



Published by:  
 International Conference on Law and Society, Faculty of  
 Law & Board of Research, Educational Development and  
 Community Empowerment (LP3M)  
 Universitas Muhammadiyah Yogyakarta



PROCEEDING INTERNATIONAL CONFERENCE ON LAW & SOCIETY 2017

PROCEEDING

INTERNATIONAL CONFERENCE ON  
**LAW AND SOCIETY**



YOGYAKARTA, 04 – 07 APRIL 2017

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



— P R O C E E D I N G —

INTERNATIONAL CONFERENCE ON  
**LAW AND  
SOCIETY**

Yogyakarta, 04 – 07 April 2017

LP3M & Faculty of Law Universitas Muhammadiyah Yogyakarta  
2017

## **PROCEEDING**

### **International Conference on Law and Society**

Yogyakarta, 04 – 07 April 2017

COPYRIGHTS 2017 International Conference on Law and Society

All rights reserved no part of this book may be produced, stored in a retrieval system, or transmitted, in any form of by any means, electronic, mechanical, photocopying, recording, or otherwise, without permission in writing from the publisher.

Editor:

Farid Sufian Shuaib (Guest Editor)

Sonny Zulhuda (Guest Editor)

Iwan Satriawan

Yordan Gunawan

M. Endrio Susila

Design: Djoko Supriyanto

Published by:

International Conference on Law and Society, Faculty of Law & Board of Research,  
Educational Development and Community Empowerment (LP3M) Universitas  
Muhammadiyah Yogyakarta

Proceeding International Conference on Law and Society, Yogyakarta

Faculty of Law & LP3M UMY

396; 18,5 x 29,7 cm



# Scientific Committee

---

Abdurrahman Bin Haqqi (University Islam Sultan Sharif Ali, Brunei Darussalam)  
Agus Yudha Hernopo (Universitas Airlangga, Surabaya, Indonesia)  
Ainul Jaria Binti Maidin (International Islamic University Malaysia, Malaysia)  
Denny Indrayana (University of Melbourne, Australia)  
Emmy Latifah (Universitas Negeri Sebelas Maret, Surakarta, Indonesia)  
Farid Sufian Shuaib (International Islamic University Malaysia, Malaysia)  
Fatih Aydogan (University of Istanbul, Turkey)  
Iqbal Abdul Wahab (International Islamic University Malaysia, Malaysia)  
Iwan Satriawan (Universitas Muhammadiyah Yogyakarta, Indonesia)  
Khairil Azmin Mokhtar (International Islamic University Malaysia, Malaysia)  
M. Akhyar Adnan (Universitas Muhammadiyah Yogyakarta, Indonesia)  
Meilinda Eka Yuniza (Universitas Gadjah Mada, Yogyakarta, Indonesia)  
Muchammad Ichsan (Universitas Muhammadiyah Yogyakarta, Indonesia)  
Muhammad Khaeruddin Hamsin (Universitas Muhammadiyah Yogyakarta, Indonesia)  
Mukti Fajar ND (Universitas Muhammadiyah Yogyakarta, Indonesia)  
Nadirsyah Hosen (Monash University, Australia)  
Prapanpong Khumon (University of Thai Chamber and Commerce, Thailand)  
Shimada Yuzuru (Nagoya University Japan)  
Sogar Simamora (Universitas Airlangga, Surabaya, Indonesia)  
Sri Wartini (Universitas Islam Indonesia, Yogyakarta, Indonesia)  
Sukree Langputeh (Fatoni University, Thailand)  
Syamsul Anwar (Universitas Islam Negeri Sunan Kalijaga, Yogyakarta, Indonesia)  
Yance Arizona (Leiden Universiteit, the Netherlands)  
Zaid Mohamad (International Islamic University Malaysia, Malaysia)  
Zuhairah Binti Abd Gaddas (Universitas Islam Sultan Zainal Abidin Kuala Terengganu, Malaysia)

---

# Message from Chairman

---

## **Yordan Gunawan**

Chairman, International Conference on Law and Society 6,  
Universitas Muhammadiyah Yogyakarta

Assalaamu'alaikumWarahmatullahiWabarakatuh,

In the Name of Allah, the most Gracious and the most Merciful. Peace and blessings be upon our Prophet Muhammad (S.A.W).

First and foremost, I felt honoured, on behalf of the university to be warmly welcomed and to be given the opportunity to work hand in hand, organizing a respectable conference. Indeed, this is a great achievement towards a warmers multilateral tie among UniversitasMuhammadiyah Yogyakarta (UMY), International Islamic University Malaysia (IIUM), UniversitiIslam Sultan Sharif Ali (UNISSA), Universiti Sultan ZainalAbidin Malaysia (UNiSZA), Fatoni University, Istanbul University, Fatih Sultan Mehmet Vakif University and Istanbul Medeniyet University.

I believe that this is a great step to give more contribution the knowledge development and sharing not only for eight universities but also to the Muslim world. Improving academic quality and strengthening our position as the procedures of knowledge and wisdom will offer a meaningful contribution to the development of Islamic Civilization. This responsibility is particularly significant especially with the emergence of the information and knowledge society where value adding is mainly generated by the production and the dissemination of knowledge.

Today's joint seminar signifies our attempts to shoulder this responsibility. I am confident to say that this program will be a giant leap for all of us to open other pathways of cooperation. I am also convinced that through strengthening our collaboration we can learn from each other and continue learning, as far as I am concerned, is a valuable ingredient to develop our universities. I sincerely wish you good luck and success in joining this program

I would also like to express my heartfeltthanks to the keynote speakers, committee, contributors, papers presenters and participants in this prestigious event.

This educational and cultural visit is not only and avenue to foster good relationship between organizations and individuals but also to learn as much from one another. The Islamic platform inculcated throughout the educational system namely the Islamization of knowledge, both theoretical and practical, will add value to us. Those comprehensive excellent we strived for must always be encouraged through conferences, seminars and intellectual-based activities in line with our lullaby: The journey of a thousand miles begin by a single step, the vision of centuries ahead must start from now.

Looking forward to a fruitful meeting.

Wassalamu'alaikumWarahmatullahiWabarakatuh

---

# Foreword

---

## **Trisno Raharjo**

Dean, Faculty of Law, Universitas Muhammadiyah Yogyakarta

Alhamdulillah all praise be to Allah SWT for his mercy and blessings that has enabled the Fakultas Hukum, Universitas Muhammadiyah Yogyakarta in organizing this Inaugural International Conference on Law and Society 6 (ICLAS 6).

