

## Views on the Utilization of Non-Halal Assets

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### Abstract

**Purpose** – This paper aims not to legalize the practice of unlawful muamalah transactions, but the real purpose is what to do if someone has already made unlawful transactions and generates wealth from the practice of unlawful muamalah transactions, what is the solution to repentance in Islam, so as not to repeat muamalah transactions illegal in the future.

**Methodology** - This paper uses a qualitative method in the form of library research. Literature study is a technique of collecting data by examining books, literatures, articles and research reports that have to do with the problem being solved. Thus, this study will limit its activities only to library collection materials without conducting field research

**Findings** - The conclusion of this paper is that if the illicit assets resulting from transactions that are not mutually pleased and the whereabouts of the transaction partners are known, it must be returned or their consent is requested, while if the whereabouts of the transaction partners are not known, the assets are donated to the poor on behalf of the owner of the goods/money legitimate.

**Keywords:** Non-Halal Assets, Muamalah Haram, Utilization of Non-Halal Assets, Repentance

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## 1. INTRODUCTION

Haram assets (non-halal goods/funds) are any assets obtained from a path that is prohibited by the Shari'a (Al-Mushlih, 2008). While the path that is prohibited by the Shari'a which is the cause of illicit assets is: (Karim, 2004).

1. Haram substances (haram li-dzatihi) such as pork, liquor (khamr), carrion and blood.
2. Haram other than the substance (haram li-ghairihi) such as tadbis (fraud), ghabn (fraud in price), gharar (uncertainty), ikhtikar (hoarding), ba'i najasy (engineering requests), usury (both usury nasi'ah) namely interest, and usury fadl), maysir (gambling), risywah (bribes).
3. The contract is invalid because: The pillars and conditions of a contract are not fulfilled. The occurrence of ta'alluq (two interrelated contracts). The occurrence of "two in one" (two contracts in one transaction).

Meanwhile, according to Tarmizi (2016: 604) broadly speaking, illicit assets can be divided into two:

1. Haram assets obtained from muamalah which are carried out without mutual pleasure between the two parties, such as forced buying and selling, buying and selling that contain elements of fraud (ghisysyi), corruption, stealing, and others.
2. Haram assets obtained from muamalah are based on mutual pleasure, but there are elements that are forbidden by Allah, such as muamalah which contains usury, gharar, and others.

According to An-Nawawi, repenting of every sin is obligatory. There are three conditions for the perfection of repentance, namely, one must stop sinning right away, regret what he has done, and not repeat it. Plus one more thing if the sin is in the form of property, then he is obliged to return it to the real owner (Tarmizi, 2016). Therefore, illicit property is not the property of that person (illegal business actor), and cannot be applied to the meaning of ownership because it has violated sharia (An-Nabhani, 2015); (Handoko, Juliana, & Lukman, 2021); (Juliana, Firmansyah, & Pratama, 2016).

This paper aims not to legalize the practice of unlawful muamalah transactions, but the real purpose is what to do if someone has already made unlawful muamalah transactions and generates wealth from the practice of unlawful muamalah transactions, how to repent from non-halal goods or funds. So what is called repentance is not repeating the forbidden muamalah transactions in the future.

## 2. METHODOLOGY

This paper uses a qualitative method in the form of library research. Literature study is a technique of collecting data by examining books, literatures, articles and research reports that have to do with the problem being solved. Thus, this study will limit its activities only to library collection materials without conducting field research (Nazir, 2011).

## 3. RESULTS AND DISCUSSION

### 3.1 How to Repent from Non-Halal Goods/Funds from Muamalah Done Without Mutual Pleasure

The way to repent of non-halal goods/funds resulting from muamalah is done without mutual pleasure, namely by returning the non-halal goods/funds to their original owners (Tarmizi, 2016) or to their heirs if they are still known (Ash-Shawi & Al-Shawi, 2016). Mushlih,

(2015:465). Then the assets resulting from corruption or theft must be returned to the injured party. The money from buying and selling by means of fraud must be returned the difference between the normal price and the price sold to the buyer, as well as buying and selling by force (Al-Mushlih, 2008).

