

Aspects of Criminal Sanctions in Corruption from Islamic Legal Perspectives (FUQAHA) And Law in Indonesia

Dedi¹, Ibnu Rusydi²

¹Institut Agama Islam Tasikmalaya West Java Indonesia

²Universitas Wiralodra West Java Indonesia

Corresponding Author: Dedi dedisinta929@gmail.com

ARTICLE INFO

Keywords: Corruption,
Sanctions, Islamic Law, Law

Received : 13 January

Revised : 17 February

Accepted: 25 March

©2024 Dedi, Rusydi: This is an open-access article distributed under the terms of the [Creative Commons Attribution 4.0 International](https://creativecommons.org/licenses/by/4.0/).



ABSTRACT

The purpose of this study was to ascertain Imam Madzhab's perspectives on corruption and the underlying assumptions that underlie each perspective. Normative legal research was the research methodology employed in this study. When viewed within the larger framework of Islamic teachings, corrupt practices are defined as behaviors that run counter to the values of responsibility, justice, and accountability. Damage to the earth (facade) can be categorized as one of the many distortions brought about by corruption in the state and society. Imam Madzhab's views on punishing corrupt individuals are predicated on classifying corruption as a Jarimah Takzir. If an act of violating human rights or the rights of Allah is committed and these violations are not specifically stated in the Quran and Hadiths as sanctions, then takzir is a legal sanction that is imposed on the offender of Jarimah or a criminal act that falls under the jurisdiction of judges or rulers. Takzir may face jail time, fines, being added to a list of repugnant people, laws prohibiting termination, or even the death penalty as legal penalties.

INTRODUCTION

Numerous efforts have been made to eradicate corruption in Indonesia, most notably through the passage of Law No. 31 of 1971. Then Law No. 31 of 1999 was enacted. The law explains corruption and mentions its criminal sanctions from Article 2 to Article 20. In Chapter IV, starting from Article 25 to Article 40, it contains formal provisions on transport elaborating the essential provisions. Subsequently, the government made amendments to Law No. 31 of 1999 by enacting Law No. 20 of 2001 on the Elimination of Corruption. However, with regard to sanctions, Law No. 20 of 2001 provides for much more lenient sanctions than those provided for in Law No. 31 of 1999. Government Regulation No. 71 of 2000 on Procedures for Implementing Community Participation and Contracting in the Prevention and Elimination of Corruption and Government Regulation No. 63 of 2005 on the Personnel Management System of the Anti-Corruption Commission.

This land is a land based on the One Deity. Therefore, it is very naive to set aside religious teachings as a solution to make corrupt perpetrators aware and eliminate the root of corruption. In Islam, corrupt behavior is expressly forbidden, as stated in the Hadith of the Prophet, peace be upon him, narrated by Ibn Abbas ra: "There will be no body fed with the unclean." \ 'Abdur Rafi\ ', Corruption Disease Therapy, Republika, Jakarta, 2006. P. xxvi)

The words of Allah swt in the Qur'an surah Al-Baqarah verse 188:

"And do not be a part of you

Eating the property of the other among you in a way that is unrighteous and bringing it to the judge, so that you may eat a part of the property of the other person by sin, even though you know it." (Al-Hikmah, Translation of the Qur'an, Ministry of Religion of the Republic of Indonesia, Jakarta, 2013, p. 29).

Even though there have been many efforts made by the government and the religious approach has clearly prohibited it, corruption always occurs, both in terms of the quantity of cases that occur and the quality of corruption crimes committed by perpetrators tend to be more systematic, more widespread, and more damaging to every line of people's lives.

From the description mentioned above, the author feels interested in studying by choosing the title "Aspects of Criminal Sanctions in Corruption from the Perspective of Islamic Law (Fuqaha) and Undang-undang in Indonesia".