This Conference will be providing us with the much needed academic platform to discuss the role of law in the society, and in the context of our two universities, the need to identify the role of law in furthering the progress and development of the Muslims. Muslim in Indonesia and all over the world have to deal with the ubiquity of internet in our daily lives life which bring with it the advantages of easy access of global communication that brings us closer. However, internet also brings with it the depraved and corrupted contents posing serious challenges to the moral fabric of our society. Nevertheless, we should be encouraged to exploit the technology for the benefit of the academics in the Asia region to crat a platform to collaborate for propelling the renaissance of scholarship amongst the Muslims.

This Conference marks the beginning of a strategically planned collaboration that must not be a one off event but the beginning of a series of events to provide the much needed platform for networking for the young Muslim scholars to nurture the development of the Muslim society.

UMY aims to be a World Class Islamic University and intend to assume an important role in reaching out to the Muslim ummah by organising conferences hosting prominent scholars to enrich the developmment of knowledge. This plan will only materialise with the continous support and active participation of all of us. I would like to express sincere appreciation to the committee in organising and hosting this Conference.

---



# Committee

---

## **Advisors**

Rector, Universitas Muhammadiyah Yogyakarta

GUNAWAN BUDIYANTO

Dean, Law Faculty

TRISNO RAHARJO

Vice Dean, Law Faculty – Student, Alumni & Partnership

MUKHTAR ZUHDY

Vice Dean, Law Faculty – Human Resource Development

PRIHATI YUNIARLIN

## **Steering Committees**

Ainul Jaria Binti Maidin (International Islamic University Malaysia, Malaysia)

Ashgar Ali Ali Mohamed (International Islamic University, Malaysia)

Farid Sufian Shuaib (International Islamic University Malaysia, Malaysia)

Hajah Mas Noraini bin Haji Mohiddin (University Islam Sultan Sharif Ali, Brunei Darussalam)

Ibrahim Kaya (University of Istanbul, Turkey)

Iwan Satriawan (Universitas Muhammadiyah Yogyakarta, Indonesia)

Khaeruddin Hamsin (Universitas Muhammadiyah Yogyakarta, Indonesia)

Leli Joko Suryono (Universitas Muhammadiyah Yogyakarta, Indonesia)

Nasrullah (Universitas Muhammadiyah Yogyakarta, Indonesia)

Nejat Aday (Fatih Sultan Mehmed University Istanbul, Turkey)

Refik Korkusuz (Istanbul Medeniyet University, Turkey)

Sukree Langputeh (Fatoni University, Thailand)

Yordan Gunawan (Universitas Muhammadiyah Yogyakarta, Indonesia)

Zuhairah Binti Abd Gaddas (University Islam Sultan Zainal Abidin Kuala Terengganu, Malaysia)

## **Chairman**

Yordan Gunawan

## **Secretary and Secretariat**

Resa Wilianti

Andika Putra

## **Treasurer**

Reni Budi Setyaningrum

Qodriyah Isniyati

---

**Program**

Bagus Priyo Prasajo  
Mohammad Hazyar Arumbinang  
Hary Abdul Hakim

**Ex. Secretary**

Falah Al Ghozali  
Eka Widi Astuti

**Transportation**

Raiyan Maulana  
Habib Kesuma Dharma

**Documentation**

Albert Norman Pujimori  
Andi Rizal Ramadhan

**Accommodation**

Hikma Fajar Mukmin  
Novian Fahreza

**Publication & Publicity**

Andi Agus Salim  
Mufidah Haulah Ramrainy

**Documentation**

Albert Norman Pujimori  
Hilmi Prabowo  
Andi Rizal Ramadhan  
Arvin Setiyana Dewangga  
Yoeniar Haricha

**Publicity**

Aditiyo Eka Nugraha

**Liaison Officer**

Andi Pramawijaya Sar (Coordinator)  
AdisPutriNelaniken  
Andi Rifky Maulana Efendy  
Annisa Riani Artha  
Ade Armansyah  
Banu Putera Arutala  
Dania Amareza Pratiwi  
Dary Zulkarnaen Yuniarto  
Dean Adams  
Denandro Yusuf  
Dinda Andriandita  
Eggy Regina Yuniar  
FE Fikran Alfurqon  
Firdausi Al Ammarie  
HanifaEriyanto  
Hanna NurAfifahYogar  
Intan Zahra Husnaul Aziza  
IrfanNurFahmi  
Kurnia Maharani Santoso  
Litha Nabilla Mallolongan  
Mohammad Hari Adipurna  
MohamadAjiSantiko  
Muhammad Bima Aoron Hafiz  
Muhammad Irfan Nur Fahmi  
NaufalBagusPratama  
Naufal Halim Haidar  
Nerissa Azmes  
Nurul Alia  
Rama Cahyo Wicaksono  
Rima Ayu Andriana  
Rizki Habibullah  
Rizkita Bunga Salsabilla  
Sarah Fadhilah  
Tareq Muhammad Aziz Elven  
WalidaAlviLuthfiani  
Widya Aulia  
Witri Utami  
Yuliani Iriana Sitompul  
Zulfiani Ayu Astutik