Based on the hadith narrated by Ahmad (Tarmizi, 2016), the Prophet Muhammad ﷺ said :

*“The hand that takes people's goods in a way that is not pleasing to them must bear the goods until they are returned to their owners.”* [HR. Ahmad. according to al-Arnauth the degree of this hadis Hasan lighairihi].

Also words of the prophet ﷺ:

*“Whoever oppresses the honor or property of his brother, let him ask his brother today to let it go, before a day comes where there are no dinars and dirhams. If he has good deeds, then the deeds are taken according to the size of his injustice. And if he does not have goodness, then the sins of the wronged person are taken and carried on to him.”* [HR. Bukhari]

### 3.1.1 Non-Halal goods/Funds from Muamalah that are not mutually pleased and the existence of the transaction partner is known

Non-halal goods/funds obtained in muamalah without mutual pleasure must be returned to the actual owner or to their heirs if known, and the condition of the non-halal goods/funds is still in its substance and has not changed its physical form. If the condition of the non-halal goods/funds disappears completely, then for the perfection of his repentance he (the sinner) must replace it with the same value or ask the original owner to give it up (Tarmizi, 2016).

If there is a change in the condition of the goods, then the change takes two forms:

- a) Changes that cause the value of goods to decrease. In this condition, the person who committed the sin should surrender the changed item and provide compensation for the value of the item to the original owner (Ash-Shawi & Al-Mushlih, 2015).
- b) Changes that cause the value of goods to increase, such as goats becoming fat or giving birth. In this condition, the scholars have different opinions (Tarmizi, 2016):

**The first opinion:** the scholars of the Shafi'i school are of the opinion that all the goods should be returned to the original owner and the person who has developed it does not get anything in return. This opinion is based on the words of the Prophet ﷺ, *“People who have done injustice (by obtaining goods without the pleasure of the second party) their sweat (his efforts to develop the goods) have absolutely no value that should be paid”*. [HR. Muslim].

**The second opinion:** the Hambali school of thought is of the opinion that the added value of the goods belongs to both parties which must be divided equally. This opinion is fairer.

If there is a change in funds, then the change takes two forms:

- a) The amount of funds is reduced, then he (the illegitimate owner) is obliged to increase it or ask the sincerity of the injured party.
- b) The amount of funds increased, due to this unauthorized owner developing the non-halal funds in the form of a business, such as a corruptor investing his corrupt proceeds and earning a large profit. When he repents, are all the capital and profits handed over to the rightful owner? In this condition, the scholars also have different opinions (Tarmizi, 2016:606-609):

*And it is also narrated from Ibn Umar RA, he said, "I heard Rasulullah ﷺ say, "A long time ago, there were three people going to a place until they entered the cave, suddenly a*

large rock fell from the mountain and closed the mouth of the cave.

They said, "Indeed we will not be able to escape from the stone, but by praying to Allah through the good deeds we have done". One of them said... The third person prayed, "O Allah, I once had several workers, all of them I gave wages except for one person, he did not take the wages and just left. Then I developed the wages so that it became a lot. One time he came to me, saying, "O servant of Allah, give me my reward!" I said, "All that you see in the field is your reward, (consisting of camels, cows, goats and slaves)". He said, "O servant of Allah, do not play with me". I said, "I'm not playing games". Then he took all the treasure. And he left none. O Allah, if I do this sincerely because I hope Your Face will save us from this stone." So the mouth of the cave opened and they left the cave. (Narrated by Bukhari and Muslim). And also in the case narrated by Bukhari that the Messenger of Allah gave one dinar to Urwah so that he would buy a goat for the Prophet. So he went to the merchants who brought goats to sell in the market. He bid and got two goats for one dinar. On the way to the Messenger of Allah, there was a person who offered a goat that Urwah brought for one dinar so he sold it. Arriving in the presence of the Prophet Urwah gave the Prophet one dinar plus a goat. In the two stories above, the capital and profits are returned to the rightful owners of the funds.

