REVIEW OF ISLAMIC LAW REGARDING ON CONFISCATION OF ASSETS RESULTING FROM CRIMINAL ACTS OF CORRUPTION

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Abstract

Corruption is an urgent problem that must be addressed immediately in order to achieve healthy economic growth. Various records show an increase and development of corruption models that occur. The mechanism for enforcing the law on corruption is something that must be considered because it ensures its implementation is correct, fair, there is no arbitrariness and no abuse of power. Corruption crimes when viewed from Islamic criminal law are included in jarimah. Jarimah or Jinayah comes from the word jarama-yajrimu-jarimatan, which means "to do" and "to cut", and is specifically used limited to "sinful acts" or "hated acts". The problem approach in this study uses a normative legal approach and an empirical legal approach.Normative Legal Research is a research method carried out by analyzing library materials or secondary data consisting of legal texts, court decisions, official documents and other legal literature..The mechanism for confiscation of assets resulting from corruption is currently based on Article 18 letter (a) of Law Number 31 of 1999 which was later updated through the provisions of Law Number 20 of 2001 concerning the Eradication of Corruption (UU PTPK). Meanwhile, in the context of efforts to return assets, it can be done through a civil lawsuit mechanism, which is regulated in Article 32 to Article 38 of Law Number 31 of 1999 which was updated through Law Number 20 of 2001 concerning the Eradication of Corruption. It is hoped that in the formulation policy regarding the confiscation of assets resulting from corruption, it will be guided by and refer to the civil forfeiture system used in the United Nations Convention Against Corruption in returning assets resulting from corruption by providing an obligation to reverse the burden of proof to the suspect (defendant). So that the civil lawsuit facility becomes a very effective means in order to return state losses.

Keywords : Corruption, Asset Confiscation, State Financial Losses.

I. INTRODUCTION

The crime of corruption is a criminal act and unlawful act committed by an individual or corporation with the aim of benefiting themselves or the corporation, by abusing the authority, opportunities or means inherent in their position and resulting in financial and economic losses to the country.[1] Related to asset confiscation, there are several basic principles that are needed that become obstacles in asset confiscation in countries that are developing countries. First, the political will of the country. Not only the political will of the government as the executive, but also the political will of the parliament and the judiciary. The political will of the parliament is related to a set of legal rules that must be prepared starting

[1]Halim, Eradication of Corruption, (Jakarta, Rajawali Press, 2004, p.11.

from asset tracking, asset freezing, asset confiscation, asset confiscation to asset management. *Second*, legal system. Regarding asset recovery, the legal system in question is the harmonization of legislation and the judicial system. Harmonization of legislation here is so that there is no overlap between the provisions of one law and the provisions of another law. In the context of Indonesia, crimes that have the potential to steal state assets have their own legal regime. Further consequences of law enforcement to process these crimes procedurally differ from one to another. *Third*, Institutional Cooperation. The institutional cooperation referred to as a prerequisite for asset return is cooperation between judicial institutions and extrajudicial institutions. This is because not all assets to be returned are stored in the form of money, deposits, current accounts or the like including shares, but also stolen assets in the form of objects including land. Even if the assets to be returned are in the form of money, deposits, current accounts or the like including shares, cooperation between institutions is still needed in order to facilitate the return. *Fourth*, international cooperation. In the context of asset return, international cooperation requires both bilateral and multilateral cooperation. The return of assets that are outside the territorial territory of Indonesia certainly requires such cooperation. In addition, asset return is a goal and one of the principles in the UN Convention on Anti-Corruption with the main goal of international cooperation in Eradicating Corruption.

In Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption, it has basically regulated the confiscation of assets resulting from corruption, but the basis for the confiscation does not use the NCB asset Forfeiture model, but rather uses the criminal law instrument model (corruption) through a decision that has permanent legal force. This is based on Indonesia emphasizing the continental legal system, because basically NCB asset Forfeiture is known in the common law legal system.

The act of corruption when viewed from Islamic criminal law, this act is included in jarimah. Jarimah or Jinayah comes from the word jarama-yajrimu-jarimatan, which means "to do" and "to cut", and is specifically used limited to "sinful acts" or "hated acts". The word jarimah also comes from the word ajrama-yajrimu which means doing something that is contrary to the truth, justice, and deviates from the law of Allah SWT.[2] Imam Al-Mawardi stated that jarimah is an act that is prohibited by sharia (Islamic law) and is threatened by Allah with had or ta'zir punishment. The focus of discussion in this study is How is the confiscation of assets resulting from corruption in positive law at this time and How is the view of Islamic law on the confiscation of assets resulting from corruption.