Likewise, at the level of Islamic law, the Madzhab Imams have conducted initial research as the basis for foothold related to affirmation such as corruption. The Imams, Abu Hanifah, Malik, Shafi'i, and Ahmad bin Hanbal, Ja'fariyah, Dzahiriyah, the leaders of the Islamic law school, have given great outpouring to the order of Islamic Law. It does not mean that they want to change the soul of the Qur'an, nor is the Sunnah of the Prophet PBUH as alleged by non-Muslims and even Muslim scholars who have been "brainwashed". If one studies the "Fiqh" of the four schools in depth, then he will never encounter any difference of opinion as long as he pays attention to the basic principles of Islam.

The problem in this study is: What is the background of Imam Madzhab's life and social culture? What is the basis of Imam Madzhab's thinking on Corruption and its sanctions?

The method used in this research is more focused on normative juridical research by looking at the provisions of laws and regulations No. 20 of 2001 and the results of the thinking of the Madzhab Imams or Islamic law.

LITERATURE REVIEW

Jack Bologne's corruption theory GONE Theory Corruption is the result of several factors, including exposure, need, opportunity, and greed. Greed can affect every individual who engages in corrupt activities and has the capacity to affect everyone. In certain situations, organizations, authorities, or the general public provide opportunities for fraud. The need factor and the person's ability to lead a normal life are closely related. Furthermore, the disclosure factor has to do with the steps or repercussions the fraudster will have to deal with in the event that it is discovered that they committed fraud.

GONE = GREED + OPPORTUNITY + NEED + EXPOSE

METHODOLOGY

The method used in this research is more focused on normative juridical research by looking at the provisions of laws and regulations No. 20 of 2001 and the results of the thinking of the Madzhab Imams or Islamic law.

DISCUSSION

I. Background of the Life of Imam Madzhab

1. Madzhab Hanafi

The Hanafi Madhhab was first founded by Nu'man bin Tsabit bin Inta bin Mah, a scholar of 'Ajam (not Arab) who is better known by his kumyah "Imam Abu Hanifah" (died in 150 AH) in Kufa, Iraq. (UINSA Surabaya, Akhlak Tasawuf :UINSA Press, 2013. p.172)

A. The beginning of his life Imam Abu Hanifah

One of the righteous people from the Tabiin era was Imam Nu'man bin Tsabit Abu Hanifah. According to chatib, the renowned historian of Baghdad, Abu Hanifah was born in 80 AH. Once, Tsabit, his father, went to the caliph Ali and asked for prayers for him and his family. Because he was fortunate enough to see the period when some of the Companions were still alive into his youth, Abu Hanifah was one of the Tabi'in. Among them are notable figures such as Sahal bin Sa'ad (who passed away in 91 AH), Anas bin Malik (who died in 93 AH), and Abu Thubail Amir bin Warsilah (who passed away in 100 AH, when Abu Hanifah was only 20 years old). Abu Hanifah even heard and received Hadith from the Companions, according to Aini, the interpreter of "al Hidayah".

Like his ancestors, Abu Hanifah was initially trained as a merchant; But he soon began to delve into education. To date, Islamic history has been widely disseminated by scholars and imams. Major Tabiin such as Al-Amzai in Syria,

Hammad al-Bashrah, Sufyan Al-Tsauri in the Kuffah, Malik bin Anas in Medina and Laits in Egypt. (Tajus Es-Shobirien Hml, "The Istinbath Patterns of the Law of the Four Madzhab Imams," retrieved from <http://tajussobirien.blogspot.com/p/pola-pola-dasar-istinbath-hukum-empat.html>, on August 17, 2019 at 10:43 am).

B. Ijtihad Abu Hanifa

The sources of Islamic sharia for Abu Hanifah are the Quran and Al-Sunnah/Al-Hadith, as well as other scholars. Regarding the hadith, Abu Hanifah received it very carefully. Not every so-called hadith is accepted as a source of Islamic law. He does not receive news from the Messenger of Allah except the news narrated by the congregation from the congregation, or the news agreed upon by the fuqoha of a country and practiced; or the Sunday news narrated from the Companions in large numbers (but not mutawatir) that is opposed. Many Sunday news were rejected because they did not meet these criteria. Moreover, a hadith that does not make sense.

