in financial analysis, forensic accounting, and international cooperation.

[15] Georgios Pavlidis, "Global Sanctions against Corruption and Asset Recovery: A European Approach," *Journal of Money Laundering Control* 26, no. 1 (2023): 4–13, https://doi.org/10.1108/JMLC-10-2021-0120.

[16] Risqilah et al., "From Administrative Correction to Criminal Prosecution: An Escalation Model for JKN Claim Fraud in Indonesia," *Nusantara: Journal of Law Studies* 5, no. 1 (2026): 728–745, https://doi.org/10.66325/nusantaralaw.v5i1.170.

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The challenge becomes even greater when proceeds of corruption are transferred abroad.[17] Global financial integration has enabled corrupt actors to move assets rapidly across jurisdictions with varying legal systems and regulatory standards. Some jurisdictions continue to offer strong banking secrecy protections, limited disclosure requirements, or favourable conditions for offshore asset management.[18] Consequently, tracing and recovering assets located in foreign countries often requires extensive international cooperation through mutual legal assistance agreements, diplomatic channels, and transnational investigative networks. These procedures can be costly, time-consuming, and legally complex, frequently delaying or preventing the successful recovery of public assets.

Another significant challenge concerns the use of third-party ownership structures. Individuals involved in corruption frequently register assets in the names of family members, business associates, corporate entities, or nominees to obscure beneficial ownership. While such arrangements may formally comply with legal ownership requirements, they substantially complicate proving that specific assets originated from corrupt activities. Law enforcement agencies must not only identify the existence of assets but also establish a legally sufficient connection between those assets and the criminal conduct under investigation. Failure to demonstrate this connection may prevent confiscation even when there is substantial evidence that the assets derive from corruption.

Institutional capacity also plays a crucial role in determining the effectiveness of asset recovery mechanisms.[19] Successful asset recovery requires specialised skills in financial investigation, digital forensics, asset tracing, and international legal cooperation. However, many law enforcement institutions continue to face shortages of trained personnel, technological resources, and financial intelligence capabilities. As corruption schemes

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[17] Jiangnan Zhu and Bo Wen, "'Trace the Money, Seize the Fugitives': China's Other Anticorruption Battle," *Journal of Contemporary China* 31, no. 138 (2022): 993–1011, https://doi.org/10.1080/10670564.2022.2031006.

[18] Yevhen Leheza, "Reforming the Legal Framework of Ukraine's Economic System: Challenges, Governance, and Regulatory Transformation," *Journal of Nusantara Economy* 5, no. 1 (2026): 56–71, https://doi.org/10.66325/nusantaraeconomy.v5i1.399.

[19] Ernesto U. Savona and Matteo Anastasio, "EU Asset Recovery System Failure: An Incentive for the Internationalisation of Organised Crime?," *International Criminology 2025 5:4* 5, no. 4 (2025): 589–604, https://doi.org/10.1007/S43576-025-00193-1.

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become increasingly sophisticated, the ability of investigative agencies to identify and recover illicit assets depends heavily upon their access to advanced analytical tools and professional expertise. Without adequate institutional capacity, even well-designed legal frameworks may struggle to produce meaningful recovery outcomes.

In Indonesia, these challenges are particularly evident. Although the legal framework provides various instruments for recovering assets derived from corruption, including confiscation orders, compensation payments, seizure mechanisms, and anti-money laundering provisions, implementation remains far from optimal. The legal system continues to rely predominantly on conviction-based approaches, and asset recovery efforts often focus on recovering state losses after criminal convictions have been obtained. Consequently, the recovery process frequently occurs at a stage when assets have already been transferred, concealed, or dissipated. This situation significantly reduces the likelihood that public losses will be fully restored.

The practical limitations of Indonesia's asset recovery regime are visible in complex cases such as Jiwasraya and Asabri, but the relevant figures must be distinguished by procedural status. An asset identified or seized during investigation is not yet a recovered asset; confiscation requires a legally enforceable decision, and recovery occurs only when the asset or its proceeds are transferred or otherwise applied for the authorised public purpose. In the Jiwasraya matter, the Attorney General's Office reported Rp5.561 trillion in proceeds from the settlement or sale of confiscated state assets and execution-seized property as of its published update. This official figure documents realised asset administration, but it should not be presented as full compensation for the total loss or automatically combined with Asabri figures without case-specific execution data. The cases therefore demonstrate that conviction, seizure, confiscation, liquidation, and final transfer are distinct stages that require separate reporting.[20]

[20]Attorney General's Office of the Republic of Indonesia, "Perolehan Hasil Penyelesaian/Penjualan Aset Barang Rampasan Negara dan Barang Sita Eksekusi Perkara PT Asuransi Jiwasraya," accessed August 24, 2026, https://www.kejaksaan.go.id/conference/news/4294/read.

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The widespread use of compensation orders illustrates both the strengths and limitations of Indonesia's asset recovery regime. Courts frequently order convicted offenders to repay losses caused by corruption. In theory, this mechanism serves as an important tool for restoring public finances and ensuring that offenders do not benefit from criminal conduct. In practice, however, compensation orders often encounter substantial enforcement difficulties. Many offenders claim insufficient assets to satisfy their obligations, while others have successfully concealed or transferred wealth before legal proceedings begin. As a result, compensation orders may ultimately be substituted with additional imprisonment rather than actual financial recovery, thereby achieving punitive objectives without restoring public wealth.