[2]Fathurahman Jamil, Philosophy of Islamic Law, (Jakarta: Logos Waca Ilmu, 1999), p.11.

II.RESEARCH METHOD

Types of research this normative legal research conducted using library materials as the main data to analyze cases, without conducting field research. The approach used is library law research which aims to explore legal principles, analyze legal systematics, and examine synchronization between related legal regulations. In this research, the author conducts in-depth analysis of various legal documents, including laws, court decisions, and other legal literature. The aim is to find legal rules, legal principles, and legal doctrines that are relevant in dealing with the case under study. The results of this research are expected to make a significant contribution to the understanding and development of the law in the field under study, as well as provide a more comprehensive view of relevant legal issues.

III. DISCUSSION

a. Understanding the Criminal Act of Corruption

The term Corruption comes from Latin, namely Corruptio, which means bribery. In the Indonesian encyclopedia, corruption is defined as a symptom where officials, state agencies abuse their authority by bribery, forgery and other irregularities. While literally, corruption has a very broad meaning, including the following:[3]

a) Corruption is the misappropriation or embezzlement (of state or company money, etc.) for personal or other people's interests.
b) Corruption is rotten, damaged, likes to use goods or money entrusted to him, can be bribed (through his power for personal gain).

Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption (UU PTPK) does not explicitly state the definition of corruption. Article 2 paragraph (1) states: "Any person who unlawfully commits an act of enriching himself or another person or a corporation that can harm state finances or the state economy, shall be punished with life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp. 200,000,000 (two hundred million rupiah) and a maximum of 1,000,000,000,- (one billion rupiah)."

Based on the definition of corruption in Article 2 paragraph (1) of the UUPTPK above, it is known that there are three elements of the crime of corruption, namely:unlawfully committing acts of enriching oneself or another person or a corporation that can harm the state or the state economy; Article 3 states that criminal acts of corruption are committed with the aim of benefiting oneself or another person or a corporation, abusing the authority, opportunity or means

[3]Evi Hartanti, Criminal Act of Corruption. Jakarta: Sinar Grafika, 2006, p.8-9.

available to him because of his position or position that can harm state finances or the state economy; and giving gifts or promises to Civil Servants by considering the power or authority inherent in his position or position.

In relation to morals, the meaning of corruption is divided into 3 (three) groups, namely as follows:[4]

a) Physically; for example acts of destruction or intentionally causing decay with unreasonable and disgusting actions.
b) Moral; political in nature, namely making someone's moral corruption or usually means the fact of the condition of corruption and moral decline that occurs in society.
c) Deviation from purity; such as deviation from the norms of a social institution, customs, etc. This act is not suitable or deviates from the values of social exemplary behavior. The use of corruption in relation to politics is colored by an understanding that falls into the moral category.

Furthermore, the categories of perpetrators in criminal acts of corruption are as follows:[5]

a) Every person means an individual;
b) Corporation in Law Number 31 of 1999 is a group of people and or wealth that is organized, either in the form of a legal entity or not. Legal entities in Indonesia consist of Limited Liability Companies (PT), Foundations, Cooperatives and Indonesische Maatchapij op Andelen (IMA), while associations of people can be in the form of firms, Commanditaire Vennootschap (CV) and so on;
c) Civil servants referred to as Civil Servants (Officials) in Article I paragraph (2) of Law Number 31 of 1999 Juncto Law Number 20 of 2001 include Civil Servants, Central Civil Servants; Regional Civil Servants and other Civil Servants as determined by Government regulations. Armed Forces of the Republic of Indonesia; Army; Navy; Air Force; Police Force.

In essence, the crime of corruption is also included in economic crimes, this can be compared with the anatomy of economic crimes as follows:[6]

a) Disguise or hidden nature of the intent and purpose of the crime (disguise of purpose or intent);
b) The perpetrator's belief in the ingenuity or carelessness of the victim;
c) Concealment of the violation.