# Table of Content

---

XX	Scientific Committee
XX	Message From Chairman
XX	Foreword
XX	Committee
1	Safeguarding Patient Safety: A Need to Re-Examine the Legal Responsibilities of Medical Trainees <b>Nur Farha binti Mohd Zaini, Puteri Nemie Jahn Kassim</b>
14	The Nigerian Policy on Critical Information Infrastructure <b>Mu'azu Abdullahi Saulawa, Ida Madieha Abdul Ghani Azmi, Sunny Zulhuda, Suzy Fadhilah Ismail</b>
30	A Study on Demographic Information of the Respondent in Cross-Border Marriage: An Empirical Evidence from the State of Perlis <b>Muhamad Helmi Md Said, Noraini Md Hashim, Nora Abd. Hak, Roslina Che Soh, Muhammad Amrullah Bin Drs Nasrul</b>
41	The Legal and Economic Ramifications of Apology in Civil Dispute Resolution Process <b>Muhammad Ridhwan Saleh and Puteri Nemie Jahn Kassim</b>
52	Internet of Things: Investigating Its Social and Legal Implications in A Connected Society <b>Sonny Zulhuda and Sidi Mohamed Sidi Ahmed</b>
61	General Average and Jettison: The Policy Under Marine Insurance to Assist Master to Make Decision During Distress <b>Mohd Sharifuddin Bin Ahmad, Zuhairah Ariff Abd Ghadas</b>
66	The Protection of Endangered Animals Under Indonesian Legal System: The Case of Illegal Poaching for Trade <b>Hanna Nur Afifah Yogar, Muhammad Hari Adipurna, and Nasrullah</b>
71	Dynamics and Problematics of Regional Head Election Disputes Settlement in Indonesia <b>Nasrullah, TantoLailam</b>
88	Criminal Legality Affecting Cybercrimes in Yemen <b>Ammar Abdullah Saeed Mohammed, Dr.Nazli Ismail Nawang, Prof. Dato' Dr.Hussin Ab Rahman</b>
99	A Comparison on the Scope of Limited Liability in Companies and <b>Shirkah al-Inan</b>
107	The Implications of ASEAN Banking Integration Framework (ABIF) to Indonesia Banking Law Reform <b>Lastuti Abubakar Tri Handayani</b>
119	The Effectiveness of Interparty Coalition-Building in Presidential Democracy <b>Nanik Prasetyoningsih</b>

- 130 Strengthening Constitutional Democracy through Constitutional Adjudication Institutions: A Comparative Study between Indonesia and Australia  
**Iwan Satriawan, KhairilAzmin Mokhtar, Muhammad Nur Islami, Salim Farrar**
- 147 Position and Acceptance of Fatwa of Council of Indonesian Ulama (MUI) by the State in Indonesian Legal System and Religious Court  
**IfaLatifaFitriani**
- 153 Penang World Heritage Office: *Quo Vadis?*  
**Nizamuddin Alias**
- 163 Measuring Feasibility of the Use of Chemical Castration Toward Offender of Sexual Violence Against Children in View of Human Rights And Proportionality Theory  
**Rusmilawati Windari**
- 178 The Dynamics of Human Rights Enforcement In Indonesia: a Misconception and Political Consideration in the Formulation of Law Number 26 Year 2000 on Human Rights Court  
**Muhammad Iqbal Rachman&SahidHadi**
- 187 The Challenges to Build the Culture of Human Rights in Islam  
**Martinus Sardi**
- 195 International Perspective on Incorporating Good Governance Principles in Three Countries' Land Administration System: Malaysia, Turkey and Indonesia  
**Sunarno, Ainul Jaria Maidin**
- 210 Mergers and Acquisition Law: The Need for Harmonization in ASEAN  
**Mushera Bibi Ambaras Khan, Ida Madieha, Nasarudin Abdul Rahman, Mohd Radhuan Arif Zakaria**
- 220 The Urgency of Strengthening the Regulation And the Implementation of *Musharaka Mutanaqishah* Financing on Islamic Banking in Indonesia  
**Isti'anah ZA, Falah Al Ghozali**
- 233 Securing the Right to Life on the War on Terror: A Comparative Analysis of Indonesia and Europe  
**Prischa Listiningrum, RizqiBachtiar, MohFadli**
- 241 The Inconsistency of Supreme Court Decision to Annul the Arbitratral Award in Indonesia  
**Fadia Fitriyanti**
- 246 Utilization (*intifa'*) of Unlawful Wealth Acquired by Unlawful Means from Islamic Legal Perspective  
**Badruddin Hj Ibrahim**
- 254 The Urgency of ASEAN Human Rights Court Establishment to Protect Human Rights in Southeast Asia  
**YordanGunawan, Tareq Muhammad Aziz Elven**

- 266 Religiosity in Criminal Law: Islamic Perspective  
**Abdurrahman Raden Aji Haqqi**
- 283 Assessing the Legal Protection for Farmers in the Policy Agricultural Insurance Facility  
**Dwiwiddy Jatmiko, Bayu, Hartini, Rahayu, Isrok, Mohammad**
- 299 Reviews Juridical on Fee Arrangements in Bankruptcy Curator After the Supreme Court Decision no. 54 P/HUM/2013  
**Rahayu Hartini**
- 310 The Causes of Terrorism in Malaysia  
**ZulKepli, Mohd Yazid bin**
- 319 Adequacy of the Law in Protecting the Rights of Adopted Children in Malaysia  
**Roslina Che Soh, Nora Abdul Hak, Noraini Md. Hashim, Mohd Helmi Said**
- 328 New Developments on Waqf Laws in Malaysia: Are They Comprehensive?  
**Nor Asiah Mohamad, Sharifah Zubaidah Syed Abdul Kader**
- 336 Detention under Anti Terrorism laws in Malaysia and Nigeria: An Expository Study on Boko Haram Suspects  
**Babagana Karumi, Farid Sufian Shuaib**
- 349 Robust Yet Fragile: Enactment of Law Number 16 Of 2011 to Promote the Role of Advocate in Implementing Legal Aid  
**Laras Susanti and Bayu Panji Pangestu**
- 356 2017 Constitutional Reform in Turkey: What the Constitutional Ammendment Draft will Change  
**Murat TUMAY**
- 357 Monitoring Implementation of the Convention on the Rights of Persons with Disabilities (CRPD) at National Level: Obligations on and Options for Malaysia  
**Khairil Azmin Mokhtar**
- 368 The Roles of KPPU on Supervision of Business Competition: A Case Study of Cartel Dispute Settlement in Indonesia  
**Mukti Fajar ND.; Diana Setiawati**
- 376 Role of Criminal Investigation Under Malaysian Land Law  
**Mohd Helmi Mat Zin**
- 382 The Importance of Comparatýve Law in Legal Educatýon  
**M. Refik Korkusuz**
- 385 The Reposition of Mediation Process in Islamic Economic Dispute Resolution Trough Religious Court After Perma No. 1 of 2016  
**Nunung Radliyah, Dewi Nurul Musjtari**

# Utilization (*intifa'*) of Unlawful Wealth Acquired by Unlawful Means from Islamic Legal Perspective

**BADRUDDINHJ IBRAHIM**

Islamic Law Department, Ahmad Ibrahim Kulliyah of Laws, International Islamic University Malaysia  
badruddin@iium.edu.my

---

## ABSTRACT

This study examines the issue of utilization (*intifa'*) of unlawful wealth which is acquired by unlawful means from Islamic legal perspective. The question is whether it is permissible for a Muslim to take benefit from the wealth that acquired by unlawful means? The discussion focuses on the meaning of utilization and its means; the meaning of unlawful wealth that acquired by unlawful means and its classification. It further examines the legal ruling on utilization of unlawful wealth by various means of utilizations. In addition, the study also deals with the manner in which the unlawful wealth is treated under Islamic law. The research is a library research where the issue will be examined from the perspective of the Qur'an and the *Sunnah* as the primary sources of Islamic law and follows with the examination of the view of Muslim jurists of four well-known schools of law as well as the view of contemporary Muslim scholars. In addition, the reference also will be made to legal opinions (*fatawa*) from some Muslim countries and some renowned Muslim scholars. It is hoped that the study may provide a clear reference and guideline regarding the utilization of unlawful wealth under Islamic law that is significant and beneficial to all in our present day.

