

Type: **Research Article**

# Unmasking Illicit Enrichment: A Comparative Analysis of Wealth Acquisition Under Indonesian, Thailand and Islamic Law

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## ABSTRACT

Within the context of both countries, influenced significantly by Islamic legal norms, corruption and illicit enrichment are condemned as violations of justice, honesty, and integrity. In Thailand, where the legal framework for handling illicit enrichment is relatively well-structured, these values can be further integrated to enhance transparency and accountability. Shifting the burden of proof, in line with Islamic ethical principles, can imbue the law enforcement process with a robust moral and social dimension. In Indonesia, where the concept of illicit enrichment is not fully articulated in anti-corruption legislation, these values can serve as a foundation to complement the existing legal framework. The KPK, empowered to



monitor officials' wealth, can incorporate these principles into its vetting and investigative mechanisms, reinforcing a values-based approach to corruption prevention and prosecution. Applying Islamic teachings in governance and law can provide an ethical underpinning, fortifying existing legal structures. It entails not only introducing new rules but also nurturing a culture of integrity in society and emphasizing the moral responsibility of public officials. By grounding their legal systems in profound Islamic values, both countries can advance their battle against corruption and illicit enrichment, fortify their legal frameworks, and ultimately promote the development of more transparent and accountable governance.

**Keywords:** Illicit Enrichment, Corruption, Thailand, Indonesia, Islamic Law

## INTRODUCTION

Laws are formulated through the principles of science, necessitating their implementation and enforcement to be grounded in a scientific approach, specifically within the realm of legal science.<sup>1</sup> One aspect of legal science is criminal law, which includes the study of criminal offenses, including corruption. Corruption crime is one of the biggest problems faced by almost every country in the world, not only causing material losses but also causing harm to the social life of the community, which can indirectly be a victim. When viewed from the word "corruption," comes from Latin, namely *corruption* or *corruptus*, called *corruptie* (Dutch). In English, it is called corruption or corrupt,

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<sup>1</sup> Barda Nawawi Arief, *Pendekatan Keilmuan dan Pendekatan Religius dalam Rangka Optimalisasi dan Reformasi Penegakan Hukum (Pidana) di Indonesia* (Semarang: Universitas Diponegoro, 2018), p. 70.

the literal meaning of which refers to corrupt, rotten, depraved dishonest actions related to finances.<sup>2</sup> Like a disease, corruption (TIPIKOR) is a chronic disease that is difficult to treat.<sup>3</sup> Corruption also damages the reliability of services.<sup>4</sup> Excessive desire for wealth encourages the accumulation of illegitimate (unlawful) and unwholesome (*un-tayyib*) assets is forbidden. In general, the definition of corruption includes three categories: abuse of public property for personal gain, harming the public interest, and violating the norms for personal gain.<sup>5</sup> Corruption can affect government performance through “greasing” or “sanding” the wheel.<sup>6</sup>

The current condition of corruption and illicit enrichment in Indonesia and Thailand shows that both countries face significant challenges in addressing these issues, with varying degrees of progress and setbacks. In Indonesia, the number of corruption cases reported has increased, with 579 cases in 2022, an 8.63% increase from the previous year. The Corruption Perception Index (CPI) score for Indonesia has worsened to 34/100 in 2022, ranking 110 out of 180 countries, indicating severe challenges in fighting corruption.<sup>7</sup> Meanwhile, in Thailand, the situation is similarly challenging, with the country dropping six places to 110th in the 2021 CPI, scoring 35

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<sup>2</sup> Maria Silvya E. Wangga et al, “Revocation of Political Rights of The Perpetrators of Criminal Acts of Corruption,” *Journal of Indonesian Legal Studies* 5, No. 2 (2020): 282–83.

<sup>3</sup> Celeste Beesley and Darren Hawkins, “Corruption, Institutional Trust And Political Engagement In Peru,” *World Development* 151 (2022): 1–12.

<sup>4</sup> Ali Ahmad et al., “From Dysfunctional to Functional Corruption: The Politics of Decentralized Electricity Provision In Lebanon,” *Energy Research and Social Science* 86 (2022): 1–11.

<sup>5</sup> Sadhono Hadi et al., “Corruption of the Local Leaders in Indonesia: An Expository Study,” *Jurnal Media Hukum* 27, No. 2 (2020): 252–53.

<sup>6</sup> Firat Demir et al., “Local Corruption, Total Factor Productivity and Firm Heterogeneity: Empirical Evidence From Chinese Manufacturing Firms,” *World Development* 151 (2022): 1–15.

<sup>7</sup> Statista, “Number of Reported Crime Cases for Bribery, Corruption or Fraud in Indonesia from 2012 to 2021,” <https://www.statista.com/statistics/933720/indonesia-number-bribery-corruption-or-fraud-crimes/>, 2023.

out of 100, below the global average score of 45. This underscores the need for more effort to tackle corruption in the Asia-Pacific region.<sup>8</sup>

Corruption has become a pervasive issue in both Indonesia and Thailand, with cases seemingly ingrained in the culture, particularly among public officials and state administrators, at both the central and regional levels of governance.<sup>9</sup> When dishonesty is not only altruistic, but also self-serving, the temptation to cheat is particularly strong, when people must sacrifice one ethical value to be true to another.<sup>10</sup> Corruption crime is a severe problem to be eradicated, especially in Indonesia. This is because it can endanger the stability and security of the country's economic growth and damage the democratic values and morality of the nation.<sup>11</sup> After all, slowly, these actions seem to become a culture. Some say that corruption is an extraordinary crime.<sup>12</sup> This is because Indonesia, much like Thailand, upholds the concept of the most severe crimes as delineated in the 1998 Rome Statute, which both nations recognize as a crucial international framework.<sup>13</sup> Based on the Rome Statute (genocide, crimes against humanity, war crimes, and crimes of aggression). Some say that the criminal act of corruption is a crime in the concept of a serious crime. According to Mark A Drumble, the concept of serious crime is a planned, systematic and organized action that targets a

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<sup>8</sup> Bangkok Post, "Thailand's Corruption Standing Slides," <https://www.bangkokpost.com/thailand/general/2253227/thailands-corruption-standing-slides>, 2022.

<sup>9</sup> Muhammad Ihsan, "Pencegahan Korupsi Dalam Perspektif Hukum Islam," *Jurnal Lex Justitia* 1, No. 1 (2019): 101–12.

<sup>10</sup> Ori Weisel and Shaul Shalvi, "Moral Currencies: Explaining Corrupt Collaboration," *Current Opinion in Psychology* 44 (2022): 272–73.

<sup>11</sup> Sugeng Wahyudi, "Penal Policy on Assets Recovery on Corruption Cases in Indonesia," *Journal of Indonesian Legal Studies* 4, No. 01 (2019): 47–72.

<sup>12</sup> IGM Nurdajana, *Sistem Hukum Pidana dan Bahaya Laten Korupsi (Problematic Sistem Hukum Pidana dan Implikasinya pada Penegakan Hukum Tindak Pidana Korupsi)* (Yogyakarta: Total Media, 2009), p. 156.

<sup>13</sup> Diky Anandya Kharystya Putra and Vidya Prahassacitta, "Tinjauan Atas Kriminalisasi Illicit Enrichment Dalam Tindak Pidana Korupsi Di Indonesia: Studi Perbandingan Dengan Australia," *Indonesia Criminal Law Review* 1, No. 1 (2021): 43–59.

large number of individuals or a particular group that has been selected as a target for discriminatory reasons.

