

THE ROLE OF MAJELIS ULAMA INDONESIA (MUI) FATWAS ON ASSET FORFEITURE: A MAQASHID SHARIAH PERSPECTIVE ON LEGAL AND ETHICAL ISSUES IN INDONESIA

Ryan Bianda^{1a*}, Muhammad Yosef Niteh^{2b}, Maad Ahmad^{3b}, Suhaila Sharil^{4c}, and Muhammad Fakhrur Razi Shahabudin^{5d}

^aSekolah Tinggi Ilmu Syariah Al Wafa Bogor, INDONESIA.

E-mail: ibnu.kaunda2020@gmail.com¹

^bFaculty of Shariah and Law, Universiti Islam Selangor, MALAYSIA.

E-mail: myosef@uis.edu.my²

E-mail: maad@uis.edu.my³

^cAcademy of Contemporary Islamic Studies (ACIS), UiTM Cawangan Negeri Sembilan, MALAYSIA.

E-mail: suhaila.sharil@uitm.edu.my⁴

^dAcademy of Contemporary Islamic Studies (ACIS), UiTM Shah Alam, MALAYSIA.

E-mail: fakhrurrazi@uitm.edu.my⁵

*Corresponding Author: ibnu.kaunda2020@gmail.com

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ABSTRACT

This article examines the role of Majelis Ulama Indonesia (MUI) fatwas in shaping the Draft Law on Asset Forfeiture in Indonesia through the lens of Maqashid Shariah. Using a descriptive-analytical design with doctrinal and socio-legal approaches, the study analyses the text of the draft law, the 2024 MUI fatwa on asset forfeiture, key literature on Maqashid Shariah, and selected legal and statistical reports. Qualitative thematic coding identifies core categories: protection of innocent third parties, standards of proof, procedural safeguards, and the management and redistribution of confiscated assets. The analysis finds that asset forfeiture can be regarded as both legally valid and shariah-compliant only when two conditions are met: procedures are fair, transparent, and subject to effective oversight, and the rights and livelihoods of innocent third parties are robustly protected. The 2024 MUI fatwa offers concrete guidance on evidentiary thresholds, objection mechanisms, and proportionality, while a Maqashid Shariah perspective warns of the risks of widening inequality, investor distrust, and structural injustice if due process is weak. The article recommends that legislators integrate MUI's due-process and third-party protections into the Draft Law, that government and MUI prepare operational guidelines for law-enforcement agencies, and that confiscated assets be channelled transparently to programmes aligned with Maqashid Shariah, particularly education, healthcare, and poverty alleviation.

Keywords: MUI fatwa, asset forfeiture, Maqashid Shariah, financial crimes, economic justice.

1. INTRODUCTION

Islamic legal discourse in Indonesia is significantly influenced by the Fatwa of the Indonesian Ulema Council (Majelis Ulama Indonesia, MUI), which serves as a crucial reference for the Muslim community in determining the legitimacy of various socio-economic, legal, and ethical issues. As a recognized institution, MUI plays a central role in shaping legal interpretations within the framework of Islamic jurisprudence (R. A. Setiawan, 2023). Fatwas issued by MUI not only provide religious guidance but also impact broader legal and policy-making decisions in Indonesia. One pertinent issue where MUI's fatwa plays a crucial role is asset forfeiture, particularly concerning financial crimes such as money laundering and corruption. Ensuring that asset forfeiture policies align with Islamic legal principles is imperative for maintaining legal and ethical consistency in Indonesia's legal system.

The concept of asset forfeiture has gained increasing attention within the legal framework of Indonesia, particularly with the introduction of the Draft Law on Asset Forfeiture. This legislative proposal seeks to provide a robust legal foundation for the confiscation of assets linked to criminal activities, with the overarching goal of enhancing transparency, accountability, and economic justice (Borlini & Rose, 2024). However, despite the legal justifications for asset forfeiture, ethical and religious considerations remain central concerns, particularly for Indonesia's Muslim population. In this regard, the integration of Islamic jurisprudential principles, particularly the *Maqashid Shariah* (higher objectives of Islamic law), into the legislative framework is essential to ensuring that the law is both effective and just.

A critical challenge associated with asset forfeiture is its potential misuse, particularly in cases where the legal process lacks transparency and fairness. Kantor et al. (2021) highlights concerns that the Draft Law on Asset Forfeiture could be exploited for political or economic motives, potentially leading to arbitrary confiscation of assets from individuals who may not have been proven guilty beyond reasonable doubt. This raises serious questions about the balance between law enforcement and the protection of individual property rights, which is a fundamental principle in Islamic jurisprudence. The legal principle of "innocent until proven guilty" must be preserved to ensure that asset forfeiture mechanisms align with both Islamic and human rights considerations.

Islamic jurisprudence offers well-established principles for addressing financial crimes, including theft, fraud, and unlawful enrichment, emphasizing the importance of justice, fairness, and the protection of wealth (Ali, 2023). In Islamic law, asset forfeiture is permissible under specific conditions, particularly when the assets in question were acquired through illicit means.

However, the implementation of such measures must be conducted in a manner that upholds the principles of procedural justice, ensuring that wrongful or indiscriminate confiscations do not occur (Yermekbayev & Akmalov, 2023). Therefore, understanding how Islamic legal perspectives align with contemporary asset forfeiture laws is crucial for ensuring that legislative efforts remain equitable and justifiable.

Numerous studies have examined the role of MUI in shaping Islamic legal discourse in Indonesia, particularly in relation to financial transactions, economic justice, and public policy (Ilyas et al., 2023). The fatwas issued by MUI concerning financial ethics, including rulings on usury (*riba*), money laundering, and corruption, have influenced both legal and economic regulations. However, there remains a significant gap in research concerning the specific role of MUI's fatwa in guiding the implementation of asset forfeiture laws, particularly in the context of contemporary financial crimes. Understanding how these fatwas can inform legislative policies and whether they align with broader principles of *Maqashid Shariah* is critical to developing a comprehensive legal framework that is both effective and ethically sound.

This study seeks to explore the intersection between MUI's fatwa on asset forfeiture and the principles of *Maqashid Shariah*, particularly in relation to the protection of wealth (*hifz al-mal*) and the promotion of economic justice. It aims to analyze how MUI's interpretations align with existing legal frameworks and whether they provide a viable ethical foundation for the implementation of *RUU Perampasan Aset*. Furthermore, this research will assess the extent to which MUI's fatwas have influenced public perceptions and legal enforcement practices concerning asset forfeiture. By addressing these questions, this study contributes to the broader discourse on Islamic jurisprudence, legal reform, and economic justice in Indonesia.

The novelty of this research lies in its comprehensive evaluation of MUI's role in shaping asset forfeiture policies from an Islamic legal perspective. While previous studies have examined the importance of fatwa in economic and financial governance, there remains a lack of in-depth analysis regarding its direct implications for legislative decision-making in the context of criminal asset confiscation. By bridging this gap, this study provides valuable insights for policymakers, legal scholars, and religious authorities seeking to develop asset forfeiture policies that are both legally robust and ethically grounded in Islamic principles. The findings of this research will contribute to the ongoing discussion on how Islamic law can be integrated into contemporary legal frameworks, particularly in addressing financial crimes and economic governance in Muslim-majority societies.

