

The Urgency Of Corruption Crimes In The Perspective Of Islamic Criminal Law

Nurhayati*

Magister Hukum , Universitas Dharmawangsa , Medan, Indonesia

Abstract

Corruption is an extraordinary crime and can even be categorized as an international crime. corruption has been categorized as a very serious crime and has an impact on the stability of a country. The fact is that despite the existence of corruption laws and money laundering laws in Indonesia, Corruption is increasing. Thus, this paper examines how corruption is assessed as a crime in the perspective of Islamic criminal law. The research was conducted by optimizing the literature data and secondary data review. This study shows that this corruption crime does not get a single discussion in Islamic law, but is likened to the act of theft, robbery or taking other people's things without permission.

Keywords: *Corruption, Islamic Criminal, Extraordinary Crime*

1. INTRODUCTION

Corruption is an act committed with a view to obtaining some benefit that is contrary to official duties and Other Truths "an act of an official or a person's Trust which unlawfully and wrongfully uses some benefit for himself or others that is contrary to other duties and truths. The term corruption comes from the latCino language:rruption and Corruptus, meaning bad, depraved, deviating from chastity, insulting words, or defamatory.¹

The crime of corruption is one of the sections of the Special Criminal Law in addition to having certain specifications which is different from the general criminal law, such as irregularities procedural law and when it comes to the content. Therefore, corruption in direct or indirect intended pressing to a minimum occurrence of leaks and irregularities on finance and the economy country. With anticipated as early as and maximum possible deviation it is expected that the wheels of the economy and development can be implemented as it should be slow laun will bring the impact of increased development and Welfare Society in general.²

In Article 3 of Law No. 31 of 1999, corruption is any person who benefits himself or herself or another person or a corporation, abusing the

*Email/Corresponding Author: nurhayati.tarigan@dharmawangsa.ac.id

¹ Fazzan, Korupsi di Indonesia dalam Perspektif Hukum Pidana Jurnal Ilmiah *Islam Futura* Vol. 14. No. 2, 2015

² Lilik Mulyadi, *Tindak Pidana Korupsi di Indonesia* (Normatif, Teoritis, Praktik dan Masalahnya), PT. Alumni, Bandung, 2007, pp. 2.

authority, opportunity or means available to him because of his position or position that can harm the state's finances or the country's economy. According to the law in Indonesia, Corruption can be categorized into (7seven) types, namely, state financial losses, bribery, extortion, embezzlement in office, fraud, conflict of interest in the procurement of goods and services, and gratuities (Law No. 31 of 1999juncto Law No. 20 of 2001, according to 30 articles in it).

Regulation on corruption in Indonesia perund-aunngdangan tesorak in law No. 31 of 1999 and Law No. 20 of 2002 on the eradication of corruption and uPberahan Against Corruption Eradication act. Act No. 30 of 2002 on the Corruption Eradication Commission (KPK) which was later amended by law No. 10 of 2015 and act No. 19 of 2019. The birth of no. 19 year 2019 this sparked a controversy dparontes hard from civil society. Because kon-tnenya tend to weaken and castrate the KPK and as well as spaying the eradication of corruption in Indonesia.

Types of corruption that are common include: (1) entrepreneurs hope that members sitting in pleamr en can make rules in their favor. P2.olitical kickbacks, which are activities related to the system of piecework employment contracts between implementing officials and employers that provide opportunities to bring in a lot of money for the phiak-parties concerned. 3E.electoral fraud is corruption directly related to electoral fraud. 4. Corrupt campaignpractice is the practice of campaigning by using state facilities and state money by candidates who are maenmgeg state power. 5D.iscretionary corruptionthat is corruption committed because there is freedom in determining kebijakanl.lle6g.al corruption is corruption that is done by confusing the language of the law or the interpretation of the law. This type of corruption is carried out by law enforcement officers, be it police, prosecutors, lawyers, and judges.Id7eo. logical corruption is a combination of discretionary corruption and illegal corruption committed for the purposes of the group. 8er.cenary corruption is the abuse of power for personal gain. In the context of criminal law, not all types of corruption that we know are qualified as criminal acts.³

Characteristics of corruption include the following: 1) corruption always involves more than one person. 2) corruption is generally done in secret, unless it has been rampant and so deep that powerful individuals and those in their environment are not tempted to hide their actions. 3) corruption involves elements of liability and mutual benefit. 4) the obligations and profits in question are not always monetary. 5) those who practice