Corruption is pervasive, transactions between public officials and corporate management distort fair competition, undermine equal access to public goods and services, and divert resources from productive to corrupt activities.<sup>14</sup> The problem of corruption has become an international battle.<sup>15</sup> Indonesia has ratified the agreement of the United Nations Anti-Corruption United Nations Convention Against Corruption (UNCAC) through Law number 7 of 2006 concerning UNCAC 2003 through a perfect meeting of the representative council of the people of the Republic of Republic Indonesia on March 20, 2006. Article 20 United Nations Convention Against Corruption (UNCAC) regulates the illicit enrichment of the assets of public officials, which allows the seizure of assets if the state official cannot state the reason for the increase in assets related to using his legitimate income.<sup>16</sup> Similarly, Thailand has shown commitment to the international fight against corruption by ratifying the UNCAC in 2011. Since then, Thailand has made several amendments to its anti-corruption laws to align with the provisions of the UNCAC. This demonstrates both countries' acknowledgment of the importance of international legal frameworks in addressing corruption and illicit enrichment.<sup>17</sup>

In modern society, one of the most profound social problems is corruption and illicit enrichment. Appearing in various forms, from

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<sup>14</sup> Hao Yang et al., "Does Political Corruption Affect Mergers And Acquisitions Decisions? Evidence From China," *International Review of Economics and Finance* 78, No. December 2021 (2022): 248–66.

<sup>15</sup> Skirmantas Bikelis, "Chasing Criminal Wealth: Broken Expectations for the Criminalization of Illicit Enrichment in Lithuania," *Journal of Money Laundering Control* 25, nNo. 1 (2022): 95–96.

<sup>16</sup> Diriba Adugna Tulu, "Rethinking the Penalty of Illicit Enrichment Crime in Ethiopia: Lessons from Comparative Analysis," *Hasanuddin Law Review* 6, No. 3 (December 2020): 213–23.

<sup>17</sup> Lexology, "Anti-Bribery and Anti-Corruption: Thailand," <https://www.lexology.com/indepth/the-anti-bribery-and-anti-corruption-review/thailand#:~:text=In%202011%2C%20Thailand%20ratified%20the,so%20that%20they%20conform,2022.>

nepotism to bribery to embezzlement, these acts often undermine the social and economic fabric of a country. This becomes all the more important in the context of Indonesia, a country with a majority Muslim population and where Islamic law has a strong influence on public life.

Indonesia is a country with a majority Muslim population, therefore, the principles and values in Islamic law strongly influence society and policy in the country. Islamic law significantly impacts Indonesia's legal system, evident across various legal domains. The Law on Religious Courts, sanctioned by the Indonesian House of Representatives, underscores the formal recognition of Islamic law, particularly highlighted by Law No. 7 of 1989 concerning Religious Courts.<sup>18</sup> Further incorporation of Islamic law into national legislation is specifically tailored for the Muslim population, with religious courts adjudicating disputes in accordance with Islamic principles. This reflects a concerted effort to harmonize Islamic law with Indonesia's legal framework.<sup>19</sup> In the realm of family and social legislation, Islamic law informs the laws related to marriage, charitable giving (*zakat*), religious endowments (*waqf*), pilgrimage (*hajj*), and the certification of halal products. The role of Islamic law is also expanding in commercial transactions, where the application of Islamic jurisprudence principles (*Mu'amalat*) ensures compliance with Islamic tenets.<sup>20</sup> Although Islamic law's influence on the structure and culture of Indonesia's legal system isn't overwhelmingly prominent, there's a marked interest in the development of Islamic criminal law, indicating a potential shift towards a greater integration of Islamic legal concepts into the national legal system. Thailand, on the other

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<sup>18</sup> Lita Tyesta Addy Listya Wardhani, Muhammad Dzikirullah H Noho, and Aga Natalis, "The Adoption of Various Legal Systems in Indonesia: An Effort to Initiate the Prismatic Mixed Legal Systems," *Cogent Social Sciences* 8, No. 1 (December 2022): 1–21.

<sup>19</sup> Yeni Salma Barlinti, "Harmonization of Islamic Law in National Legal System: A Comparative Study Between Indonesia Law and Malaysian Law," *Indonesia Law Review* 1, No. 1 (2011): 35–51.

<sup>20</sup> Abu Rokhmad, "Institutions and Contributions to Islamic Law in Indonesia's Legal System," *Walisongo Law Review (Walrev)* 3, No. 1 (2021): 21–44.

hand, has a majority Buddhist population. While Buddhism significantly shapes the country's culture and traditions, it does not have the same formal integration into the legal system as Islamic law does in Indonesia. However, there is a significant Muslim community, particularly in the southern provinces of Pattani, Yala, and Narathiwat. The presence of a sizeable Muslim minority may influence local customs and practices, and there may be certain accommodations in the legal system to reflect the cultural and religious diversity of the population.<sup>21</sup>

In the context of corruption, Islamic law has a very firm and clear view. In Islam, corruption is seen as an act that is strictly prohibited as it goes against various basic principles, such as justice, openness, and responsibility. Corruption often involves the abuse of power or position for personal or group interests, which is contrary to the concept of collective welfare or *maslahah* emphasized in Islam. Islamic law also encourages transparency and accountability in all transactions and social interactions, including in government and business. This concept aims to prevent corrupt practices and promote justice and honesty. However, corrupt practices are still quite common in Indonesia and Thailand, both at the government level and in the private sector. This indicates a gap between the values and principles taught in Islam and the actual practices in society. Therefore, understanding and applying the principles of Islamic law in the context of preventing and countering corruption in Indonesia can be an important step. For example, applying the principles of transparency and accountability in public and business management, and encouraging a culture of honesty and justice in all aspects of people's lives.

Islamic law emphasizes ethical wealth acquisition, insisting on justice, welfare, and respect for others' rights. It mandates that wealth be earned through lawful (*halal*) means, prohibiting gains from corrupt practices (*haram*). Despite these principles, corruption persists, with some exploiting positions of power for illicit wealth.

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<sup>21</sup> World Atlas, "Major Religions In Thailand," <https://www.worldatlas.com/articles/religious-beliefs-in-thailand.html>, 2018.

The complexity of such corruption, often concealed, poses a significant challenge to legal enforcement and anti-corruption efforts. Indonesia and Thailand, as a signatory of the United Nations Convention Against Corruption (UNCAC), is committed to combating corruption. However, the national legislation has not yet fully addressed the issue of illicit enrichment, the unexplained wealth of public officials, which UNCAC mandates to regulate. As such, Indonesia and Thailand is obligated to develop comprehensive regulations to curb illicit enrichment in line with UNCAC. This gap presents an opportunity to draw from Islamic law's rich jurisprudence on corruption and wealth acquisition to inform future legal frameworks (*ius constituendum*). A study into Islamic perspectives on illicit enrichment could thus enrich the discourse and aid in formulating effective anti-corruption legislation in Indonesia and Thailand.