2. LITERATURE REVIEW

2.1 *Concept and Role of MUI Fatwas in Society*

In Islamic law, a fatwa refers to a legal opinion or ruling issued by a mufti or religious institution regarding a matter not explicitly addressed in the Qur'an or Hadith. The primary objective of a fatwa is to guide Muslims in navigating complex legal and ethical issues in accordance with Sharia principles (Dharta et al., 2025; Majid et al., 2023). In the Indonesian context, fatwas issued by the Majelis Ulama Indonesia (MUI) play a significant role in advising Muslims on various legal matters encountered in daily life.

Legally, a fatwa does not possess binding authority within Indonesia's positive legal system. However, in practice, fatwas frequently serve as references in public policymaking and judicial decisions (Danial et al., 2022). Although fatwas lack the formal legal status of legislation, their influence is substantial due to their broad acceptance among Indonesian Muslims. For instance, in the development of Islamic economic law, MUI fatwas on the permissibility of financial products often serve as the foundation for regulations enacted by the Financial Services Authority (OJK) (Hasanudin & Mubarak, 2023).

Moreover, fatwas play a critical role in filling legal gaps within Indonesia's Islamic judicial system. In several cases adjudicated in religious courts, judges have considered MUI fatwas in deciding matters related to Islamic finance, marriage, and inheritance law (Hasanudin & Mubarak, 2023; Izmuddin et al., 2023). This indicates that fatwas extend beyond mere religious opinions and actively contribute to shaping Indonesia's legal framework.

MUI fatwas hold a vital role in guiding Indonesian Muslims in various aspects of life, both at the individual and societal levels. According to Saputra & Asbi (2025), MUI fatwas frequently serve as responses to emerging legal and ethical challenges brought about by social and technological changes. In this regard, fatwas not only provide moral and spiritual guidance but also influence broader societal behaviors and norms.

A notable example of the social impact of MUI fatwas is the fatwa on COVID-19 vaccination. Amid the pandemic, MUI issued a fatwa affirming the vaccine's permissibility and recommending its administration to ensure public health (Ni'am Sholeh, 2020). This fatwa provided much-needed clarity for Muslims on the religious permissibility of vaccination while simultaneously supporting national public health policies.

Beyond healthcare, MUI fatwas have also played a crucial role in the Islamic finance and economic sectors. Fatwas regulating the permissibility of Islamic financial products, including Sharia-compliant insurance (*Takaful*) and Islamic bonds (*Sukuk*), have become essential references for the growth of Indonesia's Islamic financial industry (Cahyandari et al., 2023; Maulina et al., 2023). These fatwas enhance public confidence in Sharia-compliant financial services while shaping government regulations supporting Islamic economic development. Furthermore, MUI fatwas help establish Islamic social norms within Indonesian society. For example, MUI fatwas on Zakat (mandatory almsgiving) offer clear guidelines on calculating and distributing Zakat funds in line with *Maqashid Shariah* principles (Nopiardo, 2017). This demonstrates that fatwas are not merely legal instruments but also contribute to the socioeconomic well-being of Indonesian Muslims.

However, despite their significance, MUI fatwas have occasionally sparked controversy. Some fatwas, such as those addressing interfaith marriage and religious pluralism, have been met with criticism and debate among scholars and the wider public (Dharta et al., 2025). These discussions highlight the challenges of aligning religious legal interpretations with contemporary human rights and social justice issues. Nevertheless, MUI upholds the principle that fatwas should be based on strong Sharia evidence (*Dalil*) and consider the overall public interest (*Maslahah*).

In the context of the Draft Law on Asset Forfeiture, MUI fatwas could serve a crucial role in evaluating the fairness and legitimacy of the proposed legal framework. Since Islamic property law emphasizes the sanctity of private ownership, any legal provisions related to asset confiscation must be examined through the lens of *Maqashid Shariah*. Therefore, MUI fatwas could help legislators develop laws that are both legally sound and ethically aligned with Islamic jurisprudence.

The discussion above highlights the pivotal role of MUI fatwas in shaping legal, economic, social, and health-related decisions among Indonesian Muslims. While not legally binding, fatwas remain a respected source of guidance that significantly influences public behavior and policymaking. In the context of the Draft Law on Asset Forfeiture, MUI fatwas are expected to contribute to the legal and ethical assessment of the proposed legislation, ensuring its compliance with Islamic legal principles and *Maqashid Shariah*.

2.2 Draft Law on Asset Forfeiture: Objectives, Scope, and Controversies

The Draft Law on Asset Forfeiture (*RUU Perampasan Aset*), which seeks to recover state losses and prevent economic crime, can be analyzed through

the framework of *Maqashid Shariah*, particularly *hifz al-mal* (protection of wealth) and *hifz al-nafs* (protection of life). Comparative experiences with civil asset forfeiture in jurisdictions such as the United States show that confiscation has been used as a powerful tool to combat crime, especially drug-related offenses, by allowing the state to seize assets connected to unlawful activities (Joseph & McCarthy, 2023; Kantor et al., 2021; McDonald et al., 2024). However, these practices have raised serious concerns about effectiveness and fairness, as they often disproportionately affect minority communities and do not always lead to a measurable reduction in crime rates, as illustrated by the New Mexico case where crime did not increase after the repeal of civil forfeiture laws. From an ethical standpoint, these outcomes are difficult to reconcile with *Maqashid Shariah*, which emphasizes justice and the protection of individual rights, because forfeiture regimes can encroach upon the rights of property owners without adequate due process (Chistyakova et al., 2021). A *Maqashid*-based framework, which aims to ensure human well-being, therefore requires that asset forfeiture be implemented in a way that genuinely safeguards both wealth and life by preventing unjustified interference with individual rights and ensuring equal access to justice (Ahmed, 2025; Danial et al., 2022; Kepplinger, 2025).

The scope of the draft law covers various types of assets, including movable and immovable properties, as well as assets acquired directly or indirectly from criminal offenses. Furthermore, it outlines clear procedures for seizing, managing, and redistributing assets to ensure transparency and prevent misuse of power. According to Borlini & Rose (2024), this draft law is designed to create a fair and accountable system for handling such assets.

One of the key principles embedded in the draft law is the protection of individual rights. It ensures that asset owners have the right to defend their ownership before their properties are confiscated. This legal safeguard is particularly important in cases where assets belong to individuals not directly involved in criminal activities. The draft law thus incorporates due process mechanisms that allow affected parties to challenge asset seizures and provide proof of legitimate ownership.

Additionally, the draft law seeks to align with *Maqashid Shariah* principles, which emphasize the protection of wealth and social justice. Yudha et al. (2025) highlight that every legal policy, including asset forfeiture laws, should consider the broader objectives of Islamic law, ensuring that regulations do not contradict ethical and moral values. By integrating these principles, the draft law can be designed not only as a legal tool but also as a moral and ethical guideline for asset confiscation.