³ Ariman Sitompul, M. Nasir Sitompul, M. N. *The Combination Of Money Laundering Crime With The Origin Of Narkotics Crime To Islamic Law*. In Proceeding International Seminar of Islamic Studies (Vol. 1, No. 1),2020,pp.673lihat juga Firmansyah, *Korupsi dalam Perspektif Filsafat Hukum Islam, dalam Al Amwal: Journal of Islamic Economic Law*, Vol.2No. 1,2017.

corruption usually try to cover up their actions by hiding behind legal justifications. 6) those involved in corruption want firm decisions and are able to influence the decision-making. 7) any act of corruption contains fraud, usually committed by a public or public body (society). 8) Any act of corruption is a betrayal of trust.⁴

The following types of bipartisan corruption are often mentioned: (i) government contracts: bribery can affect who gets the contract, the terms of the contract, or the terms of the subcontract when the project is implemented. (ii) government benefits: supra may affect the allocation of monetary benefits such as credit subsidies and preferred prices as well as exchange rates where there are price controls and multiple exchange rates. Bribes can also be important in obtaining licenses and permits to engage in lucrative economic activities such as importing certain goods in high demand and limited supply. In addition, bribes can be used to obtain benefits in kind such as access to special education, subsidized medical care, housing and real estate, and attractive shareholdings in privatized companies. (iii) government revenue: bribes can be used to reduce the amount of taxes, fees, dues, duties entrance, and electricity and other public utilities fees collected from business enterprises and private individuals. (iv) time saving and regulatory avoidance: bribery can accelerate the granting of Permits, Licenses, and permits to undertake to turn the wheels of bureaucracy more smoothly, quickly and hopefully in the right direction. Nor is it hard to think of a truly dire situation where rules and regulations, and the way they are applied, are so complicated and burdensome that the only way left to get things done is to pay money to avoid them. (v) influence the outcome of legal and regulatory proceedings: bribes can be used to incentivise regulatory authorities to refrain from taking action, and to look the other way, when private parties engage in activities that violate laws, rules and regulations such as those relating to pollution control, preventing health hazards or promoting public safety as in the case of building codes and traffic regulations. Similarly, a bribe may be awarded to benefit one party over another in a court case or in other legal and regulatory proceedings.⁵

With the exception of that corruption is a criminal offense extraordinary crimes because it is systemic, endemic impact is very broad (systematic and widespread) which not only harms state finances but also violate the rights social and economic community at large so the action

⁴ Sakinah Sahal, *Korupsi dalam Perspektif Hukum Islam*, Tijarie Hukum dan Bisnis Syariah, Vol.1 No.1, 2021.

⁵ Kusbianto, Ariman Sitompul, Adi Putra, M. Miftahuddin, The Impact Of Criminal Police On Money Laundering Against The Resilience Of The Law. *Substantive Justice International Journal Of Law* Vol, 5, No. 2, 2022, pp.178

needs effort comprehensive extra ordinary measures so many regulations, institutions and commission formed by the government to overcome it.

2. RESEARCH METHOD

The research method in this paper is carried out with a normative juridical approach, namely by analyzing the problem through the approach of legal principles and knowing the legal norms contained in the law. The materials used are primary law, binding legal materials, as contained in the 1945 Constitution - corruption and money laundering act , secondary legal materials in the form of books related to narcotics crimes , research results, reports and also brief legal materials, namely supporting legal materials which are basic primary legal materials, secondary legal materials such as general dictionaries, dictionaries of secondary legal materials, magazines, scientific journals, and materials outside the relevant field and can be used to complete documents.

3. RESULT AND ANALYSIS

The act of rebellion in Islam is a violation of the Shari'ah. The purpose of Islam is to bring peace to the people. From the perspective of the broader context of Islamic teachings, corrupt practices are actions that are contrary to the principles of justice, accountability, and responsibility. Corruption and all its negative effects cause various distortions to the life of the people Nreatanda which can be categorized into acts of damage on Earth (facade) which is strongly condemned by Allah SWT.⁶

The regulation of Islamic Criminal Law places corruption in the category of jarimah takzir, takzir is a sanction imposed on a perpetrator of jarimah or a criminal offense that commits violations related to the rights of Allah SWT and Human Rights, and the violators of these violations are not expressly determined the form of punishment in nash A-lQuran and Hadith because it is not expressly determined, takzir becomes the competence of judges or local authorities. Takzir legal sanctions can be in the form of imprisonment, fines, entry in the list of despicable people, dismissal law, bnahka death penalty.