Based on the description above, it can be stated that corruption is a criminal act and an unlawful act that aims to benefit oneself, a company and abuse the authority,

[4]Halim, Eradication of Corruption, Rajawali Press, Jakarta. 2004,46
[5]*ibid* .p.49
[6]Barda Nawawi Arief and Muladi, Criminal Law Anthology, Alumni, Bandung. 1992, p.56

opportunities or means inherent in one's position which is detrimental to the country's finances and economy. Effective law enforcement against corruption should be able to fulfill two objectives. The first objective is for the perpetrators of corruption to be punished with fair and appropriate punishment (criminal). In fact, because corruption is a very despicable act, especially when carried out during an economic crisis or when the economy is still in the recovery stage, the punishment imposed on perpetrators of corruption should be the heaviest possible punishment. The second objective is for the state losses resulting from the corruption to be recovered.

Civil law plays an important role in relation to efforts to recover losses suffered by the state as a result of criminal acts of corruption. In English, the main function of civil law is known as `remedy, compensation and equality'. Remedy means repair of rights damaged by illegal acts, compensation means providing compensation for losses due to illegal acts, and equity means returning to the original state, namely the state before the illegal act occurred.

Corruption is an illegal act, so legal instruments can actually be used to repair the rights harmed by corruption, to compensate for losses and/or to restore the condition of the victim of corruption to the state before the corruption occurred. Although civil law theory plays an important role in law enforcement against corruption cases, laws related to the eradication of corruption in Indonesia seem to pay more attention to criminal law.

b. Confiscation of Assets Proceedings of Corruption in Positive Law at Present and in the Future

The Draft Law on Asset Confiscation is currently still in the DPR and there is no certainty as to when the Bill will be passed, so that currently the Confiscation of Assets Proceedings of Corruption still uses the rules contained in the Criminal Code and the Law on the Eradication of Corruption.The act of confiscation is regulated in the Criminal Code, which is a form of additional punishment. It is regulated in Article 10 point (b) which states that additional punishment consists of:

1. Revocation of certain rights;
2. Confiscation of certain goods;
3. Announcement of the judge's decision.

Based on this article, confiscation is carried out based on a decision or ruling from a criminal judge, against certain goods. The confiscation is carried out in a limited manner in accordance with what is determined by the Criminal Code, namely goods belonging to the convict obtained from a crime or intentionally used to commit a crime (Article 39 paragraph (1) of the Criminal Code). The confiscation can be

replaced with imprisonment if the confiscated goods are returned to the convict (Article 41 paragraph (1) of the Criminal Code), the length of the imprisonment is at least 1 (one) day and at most 6 (six) months (Article 41 paragraph (2) of the Criminal Code).

Based on the criminal justice system in Indonesia which is based on the laws and regulations that regulate it, in order to resolve the legal action against corruption, it is carried out based on the mechanism of the criminal justice system for corruption to confiscate assets in order to return the proceeds of corruption and restore the country's economy. This mechanism is based on Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 in conjunction with Law Number 31 of 1999 and Law Number 46 of 2009 concerning the Corruption Court. The mechanism for confiscation of assets is based on Article 18 letter (a) of the PTPK Law which states: "Confiscation of tangible or intangible movable property or immovable property used for or obtained from criminal acts of corruption, including companies owned by convicts where criminal acts of corruption were committed, as well as the price of goods replacing such goods."[7]

Based on this article, the act of confiscation of assets has been regulated and made as a sanction against perpetrators of corruption, in terms of efforts to return the proceeds of the crime. Furthermore, the PTPK Law places the act of confiscation of assets not only as a criminal sanction, in a case the act of confiscation of assets can be carried out if the defendant dies before a verdict is issued against him with sufficient evidence that the person concerned has committed a crime of corruption, then the judge at the request of the public prosecutor determines the act of confiscation of goods that have been previously confiscated (Article 38 number (5) of the PTPK Law).

In addition to the asset confiscation mechanism, in the context of efforts to return assets through a civil lawsuit mechanism, it is possible that its regulation in the PTPK Law is based on the reasons that the settlement of corruption cases through criminal means does not always succeed in returning state financial losses, in addition to corruption as an extraordinary crime that requires handling in an extraordinary manner. The philosophical purpose of a civil lawsuit is to maximize the return of state finances in order to fulfill the sense of justice of the community. The basis for the legitimacy of a civil lawsuit in a corruption crime lies in the occurrence of losses, in this case state finances that must be returned. The return of corrupted state finances is carried out by filing a civil lawsuit, which is alternatively directed from two sources, namely:

[7]Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption.