There are many hadiths that were conveyed to him and then rejected by him. For example:

Abu Hanifah rejected the hadith which means that the Prophet held a lottery for his wives when they wanted to travel. The reason is, the lottery includes gambling.

He also rejected a hadith that states that the seller and the buyer have the right to khiyar before parting (in fiqh it is known as khiyar majlis). Responding to this hadith, he said, if there has been buying and selling, there is no more khiyar. What if the sale and purchase were on the same boat, or on the same journey, or in the prison room?

Ibn Abi Shaybah in his Mushanaff narrated a hadith that the Prophet stoned Jewish men and women for adultery. Then it is mentioned that Abu Hanifah rejected the hadith because he did not believe that the stoning was applied to them. The reason is, there are two conditions for being stoned, Islam and mushah/mushannah.

From these several examples, a proposition is obtained that not just any hadith can convince Abu Hanifah that he came from the Prophet. In his rejection of the hadiths he said, "My rejection of a person who tells about the news of the Prophet, other than the Qur'an, is not meant to reject the Prophet nor to deny the Prophet. But the rejection of the one who brings false news in the name of the prophet." Thus, in fact, Abu Hanifah is a supporter of hadith and has a great contribution in saving the hadith of the Prophet.

It is known that Abu Hanifah Imam Ahlur Ray, in facing the passage of the Quran and al-Sunnah, tried to capture the message of the diballik nas. So he is known as an expert in the field of ta'alil al-hakam and qiyas. From his director, he gave rise to the theory of istihsan. (Aye Sudarto, "Madzhab Hanafi and Maliki: In Islamic Law and Its Influence in Islamic Economic Development, Mas Darto, accessed from http://masdarrto.blogspot.com/2013/12/mazhab-hanafi-dan-maliki-dalam-hukum_2.html, on August 14, 2019 at 10.15 am).

2. Imam Muhammad bin Idris Al-Syafi

a. Biographer Imam Muhammad bin Idris Al-Syafi

Abu Muhammad Abd Al-Rahman bin Abi Hatim Al-Razi who died in 327 AH/938 AD is the earliest and most detailed biographer of Imam Al-Shafi'i who says that Muhammad Idris al-Shafi'i was born in Gaza, while other writers say that he was born in the city of Aslaqan, not far from Gaza, in 150AH/767 AD. He came from the tribe of Quraish, and thus was a descendant of the Prophet Muhammad (PBUH). After his father died, his mother took him to Palestine, living with a Yemeni family, the area where his ancestors came from. Then he walked to Mecca with al-Shafii, when his son was ten years old. Since his childhood, Al-Shafii has shown his intellect as well as his impressive memory. (Nanang Hariono, "Sem 3 - Ibadah - Papers of Madzhab-Madzhab of Islamic Fiqh and Their Fiqh Methods: • Hanafi • Hambali • Maliki • Shafi'I".

b. Ijtihad Imam Idris Bin Al-Syafi

According to Syafi'i, as summarized by Zuhri, the order of sources of Islamic law is:

1. Al-Quran and Al-Sunnah.
2. When it is not there, it moves to ijma'
3. The strong opinion of the Prophet's companions who if they are different.
4. The opinion of some of the Prophet's companions that is not in dispute
5. Al-Qiyas.

The Sunnah is aligned with the Quran because both are covered in the sense of revelation in the sense of revelation. However, he admitted that the sunnah is not as strong as the Quran. The Sunnah will never contradict the Qur'an. If it is found that the text of the Quran is contrary to the sunnah, in accordance with the theory that the sunnah functions as an explanation of the Qur'an, then the Qur'an must be interpreted from the perspective of the sunnah. Thus, al-sunnah refers to that which has been conclusively shown to have come from the Prophet; that is, authentic hadith. It's just that the measure that a narration is valid is if the sanad is valid.