**Second opinion:** some scholars are of the opinion that capital is returned to the rightful owner. The profits are divided between the rightful owner and the developer. This opinion is supported by Ibn Taimiyah and Ibn Qayyim (Tarmizi, 2016: 608-609). According to Imam Malik (t.thn: IV/992) in his book *Al-Muwaththa* 'this opinion postulates the story of the mudharabah (business cooperation) between Ibn Umar RA and the state assets entrusted by Abu Musa Al-Asy'ari RA. Imam Malik narrated that Abdullah and Ubaidillah son of Umar bin Khattab radhiyallahu 'anhum participated in the troops sent to Iraq. Before returning to Medina they stopped by the city of Basra to meet Abu Musa Al-Ash'ari the governor of the city. Abu Musa entrusted the two of them with state money to be sent to Caliph Umar bin Khattab, saying, "I lent this money to both of you, then you bought commercial goods from Iraq and sold them in Medina. After that you hand over to the caliph the state money and the profits are yours." These two companions of the Prophet and also the son of the caliph agreed. Arriving in Medina, they sold commerce and made a profit. Then he handed over a letter from the governor of Basra to Umar, which stated that he had entrusted state money through Abdullah and Ubaidillah, and allowed them to make capital for trading. Umar said to his two sons, "Did all the soldiers who participated in the journey get the same loan? They answered, "No". Umar said, "Because you are the son of the Caliph, he gave you a capital loan! Submit the capital and profits to the baitul maal (state treasury)!. Abdullah did not answer. As for Ubaidillah, he ventured to refute, "O Amirul believer, you do not deserve to do that! Because if our business loses, we will still replace state assets! One of those present in the assembly said, "O Amirul believer, make the contract a mudharabah". Umar agreed. So the capital and of the profit were taken by Umar and handed over to the baitul maal, while of the profit was divided for Abdullah and Ubaidillah (Imam Malik, t.thn: IV/992). Ibn Hajar said, "This Sanad Atsar is authentic" (Tarmizi, 2016). From this atsar, the law can be drawn that profits from businesses whose capital/funds come from other people's property are joint property between the legitimate owners of capital and the developers of capital whose capital is not in their hands. According to Tarmizi (2016: 609), from one side this opinion is more fair.

### 3.1.2 Non-Halal Goods/Funds from Muamalah who are not mutually pleased and the whereabouts of the transaction partners are unknown

Non-halal goods/funds obtained in muamalah without mutual pleasure between the two transacting people and have been sought are no longer known to be the whereabouts of the transaction partners, and it is not possible to return the goods/funds to their rightful owners, so for the perfection of repentance of the owner of the non-halal goods/funds In this halal case, one should donate the goods/funds to the poor, or for the construction of public facilities and for other benefits on condition that the alms are intended on behalf of the legitimate owner of the goods/funds (Tarmizi, 2016); (Ash-Shawi & Al-Mushlih, 2015); (Khalil, 2018).

Shaykhul Islam Ibn Taimiyah (t.thn: 28/401) in his book Majmu' al-Fatawa, argues that if a person acquires unlawful property, and he is prevented from returning the property to its owner because it is unknown and such, then he should spend it. in the way of Allah (fi sabilillah), because it is the post of expenditure. In other words, whoever wants to get away from haram property and repents, while it is impossible to return the property to its owner, then let him spend it in the way of Allah on behalf of the (real) owner of the property, because that is the way of goodness to the people. his release.

And if later on the legal owner is known/found, let him (the illegitimate owner) give him (the legal owner) a choice between being willing to give his funds that have been donated or he (the illegitimate owner) replacing it and the alms being changed to in his name. (Tarmizi, 2016).