1. From the proceeds of corruption that have become part of the defendant's or suspect's wealth;
2. Replaced with the wealth of the convict, defendant or suspect even without any proceeds of corruption in his possession. The corruption committed in this case benefits another person or a corporation and the convict, defendant or suspect does not take advantage of the corrupted state finances for himself. Confiscation of assets through civil channels is regulated in Article 32 to Article 38 of Law Number 31 of 1999 which was amended through Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption.

Asset confiscation in the international world there are two paths that can be applied to recover the results and instrumentalities.[8]crime: confiscation of assets without punishment or Non-convention based (NCB), and confiscation of crime. Both have the same goal, namely confiscation by the State of the proceeds and instrumentality of crime. Both have the same two-sided rationale. First, those who carry out illicit activities should not be allowed to benefit from their crimes. The proceeds must be confiscated and used to compensate the victims, whether they are the state or individuals. Second, the activity must be prevented. Eliminating the economic benefits of the crime at the first level. Confiscation of instrumentality ensures that such assets will not be used for further criminal purposes; and is a deterrent.

The difference between criminal forfeiture and NCB asset forfeiture is in the procedures used to seize assets. The main difference between the two is that criminal forfeiture requires a criminal trial and punishment, whereas NCB asset forfeiture does not. In addition, there are a number of procedural differences that generally characterize the two systems.Recognizing the serious problem of large-scale corruption and the need for enhanced mechanisms to combat its devastating impact, the international community introduced a new framework to facilitate the tracing, freezing, confiscation and recovery of assets stolen through corrupt practices and hidden in foreign jurisdictions. The United Nations Convention against Corruption.[9]

In the case of Indonesia, the problem of returning assets from corruption can actually be divided into two large groups, namely the return of assets from corruption in Indonesia and the return of assets from corruption abroad. For the latter, the opportunity to realize it is open with Law Number 7 of 2006 which is a

[8]"Instrumentality" is an asset used to facilitate a crime, such as a car or ship used to transport drugs. Taken from the book stolen asset recovery by Theodore S. Greenberg, Washington DC. 2009, p.13

[9]The text of the UNCAC, together with a list of countries that have signed or ratified it, is available at http://www.unodc/en/treaties/CAC/index.html.

ratification of the United Nations Convention Against Corruption 2003 (UNCAC, 2003).[10]Even though it is in accordance with its nature as a law originating from an international convention, which still requires further positive form, considering that it cannot yet be directly applied as positive law, at least by ratifying it, it opens up the opportunity for Indonesia to utilize the procedures and protocols for returning assets resulting from corruption that are regulated therein.

Based on the starting point of UNCAC as an international instrument in efforts to eradicate corruption which is increasingly multidimensional and complex. At the starting point, UNCAC provides a reference basis in Article 54 paragraph 1 letter c UNCAC, which requires all State Parties to consider confiscation of the proceeds of crime without going through criminal punishment. In this case, UNCAC does not focus on one legal tradition that has been in effect or suggest that fundamental differences can hinder its implementation. Hereby, UNCAC proposes confiscation of non-criminal assets as a tool for all jurisdictions to consider in eradicating corruption, as a tool that transcends differences between systems. Of course, based on its validity in the ratification carried out by countries that participate in the UNCAC convention, the UN as the organizer hereby continues the disposition in the form of making guidelines, standards and model treaties, which include more specific substances in efforts to eradicate corruption and efforts to restore the impacts caused by corruption.

Among the existing guidelines related to UNCAC made by the UN, one of them is the "Stolen Asset Recovery (StAR) initiative". Briefly, the StAR initiative is a program initiated by the World Bank and the United Nations (UN) which provides technical assistance and funds for asset tracking and recovery. Furthermore, in terms of material substance, the UN and the World Bank published a literature intended as a guidebook or guidelines that are compiled scientifically and based on research conducted collaboratively by several colleagues who are related and have the ability in the problem of asset return mechanisms resulting from crime. This guideline is given the main title "Stolen Asset Recovery: A Good Practices Guide for Non-Conviction Based Asset Forfeiture" which was compiled by Theodore S. Greenberg, Linda M. Samuel, Wingate Grant, and Larissa Gray.[11]

[10]*United Nations Convention Against Corruption*(United Nations Convention against Corruption).