According to Imam Shafi'i, the source of sharia after al-Quran and al-Sunnah is ijma'. Ijma' in this context refers to the consensus reached by all scholars at the same point in time. The ijma' theory of Imam Shafi'I is certainly difficult to realize if it is not to be said to be impossible. His ijma's doctrine is therefore negative, meaning it is designed to discredit the legitimacy of an agreement that can only be made in one location. Because of his sullit, Imam Shafi'I is of the opinion that the agreement of the Companions is the strongest agreement (Muh. Zuhri, *Islamic Law in the Trajectory of History*, Cet.2, (Jakarta: PT. Raja Grafindo Persada), 1997, p. 98)

3. The Imam Maliki

a. Biography Imam Malik bin Anas

Imam Malik bin Anas was born at the end of the period of the Prophet's companions in Medina, the city of the Prophet (Madinah al-Rosul) and the city of the "center of intelligence" which was the center of Islamic teaching at that time, because the disciples of the companions known as Tabi'in and became great scholars in various fields of Islamic teaching came to this city, from various parts of the Muslim world.

(Rohman, Abdur, Prof., Shari'ah Codification of Islamic Law, Rineka Cipta: Jakarta. Cet. I, 1993).

b. Ijtihad Imam Malik bin Anas

Like other imams, Imam Malik places the Qur'an as the first source of law, then al-Hadith, as far as possible the hadiths of Sunday as the postulates of sharia if there is no other stronger postulate. He remains strict in the selection of hadiths. In this regard, Imam Malik said that knowledge is not taken from four types of people, as follows. The first comes from the safih, the second from the person who enjoys acting on impulses, the third from the liar, and the fourth from the person who, despite being righteous and skilled in worship, does not comprehend what he brings and says.

In Imam Malik's thoughts, it is known as "amal al-Medina", which is the daily behavior of the people of Medina. Here the people of Medina are placed as the people who know the most about the sunnah of the Prophet, Naskh and Mansukh. If the inhabitants of Medina agree on a certain behavior, then this agreement is of higher value than qiyas and khabar ahad (even though it is sahih sanad). Even if it is not an agreement, the behavior of the majority, because the agreement of the people is of the same value as their narration.

Among the important steps offered by Imam Madzhab Malik in ijtihad is the use of al-maslahah al-mursalah. Al-mursalah means free, unlimited, unbound. So al-maslahah al-mursalah means interests, goodness that is obtained freely. Al-maslahah al-mursalah is based on the idea that Islamic shari'ah seeks to protect the interests of the community and prevent harm while also bringing benefits, welfare, and peace. According to Imam Malik, the common interest is the target of Islamic law. All legal products prioritize the common interest over other interests.

To apply al-maslahah al-musalah, 3 conditions are needed:

1. The issue that is ijtihadad must be something that touches on the problems of human relations, so that the interests included in it can be interpreted with reason.
2. These interests must be in line with the spirit of sharia and not contradict the Quran and al-Sunnah.
3. The interest is Dhaury, not Hajji and not Tahsini.

Among the examples of legal decisions based on:

1. The imposition of taxes on the rich to finance the armed forces and protect the State.
2. If the crime is financed by the perpetrator's assets, his assets will be confiscated as punishment
3. If in a war the disbelievers protect themselves by using Muslim prisoners of war as shields, it is estimated that without damaging the shield the enemy cannot be conquered, then on the basis of the public interest of dhauri it is permissible to kill the Muslims who are used as shields. This jab is intended to protect the interests of the Muslim community as a whole.

- Because the act of law does not use the postulates of Shari'i and Qiyas, it is included in al-maslahah al-mursalah. With the theory of al maslahah al mursalah, actually madzhab Maliki is not so bound by the fiqh thought of the previous generation of Ahlul Hadith, as well as what was consistently developed by Ahmad bin Hambal. (Al-Amidi, Al-Ihkam fi Ushul al-Ahkam, Cairo, Juz I, 1914).