Statistical data illustrates the urgency and relevance of this legislation. Reports from Indonesia's Corruption Eradication Commission (KPK) indicate that corruption-related financial losses amount to trillions of rupiah annually. A study by the Central Bureau of Statistics (Badan Pusat Statistik, 2024) further reinforces the economic impact of corruption, emphasizing the necessity for a robust legal mechanism to recover assets acquired through illicit means.

Furthermore, studies suggest that the strict enforcement of asset forfeiture laws could reduce economic crimes in Indonesia. According to a report by the Corruption Eradication Commission (KPK) (2024), the implementation of stringent asset confiscation regulations could decrease corruption rates by up to 30% over a specific period. Given these findings, the Draft Law on Asset Forfeiture is expected to become a strategic measure in strengthening legal enforcement and restoring public trust in law enforcement institutions.

Despite its potential benefits, the draft law has sparked diverse reactions from various segments of society. Some groups support the initiative as a crucial step in anti-corruption efforts, while others express concerns regarding the potential abuse of power. Given these differing perspectives, public engagement and legislative dialogue are essential in ensuring that the final version of the law is just, equitable, and aligned with both constitutional and Islamic legal principles (Scharbrodt, 2022).

The MUI fatwa on asset forfeiture underscores the necessity of clarity regarding the origin of property, be careful in applying seizure without a court decision, and the provision of effective objection mechanisms for innocent third parties, and these principles should serve as key normative references in legislative drafting. This emphasis resonates with broader debates on asset forfeiture, such as those surrounding the Comprehensive Crime Control Act of 1984 in the United States, which enabled local law enforcement agencies to retain a substantial portion of forfeited proceeds and thereby shaped policing incentives and crime patterns (Kantor et al., 2021). Similar concerns about procedural safeguards and the protection of affected individuals are reflected in EU Regulation 2018/1805, which seeks to streamline cross-border asset recovery while ensuring that the rights of impacted persons are adequately protected (Mirandola, 2020). Misuse of legal structures, including client accounts held by law firms for money-laundering purposes, further highlights the need for targeted oversight and robust monitoring mechanisms within forfeiture regimes (Benson & Bociga, 2024). At the same time, discussions on the integration of Islamic law into secular legal systems, particularly in Western contexts, demonstrate the importance of accommodating diverse legal traditions while maintaining procedural integrity and safeguarding individual rights (Patriarca, 2022). Taken together, these insights indicate that the

principles articulated in the MUI fatwa can enhance the justice and effectiveness of Indonesia's asset forfeiture law by promoting transparency, protecting innocent parties, and aligning the RUU with international standards of due process and human rights.

In Indonesia, the Draft Law on Asset Forfeiture raises significant concerns about the potential abuse of authority, legal uncertainty, and its broader impact on the investment climate, all of which are crucial issues from the perspective of *hifz al-mal al-'am* (protection of public wealth) and the pursuit of fair legal certainty for businesses and society. Indonesia's legal landscape has been described as shaped by illiberal legalism, in which legal uncertainty and violations of the rule of law do not merely act as obstacles but can also function as instruments within a rent-seeking, growth-oriented political economy (Mudhoffir et al., 2021). This situation is exacerbated by unequal land rights that favor the state over citizens, creating a presumption of legality that allows governmental bodies to control land notwithstanding prior judicial settlements, thereby deepening legal complexity and social inequality (Lund, 2022). The weakening of the Corruption Eradication Commission (KPK) through legislative changes has further reduced its capacity to combat corruption, making it more vulnerable to political interference and less effective in safeguarding public wealth (Price, 2024). Corruption among public officials, including legislators and bureaucrats, undermines fundamental rights and complicates efforts to build legal certainty, as it erodes trust in legal institutions and obstructs the protection of rights (Lee, 2025). In the sphere of foreign investment, allegations of corruption are often overlooked or not proven within the framework of international investment agreements, contributing to a lack of accountability and transparency (Kryvoi, 2024). The mining sector exemplifies the failure to integrate local community perspectives and to ensure transparency, participation, and accountability, thereby illustrating the challenges of achieving legal certainty and protecting public wealth (Putri, 2022). Addressing these issues requires strong mechanisms for accountability and transparency, as well as meaningful democratic oversight, to combat corruption and ensure that public wealth is protected and legal certainty is guaranteed for both businesses and the wider community (Struthmann et al., 2023).

To resolve these controversies, a collaborative approach involving the government, civil society, and legal experts is essential. One proposed solution is to enhance public awareness through comprehensive legal education and transparent discussions regarding the draft law. By fostering an inclusive dialogue, policymakers can ensure that the final version of the law is fair, just, and widely accepted by Indonesian society.

The Draft Law on Asset Forfeiture represents a critical legal development in Indonesia's fight against economic crimes, including corruption and money laundering. Its objectives of establishing a legal framework for asset confiscation are aligned with the broader goals of legal reform and governance improvement. However, concerns regarding potential abuse of power, conflicts with Islamic legal principles, economic impact, and public skepticism highlight the necessity for a transparent, accountable, and inclusive legislative process. Given these concerns, it is imperative that the government balances law enforcement measures with due process protections, ensuring that the principles of justice, equity, and *Maqashid Shariah* are upheld. By integrating these perspectives, Indonesia can develop an effective and ethically sound asset forfeiture law that strengthens legal integrity while safeguarding public trust in governance.

2.3 *Maqashid Shariah: Definition, Objectives, and Legal Application*

Maqashid Shariah, which encompasses the protection of religion (*hifz al-din*), life (*hifz al-nafs*), intellect (*hifz al-'aql*), lineage (*hifz al-nasl*), and wealth (*hifz al-mal*), functions not only as a foundational theoretical concept in Islamic legal thought but also as an evaluative framework for assessing whether public policies, such as the Draft Law on Asset Forfeiture, truly realize public welfare and prevent harm (Purnomo et al., 2023). This framework is rooted in normative Islamic legal theory that integrates juridical doctrine, legal principles, and purpose-based reasoning to preserve the moral character and normative legitimacy of Islamic law (Ahmed, 2025). Contemporary scholars such as Muhammad 'Allal al-Fasi have reformulated these objectives in order to engage with modern secular legal systems while maintaining their traditional essence (Tajdin, 2020).

The relevance of *Maqashid Shariah* is evident across diverse fields. It informs ethical governance and integrity, for instance through the development of a Whistleblower Likelihood Scale that combines Kohlberg's moral development theory with maqashid principles (Abdullah et al., 2025). It guides ethical evaluations of emerging biotechnologies such as human cloning by addressing challenges to human uniqueness and the sanctity of life (Khairifa et al., 2025). It underpins Constitutional Court decisions, such as the Indonesian ruling on minimum marriage age, which prioritizes harm prevention and protection of life as expressions of human rights (Purnomo et al., 2023). It shapes sustainability and ethical practices in Islamic banking, influencing competitive strategies and growth in Islamic finance (Satyakti, 2023). It also informs debates on surrogacy by balancing technological advances with religious and ethical values in order to safeguard family integrity and future generations (Yudha et al., 2025). Taken together, these examples show that *Maqashid Shariah* provides

a comprehensive and dynamic framework for evaluating public policy, ensuring that regulations promote welfare and prevent harm in line with the overarching purposes of Islamic law.