In the study entitled "Unmasking Illicit Enrichment: A Comparative Analysis of Wealth Acquisition Under Indonesian, Thailand, and Islamic Law," normative legal research can be used to understand how Indonesian, Thailand, and Islamic Law view and regulate wealth acquisition and how these principles and rules can be used to uncover and address illicit enrichment or corruption. In normative legal research, the researcher must delve deeply into these various legal sources, interpreting and analyzing them in the specific context of the research. The aim is to discover, explain and evaluate relevant legal norms, as well as suggest how the law should apply in the context under study.<sup>22</sup> In order to get answers or solutions to problems (legal issues), the approach used is the statute approach, conceptual approach, comparative approach.<sup>23</sup> The nature of the

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<sup>22</sup> Kristiawanto, *Memahami Penelitian Hukum Normatif* (Jakarta: Prenada, 2022), p. 13.

<sup>23</sup> Erdianto Effendi et al., "Trading in Influence (Indonesia): A Critical Study," *Cogent Social Sciences* 9, No. 1 (December 2023): 1–13.



research used in this study is descriptive-prescriptive.<sup>24</sup> To classify legal materials, this research uses content analysis.<sup>25</sup>

## THE CONCEPT OF ILLICIT ENRICHMENT IN THAILAND & INDONESIA

The anti-corruption programs contained in the United Nations Convention Against Corruption (UNCAC) require participating countries to implement them by harmonizing national laws and regulations in accordance with this convention.<sup>26</sup> The implementation of the United Nations Convention Against Corruption (UNCAC) program is carried out to achieve the objectives of establishing the United Nations Convention Against Corruption (UNCAC).<sup>27</sup> The objectives themselves as described in Article 1 of UNCAC, are as follows:<sup>28</sup>

1. To prevent and eradicate corruption efficiently and effectively;
2. International cooperation and technical assistance, including the return of criminal assets;
3. Improving integrity, accountability, transparency, and management in the public sector.

The United Nations (UN) Agreement on Anti-Corruption Discourse (UNCAC) which Indonesia has ratified through Law

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<sup>24</sup> Zico Junius Fernando et al, "Preventing Bribery in the Private Sector Through Legal Reform Based on Pancasila," *Cogent Social Sciences* 8, No. 1 (2022): 1–14.

<sup>25</sup> Agusalim et al, "Green Victimology: Sebuah Konsep Perlindungan Korban Dan Penegakan Hukum Lingkungan Di Indonesia," *Bina Hukum Lingkungan* 7, No. 1 (October 2022): 60–79.

<sup>26</sup> Abyssinia Law, "Criminalizing and Prosecuting Illicit Enrichment in Corruption Cases," 2015.

<sup>27</sup> Lindy Muzila, Eric and Yang, and Urbanavicius Saulius, "Investigation And Prosecution Of Corruption: Bribery, Illicit Enrichment And Liability Of Legal Persons," *OECD Anti-Corruption Network for Eastern Europe and Central Asia*, No. September (2012): 46–50.

<sup>28</sup> Putra and Prahassacitta, "Tinjauan Atas Kriminalisasi Illicit Enrichment Dalam Tindak Pidana Korupsi Di Indonesia: Studi Perbandingan Dengan Australia."

Number 7 of 2006 which was implemented on March 20, 2006, which affirms and regulates Article 20:

Subject to its constitution and the fundamental principles of its legal system, each state party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offense, when committed intentionally, illicit enrichment, that is, a significant increase in the asset of a public official that he or she cannot reasonably explain concerning his or her legal income.

Then the definition of illicit enrichment is found in Article IX of the International American Convention Against Corruption (IACAC) which defines illicit enrichment as "an offense a significant increase in the assets of a government official that he cannot reasonably explain concerning his lawful earnings during the performance of his function. In Article 8, the African Union on the Prevention and Combating Corruption (AUCPCC) which defines illicit enrichment, namely "the significant increase in the assets of a public official or any other person which he or she cannot reasonably explain concerning his or her income".<sup>29</sup> Illicit enrichment laws are endorsed by the United Nations, which recommends that countries should enact them under the United Nations Convention Against Corruption.<sup>30</sup> The United Nations Convention Against Corruption (UNCAC) states that in line with the constitution and the legal principles of the countries participating in the convention, the concept of illicit enrichment must be criminalized to be promulgated as an unlawful act to eradicate corruption.<sup>31</sup> The United Nations (UN) through the United Nations Convention Against Corruption (UNCAC) gives a mandate to every country that ratifies the convention rules to apply provisions called

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<sup>29</sup> Hanif Muzaki, "Illicit Enrichment Dalam Tindak Pidana Korupsi," *Jurist-Diction* 4, No. 4 (2021): 1431.

<sup>30</sup> The Diplomat, "Illicit Enrichment Laws: Asia's Ignored Anti-Corruption Weapon," 2021.

<sup>31</sup> Muzila, Yang, and Saulius, "Investigation And Prosecution Of Corruption: Bribery, Illicit Enrichment And Liability Of Legal Persons."

reverse proof.<sup>32</sup> In some countries, a partial shifting burden of proof is applied because the claimant or institution authorized to confiscate by law must first submit prima facie evidence in facts about property or assets irregularities compared to other countries, official income (lawful source of income).<sup>33</sup>

In Thailand, the Constitution of the B.E 2560 (2017 AD) serves as the central legal instrument that delineates the scope and power over cases of illicit enrichment.<sup>34</sup> This pivotal statute empowers the National Anti-Corruption Commission (NACC) with the authority to conduct investigations and formulate assessments in instances where there are allegations of abnormal wealth accumulation by individuals in high-ranking positions. The positions highlighted include political figures, judges of the Constitutional Court, members of Independent Organs, and the Auditor General, and the legislation also extends its reach to encompass all government officials.<sup>35</sup> When the NACC, upon completing its investigation, arrives at a consensus that there may be merit to the allegations, it then refers the case to the Attorney General. The Attorney General's role is to initiate legal proceedings, if warranted, in the Criminal Division of the Supreme Court for Persons Holding Political Positions. This specialized division is tasked with adjudicating cases that involve individuals holding political office and is an indication of the focused legal structure designed to counteract corruption and unlawful wealth. This procedural pathway requires the coordination of several significant state entities, each playing a critical role in upholding the law. The Attorney General, the NACC, and the aforementioned division of the Supreme Court form an integrated framework designed to ensure that those in positions of public trust can be held accountable, thereby safeguarding the integrity of public service and governance in Thailand.

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<sup>32</sup> The Tahrir Institute for Middle East, "Lebanon's New Law on Illicit Enrichment: A Step Forward in Fighting Corruption?," 2020.

<sup>33</sup> Basel Institute on Governance, "Andrew Dornbierer's Quick Guide To Illicit Enrichment," 2021.

<sup>34</sup> Section 234 (1) Constitution of Kingdom of Thailand, B.E. 2560.

<sup>35</sup> Section 47 Organic Act on Criminal Procedure for Persons Holding Political Positions

In the Thai legal system, the process of targeting illicit enrichment and the subsequent vesting of ill-gotten property in the state is thorough and requires detailed documentation. When an individual, particularly a public official or political figure, is suspected of having accumulated wealth through illicit means, it isn't enough to simply highlight the disproportionate wealth, the authorities must also compile an exhaustive inventory of the assets in question. This inventory includes a comprehensive description of the property or properties, which may range from real estate to movable assets and financial investments. The exact location of tangible properties must be recorded to facilitate investigation and potential seizure. For real estate, this would include the address and possibly the title deed information. For movable assets, such as vehicles or art, it would require a description sufficient to identify them uniquely.