- The Hand of the Devil

2.a. His full name is Abu Abdullah Ahmad bin Muhammad bin Hanbal, born on 20 Rabiul awwal in 164 AD in Marwa. His father Muhammad is famous as a warrior who lived in Bashrah, Iraq. It is said that when his father went to Marwa as a Ghazi, Imam Ahmad was born while living there temporarily. As a small child he was taken to Baghdad, where his father died very early, at the age of 30. Thus, the entire responsibility for her upbringing lay with her mother, Shafiyah bint Maimunah bint Malik Al-Syaibani. (Prof. Abdur Rahman, Sharia Codification of Islamic Law, (Jakarta: Rineka Cipta), 1993. Thing. 136)

b. Ijtihad Imam Ibn Hambal

According to Imam Ahmad, al-Nushush is the first source of law, namely the Quran and al-Hadith, which are Marfu. If the prohibition on legal issues was obtained in these texts, he does not move on to other sources. He also does not use the Ijtihad method. The second source is the Fatwa of the Companions. If Imam Ahmad receives this fatwa and finds no other opinion than him, then he does not turn to Ray or Qiyas.

- If there is a difference of opinion among the companions, Imam Ahmad chooses an opinion that is closer to the teachings of the Quran and al-Sunnah. According to Imam Shafi'i, one of the ways to find out the stronger opinion between the two opposing opinions of the Companions is with qiyas but this is done by Imam Ahmad.

- Taking the hadith of mursal and the surrounding dhaif there is no evidence that hinders it, it means that the dha'if here is not the dha'if that is bathil and the ungodly, but the dha'if that is valid or hasan. In Imam Ahmad's

view, the hadith is not divided into sahih, hasan, and dha'if, but is divided into two, sahih and dhaif only.

- Qiyas, is used in a state of descent, i.e. when there is no "weapon" mentioned above. Zuhri, Muh, Dr. Islamic Law in Historical Trajectory, PT Raja Grafindo Persada: Jakarta, Cet. II. 1997).

c. Corruption and Sanctions According to Imam Madzhab

If Islam is the name given to a life lesson, then al-din al-Islam is the system of laws that govern behavior in all spheres (vertical and horizontal relationships) so that people can enjoy the pleasures of their Lord (Allah swt) and find salvation both here on Earth and in the hereafter. Islam is a religion of grace for all of nature, or rahmatanlil'alamin, which encompasses everything that exists on this planet but is not subject to Islamic law. For this reason, Islamic treatises are complete and universal. No one escapes a life whose perpetrators are classified as jinayaat al-kubra (great sin). (Muhammadiyah, Nahdatul ulama Partnership, Corruptors are kafir, Mizan, Jakarta, 2010, p. xiii.)

Corruption in Islam is an act of violating sharia. Islamic sharia aims to realize the benefits for mankind with what is called maqashidussy sharia'ah. Among the benefits to be aimed at is the preservation of property (hifdzul maal) from various forms of violations and misappropriations. Islam regulates and evaluates property from the time of acquisition to the time of expenditure It provides instructions on how to make sure that acquiring property is done ethically and in accordance with Islamic law. Some of these instructions include abstaining from usury, stealing, betraying, embezzling other people's property, lying about measurements and scales, corruption, and other similar acts. (Sabri Samin, Islamic Crime in Legal Politics in Indonesia, Kholam, Jakarta, 2008, p. 77).

As in the words of Allah swt in surah Al-Baqarah:188 which means:

"And do not be some of you

Eat the other part of your property by the way of bathil and (do not) bring the property to the judge, so that you can eat part of the property of the other person by sin, even though you know." (Al-Hikmah, Translation of the Qur'an, Ministry of Religion of the Republic of Indonesia, Jakarta, 2013, p. 29).

from the reach of Islam, including corruption.