Keywords: *Utilization, Unlawful wealth, Islamic Law, Unlawful means.*

---

## I. Introduction

One of the significant characteristics of a perfect ownership of wealth under Islamic law is that an owner of wealth has a full right and legal authority to utilize the wealth that he or she owns by all means of utilization.<sup>1</sup> Such enjoyment is to be within the limits prescribed by Islamic law and it is applicable to the case of wealth which is acquired by lawful means. The question arises here is that whether a person who acquired the wealth by unlawful means enjoys such right and possesses such legal authority?

## II. Discussion

### 1. Concept of Utilization (*intifa'*)

Utilization in Arabic is termed as '*intifa'*' and it is a verbal noun from the word *intafa'a*. It literally means to reach to the benefit.<sup>2</sup> Legally, there are some definitions given by the Muslim scholars. According to QadriBasha, 'permissible utilization' is a right of a person to use and exploit the wealth as long as its substance remains on its condition and even though such wealth is not owned.<sup>3</sup> This definition confines the utilization mainly on the using and exploiting the wealth whether by its owner or other person who is not an owner. Meanwhile Qal'ahJidefines utilization (*intifa'*) as the disposition of (*tasarruf*) something in the manner that intendsto gain benefit from it.<sup>4</sup> The 'disposition' is a general word includes any act done with respect to wealth to gain benefit from it whether by word or deed. On this basis, Jumanah asserts that the technical meaning of *intifa'* is not departed from its literal meaning. Both meanings refer to the reaching to

the benefit of something. This is not only confined to actual dispositions like eating, drinking, and so forth but it includes also verbal disposition like sale, leasing, gift etc. This is because these two types of disposition mean to reach to benefit of something.<sup>5</sup> In addition, al-'Abbadi classifies utilization mainly into two types: tangible disposition (*tasarrufatmadiyyah*) and legal disposition (*tasarruffatitibariyyah*).<sup>6</sup> Tangible disposition is the consumption and use. Meanwhile the legal disposition refers to the transferring of ownership of wealth where its legal effect is based on the consideration of the law. It is whether on the basis of exchange or without any exchange.<sup>7</sup> Similar to what has been defined by Qal'ah Jiand outlined by al-'Abbadi, Hattab defines utilization as the authority of enjoying three rights: right of use (*haq al-istikhdam*), right of exploitation (*haq al-istighlal*) and right of disposition (*haq al-tasarruf*).<sup>8</sup> The first one includes also consumption. The second one refers to the using of wealth to gain profit or fruit from it like leasing the wealth in return of rent. And the third one concerns with the transferring of ownership of wealth either with exchange or without exchange like sale, gift, bequest etc.<sup>9</sup>

Thus, it may conclude that utilization includes any act done with respect to wealth either by deed or by word to get benefit from it by means of consumption, use, exploitation and disposition.

## 2. Unlawful Wealth Acquired by Unlawful Means and its classifications

There are mainly two types of unlawful wealth under Islamic law: unlawfulness because of its attribute or substance (*muharram li wasfihiwa 'aynihi*) and unlawfulness because of its acquisition (*muharram li kasbihi*).<sup>10</sup> The first category refers to all type of tangible object which is physically prohibited by *shari'ah* because of its harmfulness or dirtiness such as liquor, pork, dead animal and blood.<sup>11</sup> Second category is unlawfulness because of other factor which is not related to its substance, as its substance is not dirty or harmful like the first category, but it is related to the means of its acquisition which is prohibited by *shari'ah*.<sup>12</sup> This type of unlawful wealth is of two types. Firstly, wealth which is acquired not based on the consent of its owner such as wealth which is acquired by means of theft, misappropriation and breach of trust. Secondly, wealth which is acquired through consent between the parties' involved but it is not recognized by Islamic law such as taking usury (*riba*) or wealth which is acquired by means of gambling, bribery, prostitution, human trafficking, trading of prohibited items like liquor, pork etc.<sup>13</sup>

The discussion in this paper focuses on the utilization of the second type of unlawful wealth i.e. unlawful wealth which is acquired by unlawful means with respect to consumption, exploitation and transaction.

## 3. Utilization of unlawful wealth from Islamic legal perspective

The Muslim jurists of four well-known schools of law, Hanafi, Maliki, Shafi'i and Hanbali, are in agreement that it is not permissible for Muslim to utilize wealth which is acquired by unlawful means. Al-Sarakhsi<sup>14</sup> of the Hanafi jurist clearly states that if a means of earning is prohibited, the income from such earning is certainly prohibited for consumption. This is because, as means of gaining an income is prohibited, the income which is resulted from it would also be prohibited. The example is that if the selling of wine is prohibited for Muslim, the consumption of income from the sale of wine is also prohibited.<sup>15</sup> In addition, he further asserts that a person will be punished (in hereafter) for taking or having an income from unlawful means of earning.<sup>16</sup> His argument is based on many Sunnah of the Prophet (peace be upon him)<sup>17</sup> and among others,

"From Abu Bakr that the Messenger of Allah says: every flesh which grows from unlawful

wealth, the hell-fire is more deserving for it.”<sup>18</sup>

Ibn Taymiyyah of the Hanbali school also clearly states that the income which is acquired by unlawful means like selling wine and prostitute is not permissible for one who acquired it.<sup>19</sup> According to al-Dusuqi of the Maliki jurist, a channel of lawful wealth in case if it cannot be returned to its original owner is to be given to the poor people or for the interest of Muslim.<sup>20</sup> Al-Ghazali of the Shafi'i jurists asserts that one who has in his possession wholly unlawful wealth, it is obligatory on him to giving out the whole wealth either to its original owner if the owner is known or to the poor if the owner is unknown.<sup>21</sup>

