

## A Normative Review of Indonesia's Tax Amnesty Law from an Islamic Constitutional Perspective

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### Abstract

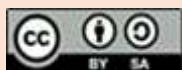
Tax amnesty remains one of the most debated fiscal policies in contemporary governance, particularly in Muslim-majority countries where legal legitimacy is expected to align with ethical and religious values. Existing studies primarily evaluate tax amnesty from economic, fiscal, and administrative perspectives, while limited attention has been given to its constitutional-ethical legitimacy within the framework of Islamic constitutionalism. This study aims to examine the normative legitimacy of Indonesia's Tax Amnesty Law (Law No. 11 of 2016) through the principles of justice (*al-'adl*), public trust (*amānah*), equality before the law (*al-musāwāh*), and public welfare (*maṣlahah 'āmmah*). Employing normative juridical research with statutory, conceptual, and comparative approaches, the study analyzes legislation, Constitutional Court decisions, and contemporary literature on Islamic constitutional law and *maqāṣid al-sharī'ah*. The findings reveal that although the tax amnesty policy achieved short-term fiscal objectives, it generated normative tensions concerning distributive justice, legal equality, and ethical accountability. Comparative evidence from Malaysia and Pakistan indicates that the integration of moral and religious narratives can enhance the legitimacy and public acceptance of fiscal policies. This study contributes to the literature by proposing an Islamic constitutional framework for evaluating fiscal legislation, integrating constitutional legality with moral legitimacy as a foundation for sustainable fiscal governance in Muslim-majority constitutional democracies.

*[Pengampunan pajak merupakan salah satu kebijakan fiskal yang paling diperdebatkan dalam tata kelola pemerintahan kontemporer, terutama di negara-negara mayoritas Muslim yang menuntut keselarasan antara legalitas hukum dengan nilai-nilai etika dan agama. Penelitian terdahulu umumnya menilai kebijakan pengampunan pajak dari perspektif ekonomi, fiskal, dan administrasi, sementara kajian mengenai legitimasi konstitusional-etis dalam kerangka hukum tata negara Islam masih relatif terbatas. Penelitian ini bertujuan menganalisis legitimasi normatif Undang-Undang Nomor 11 Tahun 2016 tentang Pengampunan Pajak berdasarkan prinsip keadilan (*al-'adl*), amanah, persamaan di hadapan hukum (*al-musāwāh*), dan kemaslabatan umum (*maṣlahah 'āmmah*). Penelitian menggunakan metode yuridis normatif dengan pendekatan perundang-undangan, konseptual, dan komparatif melalui analisis terhadap peraturan perundang-undangan, putusan Mahkamah Konstitusi, serta literatur kontemporer mengenai hukum tata negara Islam dan *maqāṣid al-sharī'ah*. Hasil penelitian menunjukkan bahwa meskipun kebijakan pengampunan pajak berhasil mencapai tujuan fiskal jangka pendek,*

*kebijakan tersebut menimbulkan persoalan normatif terkait keadilan distributif, kesetaraan hukum, dan akuntabilitas etis. Analisis perbandingan dengan Malaysia dan Pakistan menunjukkan bahwa integrasi narasi moral dan nilai-nilai keagamaan dapat memperkuat legitimasi serta penerimaan publik terhadap kebijakan fiskal. Kontribusi penelitian ini adalah menawarkan kerangka evaluasi hukum fiskal berbasis konstitusionalisme Islam yang mengintegrasikan legalitas konstitusional dengan legitimasi moral sebagai fondasi tata kelola fiskal yang berkelanjutan dalam negara demokrasi konstitusional mayoritas Muslim.*

**Keywords:** Islamic constitutional law, tax amnesty, *maqāṣid al-sharī'ah*, distributive justice, legal positivism, fiscal ethics.

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## INTRODUCTION

Tax amnesty has become one of the most widely debated fiscal policy instruments in contemporary governance, particularly in developing economies seeking to improve tax compliance, increase state revenue, and encourage asset repatriation. Despite its widespread adoption, the legal legitimacy and long-term effectiveness of tax amnesty programs remain contested. In Indonesia, the enactment of Law No. 11 of 2016 on Tax Amnesty generated significant debate among legal scholars, policymakers, and fiscal experts. Although the law possesses formal constitutional validity, critics argue that it inadequately reflects distributive justice and ethical legal values, particularly when examined through the perspective of Islamic constitutional law.