This is based on the following arguments:

- a. Once upon a time, Ibn Mas'ud RA. buy a slave. Then Ibn Mas'ud brought the slave into the house, then he counted the gold dinar as the price of the slave. By the time Ibn Mas'ud went out to hand over the money to the slave seller, he could no longer find the slave seller. Ibn Mas'ud tried to find and wait for a slave seller for a year. After a year had passed, he still couldn't find it. Then he gave the slave's price and said, *"O Allah, this charity is in the name of the slave owner, when he comes later I will give him the choice between the charity remaining his or being mine and I will replace the money"* (HR. Bukhari).
- b. Qayyim al-Jauziyyah narrated that during the caliphate of Muawiyah RA, one of the troops who participated in the jihad war hid the spoils of war before it was distributed. Then he repented and returned the treasure to the leader of the army. The army leadership refused to accept it because the troops had dispersed and it was impossible to hand over to those who participated in the war. Then this person came to Hajjaj bin Asy Sya'ir, then Hajjaj said, *"Verily Allah knows the names and genealogy of the descendants of the troops who participated in the war, spend one fifth of it for the Bani Hashim, the poor and orphans and the rest is charity in the name of the soldiers. who follow, surely Allah will convey to them"* (Al-Jauziyyah, t.thn:I/391).

### 3.2 How to Repent from Haram Proceeds from Muamalah Performed on the Basis of Mutual Pleasure

People who get goods/funds from muamalah on the basis of mutual pleasure, but the form of muamalah is forbidden by Allah, such as; the giver and eater of usury property are pleased with each other in the usury contract they carry out, or two people who try their luck through gambling (maysir) are pleased with each other no matter what happens, or two people are pleased with each other in a bribe-taking transaction (risywah), or two people who are



mutually pleasure in buying and selling unclean or forbidden things. The perpetrators of this haram muamalah sometimes don't know that the muamalah they do is haram, and sometimes they know, but they deliberately don't care (Tarmizi, 2016). Here is the explanation:

### 3.2.1 People who don't know that their muamalah is Haram

For people who do not know that the muamalah that he is doing is prohibited in Islam, then the way to repent from non-halal goods/funds resulting from this haram muamalah is when he finds out that this muamalah is forbidden he must stop taking goods/funds that have not been handed over to his partner. transaction to him.

As for the non-halal goods/funds that he has received and have used so far, it is his and he is not guilty of not knowing the law and may Allah forgive his negligence. This is based on the word of Allah SWT:

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ

*“Whereas Allah has permitted buying and selling and forbids usury. Those who have reached the prohibition from their Lord, then continue to stop (from taking usury), then for him is what he had taken first (before the prohibition came); and its affairs (up to) to Allah. People who return (take usury), then that person is the inhabitants of hell; they stay in it”.* (Al-Baqarah:275).

This verse explains that the assets resulting from usury that have been received and have been used before usury is forbidden remains the property of the recipient. And the law of people who do not know that the law of usury is haram is the same as that of those who have not been sent down to him the verse that prohibits usury (Al-Mushlih, 2008).

### 3.2.2 People who know that what they are doing is Haram

For people who know that the muamalah that he (A party) is doing is unlawful but intentionally he (A) doesn't care about it, then the way to repent of non-halal goods/funds resulting from this type of muamalah is by not taking goods/funds that have not been handed over by its transaction partner (party B) to him (party A).

As for non-halal goods/funds (illegal assets) that have been received or which have been used up, he (party A) is obliged to estimate and replace them, then donate them to the poor or the interests of public facilities, or to baitul maal (state treasury) in the context of free himself from the sin of illicit property and not to give it to charity on behalf of the person who gave it (transaction partner/party B), because the property has left the ownership of the person who gave it (party B) when the transaction partner (party B) voluntarily gave the property in return for he (A party) gets, and the reward is unlawful because the muamalah that parties A and B do are muamalah haram such as usury interest activities and bribes / risywah (Tarmizi, 2016); (Ash-Shawi & Al-Mushlih, 2015); (Khalil, 2018).