[11]This literature is a guidebook and is intended as a basic reference in the application of asset confiscation actions carried out without a criminal verdict (Non-Conviction Based) as stated in the foreword of this guidebook that asset confiscation without a criminal verdict (Non-Conviction Based) is an important tool to recover the proceeds and means of corruption, especially in cases where the proceeds are transferred abroad. A procedure that provides for the seizure and confiscation of assets without requiring a criminal conviction, asset confiscation without a criminal verdict (Non-Conviction Based) is important when the wrongdoer is dead, has fled the jurisdiction, or is immune from prosecution. This guidebook is a continuation or technical guide to Article 54 (1) (c) of the

In developing a confiscation system, the StAR guidelines state that jurisdictions need to consider whether in rem asset confiscation can be incorporated into existing law (Lex Generalis) or created as separate legislation (Lex Specialis). Jurisdictions also need to consider the extent to which existing procedures can be referenced and incorporated and the extent to which they should create new procedures. Conceptually, the StAR guidelines provide the basic conceptual keys for countries to make efforts to eradicate criminal acts of corruption in particular and other criminal acts that can harm state assets or the state economy in general.

c. Confiscation of Assets for Corruption Crimes According to Islamic Law

The act of corruption when viewed from Islamic criminal law, this act is included in jarimah. Jarimah or Jinayah comes from the word jarama-yajrimu-jarimatan, which means "to do" and "to cut", and is specifically used limited to "sinful acts" or "hated acts". The word jarimah also comes from the word ajrama-yajrimu which means doing something that is contrary to the truth, justice, and deviates from the law of Allah SWT.[12]Imam Al-Mawardi stated that jarimah is an act that is prohibited by sharia (Islamic law) and is threatened by Allah with hadd or ta'zir punishment.

Asset confiscation in Islamic criminal law is called ta'zir, Imam Al-Mawardi defines tazir as an educational punishment for sinful acts whose punishment has not been determined by sharia. Based on this definition, ta'zir is a term for punishment (criminal), but among Islamic jurisprudence experts, the meaning of ta'zir is expanded, not only referring to punishment, but also the criminal act. So if it is said that jarimah ta'zir means a criminal act whose terms and punishment have not been determined by sharia. In other words, the term ta'zir in Islamic criminal law can be used for the term punishment and can also be used for jarimah (criminal acts).[13]Among the examples of ta'zir crimes related to property are manipulating the property of orphans, embezzling waqf property, including embezzling deposits into one's property or the property of others with the aim of developing it, enriching oneself, and/or owning it.

Ta'zir punishments can be broadly grouped into four groups, namely: 1) ta'zir punishments applied to the body, such as the death penalty and flogging; 2) punishments related to a person's freedom, such as imprisonment and exile; 3) ta'zir punishments related to property, such as fines, confiscation/confiscation of property, and destruction of goods; 4) other punishments determined by ulil amri

United Nations Convention against Corruption (UNCAC) to urge countries to consider the absence of a criminal verdict (Non-Conviction Based) which allows for the confiscation of assets when the perpetrator cannot be prosecuted.

[12]Fathurahman Jamil, Philosophy of Islamic Law, (Jakarta: Logos Waca Ilmu, 1999), 11.

[13] Roshif Rozani, "Confiscation of Assets of Money Laundering Convicts: Study of Decision Number 31/PID.SUS-TPK/2019/PN.SMG from the Perspective of Islamic Criminal Law," 2020, 90.

for the public interest.[14] The permissibility of ta'zir punishment by taking property is debated by the ulama. Imam Abu Hanifah does not allow ta'zir punishment by taking property. This opinion was followed by his student, namely Muhammad ibn Hasan. Meanwhile, another of his students, Imam Abu Yusuf, allowed it if he thought it would bring benefits. This opinion is also followed by Imam Malik, Imam Syafi'I, and Imam Ahmad. Hanafiyah scholars allow ta'zir punishment by taking property which states "The judge retains part of the condemned person's property for a certain time as a lesson and as a deterrent for the actions he has committed, then returns it to the owner if he has clearly repented."