From the *das sein* perspective, empirical studies indicate that the implementation of tax amnesty disproportionately benefited conglomerates and economic elites while providing limited incentives for middle- and lower-income taxpayers (Lase et al., 2025; Syafiq, 2024). Furthermore, substantial disparities in tax revenue contributions persist despite the policy's implementation, suggesting a disconnection between the normative objectives of taxation law and its practical outcomes (Vickry et al., 2025). Scholars have argued that the program failed to address structural inequalities within the tax system, thereby undermining the principle of fiscal justice and weakening public confidence in taxation as an instrument of equitable governance.

Conversely, from the *das sollen* perspective, Islamic legal principles emphasize justice (*al-'adl*), public welfare (*maṣlahah*), and trust (*amānah*) as foundational values in the management of public wealth. These principles were not explicitly incorporated into the formulation of the tax amnesty policy (TachrizatuWirda, 2018). This omission creates a normative gap between state law and the ethical obligations embedded within Islamic constitutionalism. Such a gap is particularly significant in Indonesia, where Article 29 paragraph (1) of the 1945 Constitution recognizes belief in God as a constitutional foundation of the state. Nevertheless, contemporary fiscal policies appear to marginalize this constitutional mandate, creating tension between legal formalism and religiously informed conceptions of justice.

Existing scholarship on Law No. 11 of 2016 remains largely dominated by positivistic legal approaches that focus on statutory interpretation and constitutional

validity without substantial engagement with Islamic jurisprudential values (Setyaningrum, 2025). Consequently, the legitimacy of tax amnesty is often assessed solely through procedural legality rather than substantive justice. Although several studies have examined tax amnesty from economic, administrative, and constitutional perspectives, integrative approaches that connect fiscal law with Islamic constitutional principles remain relatively underdeveloped. Such approaches are essential because law functions not only as a normative framework but also as a social institution that reflects collective moral values and societal expectations (Manthovani & Tejomurti, 2019).

This study addresses an important gap in the literature concerning the relationship between tax amnesty and Islamic constitutional principles. While previous studies primarily focused on fiscal effectiveness, taxpayer compliance, or constitutional validity, limited attention has been devoted to examining the normative legitimacy of tax amnesty through the framework of Islamic constitutionalism. The absence of such analysis is particularly noteworthy given Indonesia's constitutional identity, which formally acknowledges religious values as an integral component of the national legal system. Consequently, there remains an urgent need for scholarship that critically evaluates the extent to which fiscal legislation reflects constitutional commitments to justice, morality, and public accountability.

The novelty of this study lies in its development of an integrative analytical framework that combines Islamic constitutionalism, *maqāṣid al-sharī'ah*, legal positivism, and theories of distributive justice in assessing the normative legitimacy of tax amnesty policies. Unlike previous studies that predominantly emphasize economic outcomes or formal constitutional review, this research positions tax amnesty as a constitutional-ethical issue involving justice, equality before the law, public trust, and moral accountability. Through this framework, the study contributes a broader understanding of fiscal governance in Muslim-majority constitutional democracies.

Accordingly, this research aims to evaluate the normative legitimacy of Law No. 11 of 2016 from the perspective of Islamic constitutional law. Specifically, it seeks to answer the following questions: (1) To what extent is the Tax Amnesty Law compatible with the principles of justice, equality, public welfare, and trust recognized in Islamic constitutionalism? and (2) How can Islamic constitutional principles contribute to the development of a more ethically grounded framework for fiscal governance? By addressing these questions, the study bridges the conceptual divide between positive law and Islamic ethical values in the management of public finance.

To achieve this objective, the research employs *maqāṣid al-sharī'ah* as the principal evaluative framework. The objectives of Islamic law prioritize the protection of wealth (*ḥifẓ al-māl*), justice (*al-'adl*), and collective welfare (*maṣlahah 'ammah*), making them particularly relevant for assessing fiscal policies. The study further integrates Hans Kelsen's theory of legal positivism and John Rawls' theory of justice as fairness to construct a multidimensional framework for analysis (Syafiq, 2024; Isra, 2021). This theoretical triangulation facilitates a critical assessment of both the legal validity and ethical legitimacy of tax amnesty while simultaneously identifying normative deficiencies within the existing legal framework.