The contemporary Muslim scholars are also in the same position with the classical Muslim regarding the utilization of unlawful wealth. Rafiq al-Misri clearly contends that, “It is not permissible for one who acquired income by unlawful means to utilize such income. It is obligatory on him to return it back to its original owners if it is possible to know them unless it has to be channeled for public interest and charity with the condition that he is not continuing of acquiring it.”<sup>22</sup>

Some of the contemporary Muslim scholar clearly expresses that unlawful wealth cannot be utilized by all means. The well-known Yusuf al-Qardawi when he is asked about the issue of the usury from the bank, he replies that,

“It is not permissible for one who acquired wealth by unlawful means to utilize such wealth. This is because it is considered as consuming something forbidden. It is the same thing with the utilization for food, drink, cloth, lodging, any payment to Muslim and non-Muslim, payment of any tax to the government...and also for fuel...”

The late Wahbah al-Zuhayli also agreed with al-Qardawi that unlawful wealth cannot be utilized by all means. In replying to the question on the issue of bank interest he states that,

“It is prohibited for one who earns unlawful wealth from usury to utilize it by all means. It is not for the payment of tax, any payment to the states, payment of zakat, or any payment with respect to banking transactions...”<sup>23</sup>

The legal opinion (fatwa) of the Muslim countries like Egypt, Saudi Arabia, Jordan, Kuwait as well as Malaysia is also in the same position with the view of Muslim jurists and contemporary Muslim scholars.

The prohibition of utilizing unlawful wealth is based on the authority of the Qur'an. There are many verses of the Qur'an that clearly states to the effect,

“And do not eat up your property among yourselves for vanities nor use it as bait for the judges with the intent that ye may eat up wrongfully and knowingly a little of other's people”.<sup>24</sup>

“O ye who believe! do not eat up your property among yourself in vanities; but let there be among you trade by mutual consent.”<sup>25</sup>

In this respect, al-Jassas asserts that the taking of wealth unlawfully is by two means. Firstly, the taking of wealth by means of oppression, theft, breach of trust, usurpation and others of similar nature. Secondly, the taking of wealth by means which is prohibited by *Shari'ah* even though with the consent of owner like gambling, ...income from selling wine, swine, human trafficking and other means which are not allowed to own its income.<sup>26</sup>

The prohibition of utilizing unlawful wealth is also based on the *sunnah*. There are many



sunnah reported from the Prophet on this issue, among others,

“From AbiMas’ud ‘UqbahibnAmru, he said: The Messenger of Allah (peace be upon him) forbade taking the price of dog, money earned by prostitution and the earning of sooth-sayer.”<sup>27</sup>

“Abu Hurayrah reported the Messenger of Allah (peace be upon him) as saying: Allah forbade wine and the price paid for it, and forbade dead meat and the price paid for it and forbade swine and the price paid for it.”<sup>28</sup>

“The Messenger of Allah (peace be upon him) says...: when Allah declared eating of a thing forbidden for a people, He declares its price also forbidden for them.”<sup>29</sup>

In this regard, IbnRijab of the Hanbali contends that anything that Allah forbade, to sell and to consume its price are also prohibited. Thus the discussion clearly shows that the utilization of an income from unlawful means is not permissible.

#### 4. Spending unlawful wealth for maintenance

The question here is whether a person can utilize unlawful wealth for maintenance of himself and his family. As discussed above, the unlawful wealth cannot be utilized by those who acquired it. The general rule is that the unlawful wealth has to be returned to its original owner or to be given to the needy and the poor or for the public interest. But the issue arises in the case if the original owner is unknown and a person who acquired unlawful wealth or earner is poor, the question is whether the earner can expense such wealth for maintenance himself instead of donating it to another poor or needy person.

There are two opinions regarding this matter. According to the majority of Muslim jurists, the Hanafis, Malikis, Shafi’is and Hanbalis, in case if the earner is in need and there is no means of lawful income, he or she is allowed to take it for maintaining himself and his family.<sup>30</sup> Imam Nawawi of the Shafi’i jurists contends that it is for the earner to spend for maintaining himself and his family if they are poor. This is because they are under the category of poor person and they are more deserved.<sup>31</sup> The argument of this view is that this unlawful wealth has to be disposed to the poor and needy because its original owner is unknown. In case if the earner of this unlawful wealth is poor and in need, he certainly comes under the category of a person who is entitled to receive this wealth.<sup>32</sup>

On the other hand, according to al-Harith al-Muhasibi, it is not permissible for a poor earner to spend the unlawful wealth for maintaining himself and his family. In the case if he spends it for maintenance, it is considered as a debt due on him and he has to pay it back when he is well-off.<sup>33</sup> The argument is that it is an obligatory for a Muslim to dispose of all unlawful wealth in his possession. He has to be patient and has trust in Allah. Further, he has to find a lawful income and not to take unlawful wealth. Thus, if he takes unlawful wealth he has transgressed and breached the trust to Allah.<sup>34</sup>

The preferable view is the view of the majority of Muslim jurists who based on necessity and needs and the protection of one’s life and this is in line with the objectives of Islamic law. This is also because the earner of unlawful wealth and his family come under the category of those who are entitled to be recipient of this type of wealth. Therefore, they are more deserved. Thus the poor and needy earner of unlawful wealth is allowed to take such wealth for maintaining himself and his family. Nevertheless, the Muslim jurists have differences of opinion regarding to the amount which is permissible to be taken for maintenance.