Moreover, the legal documentation must disclose the identity of the purported owner of the wealth. This involves providing the name and address of the individual or entity that is listed as the owner on official records. If the property is in someone else's possession, that person's details must also be documented. This is critical, as it could be a strategy to disguise the true beneficiary of the unlawful wealth through a web of intermediaries or through the use of nominees. Such comprehensive documentation serves several purposes. First, it facilitates the tracing and recovery of assets. Second, it helps in establishing a chain of ownership and possession that may be crucial in demonstrating the illicit nature of the wealth. Third, it ensures that any enforcement action, such as seizure or freezing of assets, is accurately targeted, thereby minimizing the impact on any third parties who may be unwittingly involved. Once this information is compiled, it must be presented to the appropriate legal authorities to request that the property be vested in the state. The onus then often shifts to the accused to demonstrate the legitimate origin of their wealth. Failure to provide satisfactory evidence may result in the property being forfeited to the state. This process underscores the commitment to legal due process and the establishment of a clear

evidentiary standard that must be met for the state to take control of the assets in question.<sup>36</sup>

The legal procedure in Thailand for addressing cases of alleged illicit enrichment entails a significant shift in the traditional burden of proof. When a request is made for property to be vested in the State on the grounds of illicit enrichment, this request is not kept confidential, rather, it is publicized by the court. This public declaration is instrumental in the legal process for multiple reasons. Primarily, it serves as a means of transparency, allowing the public to be aware of and potentially provide relevant information about the case. It also serves to notify all stakeholders, including potential claimants or creditors, about the proceedings.

The reversal of the burden of proof in these cases is a particularly stringent measure against corruption and illicit wealth. Traditionally, in criminal law, the prosecution bears the burden of proving the accused's guilt. However, under the framework targeting unlawful enrichment, once the State has made a *prima facie* case that the property in question may be the result of illicit enrichment, the onus shifts to the accused. The individual must then prove the lawful origin of their assets. If they fail to do so, the court is authorized to order that the property be transferred to the State. This inversion is a proactive measure intended to combat the sophisticated mechanisms often used to conceal illegal activities and the proceeds of corruption.

During the trial, the court operates under an inquisitorial system, a legal procedure where the court is actively involved in investigating the facts of the case, as opposed to a purely adversarial system where the court acts as a referee between the prosecution and defense. The court's investigation focuses exclusively on the origins and legitimacy of the wealth in question, which means that even if there are additional charges like corruption, the determination of whether wealth is unlawful is treated as a separate matter. It's noteworthy that

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<sup>36</sup> Section 235 Paragraph 5 Constitution of Kingdom of Thailand, B.E. 2560. And Section 48 Organic Act on Criminal Procedure for Persons Holding Political Positions

this inquisitorial process is designed to ensure a thorough examination of the facts, and the court has the discretion to consider any evidence relevant to the legitimacy of the accused's wealth. This can include financial records, witness testimony, and other pertinent data.<sup>37</sup>

In the context of Indonesian law, the concept of illicit enrichment has not been explicitly defined or regulated in the anti-corruption law (Law No. 31 of 1999 as amended by Law No. 20 of 2001).<sup>38</sup> However, in Indonesian law, Article 12B of the Corruption Eradication Law regulates gratuities that may be linked to the concept of illicit enrichment. Although not explicit, this law implicitly implies recognition of the concept of illicit enrichment, whereby an increase in the wealth of a public official for no apparent reason can be viewed as a form of corruption. However, there is still legal debate on how best to define and interpret illicit enrichment in Indonesian positive law. Some opinions favor the introduction of new laws or amendments to existing laws to explicitly include the concept of illicit enrichment, whereas others argue that the current approach is sufficient.<sup>39</sup>

Article 7(1) of the Law on the Corruption Eradication Commission (KPK) in Indonesia provides a clear legal basis for the range of duties and powers that the KPK has in preventing acts of corruption. Some of these powers have a direct link to the concept of illicit enrichment. One of the best ways to detect illicit enrichment is through monitoring the assets of state officials. KPK is authorized to conduct registration and examination, which allows it to compare reports over time and assess whether there is an unexplained increase in wealth. The articles that regulate the authority of the Corruption Eradication Commission (KPK) in registering and examining the State

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<sup>37</sup> Section 45 and Section 33 Paragraph 3 Organic Act on Criminal Procedure for Persons Holding Political Positions

<sup>38</sup> Mohamad Said Al-hamid, "Determinasi Illicit Enrichment dalam Upaya Pemberantasan Korupsi di Indonesia," *Al-Mizan* 18, No. 2 (2022): 243–68.

<sup>39</sup> Ana Fauzia and Fathul Hamdani, "Pembaharuan Hukum Penanganan Tindak Pidana Korupsi Oleh Korporasi Melalui Pengaturan Illicit Enrichment Dalam Sistem Hukum Nasional," *Jurnal Hukum Lex Generalis* 3, No. 7 (2022): 497–519.

Officials' Wealth Report (LHKPN) have profound implications related to the concept of illicit enrichment, both Article 13 of Law Number 30 of 2002, the old KPK Law and the new one, namely Article 7 paragraph (1) of Law Number 19 of 2019, due to the fact that the KPK is authorized to monitor the assets of state officials

Furthermore, Law No. 20/2001 on the Amendment to Law No. 31/1999 on the Eradication of Corruption in Indonesia has become the main legal basis for the eradication of corruption. The law can be an entry point for the concept of illicit enrichment, as seen in article 37A paragraphs (1) and (2). The mentioned Article 37A seems to be closely related to the concept of illicit enrichment in the context of corruption criminal law. In many jurisdictions, the burden of proof in such cases is usually reversed, instead of the prosecution having to prove that the wealth was obtained through a criminal offense, it is the defendant who has to prove that the wealth was obtained through legitimate sources. Article 37A paragraph (1) requires the defendant to provide information about all his assets, including those of his family and other parties suspected of being related to the case. This is in accordance with the illicit enrichment approach which requires total transparency about the assets and finances of a public official or defendant in a corruption case. Paragraph (2) of the article states that if the defendant is unable to provide adequate evidence of the origin of his/her wealth, this information can be used to strengthen the existing evidence that the defendant has committed the crime of corruption. This fits well with the logic behind the illicit enrichment approach, which is to prove that an unexplained increase in wealth is a strong indication of corrupt activity. Overall, Section 37A offers a fairly robust mechanism to help law enforcers identify and punish "*illicit enrichment*". It clarifies the burden of proof and facilitates justice by ensuring that officials or parties involved in corruption cannot hide illegal wealth behind complex criminal laws.