Hans Kelsen's concept of *Grundnorm* provides an important foundation for evaluating legal coherence and constitutional validity. However, its emphasis on formal legality often overlooks sociological, ethical, and moral considerations. By contrast, Rawls' theory of justice emphasizes fairness, equality, and the equitable distribution of social benefits, values that closely correspond with Islamic conceptions of justice. The integration of these perspectives with Islamic constitutional principles enables a more comprehensive

evaluation of taxation policy by examining the relationship between legal validity and substantive justice. This approach demonstrates that legality alone is insufficient to establish legitimacy; fiscal legislation must also satisfy broader ethical expectations rooted in societal values and constitutional commitments.

Within Islamic constitutionalism, the state functions as a trustee (*amīn*) responsible for managing public resources in a transparent, accountable, and equitable manner. Consequently, fiscal policies such as tax amnesty must be evaluated not only through legal criteria but also through moral and ethical standards. The limited incorporation of Islamic jurisprudential perspectives in the formulation of tax amnesty raises concerns regarding the policy's legitimacy and its capacity to cultivate public trust. Greater inclusion of ethical and religious considerations in legislative processes may therefore enhance both the legitimacy and effectiveness of fiscal governance.

The practical implementation of tax amnesty in Indonesia further illustrates these concerns. The policy has frequently been criticized for disproportionately benefiting taxpayers with substantial undeclared assets while offering limited advantages to ordinary citizens. Such outcomes generate perceptions of unequal treatment, weaken public confidence in legal institutions, and create concerns regarding regulatory justice. Moreover, the legal incentives embedded within the policy appear insufficiently aligned with broader ethical obligations relating to tax compliance and social responsibility. This divergence highlights the importance of incorporating ethical evaluation into fiscal policy assessment.

From a fiscal standpoint, tax amnesty succeeded in generating short-term revenue gains but produced limited improvements in long-term tax compliance. Empirical evidence continues to indicate persistent income disparities and widening inequalities within the tax base (Lase et al., 2025; Vickry et al., 2025). These findings suggest that fiscal reform cannot rely exclusively on economic indicators of success. Instead, taxation policies should also be evaluated according to legal, ethical, and institutional benchmarks that promote sustainable compliance and systemic reform.

Comparative experiences from other jurisdictions reinforce this argument. In Pakistan and Malaysia, tax amnesty programs generated extensive debate regarding money laundering risks, moral hazard, and governance integrity (Sultan et al., 2023; Abd Hamid & Hilmi, 2018). These concerns mirror those emerging in Indonesia and demonstrate that the effectiveness of fiscal policy depends not only on economic incentives but also on ethical legitimacy. The comparative evidence highlights the need to harmonize legal, economic, and moral considerations within the design of tax amnesty programs.

A particularly relevant example can be found in Aceh, where Islamic legal principles have been integrated into fiscal policy through the recognition of *zakat* as a deductible tax obligation (Syahbandir et al., 2022). This experience illustrates the practical possibility of incorporating religious values into public finance governance. Nevertheless, similar approaches have not been systematically adopted at the national level, reflecting the continuing dominance of secular legal positivism in fiscal policymaking. The Aceh experience therefore demonstrates both the feasibility and the potential benefits of integrating Islamic legal norms into broader fiscal reforms.

Ultimately, this study argues that a tax amnesty policy detached from ethical and religious foundations faces significant challenges in achieving normative legitimacy. The principal weakness of Law No. 11 of 2016 lies not merely in its fiscal design but in its limited engagement with values of justice, responsibility, equality, and public trust. By integrating Islamic constitutional principles into fiscal law analysis, this study offers a framework for evaluating taxation policy beyond formal legality toward moral and constitutional legitimacy. Such an approach is essential for promoting sustainable fiscal

reform and strengthening public confidence in taxation within Muslim-majority constitutional democracies.