As a tool for policy evaluation, *Maqashid Shariah* calls for a holistic approach to justice in asset forfeiture that goes beyond punishing offenders and includes concerns of social justice, prevention of inequality, and protection of vulnerable groups. In the Indonesian context, *Maqashid Shariah* has been used to assess whether public policies genuinely uphold individual and communal rights, rather than merely satisfying formal legal requirements (Dalimunthe, 2024). This perspective is consistent with Islamic mechanisms of distributive justice, such as zakat and waqf, which aim to protect the poor and redistribute wealth in a fair manner, as can be observed in contemporary practices in countries like Saudi Arabia and the United Arab Emirates (Saifnazarov et al., 2025).

In broader criminal justice theory, the integration of distributive and criminal justice shows that fair enforcement and non-discriminatory punishment can reduce the social costs of crime and address systemic inequalities (D'Antoni & Tabbach, 2024). Harm reduction approaches to criminal policy, as advocated by Greenfield and Paoli, emphasize the enhancement of people's capabilities and social realization rather than a narrow focus on retribution, which aligns with the wider goals of *Maqashid Shariah* (Greenfield & Paoli, 2025). Evidence based crime prevention strategies that address social and environmental root causes of crime, as discussed by Welsh and Piza, also parallel the *maqashid* emphasis on proactive protection of society and the preservation of dignity and security (Welsh & Piza, 2024). Henham's communitarian model of sentencing highlights the need to embed social justice within penal accountability, a concern that clearly resonates with the ethical foundations of *Maqashid Shariah* (Henham, 2023). Diverse interpretations of *maqashid* by scholars such as Ṭāhā 'Abd al-Raḥmān and Ṭaha Jābir al-'Alwānī illustrate its potential to reform legal thinking by embedding ethical considerations into legal practice (Kepplinger, 2025). At the same time, attention to human rights and children's rights in justice policy, as emphasized by van der Laan and Zeijlmans, is consistent with the protective dimension of *maqashid*, since it helps ensure that policies do not disproportionately harm vulnerable groups (van der Laan & Zeijlmans, 2025). Addressing bias in criminal justice systems, as discussed by Burke et al., is likewise central to achieving the fair distribution of justice that *Maqashid Shariah* demands (Burke et al., 2024). In the context of the Draft Law on Asset Forfeiture, this means that the policy must be evaluated not only in terms of its deterrent effect on money laundering and corruption, but also in terms of its impact on social inequality and the protection of economically disadvantaged communities (Juang & Yu, 2022; Yue & Qian, 2023).

In the specific context of asset forfeiture, the protection of innocent third parties, such as spouses, children, or business partners whose interests may be intertwined with those of the alleged offender, represents a direct implementation of *hifz al-mal* and *hifz al-nafs*, because it concerns the preservation of livelihood, dignity, and family economic stability. The principle of *hifz al-mal* is particularly relevant here, since it demands that individuals not be deprived of their lawfully acquired wealth as a consequence of the wrongdoing of others. This concern is especially acute in situations of financial abuse within intimate relationships, where financial systems can be manipulated to disadvantage victim survivors, leaving them with diminished resources and agency (Byrt et al., 2025; Cook et al., 2024). Legal frameworks on asset forfeiture, such as the Comprehensive Crime Control Act of 1984, which allows law enforcement agencies to share in forfeited assets, may unintentionally create incentives to prioritize confiscation in ways that negatively affect innocent third parties (Kantor et al., 2021).

In Islamic jurisprudence, *maqasid al-shariah* emphasize the protection of life and property, and this underscores the importance of shielding families and communities from unjust legal actions that erode their security and dignity (Muhsin et al., 2025). In Indonesia, data from the Central Bureau of Statistics (Badan Pusat Statistik, 2022) indicate that asset ownership is highly uneven, and unjust confiscation has the potential to widen economic disparities further, particularly for households whose livelihoods depend on shared or family assets. Consideration of family status and parental obligations in the enforcement of financial liabilities also highlights the need to account for family complexity and to prevent spill over penalties that harm innocent family members (Martin et al., 2023). Integrating these principles into the Draft Law on Asset Forfeiture can help ensure that the rights and economic stability of uninvolved third parties are preserved, which reflects a genuine commitment to justice and the protection of family integrity.

Concerns raised through public complaints to institutions such as National Human Rights Commission (*Komnas HAM*) regarding asset forfeiture that also affects the rights of innocent parties illustrate how the design and practice of forfeiture policies, if not balanced by *maqashid* based protections, can produce structural injustice. The annual report of Komnas HAM (2023) records a number of cases in which asset confiscation failed to meet substantive justice standards and often left victims without adequate compensation, which points to systemic weaknesses in the protection of property rights. International experiences with civil asset forfeiture demonstrate that such measures can disproportionately impact marginalized communities. In Philadelphia, for example, more than 86 million US dollars was forfeited, largely from Black and Latino individuals, which exacerbated financial inequality and reinforced

socio-economic gaps (Smith, 2023). Similar patterns are observed in Vancouver, where municipal seizure of the possessions of precariously housed individuals, including people who use drugs, has further marginalized these groups and highlighted the need for more inclusive and equitable policy approaches (Eren et al., 2025).

Organizational structures within police departments also shape how asset forfeiture is implemented, with variation in practice influenced by community policing metrics and professionalization measures (Nowacki et al., 2024). Beyond forfeiture, cases of rapid policy interventions in forced resettlement in Turkey show how ostensibly restorative measures can unintentionally deepen social and economic inequalities when they lack transparency and adequate consideration for affected communities (Ataç-Studt, 2025). Challenges in the Dominican Republic, where administrative obstructionism has rendered many people effectively stateless, further underscore the importance of domestic opposition and international oversight in safeguarding human rights (Hunter & Reece, 2022). Taken together, these examples indicate that without a balanced approach that incorporates broader social and economic impacts, asset forfeiture policies can entrench structural injustice and undermine the rights of innocent parties. A comprehensive reassessment of asset forfeiture policy, informed by *Maqashid Shariah* and human rights considerations, is therefore essential to prevent such outcomes and to ensure the protection of the rights of all individuals.

3. METHODOLOGY

This study combines a descriptive analytical approach with doctrinal and socio legal analysis to examine the coherence between the Draft Law on Asset Forfeiture, the 2024 fatwa of Majelis Ulama Indonesia (MUI), and the framework of *Maqashid Shariah*. The descriptive analytical component is used to map the substantive content of the Draft Law and relevant MUI fatwas, while the doctrinal analysis focuses on the internal reasoning, legal principles, and scriptural references employed in these texts. The socio legal dimension is employed to situate these normative instruments within the broader context of Indonesian legal development and debates on corruption, money laundering, and asset forfeiture. Through this combined approach, the research seeks to identify the extent to which positive law and Islamic legal ethics converge or diverge in regulating asset confiscation.