These challenges reveal a deeper conceptual problem within contemporary anti-corruption governance. Asset recovery is often treated primarily as a supplementary component of criminal punishment rather than as an independent mechanism for protecting public wealth. Such an approach places excessive emphasis on prosecuting offenders while neglecting the broader objective of restoring unlawfully appropriated collective resources. From this perspective, the success of anti-corruption efforts should not be evaluated solely by convictions and sentences, but also by the extent to which public assets are returned to society and used to advance public welfare.

The contemporary challenges of asset recovery therefore extend beyond technical legal questions and raise fundamental issues concerning justice, governance, and public accountability.[21] The persistence of large-scale corruption despite increasingly severe criminal sanctions suggests that punitive measures alone cannot adequately address the economic foundations of corruption. Effective anti-corruption strategies require mechanisms capable of identifying, confiscating, and restoring illicit assets in ways that directly benefit society. Consequently, there is a growing need to reconsider the normative foundations of asset recovery and to explore alternative frameworks that can strengthen

[21] Tomy Ferdian et al., "Urgensi Pengaturan Sita Aset Perkara Pidana Korupsi Dalam Rangka Pemulihan Aset Negara," *Al-Sulthaniyah* 15, no. 1 (2026): 249–266, https://doi.org/10.37567/al-sulthaniyah.v15i1.4622.

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public wealth protection. This need becomes particularly relevant when examined through the perspective of Islamic law, which emphasises the protection of wealth, public welfare, and distributive justice as essential objectives of legal governance. These principles provide an important foundation for assessing whether contemporary asset recovery regimes can fulfil their broader social and moral purposes.

Table 1. Contemporary Challenges of Asset Recovery in Indonesia

Challenge	Practical Manifestation	Impact on Public Wealth Protection
Conviction-based confiscation	Recovery depends on criminal conviction	Many illicit assets remain unrecovered
Asset tracing difficulties	Use of nominees and complex transactions	Delayed confiscation
Cross-border asset transfer	Assets moved abroad	Limited repatriation
Weak execution of compensation orders	Offenders fail to repay losses	State losses remain unrecovered
Institutional limitations	Limited forensic and financial investigation capacity	Reduced recovery effectiveness

Source: author's interpretation

Asset Recovery and Public Wealth Protection in contemporary Islamic law

The increasing emphasis on asset recovery in contemporary anti-corruption governance has sparked important debates about the relationship among law, justice, and the protection of public resources. While modern legal systems generally approach asset recovery as a mechanism for confiscating illicit gains and restoring state losses, contemporary Islamic law provides a broader normative framework that connects wealth protection with social welfare, distributive justice, and collective rights.[22] Within this perspective, asset recovery is not merely a legal instrument for punishing offenders but also

[22] Fendi Nugroho et al., "Rethinking Subsidiary in Corruption Cases: Indonesian Experiences," *Journal of Human Rights, Culture and Legal System* 5, no. 2 (2025): 686–713, https://doi.org/10.53955/JHCLS.V5I2.714.

a means of safeguarding public wealth and ensuring that resources intended for society are not diverted for private benefit.

The concept of wealth occupies a central position in Islamic legal thought. Wealth (*māl*) is not viewed solely as private property but as a trust entrusted by Allah to human beings for lawful utilisation and social benefit.[23] Islamic law recognises individual ownership rights while simultaneously emphasising that wealth carries social responsibilities. Consequently, the acquisition, management, and distribution of wealth must conform to principles of justice, honesty, and public welfare. Any unlawful appropriation of wealth violates these principles and undermines the ethical foundations of social order.

This understanding is reflected in the doctrine of *maqāṣid al-sharīʿah*, which holds that the protection of wealth (*ḥifẓ al-māl*) is a fundamental legal objective. Al-Ghazali locates the preservation of wealth among the five necessities protected by the law, while al-Shatibi develops the necessities within a broader account of legal purposes and public welfare. Read together, these authorities support two dimensions of wealth protection: a preventive dimension that blocks unlawful appropriation and a restorative dimension that returns misappropriated wealth to those entitled to it. In corruption cases, the protected interest is not merely the state's balance sheet but the collective social functions financed through public resources.[24]

In fact, the recovery of public assets from the perspective of Islamic law has emerged in the practice of Muhammad PBUH, who confiscated the property of zakat officials who received gratuities, namely Ibn Al-Lutbiyyah.[25] Ibn Hajar al-Asqalan responded by

[23] Muhammad Al-Husam Mohd Kamal Nazmi et al., "Implementing Cryptocurrency Zakat Payments: An Analytical Study of the Federal Territories Islamic Religious Council Zakat Collection Centre (PPZ-MAIWP)," *Journal of Nusantara Economy* 5, no. 1 (2026): 15–41, https://doi.org/10.66325/nusantaraeconomy.v5i1.389.

[24] Abu Hamid al-Ghazali, Al-Mustasfa min 'Ilm al-Usul, ed. Muhammad 'Abd al-Salam 'Abd al-Shafi (Beirut: Dar al-Kutub al-'Ilmiyyah, 1993), 174; Abu Ishaq al-Shatibi, Al-Muwafaqat, ed. Abu 'Ubaydah Mashhur ibn Hasan Al Salman (Al-Khobar: Dar Ibn 'Affan, 1997), 2:17–20.