It is based on the following arguments:

The First Dalil, *“From Abu Humaid as-Sa'idi radhiyallahu 'anhu said: The Prophet sallallaahu a'laihi wasallam employed a man from the al-Azdi tribe named Ibn Lutbiyyah as a zakat collector (amil). When he came from his duty, he said: "This is for you as zakat and this is given to me." He said: "Try to just sit in the house of his father or mother, and wait whether someone will give him a gift? And by the One who is in His hand, no worker will receive any gift, unless he will come on the Day of Judgment with carried over his neck as a neighing camel, or a*

*bouncing cow or a bleating goat." Then he raised his hand so that we could see his white armpits and (said,): "O Allah, didn't I say it, didn't I say it three times". (HR. Bukhari & Muslim).*

In the above hadith the Prophet did not order Ibn Lutbiyyah to return the wealth he had obtained in the form of gifts (bribes/bribes) to the gift givers, but the Prophet only reproached him. If the illicit property (non-halal goods/funds) given by the owner with full pleasure does not belong to the recipient because the Prophet denounced him, nor was the forbidden property ordered by the Prophet to be returned to the giver, then of course the property belongs to the baitul maal (state treasury). At this time there is no Baitul Maal, so the assets (non-halal goods/funds) are donated to the poor and for the public interest/benefit. (Tarmizi, 2016); (Zallum, 2020).

Umar bin Khattab ra. He also confiscated the illegitimate assets of governors (wali), amil, qadhi (judges) and state employees whose assets were considered haram and then he put them into the baitul maal (state treasury). (Al-Baaz, 1998); (Zallum, 2020).

If the condition of the recipient of illicit assets (non-halal goods/funds) obtained from unlawful transactions based on the principle of mutual pleasure is a poor faqir, then he may take it to live only to fulfill his basic needs, until he gets halal wealth, take enough, the rest must be given in charity. (Tarmizi, 2016).

An Nawawi said, "If haram property is given to the poor, then the property is no longer haram in his hands, the status of the property in his hands is lawful and good. And if the holder of the illicit property is a poor person, then he may donate the property to himself and his family, because they also have a poverty status, and they are even more deserving of the property." (Al-Hanafii, t.thn).

### 3.3 Non-Halal Fund Income in Islamic Financial Institutions

The entry of non-halal funds in Islamic financial institutions is currently part of transactions between financial institutions, especially transactions between Islamic financial institutions and conventional financial institutions. This happens because conventional financial institutions in Indonesia and in every country still dominate, so that transactions between Islamic financial institutions and conventional financial institutions become common transactions and in some conditions cannot be avoided. (Ikatan Akuntan Indonesia, 2009).

Non-halal income at Islamic financial institutions is interest income received by Islamic financial institutions as a result of cooperation with other conventional entities. Furthermore, non-halal receipts are all receipts from activities that are not in accordance with Sharia principles, including receipts from demand deposits or interest from conventional commercial banks. The basis for the regulation is the Statement of Financial Accounting Standards (PSAK) 101 regarding the Presentation of Islamic Financial Statements (Ikatan Akuntan Indonesia, 2009).

According to Alim (2011), related to non-halal income, namely:

"Islamic banking can earn non-halal income from two things. The first is the interest earned on interbank deposits, and the second is bank deposits to Bank Indonesia (BI). Islamic banks receive interest from other entities in an emergency, namely an emergency because there really is no other alternative and an emergency because of an interest, but of course this is no longer valid. Because Islamic banking is more than one or even more than five, why do Islamic banks still keep conventional banks as well as BI now has sharia instruments?"

Based on PSAK number 109 non-halal fund receipts are all receipts from activities that are not in accordance with sharia principles, including receipts from demand deposits or interest from conventional banks. (Ikatan Akuntan Indonesia, 2009).

The criteria for non-halal income or assets according to Sahroni (2014) are divided into two parts, namely:

- a. Assets that are haram because of their unclean nature (haram lidzatihi), such as intoxicating drinks (khamr), pork, and others.
- b. Any assets generated from non-halal businesses (al-kasbu alghairi al-mayru'), non-halal businesses such as: interest-bearing loans, gambling, bribery, corruption, buying and selling liquor, buying and selling pigs, and others.

The two types of assets are legally haraam/prohibited, the first because of their essence, and the second because they originate from business actions/muamalah that are not lawful. In practice, funds mobilized by Islamic financial institutions (LKS), especially Islamic banking, either in the form of savings or deposits, cannot be in the form of illicit assets because of their essence, what may happen is that savings or deposit funds originate from illegal business activities/muamalah. , such as Islamic financial institutions have deposits in conventional financial institutions whose profits are in the form of interest / usury (Sahroni, 2014).