The data analyzed in this study consist primarily of official and authoritative documents. These include the full text of the Draft Law on Asset Forfeiture and related statutory instruments that govern asset confiscation in Indonesia, official MUI fatwa documents on asset forfeiture and financial crimes, and

academic literature on *Maqashid Shariah*, Islamic criminal policy, and asset forfeiture regimes. In addition, the study draws on reports issued by key public institutions, such as the Corruption Eradication Commission (KPK), the Central Bureau of Statistics (BPS), and the National Commission on Human Rights (Komnas HAM), particularly those that discuss corruption cases, asset recovery efforts, and complaints related to confiscation practices. Where relevant, selected court decisions and illustrative cases of asset forfeiture are also consulted to provide concrete examples of how legal norms are applied in practice. Together, these sources provide a comprehensive basis for evaluating both the normative design and the practical implications of asset forfeiture from an Islamic legal perspective.

All data are examined through qualitative thematic coding and close textual analysis. Thematic coding is used to identify recurring categories such as the protection of innocent third parties, standards of proof and evidentiary requirements, procedural safeguards, proportionality of sanctions, and public perception of fairness in asset forfeiture. These themes are then used to organize and compare the content of the Draft Law, MUI fatwas, institutional reports, and academic discussions. Textual analysis focuses on the explicit legal reasoning, references to *usul al fiqh* and *Maqashid Shariah*, and the way in which concepts such as justice, public interest, and protection of rights are articulated in the documents. As a document based qualitative study that relies on officially recorded sources, this approach allows for a systematic and replicable assessment of the normative and ethical consistency of the legal and religious instruments under consideration.

4. RESULTS & DISCUSSION

4.1 *Analyzing the Draft Law on Asset Forfeiture: Islamic, Ethical, and Socio-Political Perspectives*

4.1.1 *The Influence of MUI Fatwas on the Draft Law on Asset Forfeiture*

The Majelis Ulama Indonesia (MUI) fatwas have long played a pivotal role in shaping legal and ethical discourse in Indonesia, particularly in areas related to economic justice and property rights. In the context of the Draft Law on Asset Forfeiture (*RUU Perampasan Aset*), MUI's legal opinions align closely with *Maqashid Shariah*, particularly in ensuring fair asset confiscation while upholding justice, transparency, and legal accountability (Majelis Ulama Indonesia, 2024).

The influence of MUI fatwas on the Draft Law on Asset Forfeiture is evident in the insistence on clear demarcation of which types of property may legitimately

be confiscated, the requirement that assets be directly linked to criminal activity, and the need to provide guarantees for third party ownership claims. This orientation resonates with broader legal discussions on asset forfeiture that emphasize procedural safeguards and the protection of individual rights in the course of confiscation. Yermekbayev dan Akmalov, for example, highlight the importance of respecting privacy and property rights when coercive measures are applied to assets that may be subject to seizure (Yermekbayev & Akmalov, 2023).

The MUI position reflects a wider Islamic legal perspective that seeks to balance religious principles with contemporary legal and economic needs, as seen in the dynamic character of fatwas that respond to economic developments in Indonesia (Hasanudin & Mubarak, 2023). This approach is consistent with normative Islamic legal theory, which integrates juridical rules with ethical considerations in order to secure moral legitimacy in legal rulings (Ahmed, 2025). The demand for a clear legal framework for asset forfeiture is also echoed in international discussions, where the social function of property rights is recognized in a way that allows state regulation and takings under reasonable and proportionate conditions (Estay et al., 2025). The MUI position therefore aligns not only with Islamic legal principles but also with international legal standards that advocate transparency and fairness in asset forfeiture and seeks to ensure that confiscation does not infringe lawful property rights or amount to indirect expropriation without due process.

The problem of seizing assets registered in the names of family members of corruption offenders illustrates the complexity and potential tension between positive law and Islamic principles, particularly with regard to distinguishing legitimate, halal property from the proceeds of crime. The absence of a robust mechanism to separate these categories of assets may place practice at odds with MUI fatwas, which aim to harmonize economic activity with Shariah through a dynamic and responsive approach to changing economic conditions (Hasanudin & Mubarak, 2023). Such situations also undermine the objectives of *Maqashid Shariah* to protect property and the livelihood of innocent families, since *maqashid* based legal theory emphasizes the preservation of essential human interests, including property rights (Ahmed, 2025).

Critiques of *maqashid* theory by scholars such as Abu Ya‘rub al Marzūqī, who argues that *maqashid* reasoning can be arbitrary and lack popular support, further underline the need for careful and transparent application of *maqashid* in legal contexts (Belhaj, 2023). Comparative experiences from secular legal systems show that asset forfeiture is often used as a tool against organized crime, as in Italian policies that confiscate and reallocate mafia assets for the benefit of local communities (Boeri et al., 2023). However, these approaches can

generate unintended consequences, including misaligned incentives and increased violence, as observed in money laundering cases where illicit funds are reinvested in local economies (Romero & Romero, 2020). The United States experience with civil asset forfeiture under the Comprehensive Crime Control Act of 1984 similarly illustrates how legal mechanisms can encourage law enforcement agencies to prioritize certain types of crime, sometimes at the expense of broader social justice (Kantor et al., 2021). These examples collectively demonstrate the need for a nuanced approach that respects both legal and ethical considerations and ensures strong protection for the rights of innocent third parties, while remaining faithful to the *maqashid* oriented emphasis of MUI fatwas on safeguarding property and the continuity of family livelihoods.

Data from the Corruption Eradication Commission (KPK, 2023) show that billions of rupiah are lost annually due to corruption, reinforcing the urgency of asset forfeiture mechanisms. However, critics argue that the broad scope of the Draft Law could potentially violate property rights if not carefully regulated (Zakiy, 2022). The MUI fatwas thus serve as a moral and ethical compass to ensure that asset confiscation policies adhere to both Islamic principles and Indonesia's constitutional framework, particularly in protecting innocent third parties and maintaining public trust in the legal system.

4.1.2 *Asset Forfeiture in Maqashid Shariah: Ethical and Legal Perspectives*

Practices of asset forfeiture that ignore the socio-economic conditions of an offender's family and fail to provide adequate protection for innocent parties can exacerbate economic inequality and undermine distributive justice, which is one of the central aims of *Maqashid Shariah*. Empirical experiences show that civil forfeiture regimes often have a disproportionate impact on marginalized communities. In Philadelphia, for instance, asset forfeiture has heavily affected Black and Latino populations through the seizure of cash and property under civil processes, reinforcing financial inequality and social control in poor neighbourhoods (Smith, 2023). This pattern is consistent with a broader systemic problem in which financial sanctions, such as fines, fall more harshly on poorer individuals and produce what has been described as a "poverty penalty" that deepens economic gaps and is increasingly recognized as a human rights concern (Galbraith et al., 2023). When financial penalties are not calibrated to the financial situation of defendants, their effects become more severe for the poor, thereby entrenching inequality.