Islam views corruption as an abomination. The act of corruption in the context of Islam is the same dengafansad, which is an act that damages the order of life that the perpetrator is categorized as committing Jinayaan al-kubra (big sin). Corruption in Islam is an act of violating the Shari'a. The

⁶ Arini Indika Arifin, Tindak Pidana Korupsi Menurut Perspektif Hukum Pidana Islam, dalam *Lex et Societatis*, Vol. III, No. 1, 2015, pp.25 lihat juga Mhd. Nasir Sitompul, Ariman Sitompul. Sitompul. Execution Of Death Penalty In Narcotics Crime In The Perspective Of National Law In Indonesia. *International Asia Of Law and Money Laundering (AML)*. Vol. 1, No. 2, 2022, pp.110.

Shari'ah of Islam aims to create benefits for mankind with what is referred to as among the benefits to be addressed is the preservation of property (hifdzul maal) from various forms of violations and misappropriation.

Islam regulates and assesses property from its acquisition to its expenditure, Islam provides guidance so that in obtaining property it is done in a way that is moral and in accordance with Islamic law, namely by not deceiving, not consuming usury, not betraying, not embezzling other people's property, not cheating, not tampering in measures and scales, not corruption, and so on.

Utilizing the proceeds of ill-gotten treasure well done for personal interests, family and social assistance, let alone to build facilities for worship, it remains haram. Just like people who take advantage of the results of the business of a job that is prohibited by Islam such as gambling, merampok, cheating, and other illegal jobs. Because in principle the property obtained from the results of corruption, gambling, cheating, robbing and so forth is not a legitimate property so it is not entitled to utilize the property even for good.

As for the grouping of corruption can be identified with dirty or unclean acts in the teachings of Islam, namely: first, acts of corruption as a light unclean (mukhoffafah) this type of corruption is more likely to be on the subject or the private sector, such as about bribery in the private sector, about embezzlement of wealth in the private sector, about laundering the results of crime and its concealment. Second, the act of corruption as an unclean medium this type of corruption tends to impact personal social, such as trading influence (trading influence), about the abuse of functions and about enriching themselves illegally. Third, acts of corruption as a heavy unclean (mugholadoh) kuopr si of this type have an impact on the national or national and international benefit directly, such as bribery of national public officials, bribery of foreign public officials and officials of Public international organizations against embezzlement. Various categories above do not necessarily deny the existence of leniency on the perpetrators of corruption, the classification is based on the significance of the impact of acts of corruption committed.

It is rather difficult in fact to define corruption exactly as it is meant by the term corruption that is known today. This is because the term corruption is a modern term that does not find its full equivalent in jurisprudence or law e.g. however, by looking at the fact that corruption is a practice of cheating in transactions between people.⁷

⁷ Ariman Sitompul, Pagar Hasibuan, Mhd Sahnun. The Morality Of Law Enforcement Agencies (Police, Prosecutor's Office, KPK) In Money Laundering With The Origin Of The Corruption. European Science Review Vol. 9 No. 10, 2021, pp.60

Risywah is something that can deliver the goal by all means, with the principle of the origin of the goal achieved. This definition is taken from the origin katarisywah or rasya which means rope bucket used to take water in the well. While the arrnasyi is a person who gives something (money for example) to the a party. raaisy is the mediator of the bribe - taker and the bribe-taker whereas al murtasyi is the bribe-taker. Yusuf Qardawi said that risywah a person who has the power or position (whatever) to succeed his case by defeating his opponents in accordance with what is desired, or in order to prioritize his affairs or postponed because there is something of interest

Various bribes / risywah among others: 1. The truth of the matter, or the truth of the matter, or the truth of the matter, or the truth of the matter, or the truth of the matter, or the truth of the matter; 2. Bribes to defend the truth and prevent falsehood and injustice as for risywah or sunapuku eliminate injustice, scholars of different perceptions some do not allow, and some allow. The scholars who do not allow it are the Imam-aSsyaukani, whose reasoning is based on the textual verse in general.; 3. Bribes to obtain office and pekne.rjaa handover of office to a generation that has a dedication of loyalty, and established ability is a religious mandate that must be used as a handle. Therefore, a muslim is required to close the road so as not to give people the opportunity to obtain office in a way that is not right and deviates from the proper procedure.⁸

The danger due to the slightest corruption crime is affirmed whatever is affirmed again in the hadith from the history of Umar bin Khattab which tells of a muslim who died in the war of Khaibar and was sentenced to the Prophet will go to hell because it has melakgahnulul a blanket or coat of the Jews, as in the Hadith of Khaibar a group of companions came to the messenger of Allah and said: So and so was martyred so-and-so was martyred until they passed a man and said to him: Si Fulamn ati martyred, then the messenger of Allah said: Indeed I saw him in hell with a blanket or coat that had igahulul (corruption).⁹