There seems to be no discussion under the Hanafi jurists on this issue. As regards the Hanbali jurists, they do not clearly outline the amount that to be taken for maintenance. But as stated by Ibn Qayyim, the earner is allowed to take as according to his need only and the rest has to be disposed of.<sup>35</sup> Meanwhile the Maliki jurists are of the view that it is allowed to take the wealth which is sufficient for one day. On the other hand, Imam Ghazali of the Shafi'i jurists states that it is allowed for the earner to take the unlawful which is sufficient for maintaining himself and his family for one year.<sup>36</sup> It follows that taking such property cannot seem to be excessive as the permissibility for the earner to take unlawful wealth for maintaining himself and his family is based on necessity and need and thus it should be measured as according to the need. This is based on the *fiqh* maxim "Necessities are estimated according to their quantity."<sup>37</sup>

In addition to the above, for the purpose of maintaining the children, according to Muhammad Albaz, if the child is a needy or poor and doesn't have any income except from his father, it is permissible for the child to accept this unlawful wealth from his father based on necessity. But, if the child is affordable to get his own income for his expenses, it is prohibited for him to accept this unlawful wealth from his father or otherwise he is sinful.<sup>38</sup>

##### 5. Treatment of unlawful wealth

The Muslim jurists are of the view that a person who earns an income or acquires wealth by unlawful means, he or she has to repent for what has been done. The Muslim jurists are in agreement that if the wealth which is acquired without the consent of the owner, the earner has to return it back to its owner if it is known and alive. In the case if the owner has died, the wealth has to be given to his legal heir. In the case that the owner is unknown, the wealth has to be given to the poor and needy or any charitable purpose for the benefit of the public.<sup>39</sup>

With regard to the wealth which is acquired with the consent of the owner, the Muslim jurists again differed. Majority of the Muslim jurists are of the opinion that the unlawful wealth cannot be returned back to the owner because it may encourage persons to continue with wrongful activities. They enjoy with what have been done and they will get back what they have spent.<sup>40</sup> Their argument is based on the Sunnah of the Prophet (PBUH) that stated to the effect,

"Narrated Abu Humaid As-Sa'idi: Allah's Messenger (PBUH) appointed a man called Ibn Al-Lutabiyya to collect the Zakat from Bani Sulaim's tribe. When he returned, the Prophet (PBUH) called him to account. He said (to the Prophet, 'This is your money, and this has been given to me as a gift.' On that, Allah's Messenger (PBUH) said, "Why didn't you stay in your father's and mother's house to see whether you will be given gifts or not if you are telling the truth?" Then the Prophet (PBUH) addressed us, and after praising and glorifying Allah, he said: "Amm Ba'du", I employ a man from among you to manage some affair of what Allah has put under my custody, and then he comes to me and says, 'This is your money and this has been given to me as a gift. Why didn't he stay in his father's and mother's home to see whether he will be given gifts or not? By Allah, not anyone of you takes a thing unlawfully but he will meet Allah on the Day of Resurrection, carrying that thing. I do not want to see any of you carrying a grunting camel or a mooing cow or a bleating sheep on meeting Allah." Then the Prophet (PBUH) raised both his hands till the whiteness of his armpits became visible, and he said, "O Allah! Haven't I have conveyed (Your Message)?" ...<sup>41</sup>

This above *hadith* shows that the Prophet did not ask Ibn al-Latbiyah to return back the wealth to its owner, but the Prophet asked him to give it to *baitulmal* for the interest of Muslims.

Another view is the Hanafi jurists who are of the view that the wealth must be returned back to the owner whether it is taken with or without his permission. This is because the wealth can only be given for the donation if it cannot be returned back to its owner.<sup>42</sup>The preferable view is the view of the majority of the Muslim jurists who held that the unlawful wealth cannot be returned back to its owner. This is because if it given back to the owner, it will encourage and promote a wrongful act and sin in society.<sup>43</sup>The promotion of sin is prohibited. This is based on the authority of the Qur'an that states to the effect,

“Help you one another in (virtue, righteousness and piety); but do not help one another in sin and transgression”<sup>44</sup>

On the other hand, the Zahiri school of law and al-Fudhillbnl'yad are of the view that unlawful cannot be utilized by anyone and it has to be thrown away.<sup>45</sup>

### III. Closing

#### 1. Conclusion

The discussion clearly shows that the wealth which is acquired by unlawful means cannot be utilized by an earner by all means. Nevertheless, there is an exceptional rule in the case where the earner is poor and in needs. He is allowed to take such wealth for maintaining himself and his family as for subsistence only and not for excessive and luxury. The unlawful wealth has to be disposed of to the right recipient and for the interest of the public. It is not to be thrown out without making any benefit. This is considered as wasting of resources and thus not in line with the objectives of Islamic law. This is due to the fact that the wealth itself is not physically unlawful but the unlawfulness is because of the means of its acquisition. Therefore, it can be utilized for the interest of the public.

### ENDNOTES

<sup>1</sup> Musa, Muhammad Yusof, *al-Amwal wa Nazariyat al-'Aqd fi al-Fiqh al-Islami*, Dar al-Fikr al-'Arabi, Cairo-Egypt, 1996/1417H, p. 154.

<sup>2</sup> IbnuManzur, Abu al-Fadl Jamal al-Din Muhammad IbnMakram, *Lisan al'Arab*, Dar Sadir, Beirut-Lebanon, n.d., Vol. 8, p. 358.

<sup>3</sup> Basha, Muhammad Qadri, *Murshid al-Hayran*, Dar al-Farjani, Cairo-Egypt, 1983, p. 5.

<sup>4</sup> Qal'ah Ji, Muhammad Rawwas et.al, *Mu'jam Lughat al-Fuqaha'-'Arabi-Inglizi-Afransi*, Dar al-Nafa'is, Amman-Jordan, 1416H/1996, p. 72.

<sup>5</sup> Jumanah, Muhammad Abd al-Razzaq, *al-Intifa' bi al-'Ayan al-Muharramah min al-At'imah wa al-Ashribah wa al-Albisah*, Dar al-Nafa'is, Amman-Jordan, 1420H/2005, p. 20.

<sup>6</sup> Al-'Abbadi, 'Abd al-Salam Daud, *al-Milkiyyah fi al-Shari'ah al-Islamiyyah*, Mu'assasah al-Risalah, Beirut-Lebanon, Vol, 1, p. 453.

<sup>7</sup> Ibid.

<sup>8</sup> Hattab, Kamal Tawfiq, '*al-Amwal ghayr al-Mutaqawwimah min ManzurIslami*' Journal of Shariah and Islamic Studies, 31 (104), 2016, p. 241.

<sup>9</sup> Ibid., pp. 240-241.

<sup>10</sup> Ibn Taymiyyah, Taqiyy al-din Ahmad, *Majmu'ah al-Fatawa*, Dar al-Hadith, Cairo, Egypt, 1427H/2006, Vol. 29, p. 147. ; Al-Ghazali, Abi Hamid Muhammad bin Muhammad, *Ihya' 'Ulum al-Din*, Dar al-Hadith, Cairo, Egypt, 1412/1992, Vol. 2, p. 145.