[25] Abû `Abdullâh Muhammad bin Ismâ`il Al-Bukhâriy, *Shahîh Al-Bukhâriy* (Al-Suthaniyah, 1311).

concluding that all gratuities received by officials because of their position were considered state property, so the confiscated property was then handed over to the *baitul mall*.[26]

Similarly, Umar bin Khattab imposed a similar action on state officials whose wealth had experienced an unnatural spike, after careful calculation. Among these officials were Abu Hurairah, who served as the Governor of Bahrain, and 'Amr bin 'Ash, who served as the Governor of Egypt.[27] From this perspective, corruption represents a direct assault on *ḥifẓ al-māl*.[28] Corruption involves the unlawful transfer of resources that should benefit society into the hands of individuals or groups who abuse public authority for personal gain. The harm caused by corruption extends beyond financial loss because it deprives citizens of resources that could otherwise be used for education, healthcare, infrastructure, poverty alleviation, and other public services. Consequently, corruption not only damages state finances but also weakens the realisation of public welfare (*maṣlaḥah*) that Islamic law seeks to promote.

Contemporary Islamic scholars frequently associate corruption with several classical legal concepts, including *ghulul*, *risywah*, and *khiyānah*.[29] G*hulul* refers to the unlawful appropriation of public property or resources entrusted to an individual, while *risywah* denotes bribery that distorts justice and decision-making processes. Similarly, *khiyānah* refers to the betrayal of trust, particularly when individuals misuse positions of authority for private benefit. Although these concepts emerged in different historical contexts, they share a common concern for protecting collective resources and preventing abuses that undermine social justice. Modern corruption can therefore be understood as a contemporary manifestation of these prohibited practices.

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[26] Ahmad bin Ali Ibn Hajar al-Asqalānī, *Fath Al-Bārī Bi Syarh al-Bukhārī*, 1st ed. (Al-Maktabah al-Salafiyah, 1390).

[27] Abu Ja`far Muhammadbin Jarir Al-Thabariy, *Tarikh Al-Rusul Wa al-Muluk*, 2nd ed. (Dar al-Ma`arif, 1967).

[28] Agung Nugroho Reformis Santono et al., "From RTBF to Devoir de Mémoire: The Imperative of Amanah and Adālah in Regulating Former Corruption Offenders' Candidacy.," *Al-Manahij: Jurnal Kajian Hukum Islam* 19, no. 2 (2025): 375, https://doi.org/10.24090/MNH.V19I2.15489.

[29] Moh Thamsir et al., "Islamic Criminal Law Reform in Corruption Cases: Maqasid al-Shariah Perspective," *Jurnal Ius Constituendum* 10, no. 1 (2025): 16–27, https://doi.org/10.26623/JIC.V10I1.10932.

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The prohibition of unlawful wealth acquisition has a specific textual foundation. The Qur'an prohibits consuming one another's wealth unlawfully and using it to influence authorities (Q. 2:188), forbids the wrongful consumption of property while permitting consensual trade (Q. 4:29), and condemns ghulul by requiring the offender to account for what was misappropriated (Q. 3:161). The Prophetic warning against officials who accept benefits in public office further connects illicit enrichment with a breach of trust. These texts do not themselves prescribe a modern forfeiture procedure; rather, they establish the normative premises of unlawful acquisition, accountability, and restitution that a contemporary asset-recovery regime must translate through lawful procedure.[30]

An important implication of this perspective is that public wealth possesses a distinctive legal and moral status. Public wealth differs from private wealth because it is intended to serve collective interests rather than individual preferences.[31] State revenues, public assets, natural resources, and funds allocated for public programs all constitute forms of collective wealth entrusted to public authorities. Therefore, the misappropriation of public wealth generates broader consequences than ordinary property crimes because the victims are not limited to specific individuals but include society as a whole. The protection of public wealth thus becomes an essential component of protecting public rights.

This understanding expands the normative justification for asset recovery. In many contemporary legal systems, asset recovery is primarily justified by criminal punishment and deterrence.[32] The objective is to ensure that offenders do not retain the proceeds of unlawful conduct. While this rationale remains important, contemporary Islamic law offers an additional justification by emphasising the restoration of rights. Asset recovery is necessary not only because offenders should not benefit from corruption, but also because society has a legitimate claim to resources unlawfully diverted. In other words, the recovery of assets serves both corrective and restorative functions.

[30] Qur'an 2:188, 4:29, and 3:161; Sahih al-Bukhari, Kitab al-Ahkam, report concerning Ibn al-Lutbiyyah and gifts received by public officials.

[31] John E. Jackson and David C. King, "Public Goods, Private Interests, and Representation," *American Political Science Review* 83, no. 4 (1989): 1143–1164, https://doi.org/10.2307/1961662.

[32] Sittlington and Harvey, "Prevention of Money Laundering and the Role of Asset Recovery."

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The concept of *maṣlaḥah* further strengthens this argument. Within Islamic legal theory, *maṣlaḥah* refers to the realisation of benefits and the prevention of harm for individuals and society.[33] Corruption causes extensive social and economic harm by diminishing public resources and weakening institutional integrity. Conversely, successful asset recovery generates social benefits by restoring resources that can be used to advance public welfare. Effective recovery can increase the resources available to education, healthcare, social protection, and economic development. Accordingly, asset recovery aligns closely with the broader objective of promoting public welfare.