In Indonesia, opinions on the existence of illicit enrichment in positive law vary widely. Some parties argue that the concept of illicit enrichment has been ratified and regulated in various laws and regulations, including Article 2 of Law Number 31 of 1999 in

conjunction with Law Number 20 of 2001 on the Eradication of Corruption. Article 2, which is listed in Chapter II on Corruption Crimes, describes the forms of behavior that can be categorized as corruption crimes, with an emphasis on enriching oneself, others, or a corporation that can harm the state's finances or economy. When we look at the definition given in Article 2, there are obvious similarities with the concept of illicit enrichment, which basically refers to an unexplained increase in assets or wealth through legitimate sources of income. The concept of illicit enrichment is often explained as a significant increase in wealth without clear justification or without a legitimate source of income. In the context of Article 2, the phrase "*enriching oneself or another person or a corporation that may harm state finances or the state economy*" is very much in line with the basic principle of illicit enrichment. Thus, while the term illicit enrichment may not be explicitly mentioned, its essence is covered by this provision. Although Article 2 does not explicitly use the terminology illicit enrichment, the basic principles of the concept are present in the provision. By understanding and applying the concept of illicit enrichment in its legal framework, Indonesia can more effectively combat corruption and ensure that those who enrich themselves through corrupt acts are brought to justice fairly and lawfully.

This is also evident in Article 603 of Law Number 1 of 2023 on the Criminal Code which was passed on February 2, 2023. Article 603, which is listed in the Third Part on the Crime of Corruption, explicitly targets behavior that results in a person obtaining an undue financial advantage, which is detrimental to state finances or the state economy. Although it does not explicitly use the term illicit enrichment, the essence of the article resembles the definition and spirit behind the concept of illicit enrichment in international law. Illicit enrichment, essentially, refers to a situation where there is a significant increase in a person's wealth that cannot be explained by the source of his or her legitimate income. The concept has become an important tool in the fight against corruption as it provides an evidence-based approach to prosecuting individuals whose wealth is suspicious without the need to show specific acts of corruption



committed. In the context of Article 603, there is a strong focus on the negative impact of the act on state finances or the state economy. As such, while not specifically mentioning illicit enrichment, this article reflects the same concerns as that concept, how the act of unlawful enrichment can destroy the financial and economic foundation of a country. The penalties imposed, which can be as long as life, demonstrate the seriousness with which this offense is viewed in the context of Indonesian law. Furthermore, the establishment of fines by category provides flexibility in sentencing, ensuring that the fines imposed correspond to the severity of the offense and the wealth acquired.

In practice, there are two views regarding illicit enrichment in Indonesia. First, those who argue that although the formulation of illicit enrichment in the regulation is not explicit, its practice has appeared in direct and indirect forms in law enforcement. Others argue that illicit enrichment does not yet exist in Indonesian law. They argue that although some regulations contain principles similar to illicit enrichment, there is no regulation that explicitly states and defines illicit enrichment as a form of criminal offense. Therefore, they argue that there needs to be a new regulation or a new law that clearly regulates illicit enrichment. This debate demonstrates the complexity and challenges of translating the concept of illicit enrichment into Indonesian positive law, as well as the importance of further research and discussion to achieve a better understanding and more effective handling of the crime of corruption.

## EXAMINING ILLICIT ENRICHMENT AS A CATALYST FOR CRIMINAL LAW RENEWAL WITHIN THE FRAMEWORK OF ISLAMIC JURISPRUDENCE

Prior to analyzing the viewpoint of Islamic law regarding illicit enrichment, it should be noted that Article 20 of the UNCAC, which

was ratified by the State of Indonesia by Law Number 7 of 2006 and put into effect on March 20, 2006, confirms that unlawful enrichment is subject to regulation.<sup>40</sup> This includes socialist and majority-communist nations like China, as well as nations with a large Hindu population like India, which view illegal gain as a negative deed and engage in crimes punishable by incarceration or confinement. There are other majority-Christian nations like Chile, Colombia, Argentina, Uganda, the Philippines, and El Salvador that control illicit enrichment and punish offenders with administrative punishments.<sup>41</sup>

Based on the definitions of illicit enrichment above and those explained by several experts, it can be concluded that there are five key elements or elements in the concept of illicit enrichment, including persons of interest, period of interest, the conduct of enrichment, intent, and absence of justification.<sup>42</sup> By tackling illicit enrichment as early as possible, it is hoped that the wheels of the economy and development can be carried out properly so that sooner or later, it will have an impact on change by increasing development and the welfare of society in general.<sup>43</sup> Such conditions are the reasons behind the restructuring of the building of the national (substantive) criminal law system in the form of an integrated national codification and unification, especially in eradicating corruption.<sup>44</sup>

In many countries, including some Muslim-majority countries, illicit enrichment is considered a form of corruption and is against the law. Regulations vary depending on each country's jurisdiction and

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<sup>40</sup> Herlambang et al, "Kejahatan Memperkaya Diri Sendiri Secara Melawan Hukum (Illicit Enrichment) Dan Aparatur Sipil Negara: Sebuah Kajian Kritis," *RechtsVinding* 11, No. 2 (2022): 247–64.

<sup>41</sup> Noratikah Muhammad, Azman Ng, and Zainal Amin Ayub, "The Legal Aspect of Illicit Enrichment In Malaysia: Is It a Crime to Be Rich?," *UUM Journal of Legal Studies* 1, No. 1 (2022): 267–93.

<sup>42</sup> Muzaki, "Illicit Enrichment Dalam Tindak Pidana Korupsi."

<sup>43</sup> Lilik Mulyadi, *Tindak Pidana Korupsi di Indonesia (Normatif, Teoritis, Praktik dan Masalahnya)* (Bandung: PT Alumni, 2007), p. 2.

<sup>44</sup> Jacqui Lyn McIntyre, Duane Aslett, and Nico Buitendag, "Implementing Unexplained Wealth Orders in South Africa – What Are the Options?," *Journal of Money Laundering Control*, 2022, 85–98.

laws. In the context of Islamic law or Sharia, basic principles such as honesty, fairness and responsibility take precedence. Therefore, any form of illicit enrichment or corruption is clearly against these values. However, in practice, organizing and enforcing laws against illicit enrichment can be challenging. Some Islamic-majority countries have formulated laws and regulations to prevent and combat illicit enrichment. For example, in recent years, Saudi Arabia has strengthened its enforcement efforts against corruption and illicit enrichment. For example, in 2017, the government launched a major anti-corruption campaign that resulted in the detention and investigation of a number of princes and high-ranking officials for alleged corruption.

Guided by the newly established Anti-Corruption Committee, instituted by King Salman and chaired by Crown Prince Mohammed bin Salman, the campaign against corruption has been actively pursued. The United Arab Emirates (UAE) has implemented a comprehensive set of laws and regulations to combat corruption and unlawful enrichment. Federal Law No. 3 of 1987 (UAE Federal Criminal Law) encompasses provisions addressing various corruption offenses, and a dedicated Financial Unit is tasked with tracking suspicious transactions, promptly reporting them to law enforcement.<sup>45</sup>

In Pakistan, the National Accountability Bureau (NAB) stands as a robust anti-corruption agency, equipped to handle cases related to corruption and illicit enrichment. Empowered by the NAB Act, the agency possesses broad authority to investigate, prosecute, and prevent corruption offenses. Notably, former Prime Minister Nawaz Sharif faced trial and imprisonment on charges of corruption and illicit enrichment.<sup>46</sup>

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<sup>45</sup> Yahong Zhang, "What can we learn from worldwide anti-corruption practices?." *Government anti-corruption strategies: A cross-cultural perspective*. (New York: Taylor & Francis, 2015), pp. 247-259.