<sup>11</sup> Al-Baz, p. 40. ; Fayyad, p. 33.

<sup>12</sup> Al-Baz, p. 43. ; Fayyad, pp. 33-34.

<sup>13</sup> Fayyad, p. 34.

<sup>14</sup> The Hanafi jurist of the fifth century hijrah, died 490 H/1097 AD.

<sup>15</sup> Al-Sarakhsi, Abu Bakr Muhammad ibn Ahmad ibn Abi Sahal, *al-Mabsut*, Dar al-Kutub al-'Ilmiyyah,

Beirut, Lebanon, 1421H/2001, Vol. 30, p.275.

<sup>16</sup>Ibid., Vol. 30, p. 311.

<sup>17</sup> Ibid., Vol. 30, pp. 311-312.

<sup>18</sup> It is reported by al-Tirmizi.

<sup>19</sup>Ibn Taymiyyah, vol. 15, pp. 170-171.

<sup>20</sup>Al-Dusuqi, Sham al-Din al-Shaykh Muhammad 'Arafah, *Hashiah al-Dusuqi ala al-Sharh al-Kabir*, Dar al-Fikr, Beirut-Lebanon, 1998/1419H, Vol. 3, p. 426.

<sup>21</sup>Al-Ghazali, Abi Hamid Muhammad bin Muhammad, Dar al-Hadith, Cairo-Egypt, 1992/1412H, Vol. 2, p. 208.

<sup>22</sup>Yunus al-Misri, Rafiq, *Fiqh al-Mu'amalat al-Maliyyah*, Dar al-Qalam, Damascus-Syria, 2005/1426, p. 319.

<sup>23</sup>Al-Zuhayli, Wahbah, *Fatawa Mu'asirah*, Dar al-Fikr, Damascus-Syria, 2010/1431, pp. 124-125.

<sup>24</sup>*Al-Quran*, Surah Al-Baqarah, 2:188

<sup>25</sup> Al-Qur'an, al-Nisa' (4): 29

<sup>26</sup>Al-Jasas, Abi Bakr Ahmad bin Ali al-Razi, *Ahkam al-Qur'an*,

<sup>27</sup> It is reported by al-Bukhari, Muslim, Abu Daud, al-Tirmizi, al-Nasa'I and Ibn Majah.

<sup>28</sup>It is reported by Abu Daud.

<sup>29</sup>It is reported by Abu Daud.

<sup>30</sup>Abbas Ahmad Muhammad al-Baz, *Ahkam al-Mal al-Haram wa Dawabith al-Intifa' wa Tasarrufbih fi al-Fiqh al-Islami*, Urdun: Dar Al-Nafais, 1999, 2<sup>nd</sup>edition, p 284

<sup>31</sup>Al-Nawawi, Yahya bin Syarf al-Nawawi, *al-Majmu' Syarh al-Muhazzab*, Tahqiq Muhammad Najib al-Muti'i, Jeddah: Maktabah al-Irsyad, n.d. Vol. 9 p. 428

<sup>32</sup>Abbas Ahmad Muhammad al-Baz, *Ahkam al-Mal al-Haram wa Dawabith al-Intifa' wa Tasarrufbih fi al-Fiqh al-Islami*, Urdun: Dar Al-Nafais, 1999, 2<sup>nd</sup>edition, p 286

<sup>33</sup> Al-Ghazali, Abu Hamid Muhammad bin Muhammad, *Ihya Ulum al-Din*, (Beirut: Dar al-Fikr, 1989) 2<sup>nd</sup> edition, vol 2 p 206

<sup>34</sup>Abbas Ahmad Muhammad al-Baz, *Ahkam al-Mal al-Haram wa Dawabith al-Intifa' wa Tasarrufbih fi al-Fiqh al-Islami*, (Urdun: Dar Al-Nafais, 1999) 2<sup>nd</sup>edition, p 286

<sup>35</sup>Ibn Qayyim al-Jawziyyah, *Zad al-Ma'ad fi Huda Khayr al-'Ibad*, Dar al-Bayan al-'Arabi, Cairo-Egypt, 2002, p. 365.

<sup>36</sup>Al-Ghazali, *Ihya Ulum al-Din*, vol. 2, p. 206.

<sup>37</sup>Article 22 of The Majelle.

<sup>38</sup>Abbas Ahmad Muhammad al-Baz, *Ahkam al-Mal al-Haram wa Dawabith al-Intifa' wa Tasarrufbih fi al-Fiqh al-Islami*, Urdun: Dar Al-Nafais, 1999, 2<sup>nd</sup>edition, p 289-290

<sup>39</sup>Al-Turi, Takmilah al-Bahr al-Ra'iq, vol. 8, p.369.; al-Sawi, Buldhat al-Salik li Aqrab al-Masaliq, vol. 3, p. 231.

<sup>40</sup> Abdul Majid Qasim Aswaikir, *Ghaslu Al-Amwal fi Dhui Ahkam Al-Syariah Al-Islamiah, Dirasah Muqaranah*, Libya: Jamiah Sirat, 2009, p 308

<sup>41</sup> Sahih al-Bukhari, Book of Tricks, Chapter: Tricks by an official person to obtain presents, 6979.

<sup>42</sup> Ibn Abidin, Muhammad Amin asy-Syahir bi Ibn Abidin, *Hasyiah Radd al-Muhtar a'la al-Dar al-Mukhtar*, Tahqiq Muhammad Subhi Hasan Halaq, (Beirut: Dar Ihya al-Turath al-Arabi, 1998) vol 9 p 470.

<sup>43</sup> Abdul Majid Qasim Aswaikir, *Ghaslu Al-Amwal fi Dhui Ahkam Al-Syariah Al-Islamiah, Dirasah Muqaranah*, (Libya: Jamiah Sirat, 2009) p 310-311

<sup>44</sup>*Al-Quran*, (Surah al-Maidah), 5:2.