Structural advantages within legal systems also tend to favour wealthier individuals, who can secure better legal representation and negotiate more favourable outcomes, while poorer defendants face harsher consequences and

diminished procedural protections (Afrouzi, 2024). This imbalance interacts with global trends of rising inequality, driven by factors such as globalization and plutocratic politics, which threaten social mobility and democratic governance and make the reduction of inequality an urgent concern (Murshed & Regnault, 2023). Within this context, Islamic liberation theology advances the ideal of economic justice and calls for non-reformist reforms that resist exploitative capitalist structures and seek to secure the interests of marginalized groups (Chaudhry, 2023). These commitments are closely aligned with the objectives of *Maqashid Shariah*, which aim to promote justice, social cohesion, and equitable distribution of resources. Addressing injustices embedded in asset forfeiture practices is therefore essential for advancing distributive justice and for mitigating the widening economic disparities that threaten social cohesion and fairness.

From the perspective of *Maqashid Shariah*, asset forfeiture can only be regarded as *shari* compliant if it is implemented based on strong evidence that the assets in question are either intrinsically unlawful or directly connected to criminal activity, and if it is accompanied by transparent procedures and effective mechanisms to protect the rights of uninvolved third parties. This requirement is consistent with broader principles of justice and harm reduction in criminology and criminal policy, which argue that the concept of harm should be central in assessing the legitimacy of penal measures (Greenfield & Paoli, 2025). Civil asset forfeiture practices in the United States have been criticized for their potential to infringe individual liberties and for their questionable effectiveness in reducing crime, as demonstrated by findings from New Mexico, where the abolition of civil forfeiture did not lead to an increase in crime rates (McDonald et al., 2024). The Comprehensive Crime Control Act of 1984, which allows law enforcement agencies to retain a substantial portion of forfeited assets, has also been shown to reorient policing priorities toward drug offences and to raise concerns about the motivations behind forfeiture practices (Kantor et al., 2021).

Transparency in asset forfeiture processes is crucial for building public trust and ensuring that confiscated assets are reused in ways that genuinely serve the public good. Studies on the confiscation of mafia assets in Italy indicate that the legitimacy and effectiveness of forfeiture depend heavily on transparent procedures and on the visible social benefit of reallocating assets to communities (Bisogno et al., 2024). At the same time, the use of asset forfeiture as a tool against organized crime and corruption is often supported by relatively permissive evidentiary standards, which underscores the need for a coherent set of principles to guide its application and to ensure that it remains aligned with justice and the protection of uninvolved parties (Moiseienko, 2024). In this light, a *Maqashid Shariah* perspective suggests that asset forfeiture

must be carefully regulated so that it serves broader aims of justice and social benefit, rather than functioning primarily as a source of revenue for law enforcement agencies or as a punitive instrument deployed without adequate due process.

4.1.3 *Economic and Social Implications of the Draft Law on Asset Forfeiture*

The Anti-Corruption Behaviour Index (Indeks Perilaku Anti Korupsi, IPAK) can serve as a valuable indicator of how asset forfeiture policies affect the development of a broader culture of integrity, depending on whether these policies are implemented and communicated in a fair manner. Studies on corruption perception show that the gap between perceived and experienced corruption can be influenced by media bias, which in turn shapes public trust in measures designed to combat corruption (Scharbrodt, 2022). Evaluations of the performance of corruption control efforts are closely linked to political trust, and effective communication of enforcement initiatives can strengthen public confidence (Yue & Qian, 2023). Perceptions of fairness are crucial in this regard. When asset forfeiture is seen as arbitrary or selective, it can generate a trust deficit and undermine the legitimacy of integrity policies (Adelopo & Rufai, 2020). The dynamics of corruption perception are also affected by the frequency and transparency of investigations, since sustained and unexpected inquiries can shift public views on the seriousness of official campaigns against corruption (Pan et al., 2023). Cultural and contextual differences in tolerance for corruption, as well as economic crises that may lower tolerance for corrupt behaviour, further shape public attitudes toward these governance measures (Costa-Lopes et al., 2025; Juang & Yu, 2022). For asset forfeiture to effectively reinforce a culture of integrity, it must therefore be perceived as fair, transparent, and consistent, with clear government communication to prevent erosion of trust in state institutions (Manjunath et al., 2024).

The economic consequences of asset forfeiture laws extend beyond the direct confiscation of illicit assets. The Central Bureau of Statistics (Badan Pusat Statistik, 2022) reports that wealth distribution in Indonesia remains highly unequal, with a large share of assets concentrated among a relatively small elite. If implemented transparently and justly, asset forfeiture policies have the potential to contribute to the correction of such imbalances by recovering assets derived from corruption and other financial crimes. At the same time, some financial experts warn that the enforcement of the Draft Law may discourage investment and business activities. Legal uncertainty surrounding the scope, standards of proof, and procedural safeguards in asset forfeiture can reduce investor confidence and trigger capital flight or delays in long term investment decisions (Lengkong, 2023). This tension raises an important question about whether the Draft Law sufficiently balances the imperative of combating

corruption with the need to preserve economic stability and a predictable investment climate.

From the perspective of *Maqashid Shariah*, confiscated assets should be redirected toward social welfare in ways that promote justice and reduce structural inequality. This includes channelling recovered funds into education, healthcare, and poverty alleviation programmes that enhance the capabilities and dignity of disadvantaged groups. In Islamic tradition, wealth redistribution through *zakat* and *sadaqah* functions as an instrument to ensure economic balance and social justice (Daud & Wahid, 2025; Pericoli, 2022). By analogy, asset forfeiture policies that are aligned with these principles can play a transformative role in promoting social equity, provided that the assets are managed and allocated with clear criteria and public accountability.

MUI fatwas emphasize that the state bears a responsibility to ensure fair wealth distribution and that seized assets must not be misused or misallocated for narrow interests. If confiscated funds fail to reach marginalized communities or are absorbed into opaque budget lines, asset forfeiture risks becoming a purely punitive rather than reformative instrument (Mubarok & Hermanto, 2023). For this reason, a structured and transparent mechanism is required for managing and redistributing confiscated assets. Such a mechanism should specify priorities for social spending, ensure traceability of funds, and provide avenues for public oversight. When these conditions are met, the economic and social implications of the Draft Law on Asset Forfeiture can be harmonized with the objectives of *Maqashid Shariah*, strengthening both legal integrity and public trust in the state's commitment to justice and efforts to combat corruption.

4.1.4 Legal and Political Challenges of Asset Forfeiture Implementation

Despite the strong ethical rationale for asset forfeiture, its implementation faces significant legal and political challenges. Critics argue that Indonesia's existing legal system lacks sufficient safeguards to prevent the abuse of asset confiscation policies (Mudhoffir et al., 2021; Wahyuningroem, 2022). Cases of wrongful seizure and unclear standards of proof have raised concerns over due process and legal certainty, indicating that the Draft Law requires more precise guidelines and stronger procedural protections to prevent miscarriages of justice.

Another critical issue concerns public perception. The effectiveness of legal enforcement depends heavily on public trust and perceived fairness (Jauhari & Ghoni, 2020). When citizens see asset forfeiture as politically motivated, selective, or disproportionate, they may resist its enforcement, reduce

cooperation with law enforcement authorities, and question the legitimacy of broader anti-corruption strategies. In this case, consistent and impartial legal design and enforcement are essential in maintaining public support for asset forfeiture.