The relationship between asset recovery and distributive justice is equally significant. Corruption distorts the distribution of wealth by concentrating public resources in the hands of a few individuals through unlawful means.[34] Such concentration undermines social equity and increases inequality. Asset recovery functions as a corrective mechanism by returning misappropriated resources to the public domain. Through this process, the legal system contributes to restoring a more equitable distribution of resources and reducing the harmful effects of corruption on society. Consequently, asset recovery can be understood as an instrument of distributive justice rather than merely a component of criminal enforcement.

From the perspective of contemporary Islamic law, the ultimate purpose of asset recovery is therefore broader than merely recovering state losses.[35] It seeks to protect public wealth, preserve collective rights, promote social welfare, and restore justice. This approach shifts attention from the narrow question of how much money is returned to the state toward the broader issue of how recovered assets contribute to the realisation of public

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[33] Abdul Halim Ibrahim and Muhammad Safwan Harun, "Applying the Concepts of Benefit and Harm in Malaysian Bioethical Discourse: Analysis of Malaysian Fatwa," *Journal of Bioethical Inquiry* 21, no. 3 (2024): 401–414, https://doi.org/10.1007/S11673-024-10345-Z/METRICS.

[34] David Jancsics, "Corruption as Resource Transfer: An Interdisciplinary Synthesis," *Public Administration Review* 79, no. 4 (2019): 523–537, https://doi.org/10.1111/PUAR.13024;WGROUP:STRING:PUBLICATION.

[35] Hafiz Gaffar and Saif Al Mamari, "From Roman Law to Sharia: Comparative Perspectives on the Evolution of Quasi-Contracts in Western and Islamic Jurisdictions," *Griffith Law Review* 33, no. 3 (2024): 209–234, https://doi.org/10.1080/10383441.2025.2487728.

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interests.[36] The effectiveness of asset recovery should therefore be evaluated not only by the quantity of assets confiscated but also by the extent to which those assets support social welfare and public benefit.

The analysis above demonstrates that contemporary Islamic law provides a comprehensive normative foundation for public wealth protection. Through the principles of *ḥifẓ al-māl*, *maṣlaḥah*, public trust, and distributive justice, Islamic legal thought offers a broader understanding of why asset recovery is necessary in corruption cases. Rather than functioning solely as a punitive mechanism, asset recovery should be understood as a legal and moral instrument aimed at restoring public rights and safeguarding collective wealth. This perspective provides the foundation for assessing whether existing asset recovery mechanisms adequately reflect the objectives of Islamic law and for developing a more effective framework of public wealth protection.

Assessing Indonesia's Asset Recovery Framework through *Maqāṣid al-sharīʿah*

The effectiveness of asset recovery cannot be evaluated solely based on legal and procedural considerations. From the perspective of *maqāṣid al-sharīʿah*, legal institutions should ultimately be assessed based on their ability to protect fundamental interests and promote public welfare.[37] Accordingly, the Indonesian asset recovery framework must be examined not only for its capacity to confiscate illicit assets but also for its effectiveness in safeguarding public wealth, restoring collective rights, and achieving distributive justice. Such an assessment is particularly relevant because corruption directly affects resources that should be utilised for society's welfare.

Indonesia's asset-recovery framework is dispersed across several instruments. Article 18(1)(a) of Law No. 31 of 1999, as amended by Law No. 20 of 2001, authorises confiscation of property used for or obtained from corruption and substitute property; Article 18(1)(b) authorises compensation orders up to the value obtained from the offence. Article 18(2)

[36] Helfer et al., "Flexible Institution Building in the International Anti-Corruption Regime: Proposing a Transnational Asset Recovery Mechanism."
[37] Habib Ahmed, "Islamic Normative Legal Theory: Framework and Applications," *Journal of Law and Religion* 40, no. 1 (2025): 28–58, https://doi.org/10.1017/JLR.2025.10056.

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permits prosecutorial seizure and auction when the convicted person fails to pay within one month after a final judgment, while Article 18(3) permits substitute imprisonment when sufficient property is unavailable. Article 19 protects third parties acting in good faith, and Articles 32–34 and 38C preserve specified civil recovery routes. Law No. 8 of 2010 strengthens asset-oriented enforcement by enabling the tracing, temporary suspension, freezing, seizure, and confiscation of proceeds linked to money laundering. At the international level, UNCAC Chapter V governs prevention, tracing, freezing, confiscation, return, and international cooperation, while Article 54(1)(c) asks states to consider confiscation without a criminal conviction when an offender cannot be prosecuted because of death, flight, absence, or other appropriate circumstances.[38]

From the perspective of *maqāṣid al-sharīʻah*, these developments represent a positive step toward realising the objective of *ḥifẓ al-māl*. By authorising the confiscation of assets derived from corruption, Indonesian law seeks to prevent the unlawful accumulation of wealth and to restore resources that properly belong to the public. This objective closely aligns with Islamic legal principles that prohibit acquiring wealth through illegitimate means and require the restoration of rights to their rightful owners. Consequently, the existence of asset recovery provisions can be regarded as broadly consistent with the protection of wealth as a fundamental objective of Islamic law.