## METHOD

This study employs normative juridical research to examine the legitimacy of Law No. 11 of 2016 on Tax Amnesty from the perspective of Islamic constitutional law. The research focuses on the analysis of legal norms, constitutional principles, and Islamic legal values governing fiscal policy and public finance. A statutory approach is used to examine relevant legislation, particularly Law No. 11 of 2016, the 1945 Constitution of the Republic of Indonesia, and related Constitutional Court decisions. In addition, a conceptual approach is applied to analyze the principles of justice (*al-'adl*), public welfare (*maṣlahah*), trust (*amānah*), and equality (*al-musāwāh*) within the framework of Islamic constitutionalism (Püren, 2024; Sultan et al., 2023).

The study also adopts a comparative approach by reviewing scholarly discussions and policy experiences concerning tax amnesty in several Muslim-majority jurisdictions. Legal materials consist of primary legal sources, including statutes and constitutional decisions, and secondary sources comprising academic books, journal articles, and studies related to taxation, Islamic law, constitutional theory, and fiscal governance (Sayidah & Assagaf, 2019; Hermawan & Abigail, 2020; Ardiansyah & Sudarma, 2021).

Data were analyzed qualitatively using a thematic and interpretative method. The analysis was guided by the framework of *maqāṣid al-sharī'ah*, particularly the protection of wealth (*ḥifẓ al-māl*), justice (*al-'adl*), public interest (*maṣlahah*), and trust (*amānah*) in public financial management (Lase et al., 2025). These principles were subsequently examined in relation to constitutional doctrines, legal positivism, and contemporary theories of fiscal justice to evaluate the normative coherence of the Tax Amnesty Law.

To strengthen the analysis, the study incorporates perspectives from Islamic legal scholarship and contemporary discussions on taxation ethics and public accountability (Hidayat & Sharkey, 2021; Yulianto, 2018; Sulastyawati et al., 2019). Through this approach, the research seeks to assess whether the legal structure and objectives of tax amnesty are consistent with the constitutional and ethical foundations of fiscal governance in a Muslim-majority constitutional democracy.

## RESULTS AND DISCUSSION

### Normative Findings on Tax Amnesty Law within the Framework of Islamic Constitutional Law

The normative analysis of Law No. 11 of 2016 on Tax Amnesty reveals that the Indonesian legislative framework prioritizes fiscal pragmatism over distributive justice. Policymakers framed tax amnesty as a strategic tool to address chronic non-compliance and capital outflows, reflecting a technocratic orientation focused on economic recovery and administrative efficiency (Basri & Rahardja, 2020; Slemrod, 2021). This positioning aligns with global trends where developing countries employ tax amnesties to stabilize revenues during economic uncertainty (Khan & Ahmed, 2020). However, when examined from the perspective of *Islamic constitutionalism*, such rationale must satisfy both legal formalism and moral legitimacy (Hosen, 2022). Islamic law does not treat fiscal mechanisms as morally neutral, instead linking them to principles of trust (*amānah*) and equity. Thus, a law may be legally valid but normatively deficient if it lacks ethical coherence (Saeed, 2021).

Legislative records and policy justifications show the emphasis on *economic necessity* as a central doctrinal anchor for the law's enactment. The argument holds that extraordinary fiscal interventions are justified when state stability is at stake, especially under conditions

of declining revenue and capital flight (Basri & Rahardja, 2020; Nurhidayah & Salim, 2023). This logic rests on utilitarian principles, privileging aggregate welfare over individual equity. However, Islamic fiscal ethics define taxation as a *moral covenant*, not a contractual levy, and require redistributive justice as a core value (Chapra, 2021; Obaidullah, 2020). This dissonance reveals a gap between constitutional positivism and Islamic notions of *ḥuqūq al-ʿibād* (rights of people). Within Islamic legal theory, fiscal tools must contribute to social balance and ethical governance.

A critical issue identified in the findings is the legal asymmetry introduced by tax amnesty, which allows previously non-compliant taxpayers to regularize their obligations without full legal sanctions. This mechanism contradicts the Islamic principle of *al-musāwāb* (equality before the law) and erodes the credibility of tax enforcement (Azmi & Hassan, 2021; Rohim & Wibowo, 2022). From the viewpoint of *al-ʿadl* (justice), legal differentiation that privileges financial capacity or political access undermines moral legitimacy. Public perceptions of injustice amplify when law-abiding taxpayers see no reward for their compliance. The policy thereby fosters resentment and delegitimizes the tax system, especially among the middle-income bracket. Islamic jurisprudence warns against laws that structurally favor the affluent over the vulnerable.