<sup>46</sup> Asif Ali, Muhammad Jehangir Khan, and Saif Ullah Khalid. "Theory and Practice of Understanding Corruption in Pakistan: Case Study of National Accountability Bureau, KPK." *The Pakistan Development Review* (2016): 361-377;

Egypt has implemented several laws targeting corruption and illicit enrichment, supported by the Central Auditing Organization responsible for auditing public officials and investigating cases of illicit enrichment. Former President Hosni Mubarak and his children have faced indictment and conviction on charges of corruption and illicit enrichment.<sup>47</sup>

In Bangladesh, the Anti-Corruption Commission (ACC) plays a pivotal role in preventing and investigating corruption and illicit enrichment cases. The ACC is endowed with the authority to probe the assets of public officials and their family members, occasionally filing charges against individuals suspected of accumulating wealth exceeding known sources of income.<sup>48</sup>

Qatar has demonstrated a concerted effort in the fight against corruption, earning recognition as one of the least corrupt countries in the Middle East and North Africa region, according to Transparency International. Additionally, Qatar boasts an Audit Bureau institution empowered to audit both government and private entities, reporting suspicious activities to competent authorities.<sup>49</sup>

Turkey, too, has enacted a series of laws dedicated to combating corruption, including illicit enrichment. Notably, Turkey's penal code incorporates articles criminalizing money laundering, providing a

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Ali, Zulfiqar. "Pakistan's National Accountability Ordinance and the facilitation of corrupt practices." *Contemporary South Asia* 28, No. 1 (2020): 86-99.

<sup>47</sup> Fadil Hussein Abbas, Akeel Dakheel Kareem, and Waad Hadi Abd. "Audit Compliance and Its Role in Reducing the Manifestations of Administrative and Financial Corruption of Government Institutions (Applied Research in the Federal Office of Financial Supervision)." *PalArch's Journal of Archaeology of Egypt/Egyptology* 17, No. 7 (2020): 16962-16982; Rasha Kassem, and Andrew Higson. "Combating fraud: is Egypt ready? Insights from the literature." *Journal of Emerging Trends in Economics and Management Sciences* 6, No. 5 (2015): 290-298.

<sup>48</sup> Syeda Naushin Parnini, "Governance reforms and anti-corruption commission in Bangladesh." *Romanian Journal of Political Sciences* 11, No. 1 (2011): 50-70; Nurul Huda Sakib, "One size does not fit all: an analysis of the corruption preventative approach of the Anti-Corruption Commission (ACC) in Bangladesh." *Asian Journal of Political Science* 27, No. 2 (2019): 211-234.

<sup>49</sup> Zhang, "What can we learn from worldwide anti-corruption practices?."

legal basis to prosecute individuals found with assets that cannot be justified by legitimate income.<sup>50</sup>

With these various approaches, we can see that countries around the world, regardless of their political, social or religious backgrounds, have recognized and worked to address the issue of illicit enrichment. The concept is universal and emphasizes the importance of fairness and transparency in government and society. Therefore, knowledge of how different countries deal with this issue can provide valuable insights for Indonesia in its efforts to fight corruption and improve transparency and accountability.

Next, we will look further at illicit enrichment in the view of Islamic law, so we must first know about crime in the view of Islamic law. There are two words used in classical or ancient Islamic literature for criminal acts. The first is *jinayah*, and the second is said to be *jarimah*. Quoting from A. Hanafi in his book *Principles of Islamic Criminal Law*, most of the *fuqaha* use the term *jinayah* only for actions that affect a person's soul or limbs, such as killing, injuring, hitting, abortion, and so on. Some jurists limit the use of the term *jarimah* to *jarimah hudud* and *qisas* only. Although there are indeed differences in jurists in the use of terms, both of them give the same meaning as the definition of a crime, criminal event, or offense in criminal law currently in force in Indonesia.<sup>51</sup>

The teaching of Islam is the largest religion and is the majority religion in the State of Indonesia. It strongly condemns acts of corruption therefore it is very naive to rule out religious teachings as a solution to awaken corruptors and at the same time eradicate the root of corruption.<sup>52</sup> In Indonesia's strong Islamic tradition, clerics

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<sup>50</sup> Bryane Michael, "Anti-Corruption in the Turkey's EU Accession." *Turkish Policy Quarterly* 3, No. 4 (2004); Muhittin Acar, "Anti-corruption Policy in Turkey: Instruments, Issues and Influences 1." *Public Policymaking in a Globalized World*. (London: Routledge, 2018), pp. 331-362.

<sup>51</sup> Baharuddin Ahmad dan Illy Yanti, *Eksistensi dan Implementasi Hukum Islam di Indonesia* (Yogyakarta: Pustaka Pelajar, 2015), p. 291.

<sup>52</sup> Hilal Arya Ramadhan, Yusrizal, and Fauzah Nur Aksa, "Tindak Pidana Korupsi Dalam Perspektif Hukum Pidana Dan Hukum Pidana Islam," *Jurnal Ilmiah Mahasiswa* 4, No. 2 (2021): 21-29.

often emphasize that corruption violates religious values and is considered haram. The word "*haram*" in Islam means something that is prohibited by religious law and violates the stipulations set by Allah and His Messenger. According to scholars, corruption is a form of crime that involves the misuse of power, position or resources for personal or group interests. This act goes against various basic principles in Islam.

In the Islamic context, some types of behavior that could potentially be classified as corruption or "jarimah" (dosan) include behaviors that are similar to the modern concept of corruption. The following is an explanation:<sup>53</sup>

1. *Ghulul* (Embezzlement)

*Ghulul* refers to the act of embezzlement, particularly in the context of depriving property from its rightful place (such as zakat money or state property). It reflects the very important principle in Islam of maintaining trust and public confidence. There is a hadith that states that the Prophet Muhammad (SAW) forbade *ghulul* and considered it a major sin. "Whoever embezzles (*ghulul*) will be brought what he embezzled on the Day of Judgment" (HR. Bukhari). Although no specific case is mentioned, this hadith shows a strong stance against *ghulul*.

2. *Risywah* (Bribery)

*Risywah* refers to the practice of bribery, where a person gives money or gifts to officials or other individuals with the aim of influencing their decisions or actions. It is considered serious as it undermines the integrity of the legal system and promotes injustice. The Prophet Muhammad is known to have cursed both the giver and the receiver of bribes. A hadith from Abu Hurairah states that "*The Messenger of Allah cursed the one who gives a bribe and the one who receives a bribe*" (HR. Ahmad). This reflects a strong rejection of corrupt practices such as bribery.

3. *Ghashab* (Taking by force the rights/wealth of others)

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<sup>53</sup> Ali Maulida et al, "Tindak Pidana Korupsi Dalam Perspektif Hukum Indonesia Dan Pidana Islam," *Al-Mashlahah : Jurnal Hukum Islam Dan Pranata Sosial Islam* 8, No. 1 (2020): 43–61.

*Ghashab* is the act of depriving or taking another person's rights or property without authorization, usually by force. This principle reflects the Islamic view of individual property rights and the importance of safeguarding these rights. One famous case was when a woman from Banu Makhzum was stolen. Although she was from a respectable tribe, the Prophet Muhammad (PBUH) asserted that she should be punished just like everyone else, pointing out that no one should take another person's property without permission.