However, the practical implementation of asset recovery remains only partially aligned with *maqāṣid al-sharīʻah*. Conviction-based confiscation provides important safeguards because deprivation of property follows proof of criminal liability, yet exclusive dependence on conviction can frustrate recovery when an offender dies, absconds, remains beyond jurisdiction, or uses nominees.[39] Any Indonesian non-conviction-based mechanism should therefore be exceptional rather than automatic. It should require a judicial

[38] Indonesia, Law No. 31 of 1999 on the Eradication of Criminal Acts of Corruption, as amended by Law No. 20 of 2001, arts. 18–19, 32–34, and 38C; Indonesia, Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering; United Nations Convention against Corruption, arts. 31, 51–59, especially art. 54(1)(c).

[39] Asst. Prof. Dr. Siham Ali Hussein Al-Nasiri, "The Rulings of Coercion and Its Impact on Financial Exchange Contracts: A Comparative Jurisprudential Study with the Law," *Journal of Human Security* 21, no. 2 (2025): 26–30, https://doi.org/10.12924/johs2025.210205.

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application concerning specifically identified property, reliable proof of its connection to unlawful conduct under a clearly prescribed civil or special evidentiary standard, notice to affected persons, an opportunity to contest the application, proportionality review, protection of bona fide third parties, a reasoned judgment, and effective appeal. The claimant authority should retain the initial burden of establishing the illicit connection; any rebuttable presumption or burden shift must be statutory, proportionate, and capable of being rebutted. These safeguards reconcile the protection of public wealth with justice (*ʿadl*), legal certainty, and the constitutional protection of property and fair process.[40]

From the perspective of *ḥifẓ al-māl*, this limitation raises important concerns. The primary objective of wealth protection is not merely to punish individuals who violate legal norms but to ensure that public resources remain available for legitimate social purposes. When legal procedures prevent the recovery of assets that can be shown, under an appropriate evidentiary standard, to derive from corruption, the broader objective of protecting collective wealth remains unfulfilled. In such circumstances, the legal system succeeds in enforcing procedural requirements but fails to achieve substantive protection of public interests.

A similar issue arises in relation to compensation orders (*uang pengganti*), which constitute one of the primary asset recovery mechanisms in Indonesia. Courts frequently order convicted offenders to compensate the state for losses caused by corruption. In theory, this mechanism reflects a restorative approach because it seeks to recover public resources rather than merely impose punishment. Nevertheless, practical experience demonstrates that compensation orders often encounter serious enforcement difficulties. Many convicted offenders claim insufficient assets to satisfy their obligations, while others have transferred or concealed wealth before legal proceedings commence. Consequently, compensation orders frequently remain unfulfilled, resulting in additional imprisonment rather than actual financial recovery.

[40] United Nations Convention against Corruption, art. 54(1)(c); United Nations Office on Drugs and Crime, "UNCAC Chapter V: Asset Recovery," accessed August 24, 2026, https://www.unodc.org/corruption/en/learn/what-is-uncac/asset-recovery.html.

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This situation reveals a significant gap between legal objectives and practical outcomes. From the perspective of *maqāṣid al-sharīʿah*, the effectiveness of a legal mechanism should be measured by its ability to realise public welfare and prevent harm. When compensation orders fail to restore public losses, the legal system achieves punishment but not restoration. Such outcomes are inconsistent with the broader objectives of *ḥifẓ al-māl*, which emphasise the protection and recovery of wealth for the benefit of society.

The implementation of anti-money laundering legislation provides a more promising example of alignment with *maqāṣid al-sharīʿah*. By adopting a "follow the money" approach, anti-money laundering laws expand law enforcement agencies' capacity to identify and recover assets linked to corruption. This approach reflects an important shift from focusing exclusively on offenders toward targeting illicit wealth itself. From the perspective of Islamic legal objectives, such measures are consistent with efforts to prevent unlawful enrichment and protect public resources from misuse. The broader scope of asset tracing and confiscation provided by anti-money laundering frameworks therefore contributes positively to the realisation of *ḥifẓ al-māl*.

Nevertheless, significant practical challenges continue to limit the effectiveness of these mechanisms. Asset tracing remains difficult when proceeds of corruption are transferred through complex financial transactions, corporate structures, offshore accounts, or nominee arrangements.[41] International cooperation is often slow and constrained by differences in legal systems and jurisdictional requirements. These obstacles reduce the state's capacity to recover public wealth and undermine the realisation of public welfare. As a result, the existence of legal instruments alone is insufficient; their effectiveness depends upon institutional capacity, inter-agency coordination, and international cooperation.

The Indonesian framework may also be evaluated through maṣlaḥah, which requires public benefit and the prevention of harm. The KPK reported Rp2.544 trillion in

[41] Nugroho et al., "Rethinking Subsidiary in Corruption Cases: Indonesian Experiences."

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institutional recovery for 2020–2024, whereas ICW estimated Rp279.9 trillion in potential losses from cases monitored for 2024. A direct percentage calculation would be methodologically invalid because the figures cover different institutions, periods, case populations, and definitions. The defensible conclusion is therefore not a purported national recovery ratio but a transparency deficit: Indonesia lacks a consistently published, interoperable dataset that follows each asset from identification and freezing through final confiscation, realisation, transfer, and public use. A *maqāṣid*-based evaluation consequently requires both stronger recovery and standardised reporting that permits like-for-like comparison.[42]

Another relevant dimension of *maqāṣid al-sharīʿah* is distributive justice. Corruption distorts the equitable distribution of wealth by concentrating public resources in the hands of individuals who obtain them through unlawful means. Asset recovery serves as a corrective mechanism that seeks to reverse this distortion and restore resources to the public domain. Indonesian law partially fulfils this objective through confiscation and compensation mechanisms. However, when substantial assets remain unrecovered, distributive justice is only partially achieved. Public resources continue to be concentrated in private hands, and the social consequences of corruption remain inadequately addressed.