Islamic law does not set a minimum or maximum limit for fines. This is entirely up to the judge by considering the severity of the crime committed by the perpetrator. In addition to fines, ta'zir punishment in the form of property is confiscation or seizure of property, but this punishment is disputed by the fuqaha. The majority of scholars allow it if the requirements for obtaining collateral for property are not met. These requirements include property obtained in a halal manner, used in accordance with its function and its use does not interfere with the rights of others. If these requirements are not met, for example property obtained in an unlawful way, or not used in accordance with its function, then in this situation Ulil amri has the right to apply ta'zir punishment in the form of confiscation or seizure as a sanction for the actions committed by the perpetrator.

Based on this opinion, the ta'zir punishment by taking the property does not mean taking the perpetrator's property for the judge or for the general treasury (state), but only holding it temporarily. However, if the perpetrator cannot be expected to repent, then based on considerations of the public interest, the judge can confiscate the property.[15] Ta'zir punishment in the form of taking over (ownership) of the property of the perpetrator of the crime, is illustrated in the Prophet's decision to punish someone who steals fruit by doubling the fine and sentence. Likewise, Caliph Umar decided to double the fines for people who embezzled found goods. So the form of taking over property as punishment is a fine or in Arabic it is called gharāmah. A fine can be a stand-alone basic punishment and can also be combined with other basic punishments.

Confiscation or confiscation of property is also a form of ta'zir punishment. However, this type of punishment is disputed by scholars, the majority of scholars

[14] Muhammad Nur, Introduction and Principles of Islamic Criminal Law, One (Jl. Tgk. Chik Ditiro No: 25 Gp. Baro (In Front of Baiturrahman Grand Mosque, Banda Aceh): Yayasan PeNA Aceh, 1441), p.48.

[15] Raja Ritonga and Endah Nopita Sari, "Opinions of Islamic Scholars Regarding Fines in Mindringan Practices," El-Faqih: Journal of Islamic Thought and Law 7, no. 2 (October 27, 2021): 84, https://doi.org/10.29062/faqih.v7i2.328.

allow confiscation and confiscation of property if the requirements for obtaining collateral for the property are not met. "These requirements are: 1) the property is obtained in a halal manner; 2) the property is used according to its function; 3) the use of the property does not interfere with the rights of others. If these requirements are not met, then the ulil amri has the right to apply ta'zir punishment in the form of confiscation or confiscation as a sanction for the actions committed by the perpetrator.

IV. CONCLUSION

Based on the description that has been presented previously, the author can conclude that:

1. The mechanism for confiscation of assets resulting from corruption is currently based on Article 18 letter (a) of Law Number 31 of 1999 which was later updated through the provisions of Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption (UU TIPIKOR). Based on this article, the act of confiscation of assets has been regulated and used as a sanction against perpetrators of criminal acts of corruption, in terms of efforts to return assets resulting from corruption crimes. In the context of efforts to return assets, this can be done through a civil lawsuit mechanism, which is regulated in Articles 32 to 38 of Law Number 31 of 1999 which was updated through Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption.
2. The confiscation of assets resulting from corruption in the future in combating the devastating impact of corruption needs to be improved. This is the main motivation for Indonesia to sign and ratify UNCAC 2003. Given, one of the important meanings of this convention for Indonesia, international cooperation especially in tracking, freezing, confiscating, and returning assets resulting from corruption that are placed abroad.In international principles as explained in the StAR guidelines, there are 2 (two) types of confiscation: in-rem confiscation and criminal confiscation. They share the same goal, namely confiscation by the state of the proceeds and means of crime. With the StAR principle and the Concepts of Non-Criminal Asset Confiscation (NCB) which are expected to be used and ratified in laws and regulations in this case the Asset Confiscation Bill.
3. Asset confiscation in Islamic criminal law is called ta'zir, Imam Al-Mawardi defines tazir as an educational punishment for sinful acts whose punishment has not been determined by sharia. Based on this definition, ta'zir is a term for punishment (criminal), but among Islamic jurisprudence experts, the meaning of ta'zir is expanded, not only referring to punishment, but also the criminal act. So if it is said that jarimah ta'zir means a criminal act whose terms and punishment have not been determined by sharia. In other words, the term ta'zir in Islamic criminal law can be used for the term punishment and can also be used for jarimah (criminal acts).

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The text of the UNCAC, together with a list of countries that have signed or ratified it, is available at http://www.unodc/en/treaties/CAC/index.html.

Theodore S. Greenberg, Washington DC. 2009.

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