The discussion on non-halal income was also raised by The MUI National Sharia Council (Dewan Syariah Nasional MUI, 2006) which states that non-halal income is any income sourced from non-halal businesses (al-kasbu alghairi al-mayru'). In addition, regarding the criteria for non-halal funds, the Fatwa of the MUI National Sharia Council (DSN) explains the types of business activities that are contrary to the sharia principles, namely:

- a. Conventional financial institution businesses, such as banking businesses conventional and conventional insurance.
- b. Investing in issuers (companies) which at the time of the transaction are in debt to usurious financial institutions. Because the two things above include usury activities which are forbidden in the texts, as the hadith of the Prophet : "Allah SWT. Cursed the party who eats usury, whom he assigned, the recorder and his two witnesses" (HR. Muslim & Ahmad).
- c. Gambling and games which are classified as gambling or trade which forbidden, because it includes maisir / gambling which is prohibited in Islam.
- d. Producers, distributors, as well as food and beverage traders who forbidden.
- e. Producers, distributors and or providers of goods or services morally damaging or harmful.

Based on the provisions of PSAK 109, Islamic financial institutions need to record non-halal income separately from zakat funds, infaq/shodaqoh funds (Shahnaz, 2015). This is as according to Alim (2011) who argues that Islamic banking must separate non-halal income by creating a separate account and separate it in its own financial statements on condition that it is received and recorded separately from other funds, especially from funds used for financing. main commercial business in Islamic financial institutions. In addition, Islamic financial institutions also record and report separately on the use of non-halal income in a report on the source and use of benevolent funds (qardhul hasan).

Based on the explanation of the basic concepts, criteria, and the MUI DSN Fatwa regarding non-halal income above, it can be concluded that any income from business that is prohibited by Islamic Sharia rules is prohibited. The income in question is interest on loan transactions, income from businesses with interest-bearing loan activities, and income from gambling, liquor, and morally damaging goods.



### 3.4 Utilization of Non-Halal Funds in Islamic Financial Institutions

According to [Yusuf Qardhawi \(2005\)](#), non-halal funds must be distributed according to Sharia provisions, namely avoiding consumption and worship facilities. Usually non-halal funds are distributed for social projects such as road construction, procurement of garbage bins, and other social agendas. These non-halal funds will be included in the virtue fund (qadhul hasan), but must be presented separately from the halal funds. Distributing non-halal funds according to [\(Aziz & Ulfah, 2008\)](#) is more important in one thing that is beneficial to Muslims (the benefit of Muslims). Income from these non-halal funds may not be used as business/business capital. This is in accordance with the rules of fiqh: [\(Sahroni, 2014\)](#). Any property that cannot be owned, then the property cannot be given to others.

In addition to fiqh rules, this is also regulated in the AAOIFI (Accounting and Auditing Organization for Islamic Financial Institutions) Sharia Standards [\(Sahroni, 2014\)](#), which are as follows:

Non-halal income may not be used for any activity, even by means of hilah (engineering) usury, such as being used to pay taxes.

Non-halal income according to [Hermawan \(2008\)](#) is one of the sources of qardhul hasan funds. The other sources of qardhul hasan funds are:

- a. Infaq and shadaqah, namely funds obtained from outside the bank or from customer account at customer request
- b. Donations (grants), namely funds that are also obtained from outside the bank, or customers and at their request without any coercion intended for social purposes.
- c. Fines, namely funds obtained for compensation that must be carried out by customers for violating banking rules.
- d. Non-halal income, namely funds originating from the receipt of demand deposits from conventional banks.

The use of non-halal funds among scholars is still a matter of study and there are differences of opinion (ikhtilaf). According to [Nadiyyah et al \(2016\)](#) there are two opinions of scholars who state the law on non-halal funds, namely:

- a. For scholars who allow the distribution of non-halal funds only for mashalih 'ammah (public benefit), based on the view that haram funds are haram for the owner and recipient. If the funds are haram for the recipient, then the recipient does not use the funds for his personal needs, but must be channeled for the construction of public facilities.
- b. For scholars who allow distribution for all social needs based on the view that haram funds are haram for the owner, but halal for the recipient (poor faqir). If the funds are lawful for the recipient, then the recipient can use the funds for their personal needs, including consumptive needs and community empowerment programs.