Judicial validation of the Tax Amnesty Law by the Constitutional Court through the doctrine of *open legal policy* further complicates the normative landscape. The Court argued that fiscal policymaking falls within the legislature's domain and should not be curtailed unless it violates core constitutional principles (Susila & Nugroho, 2024). While constitutionally consistent, such reasoning ignores the requirement under *Islamic constitutionalism* that public policies be rooted in *maṣlahah ʿammah* (public interest) and *al-amanah* (stewardship). Legal positivism's dominance in constitutional reasoning excludes religious-ethical scrutiny, thereby weakening holistic accountability (Masud & Suleiman, 2021; Hosen, 2022). As a result, fiscal policy risks appearing as a product of political expediency rather than normative integrity.

The research also compares Indonesia's approach to other Muslim-majority jurisdictions like Malaysia and Pakistan, where tax amnesty laws incorporate ethical rhetoric and public repentance narratives. In Malaysia, for example, tax amnesty is framed as a form of societal reconciliation, aiming to restore civic duty and spiritual accountability (Azmi & Hassan, 2021). Pakistani tax amnesty discourse emphasizes future compliance and moral rehabilitation, thus anchoring policy in religious ethics (Masud & Suleiman, 2021). By contrast, Indonesia's narrative remains largely technocratic, with minimal reference to *maqāṣid al-sharīʿah* or theological principles (Zulkarnaen & Pratama, 2025). This divergence suggests a missed opportunity to strengthen the normative legitimacy of tax reforms through integration of Islamic values.

The application of *maqāṣid al-sharīʿah* provides an evaluative lens to balance policy effectiveness and ethical soundness. Scholars argue that temporary leniency in taxation may be acceptable under the objective of *ḥifz al-māl* (protection of wealth) if it serves the collective good without normalizing injustice (Auda, 2020; Chapra, 2021). However, the findings show that the policy lacks sunset provisions and recurrence safeguards, increasing the risk of moral hazard. Repeated reliance on amnesty reinforces perceptions that tax evasion is tolerable, weakening deterrence and long-term compliance (Obaidullah, 2020; Zaman, 2020). This outcome violates the principle of *istiqlāl al-māl al-ʿamm* (protection of public wealth) in Islamic economic theory.

From a theoretical perspective, the disconnection between legal form and ethical content reveals the structural dominance of positivism in fiscal lawmaking. The Indonesian legal system prioritizes procedural validity over moral inquiry, a position criticized by

scholars advocating Islamic constitutional pluralism (Hosen, 2022; Saeed, 2021). Islamic legal ethics demand that legislation promoting public finance must not only be technically sound but also morally intelligible. This means embedding ethical justification into the legislative process, not merely appending it post-factum. Failure to do so perpetuates the myth of value-neutral law and distances the state from its religious constitutional identity. Islamic governance frameworks necessitate synchronization of legality and morality.

This study finds that Law No. 11 of 2016 lacks a coherent integration of Islamic constitutional norms, especially in terms of promoting social equity and fiscal justice. The law's emphasis on administrative efficiency and macroeconomic benefits marginalizes concerns over inequality and redistributive justice. This imbalance contradicts the broader mandate of the Indonesian Constitution, particularly Article 29(1), which acknowledges religious values as a source of national law. By not engaging with this constitutional recognition, tax policy operates within a narrowed legal paradigm. A more inclusive approach would involve integrating Islamic values at the outset of legislative drafting. Such integration can enhance both the legal robustness and moral authority of fiscal policies.

Empirical studies show that public trust in tax law correlates strongly with perceived fairness and moral clarity. Policies perceived as biased or inconsistent often lead to reduced voluntary compliance and increased tax resistance (Rohim & Wibowo, 2022). Islamic tax ethics offer tools to restore this trust by aligning enforcement with shared moral values. Instruments such as *hisbah* (market supervision) and *zakat* (alms) demonstrate how Islamic governance historically balanced fiscal needs with public accountability. Their conceptual relevance remains high in contemporary plural societies where legal legitimacy depends on ethical resonance. Without this alignment, tax law risks becoming a tool of coercion rather than civic solidarity.