The assessment above suggests that Indonesia's asset recovery framework possesses both strengths and limitations when viewed through the lens of *maqāṣid al-sharīʿah*. On the one hand, existing laws demonstrate a clear commitment to recovering illicit assets, restoring state losses, and preventing offenders from retaining the proceeds of corruption. These objectives are broadly consistent with the principles of *ḥifẓ al-māl*, *maṣlaḥah*, and distributive justice. On the other hand, practical limitations—including the dominance of conviction-based confiscation, ineffective enforcement of compensation orders, difficulties

[42] The KPK and ICW figures are presented as separate institutional indicators. They must not be divided to produce a national recovery ratio because their periods, populations, and definitions are not equivalent.

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in asset tracing, and challenges in international asset recovery—continue to restrict the realisation of these objectives.

Table 2. Assessment of Indonesia's Asset Recovery Framework through *Maqāṣid al-sharīʿah*

Asset Recovery Mechanism	Legal Objective	*Maqāṣid* Principle	Assessment
Confiscation of assets	Recover illicit gains	*Ḥifẓ al-māl*	Partially fulfilled
Compensation orders (*uang pengganti*)	Restore state losses	*Ḥifẓ al-māl*, Maṣlaḥah	Limited effectiveness
Anti-money-laundering measures	Trace illicit assets	Prevention of harm (*dafʿ al-mafsadah*)	Relatively strong
International cooperation	Repatriate offshore assets	Protection of collective wealth	Procedurally constrained
Conviction-based confiscation	Ensure due process	Justice (*ʿadl*)	Protects rights but limits recovery

Source: Author's interpretation

Table 2 demonstrates that Indonesia's asset recovery framework aligns with several *maqāṣid al-sharīʿah*, particularly the protection of wealth (*ḥifẓ al-māl*) and the prevention of social harm. Nevertheless, the framework remains only partially effective in achieving these objectives. While existing legal mechanisms provide important safeguards for due process and legal certainty, they frequently fail to maximise the recovery of public wealth. The assessment further indicates that the strongest alignment with *the maqāṣid al-sharīʿah is* found in asset tracing and anti-money laundering measures, which focus directly on identifying and recovering illicit assets. By contrast, conviction-based confiscation and compensation orders remain constrained by procedural limitations that often prevent the full restoration of public resources. Consequently, the current framework protects legal rights but does not always achieve substantive justice in terms of public wealth recovery.

Therefore, although Indonesia's asset recovery framework reflects important elements of wealth protection and public welfare, it has not yet fully achieved the

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substantive objectives envisioned by *maqāṣid al-sharīʿah*. The framework remains heavily focused on criminal punishment and state loss recovery rather than on the broader goal of protecting public wealth as a collective right. This finding indicates the need for a reconstructed model of asset recovery that places public wealth protection at the centre of anti-corruption governance and more fully aligns contemporary legal mechanisms with the objectives of Islamic law.

The assessment above demonstrates that Indonesia's asset recovery framework partially reflects the objectives of *maqāṣid al-sharīʿah*, particularly *ḥifẓ al-māl*, *maṣlaḥah*, and distributive justice. However, several procedural and institutional limitations continue to hinder the effective protection of public wealth. Based on these findings, Figure 1 presents a conceptual framework that links asset recovery mechanisms, *maqāṣid* principles, and governance outcomes.

Figure 1. *Maqāṣid*-Based Public Wealth Protection Framework

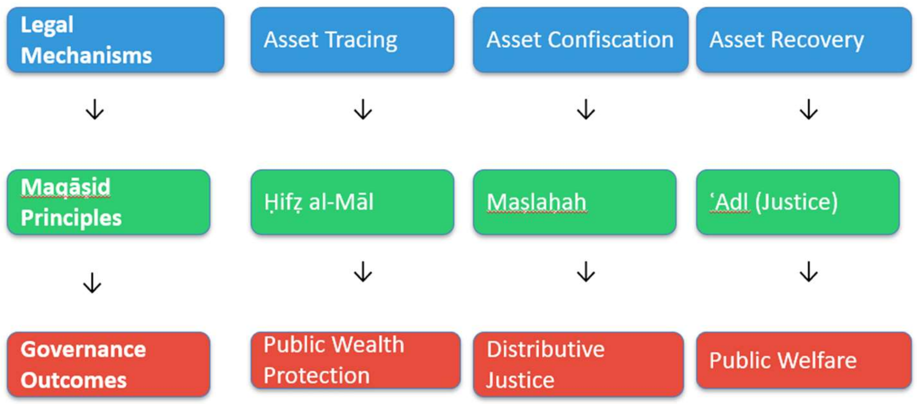

Figure 1 illustrates that effective asset recovery should not be viewed solely as a legal mechanism for confiscating illicit assets. Rather, asset recovery must function as a means of realising the broader objectives of Islamic law by protecting public wealth, promoting distributive justice, and advancing public welfare. This conceptual relationship provides the foundation for reconstructing a more *maqāṣid*-oriented asset recovery framework.