If the source of CSR (Corporate Social Responsibility) funds is completely non-halal, then the scholars agree that non-halal income is haraam, therefore it should not be used by the owner (the actor of the illicit business) for any needs (intentions), both physically and mentally. openly or by means of hilah (engineering), such as being used to pay taxes. Furthermore, non-halal income must be given or distributed to other parties as alms. As explained in the Bahrain AAOIFI Sharia Standard as follows: Non-halal income should not be used for any activities, even by means of hilah, such as being used to pay taxes. It is also in accordance with the fiqh rules: Any income that cannot be owned, then (the income) cannot be given (to other parties) [\(Hai'atu al-Muhasabah wa al-Muraja'ah li al-Muassasat al-Maliyah al-Islamiyah, 2010\)](#).

If non-halal funds cannot be used by the owner, to which party is it distributed? In the fatwa literature (an-Nawazil), it is explained that there are differences of opinion among scholars regarding the recipients of non-halal funds (Sahroni & Karim, 2015):

- a) The majority of scholars are of the opinion that non-halal funds should only be channeled for public facilities, such as road construction, and others. This is based on the view that non-halal funds are haram for the perpetrators and recipients. Therefore, the recipient may not use the funds for his personal needs, but must be channeled for the construction of public facilities.
- b) The opinion of some scholars such as Shaykh al-Qardhawi and Prof. Qurrah Dagi argues that non-halal funds may be channeled for all social needs (al-mashalih al-'ammah), both public facilities and other than public facilities such as consumptive needs and community empowerment programs. This is based on the view that non-halal funds are haram for the owner, but lawful for the recipient (poor faqir). If the funds are lawful for the recipient, the recipient (poor poor) can use the funds for their personal needs, including consumptive needs and community empowerment programs.

There are many reasons that the second opinion is the preferred opinion. Non-halal funds are haram for these illegal business actors, but when there has been a transfer of ownership by being channeled into social funds to other parties, then the funds become lawful to be used by the recipient (poor poor) to just meet their basic needs. Non-halal funds also do not belong to certain parties, but become public property. As long as it does not belong to a certain person or party, then the funds can be channeled to the poor and needy parties, either private entities such as the poor, or institutional entities such as social foundations, education. (See: <https://izi.or.id/peruntukan-dana-non-halal/>).

#### 4. CONCLUSION

When a person finds out that among his wealth there are haram assets, then he is obliged to repent by cleaning up his property as quickly as possible and not repeating the haram muamalah transactions in the future. If the illicit property resulting from a transaction that is not mutually agreeable between the two transacting persons and the whereabouts of the transaction partner is known, it must be returned or their consent must be requested. As for the whereabouts of the transaction partner and it is not possible to return the goods or money to its rightful owner, then the property is donated to the poor, or for the construction of public facilities and for other benefits, provided that the charity is intended on behalf of the legitimate owner of the goods or money. And if at a later date the legal owner of the goods or money is known, let him (the illegitimate owner) give him (the legal owner) a choice between being willing or if he is not willing then he (the illegitimate owner) must replace it.

If illicit assets are obtained through unlawful business with transactions based on mutual pleasure, such as money from usury, money from selling wine (khamr), money from adultery, money from bribes, then if he does not know the law the transaction is unlawful when he first does it. , then on the way he knows the law is haram and repents then the property is lawful to eat. However, if he knows that it is unlawful from the beginning to make a transaction and then repents, then he should give alms to the poor, and the property is lawful for the poor who receive his alms. Income and utilization of non-halal funds in Islamic Financial Institutions, these non-halal funds must be channeled by avoiding consumption and worship facilities. Usually non-halal funds are distributed for social projects such as road construction, procurement of garbage bins, and other social agendas.

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