One of the striking normative findings is the absence of structured religious consultation in the policy's development process. No formal involvement of '*ulama*' or Islamic legal scholars was documented in legislative deliberations, despite the law's broad societal implications. This exclusion reflects a deeper institutional marginalization of religious epistemologies in state policymaking. It also violates the spirit of constitutional recognition of religious authority in public affairs. To bridge this gap, institutional mechanisms such as *shari'ah councils* or *majlis i'lmī* could be embedded into legislative processes. These bodies would ensure that laws resonate with the ethical convictions of the majority population. Their integration would promote not just compliance but moral engagement.

The findings further show that fiscal policies driven solely by economic logic are insufficient in addressing issues of normative justice. While tax amnesty may yield short-term revenue gains, it fails to address structural causes of non-compliance, including public disillusionment with state institutions. Islamic legal frameworks stress the importance of moral renewal (*tajdid*) and institutional integrity as preconditions for societal transformation. Thus, fiscal policy must go beyond numerical targets and foster an ethical culture. Only then can tax policy function as an instrument of distributive justice, as mandated by both constitutional and religious norms. This reconceptualization is essential in ensuring long-term legal sustainability.

In the context of global Islamic finance, there is a growing call for ethical harmonization of tax law and religious values. International forums emphasize the need for policy coherence in Muslim-majority countries where religion plays a central role in public life (Azmi & Hassan, 2021; Auda, 2020). Indonesia, as the world's largest Muslim-majority country, has the potential to lead this discourse by aligning fiscal policies with *maqāṣid*-based frameworks. Doing so would enhance international legitimacy and set a normative

benchmark for others. Moreover, it would affirm Indonesia’s constitutional identity as a state based on *Ketubanan Yang Maha Esa*. This alignment is both a domestic necessity and a global opportunity.

Ultimately, the normative legitimacy of Law No. 11 of 2016 within an Islamic constitutional framework depends on three interrelated factors: proportionality, transparency, and ethical accountability. Proportionality ensures that legal leniency does not compromise justice. Transparency guarantees that public reasoning behind fiscal policies is accessible and coherent. Ethical accountability aligns state actions with moral expectations, reinforcing trust and legitimacy. The absence of these elements in the law under review undermines its normative defensibility. Therefore, the integration of Islamic values is not optional but foundational for the coherence of fiscal governance. Legal reforms must internalize this triad to achieve lasting social justice.

**Table 1.** Alignment of Tax Amnesty Elements with *Maqāṣid al-Shari‘ah*

Policy Element	Islamic Legal Principle	Degree of Alignment	Explanation
Revenue Recovery	<i>ḥifẓ al-māl</i> (protection of wealth)	Moderate	Revenue gained supports economic stability but lacks clear redistribution policy
Legal Leniency	<i>al-‘adl</i> (justice)	Low	Disproportionately benefits non-compliant taxpayers
Voluntary Disclosure	<i>amanah</i> (trust)	Low	Lacks integration of moral responsibility
Administrative Efficiency	<i>maṣlaḥah ‘ammah</i> (public benefit)	Moderate	Promotes state efficiency but overlooks normative ethics
Absence of Penalty	<i>al-musāwāh</i> (equality)	Low	Undermines equity by excusing past violations

Source: Author’s analysis based on Auda (2020), Chapra (2021), Zulkarnaen & Pratama (2025)

Table 1 illustrates the extent to which core elements of the Tax Amnesty Law No. 11 of 2016 align with *maqāṣid al-shari‘ah*. The recovery of state revenue shows a moderate alignment with the principle of *ḥifẓ al-māl* (protection of wealth), as it contributes to macroeconomic stability. However, the redistributive function remains weak, diminishing its ethical impact. Legal leniency, especially the waiver of penalties, has a low alignment with *al-‘adl* (justice), as it creates disparities between compliant and non-compliant taxpayers. Similarly, voluntary disclosure without moral framing fails to meet the ethical demands of *amanah* (trust). Administrative efficiency partially fulfills *maṣlaḥah ‘ammah* (public benefit), but is undermined by the absence of normative justification. Lastly, the exemption from penalties is in direct tension with *al-musāwāh* (equality), as it undermines the principle of equal legal treatment. Overall, the table confirms that the law is skewed toward administrative and economic utility, with limited normative conformity to Islamic constitutional ethics.