4. *Khianat* (Betrayal)

*Khianat* refers to fraudulent behavior or betrayal of trust. It can cover a wide range of actions, from abuse of a public position for personal gain to betrayal of an individual or community. One example from the Prophet's era is when a group of people came to the Prophet Muhammad SAW asking for help and religious teachers, but after getting them they betrayed and killed the teachers sent. The Prophet Muhammad strongly condemned this act.

5. *Al-Maks* (Extortion)

*Al-Maks* refers to illegal fees or extortion, where a person requests or insists on improper payments or services. It is considered an offense because it undermines the principles of justice and fairness. Although there are no specific examples from the time of the Prophet Muhammad, he consistently called for justice and condemned exploitation, which certainly includes extortion and extortion practices.

In many ways, these principles illustrate how Islam seeks to promote justice, integrity and responsibility in society. They demonstrate the importance of maintaining public trust and fighting corrupt behavior in all its forms. The principle of *Maqashid al-Syari'ah* in Islamic law refers to the purpose or core of Shari'ah itself, which is to realize human welfare in all aspects of life. In this context, *Maqashid al-Syari'ah* consists of five main principles, namely the protection of religion, the protection of the soul, the protection of reason, the

protection of offspring, and the protection of property.<sup>54</sup> Corruption directly contradicts these principles, particularly in terms of the protection of property. Corruption often involves the abuse of public power for private gain and violates this principle by taking property that is not rightfully theirs, sacrificing the public good for private gain. In the context of corruption, the term "illicit enrichment" refers to a situation where a public official acquires a significant increase in wealth without adequate explanation of how the wealth was acquired. This is considered haram in Islamic law, as such wealth is often acquired through illegitimate means, such as bribery, embezzlement or misuse of public funds. Therefore, classical and modern scholars agree that the criminal acts of corruption and illegal enrichment are haram and contrary to the principles of *maqashid al-Shari'ah*.<sup>55</sup>

In fighting corruption and regulating enrichment, the aim is to protect society, maintain the integrity of the legal system, and ensure that property and resources are used in a just and lawful manner. Wahbah Zuhaili, a renowned Islamic scholar and jurist, views that what is declared haram in Islam is general, meaning that it applies to all situations and to all people, without exception. The main reason behind declaring something haram in Islamic law is to prevent or avoid *mafsadat*, or damage and harm. This means that something declared haram is usually considered to have a negative or damaging effect on both the individual and society as a whole.<sup>56</sup>

In the context of corruption, this determination as a haram act reflects the understanding that corruption has far-reaching and damaging negative effects. These can include direct effects such as financial losses to the state or individuals affected, as well as indirect effects such as a decline in public trust in government institutions and

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<sup>54</sup> Tika Widiastuti et al., "Measuring the Corruption Measurement Model (CMM) Based on Maqasid Shariah Framework," *Humanities and Social Sciences Reviews* 7, No. 2 (2019): 282–86.

<sup>55</sup> Fethi B. Jomaa Ahmed, "Corruption According to the Main Sources of Islam," *Intellectual Discourse* 26, No. 1 (2018): 91–110.

<sup>56</sup> Mohammad Hashim Kamali, "Bribery and Corruption from a Shariah Perspective," *Islam and Civilisational Renewal* 4, No. 2 (2013): 295–97.



law enforcement. In addition, illegal enrichment by public officials is also seen as haram. This is because taking advantage of a public position for personal gain goes against fundamental principles such as justice, trust, and public service. Therefore, by understanding the purpose behind designating something as haram, we can better understand why corruption and illegal enrichment are seen as serious offenses in Islamic law and why it is important to prevent and eradicate these practices. In this case, Allah SWT condemns the perpetrators in QS. Ali Imran: 161, which means: "*A prophet cannot betray in the matter of spoils of war. Whoever is treacherous in the matter of the spoils of war, then on the Day of Resurrection he will come with what was betrayed, then each person will be recompensed for what he did with recompense in kind, while they were not wronged*".<sup>57</sup>

Refers to the prohibition against treason, especially in the context of war booty. In the Islamic tradition, spoils of war are property acquired from the enemy after a conflict or war. The Prophet himself, as a leader, is considered unlikely to commit treason in this regard, and the act is declared a sin. For those who betray, the Qur'an explains that on the Day of Judgment, they will come with what they have betrayed. This is a symbolic picture that the act of betrayal will not escape accountability and retribution. Each individual will receive an appropriate retribution for what they have done, and no one will be wronged or harmed. In the context of corruption, this can be interpreted as a strong warning against those who abuse their power or position for personal gain, particularly in terms of the unauthorized taking or misuse of public property. Those who engage in these acts will be held accountable and receive appropriate retribution. These acts of corruption and treason, not only harm individuals and society, but also harm the integrity of the legal and economic systems. Therefore, Islamic law places great emphasis on the importance of honesty, transparency and accountability in all

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<sup>57</sup> Sakinah Sahal, "Korupsi Dalam Perspektif Hukum Islam," *Et-Tijarie Jurnal Hukum Dan Bisnis Syariah* 1, No. 1 (2014): 61–73.

affairs, including in the management of public property and finances.<sup>58</sup>

Verses in QS. Ali Imran: 161 came down to the Prophet Muhammad against the background of events narrated by Abu Dawud, Tirmizi and Ibn Jarir that there was an incident of loss of spoils of war which should have been included in the state inventory. The verse in QS. Ali Imran: 161 explains that the Messenger of Allah will not be able to do criminal acts of corruption or commit fraudulent acts related to the trust of public or state assets. Rasulullah SAW also criticized anyone who takes public or state property. Later, that property will become coals of fire in Hell, and Allah SWT does not accept all deeds obtained through criminal acts of corruption or cheating.<sup>59</sup> This is in line with the above that in Islam, it is also prohibited to commit acts of corruption or fraud, including in unreasonable acquisition of wealth by public officials or known as illicit enrichment.

On QS. Al-Anfal: 27 and QS. Al-Nisa': 58 whose translation is as follows: "*O you who believe, do not betray Allah and His Messenger (Muhammad SAW), and do not betray the mandates entrusted to you while you know.*" QS. Al-Anfal: 27 and QS. Al-Nisa': 58 illustrate the importance of maintaining the trust or trust given, and the strict prohibition against betrayal of Allah and His Messenger. The meaning of 'trust' here can be diverse, including trust, responsibility, and even property or wealth given to be managed. In the context of illicit enrichment, these verses make it clear that acquiring wealth unlawfully, especially in a position of public trust, is against Islamic law. Doing so violates not only worldly laws, but also religious laws and moral norms, and the perpetrators will be held accountable not only in this world, but also in the Hereafter. Wealth that is acquired from unauthorized sources, or that is obtained through the abuse of power or trust, is seen as a betrayal of the trust. This reflects the

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<sup>58</sup> Hassan Abdulla Nabi and Hashem Ismail Ibrahim, "The Islamic Approach to Preventing Corruption in Financial Transactions," *Journal of University of Raparin* 9, No. 4 (2022): 485–512.

<sup>59</sup> Sahal, "Korupsi Dalam Perspektif Hukum Islam.," 67-68.

fundamental principles in Islam of justice, honesty and responsibility. Ultimately, these verses emphasize that the lawful and just management of property and wealth is an integral part of obedience and worship of Allah. Those who disregard this by acquiring wealth unlawfully, will not only suffer the consequences of this world, but also the Hereafter.