<sup>45</sup> Abdul Majid Qasim Aswaikir, *Ghaslu Al-Amwal fi Dhui Ahkam Al-Syariah Al-Islamiah, Dirasah Muqaranah*, (Libya: Jamiah Sirat, 2009) p 306

## References

1. Musa, Muhammad Yusof, *al-Amwal wa Nazariyat al-'Aqd fi al-Fiqh al-Islami*, Dar al-Fikr al-'Arabi, Cairo-Egypt, 1996/1417H.
2. IbnuManzur, Abu al-Fadl Jamal al-Din Muhammad IbnMakram, *Lisan al-Arab*, Dar Sadir, Beirut-Lebanon.
3. Basha, Muhammad Qadri, *Murshid al-Hayran*, Dar al-Farjani, Cairo-Egypt.
4. Qal'ah Ji, Muhammad Rawwas et.al, *Mu'jam Lughat al-Fuqaha': 'Arabi-Inglizi-Afransi*, Dar al-Nafa'is,

- Amman-Jordan, 1416H/1996.
5. Jumanah, Muhammad Abd al-Razzaq, *al-Intifa' bi al-'Ayan al-Muharramah min al-At'imah wa al-Ashribah wa al-Albisah*, Dar al-Nafa'is, Amman-Jordan, 1420H/2005.
  6. Al-'Abbadī, 'Abd al-Salam Daud, *al-Milkiyyah fi al-Shari'ah al-Islamiyyah*, Mu'assasah al-Risalah, Beirut-Lebanon.
  7. Hattab, Kamal Tawfiq, '*al-Amwal ghayr al-Mutaqawwimah min Manzur Islami*' Journal of Shariah and Islamic Studies, 31 (104).
  8. Ibn Taymiyyah, Taqiyy al-din Ahmad, *Majmu'ah al-Fatawa*, Dar al-Hadith, Cairo, Egypt, 1427H/2006, Vol. 29, p. 147. ; Al-Ghazali, Abi Hamid Muhammad bin Muhammad, *Ihya' 'Ulum al-Din*, Dar al-Hadith, Cairo, Egypt, 1412/1992.
  9. The Hanafi jurist of the fifth century hijrah, died 490 H/1097 AD.
  10. Al-Sarakhsi, Abu Bakr Muhammad ibn Ahmad ibn Abi Sahal, *al-Mabsut*, Dar al-Kutub al-'Ilmiyyah, Beirut, Lebanon, 1421H/2001.
  11. Al-Dusuqi, Sham al-Din al-Shaykh Muhammad 'Arafah, *Hashiah al-Dusuqi ala al-Sharh al-Kabir*, Dar al-Fikr, Beirut-Lebanon, 1998/1419H, Vol. 3.
  12. Al-Ghazali, Abi Hamid Muhammad bin Muhammad, Dar al-Hadith, Cairo-Egypt, 1992/1412H.
  13. Yunus al-Misri, Rafiq, *Fiqh al-Mu'amalat al-Maliyyah*, Dar al-Qalam, Damascus-Syria, 2005/1426.
  14. Al-Zuhayli, Wahbah, *Fatawa Mu'asirah*, Dar al-Fikr, Damascus-Syria, 2010/1431.
  15. *Al-Quran*, Surah Al-Baqarah, 2:188
  16. *Al-Qur'an*, al-Nisa' (4): 29
  17. Al-Jasas, Abi Bakr Ahmad bin Ali al-Razi, *Ahkam al-Qur'an*,
  18. It is reported by al-Bukhari, Muslim, Abu Daud, al-Tirmizi, al-Nasa'I and Ibn Majah.
  19. It is reported by Abu Daud.
  20. Abbas Ahmad Muhammad al-Baz, *Ahkam al-Mal al-Haram wa Dawabith al-Intifa' wa Tasarrufbih fi al-Fiqh al-Islami*, Urdun: Dar Al-Nafais, 1999, 2<sup>nd</sup> edition.
  21. Al-Nawawi, Yahya bin Syarf al-Nawawi, *al-Majmu' Syarh al-Muhazzab*, Tahqiq Muhammad Najib al-Muti'i, Jeddah: Maktabah al-Irsyad, n.d.
  22. Abbas Ahmad Muhammad al-Baz, *Ahkam al-Mal al-Haram wa Dawabith al-Intifa' wa Tasarrufbih fi al-Fiqh al-Islami*, Urdun: Dar Al-Nafais, 1999, 2<sup>nd</sup> edition.
  23. Al-Ghazali, Abu Hamid Muhammad bin Muhammad, *Ihya' Ulum al-Din*, (Beirut: Dar al-Fikr, 1989) 2<sup>nd</sup> edition.
  24. Abbas Ahmad Muhammad al-Baz, *Ahkam al-Mal al-Haram wa Dawabith al-Intifa' wa Tasarrufbih fi al-Fiqh al-Islami*, (Urdun: Dar Al-Nafais, 1999) 2<sup>nd</sup> edition.
  25. Ibn Qayyim al-Jawziyyah, *Zad al-Ma'ad fi Huda Khayr al-'Ibad*, Dar al-Bayan al-'Arabi, Cairo-Egypt, 2002.
  26. Al-Ghazali, *Ihya' Ulum al-Din*.
  27. Article 22 of The Majelle.
  28. Abbas Ahmad Muhammad al-Baz, *Ahkam al-Mal al-Haram wa Dawabith al-Intifa' wa Tasarrufbih fi al-Fiqh al-Islami*, Urdun: Dar Al-Nafais, 1999, 2<sup>nd</sup> edition.
  29. Al-Turi, Takmilah al-Bahr al-Ra'iq, vol. 8, p.369.; al-Sawi, Buldhat al-Salik li Aqrab al-Masaliq.
  30. Abdul Majid Qasim Aswaikir, *Ghaslu Al-Amwal fi Dhui Ahkam Al-Syariah Al-Islamiah, Dirasah Muqaranah*, Libya: Jamiah Sirat, 2009.
  31. Sahih al-Bukhari, Book of Tricks, Chapter: Tricks by an official person to obtain presents, 6979.
  32. Ibn Abidin, Muhammad Amin asy-Syahir bi Ibn Abidin, *Hasyiah Radd al-Muhtar a'la al-Dar al-Mukhtar*, Tahqiq Muhammad Subhi Hasan Halaq, (Beirut: Dar Ihya al-Turath al-Arabi, 1998)
  33. Abdul Majid Qasim Aswaikir, *Ghaslu Al-Amwal fi Dhui Ahkam Al-Syariah Al-Islamiah, Dirasah Muqaranah*, (Libya: Jamiah Sirat, 2009) *Al-Quran*, (Surah al-Maidah), 5:2.
  34. Abdul Majid Qasim Aswaikir, *Ghaslu Al-Amwal fi Dhui Ahkam Al-Syariah Al-Islamiah, Dirasah Muqaranah*, (Libya: Jamiah Sirat, 2009)