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Reconstructing Asset Recovery for Public Wealth Protection

The preceding discussion demonstrates that Indonesia's asset recovery framework has incorporated various legal mechanisms designed to recover assets derived from corruption. Nevertheless, significant gaps remain between the objectives of anti-corruption law and the actual recovery of public wealth.[43] The persistence of unrecovered assets, difficulties in tracing illicit funds, ineffective enforcement of compensation orders, and the continued dominance of conviction-based confiscation indicate that existing mechanisms have not fully realised the broader objectives of *maqāṣid al-sharīʿah*. Consequently, a reconstruction of asset recovery is necessary to transform it from a predominantly punitive instrument into a comprehensive framework for protecting public wealth.

From the perspective of *maqāṣid al-sharīʿah*, the primary objective of asset recovery should not be limited to restoring state losses in a technical or administrative sense. Rather, asset recovery should be understood as a mechanism for safeguarding collective wealth, protecting public rights, and promoting social welfare. This perspective requires a shift from a state-centred to a public-wealth-centred approach. While state loss recovery remains important, the ultimate concern should be the restoration of resources that belong to society and their utilisation for the public good.

The first element of reconstruction involves repositioning public wealth protection as the principal objective of asset recovery.[44] Current anti-corruption frameworks generally focus on proving criminal liability and calculating state losses. As a result, asset recovery often takes a back seat to criminal prosecution. A *maqāṣid*-based framework reverses this hierarchy by placing the protection of public wealth at the centre of anti-corruption policy. Under this approach, legal institutions should prioritise identifying, preserving, confiscating, and recovering illicit assets from the earliest stages of investigation. The

[43] Alan Bacarese, "Advancing International Understanding and Cooperation in Combating Fraud and Corruption: Recovering Stolen Assets—a New Issue?," *ERA Forum 2009 10:3* 10, no. 3 (2009): 421–434, https://doi.org/10.1007/S12027-009-0124-5.

[44] Jaenal Aripin, "Hajj Fund Investment: A Comparative Contemporary Fiqh Study on Maslahah and Public Policy Perspectives in Indonesia," *MILRev: Metro Islamic Law Review* 4, no. 1 (2025): 360–388, https://doi.org/10.32332/MILREV.V4I1.10424.

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success of anti-corruption efforts should therefore be measured not only by the number of convictions secured but also by the amount of public wealth successfully restored.

The second element concerns strengthening asset-tracing mechanisms. One of the primary obstacles to effective asset recovery is the difficulty of identifying and locating assets that have been concealed through complex financial arrangements. Corrupt actors increasingly utilise corporate structures, nominee ownership, offshore accounts, and digital financial instruments to obscure the origins of illicit wealth. Consequently, asset recovery requires a stronger emphasis on financial intelligence, forensic accounting, digital investigation, and inter-agency cooperation. From the perspective of *maqāṣid*, failing to identify illicit assets ultimately undermines the protection of collective wealth. Therefore, strengthening asset-tracing capabilities is an essential component of a *maqāṣid*-based asset recovery framework.

The third element is the carefully delimited use of asset-oriented mechanisms beyond conventional conviction-based confiscation. Non-conviction-based forfeiture should be available only in circumstances defined by law, such as death, flight, absence, or other situations in which criminal prosecution is genuinely unavailable, consistent with UNCAC Article 54(1)(c). The competent authority should identify the property, establish its connection to unlawful conduct, and seek a judicial order in adversarial proceedings. The framework must provide notice, disclosure of the material basis of the claim, an opportunity to be heard, proportionality review, protection and compensation mechanisms for bona fide third parties, reasoned decisions, and appellate review. It should not permit confiscation based on suspicion alone, or turn an exceptional recovery route into a substitute for available criminal prosecution. Such safeguards allow *ḥifẓ al-māl* to protect public property without negating *ʿadl* and individual rights.[45]

[45]United Nations Convention against Corruption, art. 54(1)(c). See also United Nations Office on Drugs and Crime, "UNCAC Chapter V: Asset Recovery."

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The fourth element focuses on strengthening international cooperation in asset recovery.[46] Contemporary corruption frequently involves transnational financial transactions that allow illicit assets to be transferred across multiple jurisdictions. Consequently, effective recovery requires cooperation among states through mutual legal assistance, information sharing, extradition agreements, and cross-border confiscation procedures. In the context of *maqāṣid al-sharīʿah*, the transnational movement of illicit wealth does not diminish society's right to recover public assets. Therefore, international cooperation should be viewed not merely as a diplomatic necessity but as a legal and moral obligation to protect collective wealth from unlawful appropriation.

The fifth element concerns transparent management after recovery. Under existing Indonesian practice, recovered funds and proceeds are generally treated as state revenue or state assets under applicable public finance and state property rules; they are not automatically earmarked for education, healthcare, poverty alleviation, infrastructure, or social protection. Accordingly, directing recovered assets to socially measurable purposes is a normative proposal rather than a description of current law. Implementation would require an explicit statutory basis, budgetary authorisation, transparent valuation and disposal, independent audit, public reporting, conflict-of-interest controls, and indicators linking the use of recovered assets to identifiable social benefits. Where direct earmarking is constitutionally or fiscally unsuitable, the same objective could be pursued through a publicly reported budget statement showing how recovery receipts support programs consistent with maṣlaḥah.[47]

Another important aspect of reconstruction is balancing punishment and restoration within anti-corruption governance.[48] While imprisonment remains necessary for deterrence and accountability, it should not overshadow the recovery of public wealth.