Public compliance and confidence in asset forfeiture policies are also shaped by the extent to which these policies are perceived as compatible with religious convictions. In a Muslim majority context such as Indonesia, MUI fatwas can function as an important source of ethical legitimacy when their content is consistent with enforcement practices and is widely understood by society. Studies on Islamic financial institutions show that fatwas are frequently used to legitimate profit seeking activities by aligning them with religious norms (Izmuddin et al., 2023). More broadly, core normative values, including religious and traditional ones, significantly influence how people perceive the legitimacy of law enforcement authorities (Factor & Mehozay, 2023). The role of MUI in shaping public attitudes was also visible during the COVID 19 pandemic, when its fatwas influenced Muslim practices and compliance with government health policies (Hanafi et al., 2022). However, the effectiveness of this religious legitimacy depends on public understanding and acceptance of the fatwas, which can be complex in a pluralistic society with diverse religious interpretations (Dharta et al., 2025).

MUI's involvement in regulatory debates, for instance in Islamic banking and halal product certification, has already demonstrated its capacity to influence both legal frameworks and public acceptance (Zuhrah et al., 2025). In the context of asset forfeiture, MUI's endorsement or critique can therefore significantly affect how the Draft Law is received by the Muslim majority. This situation is comparable to other religious contexts, such as the Catholic Church's stance on gambling, where teachings must be clearly communicated and aligned with social realities in order to sustain legitimacy (Iglesias-Rodriguez, 2023). For these reasons, transparency and inclusivity in the legislative process, coupled with clear and consistent communication of MUI fatwas, are crucial. When religious guidance, legal norms, and enforcement practices are perceived as coherent, MUI fatwas can serve as a vital source of ethical legitimacy that supports public trust in asset forfeiture policies and their role in upholding justice.

4.1.5 Conclusion: Building a Just and Ethical Asset Forfeiture Framework

The Draft Law on Asset Forfeiture, supported by MUI fatwas and *maqashid shariah* principles, presents a crucial opportunity to combat corruption and financial crimes. However, its effectiveness and legitimacy depend on ensuring due process, legal transparency, and social equity.

MUI's endorsement of asset forfeiture, provided it aligns with Islamic legal ethics, strengthens public confidence in the policy. However, the potential for abuse remains a key concern, necessitating clear procedural safeguards and oversight mechanisms. The redistribution of confiscated assets toward public welfare programs is critical in ensuring that forfeiture serves as a tool for economic justice rather than punishment.

By integrating *maqashid shariah* principles, policymakers can design a framework that is both legally robust and ethically sound, balancing justice, economic stability, and public welfare. The success of asset forfeiture laws will ultimately depend on their ability to uphold fairness and prevent the misuse of power, ensuring that confiscated assets are used for the benefit of society.

4.2 *Integrating MUI Fatwas and Maqashid Shariah in Asset Forfeiture: Legal, Ethical, and Socioeconomic Dimensions*

4.2.1 *The Role of MUI Fatwas in Strengthening Asset Forfeiture Legislation*

The Majelis Ulama Indonesia (MUI) fatwas play a crucial role in shaping the ethical and legal considerations surrounding the Draft Law on Asset Forfeiture. As highlighted in previous sections, the fatwas provide guidance on the alignment of asset forfeiture with *Maqashid Shariah* principles, particularly in protecting justice, economic stability, and public welfare (Majelis Ulama Indonesia, 2024).

MUI fatwas underscored the importance of ensuring that asset forfeiture is carried out in a just and transparent manner. According to Omara (2024) and Yahya & Sahidin (2022), the influence of MUI in Indonesia extends beyond religious rulings, shaping public policy and legal frameworks in matters where Shariah law intersects with state law. This is evident in the domain of Islamic finance, where MUI fatwas on banking and financial transactions have contributed to regulatory developments (Fodol & Aslan, 2025; Rizvi et al., 2020). Similarly, in the case of asset forfeiture, MUI's involvement is essential to prevent arbitrary seizures and ensure compliance with Islamic ethical values. The integration of *Maqashid Shariah* into legal mechanisms is a central concern of MUI fatwas. By emphasizing *hifz al-mal* (protection of wealth) and *hifz al-nafs* (protection of life), MUI ensures that laws do not disproportionately harm innocent parties or create socio-economic imbalances (Majelis Ulama Indonesia, 2024). The primary concern raised by legal scholars is that without clear procedural safeguards, asset forfeiture could be exploited for political or economic agendas, rather than serving as a genuine tool for justice and corruption eradication (Chistyakova et al., 2021; Kantor et al., 2021).

4.2.2 *Maqashid Shariah as an Ethical Framework for Asset Forfeiture*

As an ethical framework, *Maqashid Shariah* requires that asset forfeiture procedures comply with clear standards of due process. These standards include the obligation to give timely notice to owners and affected third parties, access to legal assistance, reasonable time limits for submitting objections, and transparency in the management and utilisation of confiscated assets. Such safeguards are necessary to ensure that the protection of public wealth does not come at the expense of individual rights and the livelihoods of innocent families, which fall under the objectives of *hifz al mal* and *hifz al nafs*.

This *maqashid* oriented requirement is consistent with broader theories of procedural rights in contemporary legal scholarship. Hamish Stewart, for example, argues that the state has a duty to provide fair procedures that respect individuals as members of a free and equal legal order, and that due process is essential for accuracy and legitimacy in legal decision making (Stewart, 2020). Transparency in asset management is equally important. Studies on the confiscation of mafia assets in Italy show that public trust and the effective reuse of confiscated property for social purposes depend heavily on open and accountable management practices (Bisogno et al., 2024). Without such transparency, asset forfeiture risks being viewed as arbitrary or instrumental, rather than as a just and principled response to crime.

The legitimacy of asset forfeiture also has both procedural and substantive dimensions. Kryvoi notes that any system of dispute resolution must ground its legitimacy in fair procedures and substantively just outcomes (Kryvoi, 2021). *Maqashid Shariah*, As explained by Habib Ahmed, this approach integrates ethical considerations into legal reasoning in order to preserve the moral character of Islamic law and ensure that legal regulations support human welfare (Ahmed, 2025). Thinkers such as Ṭāhā ‘Abd al Raḥmān and Ṭaha Jābir al ‘Alwānī similarly advocate the use of *maqasid* to reform Muslim legal thought and to construct an explicitly ethical foundation for Islamic law (Kepplinger, 2025). Within this perspective, procedural rights and transparency are not merely technical requirements but ethical imperatives that safeguard the integrity of asset forfeiture processes and align them with the higher objectives of justice and public interest in *Maqashid Shariah*.

4.2.3 *Socioeconomic and Legal Implications of Asset Forfeiture Laws*

The broader socio-economic consequences of asset forfeiture are critical to its long-term success. Olujobi (2021) argues that confiscation laws must balance economic deterrence with investor confidence. If laws are perceived as arbitrary or politically motivated, they may trigger capital flight and

undermine macroeconomic stability. Gao et al. (2024) similarly warn that legal uncertainties surrounding asset forfeiture can create barriers for foreign direct investment, which makes transparent, predictable, and consistently applied regulations indispensable for sustaining long term growth.