There is no event that is not regulated in Islam. "There is no event.

even in Islam, except there is a law of Allah swt." (Abdul Ghofur Anshori, and Yulkarnanin Harahab, Islamic Law Dynamics and Its Development in Indonesia, Total media, Jakarta, 2008, p. 11.)

Imam madzhab views corruption as a heinous act. Acts of corruption in the context of Islam are the same as facades, which are acts that damage the order of faith, do not eat each other's property in a false way." Corruption is haram, in Surah Ali Imran: 161.

So that it becomes one of the causes that can hinder the fulfillment of prayers,

As understood from the words of the Prophet (peace be upon him):

"O man, indeed, Allah is good, accepting nothing but good. And indeed, Allah commanded the believers with what Allah commanded the apostles. Allah said, "O messengers, eat from the good and do righteous deeds. Indeed, I know what you are doing." He (Allah) also said: "O you who believe, eat what is good from what We have provided you," and he (the Messenger of Allah) (peace and blessings of Allaah be upon him) narrated a man who had been safar for a long time, dressed in a disheveled and dusty garment. He raised his hand to the sky (while praying): "O Rabb., O Rabb...," but his food is haram, his drink is haram, his clothes are haram and he is filled with something haram. So, how will the prayer be answered?"

In another hadith, the Prophet (saw) also said, "Every body that develops from the unclean, then hell is more important to it" (HRAhmad).

The law of acts of corruption according to the opinion of fiqh scholars, by acclamation and consensus (Ijma') is haram because it is contrary to the principles of maqashidussy shari'ah. The haram of these corrupt practices can be examined from a number of angles. Firstly, corruption is defined as fraud and acts of fraud that have the potential to jeopardize the finances of the State and the interests of the public (society), both of which Allah swt condemns and for which there will be just punishment in the hereafter. (Setiawan Budi Utomo, *Fiqh Actual Answers to Contemporary Problems*, Gema Press Insani, Jakarta, 2003, p. 20.)

"It is impossible for a prophet to betray in the matter of the spoils of war. Whoever betrays in the spoils of war will come on the Day of Resurrection with what he has betrayed, and then each one will be avenged for what he has done with commensurate, while they are not persecuted."

This verse relates to the event narrated by Abu Dawud, at-Tirmidhi, and Ibn Jarir that was the loss of a piece of woolen cloth obtained from the spoils of war. After searching, it turned out that the cloth was not in the inventory records of the spoils of war, so someone presumptuously said, "Perhaps the Prophet (saw) himself took the cloth for himself." In order for the accusation not to cause unrest among Muslims and clean his image, the verse mentioned above is issued which confirms that the Prophet (peace be upon him). It is not possible to be corrupt and fraudulent in the trust of public property in the form of spoils of war. In fact, the Prophet threatened that anyone who corrupts the State's property will become embers for him in hell and likewise his deeds that come from the proceeds of his corruption will not be accepted by Allah swt. Caliph Umar bin Abdul Aziz (63-102 AH) set an example for his daughter when he commanded her to return the gold necklace that the State Treasury

Supervisor (baitul mal) had given her as a token of appreciation and deference to her father.

Although the term corruption is not used literally in Islamic literature, its meaning and resemblance can be found throughout the religion. Abu Hapsin cites Al-Naim's book, which defines corruption broadly as an illegal act carried out with the goal of enriching oneself, another individual, or a business at the expense of the nation's economy or state finances. In Islamic law, corruption can be categorized under the following names: *ar-risywah*, *al-maksu*, grants/gifts, and *al-ghulul* (Abu Fida' Abdur rafi', *Therapy of Corruption Diseases with Takziyatun Nafs*, Republika, Jakarta, 2006, p. 2.)

1) Forms of Sanctions for Perpetrators of Corruption Crimes according to Madzhab Imams.