[46] Ulang Mangun Sosiawan, "Penanganan Pengembalian Aset Negara Hasil Tindak Pidana Korupsi Dan Penerapan Konvensi PBB Anti Korupsi Di Indonesia," *Jurnal Penelitian Hukum De Jure* 20, no. 4 (2020): 587–604, https://doi.org/10.30641/DEJURE.2020.V20.587-604.

[47] This paragraph advances a normative governance proposal. Any earmarking or program-specific allocation must comply with Indonesian public-finance, budgeting, and state-property law.

[48] Ferdian et al., "Urgensi Pengaturan Sita Aset Perkara Pidana Korupsi Dalam Rangka Pemulihan Aset Negara."

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From the perspective of *maqāṣid al-sharīʿah*, justice is achieved not only through punishment but also through the restoration of collective rights and public welfare. Therefore, effective anti-corruption policies should integrate punitive and restorative measures to ensure that illicit assets are returned to society.

The proposed reconstruction may be summarised as a *maqāṣid*-based asset recovery framework that centres public wealth protection in anti-corruption governance. Within this framework, corruption is viewed as a violation of *ḥifẓ al-māl*, while asset recovery functions as a mechanism for restoring collective rights, promoting distributive justice, and advancing public welfare. Accordingly, the effectiveness of asset recovery should be assessed not only by the value of assets recovered but also by its contribution to the realisation of social benefit (*maṣlaḥah*).

The proposed reconstruction also contributes to contemporary Islamic legal discourse by extending the application of *maqāṣid al-sharīʿah* beyond conventional discussions of corruption. Previous studies have generally employed *maqāṣid* to explain why corruption is prohibited. This study goes further by demonstrating how the objectives of Islamic law can provide a normative framework for designing and evaluating asset recovery mechanisms. In this sense, *maqāṣid al-sharīʿah* functions not merely as a source of ethical justification but as a practical framework for legal reform and governance innovation.

Ultimately, the reconstruction proposed in this article seeks to transform the paradigm of asset recovery from one centred on state loss recovery to one focused on protecting public wealth. Such a transformation is necessary because corruption does not merely harm state finances; it undermines collective welfare, weakens distributive justice, and deprives society of resources essential for development. By integrating contemporary anti-corruption principles with the objectives of *maqāṣid al-sharīʿah*, a more effective, justice-oriented framework for asset recovery can be developed. This framework not only strengthens anti-corruption governance but also ensures that the recovery of assets serves its ultimate purpose: protecting public wealth and promoting societal welfare.

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CONCLUSION

This study finds that the principal challenge of asset recovery in Indonesia lies not in the absence of legal instruments but in their limited effectiveness in restoring public wealth lost through corruption. Despite the availability of confiscation measures, compensation orders, and anti-money laundering mechanisms, the recovery of illicit assets remains substantially lower than the actual losses caused by corruption. This finding reveals a significant gap between punitive anti-corruption enforcement and the broader objective of safeguarding collective wealth, indicating that anti-corruption policies continue to prioritise offender punishment over the restoration of public resources. This article contributes to the literature by extending asset recovery beyond the conventional state-loss recovery paradigm. It introduces public wealth protection as a *maqāṣid*-based framework grounded in *ḥifẓ al-māl* and constrained by *ʿadl*, due process, and the rights of bona fide third parties. The framework reconceptualises recovery as the restoration of collective rights, distributive justice, and public welfare rather than merely an adjunct to punishment. The study nevertheless has three limitations. First, its normative design does not test institutional practice through interviews or observation. Second, it does not employ a systematic sample of final judgments and execution files to measure how often compensation and confiscation orders are satisfied. Third, no harmonised national dataset currently permits a like-for-like comparison among alleged loss, adjudicated loss, property traced or seized, final confiscation, realised proceeds, and amounts transferred to the treasury. Future empirical and comparative research should address these limitations and test whether the proposed safeguards improve both recovery effectiveness and rights protection.

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Ahyar Gayo and Marulak Pardede contributed to the conceptualization and overall direction of the study. Evi Djuniarti and Syprianus Aristeus contributed to the research methodology, investigation, and analysis. Sri Humana Lagustiani contributed to the literature review, data curation, and interpretation of the findings. Yakub Abdulwaheed Olareweju contributed to drafting the manuscript and revising it critically for important intellectual content. All authors participated in discussing and interpreting the findings, reviewed and approved the final version of the manuscript, and agreed to be accountable for the integrity and accuracy of the work.

CONFLICT OF INTEREST

The authors declare that there are no conflicts of interest that could have influenced the research, authorship, or publication of this article. All authors have disclosed any relevant relationships or circumstances that could potentially be perceived as influencing the work and confirm that the research was conducted independently and objectively.

AI USAGE STATEMENT

The authors declare that artificial intelligence (AI) tools were used only for language editing, grammar checking, and improving the clarity and readability of the manuscript. AI tools were not used to generate research data, conduct substantive analysis, determine research findings, or develop the study's conclusions. The authors remain fully responsible for the accuracy, originality, integrity, and scholarly content of the manuscript.

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