### Normative and Comparative Analysis of Tax Amnesty Law from an Islamic Constitutional Law Perspective

The results of this study affirm that Law No. 11 of 2016 on Tax Amnesty was formulated primarily on pragmatic economic grounds to address persistent tax evasion, capital flight, and low voluntary compliance. Empirical literature on tax administration in

developing countries confirms that such policies are often introduced as temporary fiscal recovery tools, especially under macroeconomic stress (Besley & Persson, 2021; OECD, 2023; Keen & Slemrod, 2021). Indonesia's legislative rationale closely mirrors this trend, portraying tax amnesty as an extraordinary corrective mechanism with immediate revenue goals. Yet, when analyzed through the lens of *Islamic constitutional law*, this fiscal expediency must be accompanied by *maqāṣid*-oriented ethical justification to gain moral legitimacy (Kamali, 2021; March, 2022). The Indonesian state's constitutional commitment to *Ketuhanan Yang Maha Esa* obliges lawmakers to ensure that fiscal laws resonate with both formal legality and ethical accountability. Therefore, the absence of a coherent normative narrative rooted in *Shariah* raises questions regarding the ethical soundness of the policy's foundation.

Within *Islamic constitutionalism*, state authority is bound by both constitutional mandates and divine accountability, whereby taxation represents a form of public trust (*amānah*) and collective justice (*'adl*). Contemporary scholars argue that legitimacy in Muslim-majority states cannot rely solely on legislative process but must also fulfill substantive justice grounded in religious ethics (Hallaq, 2023; Brown, 2021). Fiscal policies must therefore align with objectives of *Shariah*, including *maṣlaḥah 'āmmah*, *ḥifẓ al-māl*, and *al-'adl*, which frame taxation as an instrument for social cohesion and equity (Auda, 2021; Dusuki & Abdullah, 2022; Attia, 2020). The findings reveal that Indonesia's tax amnesty disregards these higher intents, prioritizing technical efficiency over normative justice. This imbalance renders the policy legally viable but morally ambiguous, particularly in the absence of redistributive mechanisms. Such divergence is inconsistent with the holistic legal theory that underpins Islamic governance structures.

The differentiated treatment between compliant and non-compliant taxpayers embedded in the tax amnesty framework directly challenges the Islamic principle of *al-musāwāh* or legal equality. Research in behavioral economics shows that unequal treatment undermines tax morale and long-term compliance, thereby weakening institutional legitimacy (Kirchler et al., 2020; Alm & Torgler, 2021; Luttmer & Singhal, 2021). From an Islamic legal-ethical standpoint, this inequality constitutes a form of injustice that violates both legal and moral obligations. The policy also fails to promote a sense of *taklif shar'ī*, or internalized legal duty, which is essential in fostering genuine compliance in Islamic governance (Farooq & Aziz, 2024; Kamali, 2021). Without a strong ethical framing that addresses the injustice felt by compliant taxpayers, amnesty policies risk promoting cynicism and non-cooperation. Such outcomes contravene the *maqāṣid al-sharī'ah* requirement that public policy must balance effectiveness with justice.

The Constitutional Court's judicial review of the law upheld the state's discretionary authority in fiscal matters by invoking the doctrine of *open legal policy*, a stance that reflects a positivist constitutional tradition. Although the Court recognized the extraordinary nature of tax amnesty, it refrained from evaluating the policy's distributive fairness, signaling a retreat from substantive justice review (Nurhadi & Lindsey, 2023; Susila & Nugroho, 2024). Comparative constitutional studies indicate that such judicial restraint is increasingly common in economic governance, especially in jurisdictions where legal positivism overshadows moral adjudication (Hirschl, 2020; Ginsburg & Huq, 2022). However, within Islamic constitutional thought, courts are entrusted with upholding ethical proportionality and preventing state overreach, particularly in matters affecting public finance (March, 2022; Hallaq, 2023). The Indonesian judiciary's limited engagement with the ethical dimensions of the law reflects a missed opportunity to harmonize legal reasoning with religious constitutional values.