The Prophet (peace and blessings of Allaah be upon him) said to Umar bin Khatab: go and tell the people that there is no paradise except the people who believe. 'Umar said: so I went out, and I cried out that no one would enter paradise except the believers. R Muslim: 165. We can find it in the letters al it was the people who liked to listen to the fake news, a lot as-

⁸ Ariman Sitompul, dkk The Morality Of Law Enforcement Agencies (Police, Prosecutor's Office, KPK) In Money Laundering With The Origin Of The Corruption, European Science Review, 2021 Vol. pp. 55–63

⁹ Ariman Sitompul, The Criminal Replacement Of Fine In Law Of Money Laundering Number 8 Of 2010 (Case Study In North Sumatera). International Journal Of Creative Research Thoughts, Vol. 8 No.11,2020 lihat juga Arini Indika Arifin, *Tindak Pidana Korupsi Menurut Perspektif Hukum Pidana Islam*, dalam Lex et Societatis, Vol.I,No.1, 2015.

suhtu contained in versek. Surat A-Imaidah above means something haram Suhtu also means something derived from the vile endeavours of the dhaanram, such as sale of dogs, khamar, carcasses and so on. The Jews are the ones who hear the lies, the perjury, and the eating of unclean food. This condemnation shows that the actions of the Jews are haraam, and the property of corruption is one of the forms of property that is haram to eat.

Acts of corruption can also be included in the katesguohritun, because corruption is an act yanegjikdan haram, while the money generated from acts of corruption as illegal as the money obtained by bribing.¹⁰

Another term close to the notion of corruption is Aralbah (usurpation) in Surat-almaidah : 33 and 38 it is mentioned specifically about hirabah and sirqah. The first verse is the taking of other people's property with attacks that can be accompanied by violence, or by doing destruction on the Earth. And the second verse is the taking of other people's property or theft with silence.¹¹

Abd. Qadir Audah described hirabah as robbery or Grand Theft. He further said that theft (sirqah) is not exactly the same as hiarahb. Hirabah has a greater impact because it is done in excess. This is because hirabah is sometimes accompanied by killing and taking property or sometimes just killing without taking property. In particular corruption is synonymous with pecnurian (sirqah), but the implementation of corruption is accompanied by a variety of pretexts that require more research and proof. Corruption has a huge negative impact on society, especially with the cash that is currently happening in indoonesia. Corruption does not only harm one or two people, but corruption has become a threat to the stability of security and economic and social welfare of the community. Therefore, corruption based on this corruption is closer to hairabah.¹²

In contrast to the article theft only by cutting off the hand. Theft is relatively smaller compared to hirabah. The same is true when compared to corruption. Ordinary theft committed by a pure criminal may have a relatively smaller impact when compared to corruption that will endanger many people and even the country.

¹⁰ Amelia, *Korupsi dalam Tinjauan Hukum Islam*, Jurnal JURIS Vol 9No 1,2020

¹¹ Ali Maulida , Didin Hafidhuddin, Ulil Amri Syafri , *Abas Mansur Tamam, Tindak Pidana Korupsi dalam Perspektif Hukum Indonesia dan Pidana Islam, dalam A-IMashlahah: Jurnal Hukum Islam dan Pranata Sosial Islam*, Vol : 8, No. 1,2020.

¹² Ariman Sitompul, Arie Kartika, Windy Sri Wahyuni, Maswandi, *Money Laundering In The Perspektif Law In The System Of Prof*, Jurnal Kajian Hukum dan Sosial (Islamica Justitia) Vol. 19,No.2, 2022,pp. 293 lihat juga Mansur Kartayasa, *Korupsi dan Pembuktian Terbalik dari Perspektif Kebijakan Legislasi dan HakAsasi Manusia*, Jakarta, Penerbit Kencana, 2017.

4. CONCLUSION

Corruption or corruption or ghulul is a modern term that does not find a complete equivalent in fiqh or Islamic law. However, by looking at the fact that corruption is a practice of cheating in transactions between people, then this word can be traced and ditiesluuri from some terminology and offenses such as treason, suhtun, risywah, ghasab, intihab, sariqah to hirabah.

In Islamic crime, corruption can be notarized as: (1) corruption is a heinous act (facade); (2) corruption is a crime and fraudulent acts against property; and (3) corruption is done by taking the property of other parties illegally and does not have legitimacy. This is different from the understanding of corruption in Indonesian national law. That is that kosriuapadalah act of enriching themselves or others who harm the state finances. And, regarding this State loss must be proven in accordance with the decision of the Constitutional Court No. 25/P-UXUIV/2016. Because if the loss of the state is not proven, abreskemungung the act is not a corruption. It can be categorized as ordinary embezzlement such as h-nayl a occurs in non state institutions.

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