In QS. Al-Baqarah: 188 "*And do not eat the property of some of you in a vanity (illegitimate) manner, and do not take the matter of the property to the judge, so that you may eat up some of the property of others by sinning even though you are knowing.*" Continued in QS. Al-Zukhruf: 65, which translates the verse "*So the groups that are between them differ, then a big accident for the wrongdoers is a painful torment.*" In the context of Islamic teachings, corruption is an act that is contrary to the principles of justice (*al-'adl*), accountability (*al-Amanah*), and responsibility. Corruption crime which includes illicit enrichment, is a very unjust act, whether to enrich oneself, other people, groups, and groups because the state or public wealth is a property that comes from the efforts of the people of a country, including the poor and the poor. Explorer. The actions of Illicit Enrichment are threatened with an excruciating punishment later in Hell.<sup>60</sup>

Incident illicit enrichment It has also been explained in one of the hadiths as follows: "*If the people at the top just let those at the bottom do what they want, they will all perish. However, if they prevent them with their hands, they will all be safe.*" (HR Bukhari)

The mentioned Hadith from Bukhari provides an important message about responsibility and good governance, particularly in the context of leadership and governance. In this Hadith, "those at the top" can be interpreted as leaders or those in positions of authority and power. While "*those at the bottom*" can be interpreted as the people or those under the authority. Leaders or authorities have the responsibility to supervise and control the behavior of those under their authority. If leaders allow harmful or unethical behavior without

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<sup>60</sup> Yedi Purwanto and Ridwan Fauzy, "Analisis Terhadap Hukum Islam Dan Hukum Positif Dalam Pemberantasan Korupsi Di Indonesia," *Jurnal Pendidikan Agama Islam Ta'lim* 15, No. 2 (2017): 129.

intervention, such as corruption or illegal enrichment, then society as a whole may suffer losses or even 'perish'. However, if leaders act decisively to prevent or stop such behavior - in this case, with 'their hands' - society as a whole will 'survive'. In the context of illegal enrichment, this means that leaders must be active in preventing and addressing corruption and abuse of power. In other words, this hadith provides the view that leaders have an important role to play in maintaining the ethics and integrity of society. They should be active in preventing harmful behaviors, such as illegal enrichment, for the welfare of society as a whole.

Moreover, as narrated by Abu Dawud, the Messenger of Allah (SAW), once said, Allah's curse is on the briber and the recipient of the bribe. Then regarding gifts to government officials, as narrated by Imam Ahmad, the Apostle said, gifts given to rulers are *suht* (haram), and bribes received by judges are *kufr*.<sup>61</sup> The mentioned hadiths from Abu Dawud and Imam Ahmad highlight Islam's strong emphasis on honesty and integrity, particularly in the context of leadership and governance. The first hadith from Abu Dawud condemns the act of giving and receiving bribes. Bribery is an unethical practice that undermines the basic principles of justice and undermines good governance. In Islam, bribery is considered a form of betrayal and abuse of trust, and as such, is condemned or 'cursed' by Allah. The second hadith from Imam Ahmad highlights the dangers of giving gifts to government officials. Such gifts, which are often given with the intention of gaining advantage or influence, are considered haram or '*shuht*'. In this context, such gifts may be viewed as a form of disguised bribery. The Hadith also notes that bribes accepted by judges are considered 'kufr', or rejection of Allah, given that judges are supposed to play a role in maintaining justice and truth. As such, these two traditions provide a strong view of Islam's rejection of corrupt practices, including bribery and illegal enrichment. They emphasize the principles of justice, honesty and integrity and the

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<sup>61</sup> Syamsul Bahri, "Korupsi Dalam Kajian Hukum Islam Corruption In Islamic Law," *Kanun Jurnal Ilmu Hukum* 17, No. 3 (2015): 603-614

important role of leaders and government officials in maintaining these principles.

Islamic teachings condemn corruption and illicit enrichment, and this can be traced through various aspects of Islamic law and *ushul fiqh* (basic principles of Islamic law). *First*, it should be noted that Islam emphasizes the principles of honesty, justice and integrity, especially in the context of leadership and governance. As seen in various traditions and Qur'anic verses, leaders and government officials must carry out their duties and responsibilities honestly and fairly, without abuse of power or trust to the detriment of society. *Secondly*, in the context of illegal enrichment, these principles mean that public officials should not acquire wealth or benefits unjustly or illegally. Such enrichment is considered a form of corruption and therefore unlawful. *Third*, according to *ushul fiqh*, this prohibition against illegal enrichment is not only limited to the law, but also contains sanctions. In this case, perpetrators of illegal enrichment can be subject to severe sanctions, in accordance with the level of harm caused and in line with legal developments.

## CONCLUSION

In the Thai legal system, the management of illicit enrichment follows a meticulous process wherein authorities must compile a comprehensive inventory of assets. This includes the identification of true owners and asset locations, with the gathered information subsequently made public. Thai law additionally places the burden of proof on the defendant to demonstrate the legal origin of the assets. Conversely, Indonesia lacks an explicit definition of illicit enrichment in its anti-corruption regulations, though its essence is implicitly acknowledged and covered by various applicable provisions. The Corruption Eradication Commission (KPK) in Indonesia holds the authority to monitor the wealth of state officials, enabling the detection of illicit enrichment. Ongoing legal debates center on the integration of this concept into Indonesian positive law. Research and

discussions indicate that corruption and illicit enrichment pose global challenges across both Muslim and non-Muslim countries.

In the context of Islamic law, corruption and illicit enrichment contradict the teachings and fundamental principles of the religion. Islamic tenets strongly emphasize honesty, justice, and integrity, particularly for public officials in the execution of their duties. Muslim-majority nations such as Saudi Arabia, the United Arab Emirates (UAE), Pakistan, Egypt, Bangladesh, Qatar, and Turkey have implemented effective legal reforms and law enforcement measures against corruption and illegal enrichment. They have successfully established transparent and accountable systems, fostering a culture of integrity and legal compliance. Indonesia and Thailand can enhance their efforts against corruption and illegal enrichment by incorporating Islamic teachings and values into their preventive and combative measures. Islam, as the predominant religion in Indonesia and the second-largest in Thailand, unequivocally condemns acts of corruption, echoing sentiments expressed by scholars in both countries. Classical and modern scholars concur that corruption is unlawful, violating the principles of *maqasid al-shari'ah*, including the acquisition of wealth by public officials without justification, commonly referred to as illicit enrichment.

Referring to Zuhaili's terminology, what is deemed haram is generally accepted due to its purpose of avoiding evil or steering clear of the *mafsadat* it entails. Globally, the teachings of Islam, as evident in various verses such as QS. Ali Imran: 161, QS. Al-Anfal: 27, QS. Al-Nisa': 58, QS. Al-Baqarah: 188, QS. Al-Zukhruf: 65, and several hadiths narrated by Bukhari, Abu Dawud, Tirmizi, and Ibn Jarir, unequivocally classify acts of corruption, including the acquisition of wealth by unjustifiable public officials (illicit enrichment), as unlawful actions with grave consequences.

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#### **Declaration of Conflicting Statements**

The author(s) stated that this work is original and has not been previously published in another journal or publication. The author(s) also declared that there is no conflict of interest in the publication of this article.

#### **Funding Statement**

None

#### **Open Data Statement**

All data and information in this article were available without any restriction

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