From the perspective of business actors and investors, the existence of MUI fatwas that endorse fair and proportional asset forfeiture, and that are then reflected in the provisions of the Draft Law, can function as a positive signal that Indonesia offers legal certainty consistent with principles of justice and Islamic economic ethics. The role of the National Sharia Council (DSN MUI) in legitimising religious principles for economic activities has already been evident in the operation of Islamic financial institutions, which rely on its guidance to align profit seeking with religious norms (Izmuddin et al., 2023). This alignment is important for investors who prioritise ethical and faith-based strategies, as seen in the Islamic fund industry where compliance with religious principles does not necessarily weaken financial performance (Alotaibi et al., 2020). Experiences from Malaysia, where coordinated fatwa making has positively shaped investor behaviour, suggest that similar mechanisms in Indonesia could strengthen investor trust, especially if combined with the integration of Islamic business ethics into regulatory frameworks for fraud prevention and consumer protection (N. Setiawan et al., 2025; Yaacob & Zuhudi, 2023).

The redistribution of seized assets must also align with the principle of social justice. In Islamic economic thought, wealth is considered a collective resource and governments have a duty to ensure fair distribution (R. A. Setiawan, 2023). If forfeited assets are not managed and allocated effectively, public trust in state institutions may erode. In contexts where corruption remains prevalent, there is understandable scepticism about whether confiscated assets will be channelled into social programmes or diverted for the benefit of political or economic elites (Najib, 2023). In a *Maqashid Shariah* perspective, such misallocation would undermine the objectives of protecting wealth and promoting social welfare.

Legal safeguards for affected parties represent another important dimension of the debate. While the Draft Law on Asset Forfeiture aims to prevent financial crimes, critics argue that it may violate principles of due process if standards of proof, notification procedures, and avenues for contesting seizures are not clearly defined (Stewart, 2020). There is a real risk that innocent individuals or businesses could see their assets wrongfully confiscated, leading to prolonged and costly legal disputes. Islamic jurisprudence demands a high standard of evidence in financial disputes and emphasises transparent and fair judicial procedures, especially where property rights and livelihood are at stake

(Ahmed, 2025; Ali, 2023).

The implementation of asset forfeiture laws must also take account of existing economic disparities. If enforcement in practice disproportionately targets smaller businesses or individuals with limited legal resources, the law may be perceived as favouring powerful actors while punishing the vulnerable (Afrouzi, 2024). Such perceptions would contradict both the spirit of *Maqashid Shariah* and the state's stated objective of promoting justice. Conversely, if the law is applied fairly, transparently, and with adequate safeguards, asset forfeiture can serve as a powerful mechanism to combat corruption, enhance economic justice, and reinforce public trust in both the legal system and religiously informed policy guidance.

4.2.4 Challenges in Implementing MUI Fatwas on Asset Forfeiture

Despite their strong ethical and religious foundation, the implementation of MUI fatwas on asset forfeiture faces several practical challenges. One of the main issues is the inconsistency between religious rulings and state law. While MUI fatwas hold significant moral authority, they are not legally binding, which complicates their integration into Indonesia's judicial system (Danial et al., 2022; Omara, 2024). In the specific context of the Draft Law on Asset Forfeiture, the harmonisation between MUI's normative recommendations and the wording of statutory provisions is still incomplete, indicating the need for an institutionalised forum that brings together government, MUI, and academic experts to align positive legal language with *Maqashid Shariah* principles (Hasanudin & Mubarak, 2023).

Another critical challenge lies in the varying interpretations of Shariah principles. Scholars continue to debate whether certain forms of asset confiscation are compatible with Islamic legal traditions. Some argue that Shariah strictly prohibits unjustified seizures, even in cases involving suspected financial crimes (Yudha et al., 2025), while others emphasise that *Maqashid Shariah* can justify asset forfeiture when it clearly serves public interest and economic justice. This plurality of views requires careful doctrinal clarification to avoid arbitrary use of *maqashid* rhetoric and to ensure that any incorporation of fatwas into state law is both textually grounded and ethically coherent.

Public awareness and legal literacy also remain key concerns. Many Indonesian citizens have limited knowledge of asset forfeiture laws and their implications, and if the public perceives these laws as unjust or discriminatory, trust in both legal institutions and religious authorities may be eroded (Jauhari & Ghoni, 2020). The experience of MUI fatwas during the COVID 19 pandemic shows

that when fatwas are communicated widely, aligned with state policy, and supported by intensive public education, levels of compliance can be relatively high (Hanafi et al., 2022; Sukanto & Parulian, 2020). This pattern suggests that a similar model of coordinated communication and education is needed for the socialisation of MUI fatwas on asset forfeiture.

Lastly, political resistance poses an additional challenge. In some cases, high ranking officials or powerful business figures may attempt to influence or obstruct asset forfeiture proceedings to protect their interests. Ensuring independent legal oversight, transparent procedures, and clear separation between political power and law enforcement is crucial to prevent such interference and to safeguard judicial integrity (Mustafid et al., 2024). Without these safeguards, both the legal authority of the Draft Law and the moral authority of MUI fatwas risk being undermined in practice.

5. CONCLUSION

The study concludes that the Draft Law on Asset Forfeiture, when examined through *Maqashid Shariah* and the 2024 MUI fatwa, offers real potential to strengthen Indonesia's response to corruption and financial crime, but only under strict ethical and legal conditions. Asset forfeiture can be regarded as both legally legitimate and shariah-compliant only if two core requirements are met: (i) procedures that are fair, transparent, and subject to meaningful oversight, and (ii) effective protection of the rights and livelihoods of innocent third parties whose assets may be mixed with those of the offender.

Maqashid Shariah and MUI fatwas together provide a coherent framework to evaluate whether the Draft Law realises justice in substance, not only in form. The fatwa's emphasis on clear standards of proof, objection mechanisms, proportionality, and safeguards for vulnerable households aligns with *maqashid* concerns about preventing structural inequality and avoiding the misuse of asset forfeiture in ways that erode public trust or harm the innocent.

Building on this analysis, several policy recommendations emerge. Legislators should incorporate key elements of the MUI fatwa into the statutory text, especially regarding due process, evidentiary thresholds, and third-party protection. The government, MUI, and law-enforcement bodies need joint technical guidelines or SOPs to operationalise these principles in investigation, prosecution, and adjudication. Confiscated assets should be managed transparently and directed to programmes that reflect *Maqashid Shariah* priorities, particularly education, healthcare, and the empowerment of the poor.

This research contributes to Islamic legal studies, fatwa studies, and anti-corruption policy by showing how *Maqashid Shariah* and MUI fatwas can serve as a normative bridge between Islamic jurisprudence and contemporary legislation on asset forfeiture. Future research should complement this doctrinal analysis with empirical studies on public perceptions of asset forfeiture and systematic examination of court decisions, in order to evaluate how far judges and enforcement agencies actually implement or diverge from maqashid-based principles and MUI guidance in practice.

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