Cross-jurisdictional comparison with Malaysia and Pakistan reveals that tax amnesty programs integrated with ethical and religious narratives enjoy greater legitimacy and public trust. Malaysia's Voluntary Disclosure Programme emphasized themes of moral accountability, repentance, and future compliance, which improved taxpayer receptiveness (Hamzah et al., 2023; Saad, 2021; Rahman & Omar, 2022). In contrast, Pakistan's repeated amnesties without institutional reform led to diminished tax morale and perceived impunity among elites (Khan & Ullah, 2020; Iqbal & Tirmizi, 2022; Alshamsi & Guermat, 2021). These findings underscore that the success of amnesty is shaped not only by economic incentives but also by the ethical and governance context. Indonesia's tax amnesty discourse, being largely technocratic, lacks the normative engagement needed to mobilize public support and align with its constitutional-theological identity. This normative void limits the policy's sustainability and moral persuasiveness within a plural legal environment.

Recent developments in tax justice theory reinforce the imperative for ethical framing and transparent justification in fiscal lawmaking. Studies show that voluntary compliance is more strongly correlated with perceptions of fairness, transparency, and reciprocity than with enforcement alone (Alm et al., 2020; Luttmer & Singhal, 2021; OECD, 2023). Islamic ethics complements this view by emphasizing obligations derived from divine trust, not fear of sanction, thereby requiring fiscal policies to promote internalized moral consciousness (*taklīf*). Within the *maqāṣid* paradigm, temporary legal leniency may be justified if it meets specific conditions: clear public interest, proportionality, institutional reform, and time-bound application (Auda, 2021; Dusuki & Abdullah, 2022; Attia, 2020). The absence of these safeguards in Indonesia's policy design signals a structural deficit in moral planning and legislative foresight. As a result, the law risks becoming a recurring tool of fiscal expediency with declining normative returns.

The overall findings confirm that Law No. 11 of 2016 reflects a constitutional compromise shaped by legal positivism, fiscal pragmatism, and administrative urgency. While effective in generating immediate revenue, its long-term legitimacy is undermined by the exclusion of religious-ethical considerations from policy formulation. From the perspective of *Islamic constitutional law*, such exclusion violates the principle of *amānah* in managing public wealth and diminishes the spiritual bond between the state and its citizens. Future fiscal legislation in Muslim-majority states must be designed to uphold not only legality but also distributive justice and public morality. Aligning fiscal tools with *maqāṣid*-based ethics would create a more robust and integrated legal framework. This synthesis is essential for promoting both legal and moral coherence in constitutional economic governance.

## CONCLUSION

This study concludes that Law No. 11 of 2016 on Tax Amnesty, while constitutionally valid under Indonesia's fiscal framework, lacks integration with the normative principles of *Islamic constitutional law*, particularly justice (*al-'adl*), public trust (*amānah*), and public benefit (*maṣlahah*). The research demonstrates that the law's orientation toward fiscal pragmatism and legal positivism compromises its ethical legitimacy in a system constitutionally rooted in *Ketubanan Yang Maha Esa*. By overlooking *maqāṣid al-sharī'ah*-based justification and producing unequal legal treatment, the policy fails to fully meet the expectations of distributive justice and moral accountability.

The study contributes to constitutional and fiscal scholarship by offering an interdisciplinary framework that combines Islamic legal ethics, comparative public policy, and constitutional review. It expands the discourse on tax law by proposing that moral and theological dimensions should be embedded into fiscal policymaking in Muslim-majority states. The

integration of religious values into legal design is shown to enhance not only legitimacy but also public trust and long-term tax compliance.

A limitation of this study lies in its reliance on qualitative data and doctrinal interpretation, without a broader empirical sample of taxpayer perceptions or legislative deliberation records. Future research should incorporate quantitative surveys, fieldwork, or case law analysis to validate and refine the normative claims advanced here. Comparative studies across other jurisdictions with mixed legal systems could also deepen understanding of how *maqāṣid al-shari'ah* can practically shape fiscal reform and constitutional accountability.

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