There are efforts to make efforts in traditional forms of Islamic crime as stipulated in the Qur'an and As-Sunnah as well as the dynamics of innovative interpretation or development of these forms of Islamic crime. From this point of view, it can be concluded that there are several forms, including that traditionally, Islamic criminal forms include:

- I .Pidana Qishash atas jiwa
- II. Pidana Qishash atas body
- III. Pidana diyat (denda ganti rugi)
- Ivy. Pidana Mathi
- v. The Crime of Crucifixion
- Vi. The Crime of Throwing Stones to Death (Stoning)
- Vii. Criminal Amputation of Hands or Feet
- Viii. Criminal Amputation of Hands and Feet
- Ix. Criminal Expulsion or Exile
- x. Life imprisonment
- Xi. Criminal Whipping or Dera
- Xii. Criminal Fines in lieu of diyat
- Xiii. Criminal Reprimand or warning

2) Forms of hudud (hadd) crimes that are threatened against certain types of crimes that result in property losses or others such as theft and robbery, as well as against types of crimes without direct victims such as adultery, drunkenness and so on.

3) Forms of takzir crime that can be an additional crime, in order to aggravate the existing criminal level or can also be a completely new form of crime. This crime of takzir, in essence, is a crime that is threatened against types of crimes that do not have criminal provisions in the Qur'an or Hadith. (H.

Taufiq, *Philosophical Dimensions of Islamic Criminal Law*, Legal Pulpit No. 45 Yr. V 1999 Al Hikmah Ditbinbapera Islam, Jakarta, 1999, pp. 16-17).

Takzir comes from the word at-Ta'zir (according to the language) which means exaltation and help. (Muhammad Sayyid Sabiq, *Fiqh Sunnah* 4, Pena Pundi Aksara, Jakarta, 2011, p. 388).

This is in accordance with the words of Allah swt which means:

"So that you all believe in Allah swt and His Messenger, strengthen His (religion)." Q.S Al-fath:9.

The meaning of Takzir in this verse is to glorify and support the religion of Allah. it can also mean reproach when it says: "Azzara fulanun fulanan", which means that the Fulan denounced the Fulan as a warning and lesson for the mistakes he has made. The definition of Takzir according to Sharia is instructive punishment for sins not explained by Hadd (sanction) and Kafarat (salvation). In addition, it can also be said that it is a punishment imposed by the government (Imam) for a criminal act or sin, the sanction of which has not been established in the religion, or the sanction has been established but does not meet the requirements for the Application corresponds to the sanction. The evidence for the sharia of takzir is the narration of Bahz bin Hakim from his grandfather that the Prophet (peace be upon him) once detained someone who was accused. The detention of a person is a preventive action that needs to be taken until the truth becomes clear.

The Prophet (peace and blessings of Allah be upon him) was reported by Hani bin Niyar to have said, "Do not whip a person more than ten times, except in matters pertaining to Allah's rights (hudud)". Narrated, among other things, that Umar bin Khathtab practiced takzir and educated some immoral actors (who did not have kafarat and did not have the sanctions prescribed by the Shari'a) by shaving their hair erratically, banishing them, and beating them. He is also said to have burned down stores that sold khamar (alcohol), villages that sold khamar, and Sa'ad bin abi Waqash's palace in Kufa due to immorality.

- Capital punishment.

Sometimes the form of takzir punishment can be in the form of the death penalty. The punishment can be applied if the benefit really wants it. As for corruption cases, the death penalty can be applied if the State is in a precarious or crisis situation. (Muhammadiyah, *Nahdatul Ulama Partnership, Corruptors are Kafir*, Mizan, Jakarta, 2010, p.37-38).

- a. Sharia. Islamic sharia aims to realize the benefits for mankind with what is called maqashidussy sharia'ah. 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 lead to various distortions in the life of the state and society, which can be divided into acts of damage to the earth (facade), which are highly cursed by Allah, the Exalted.

- b. The Imams of Madzhab place corruption in the category of jarimah takzir, takzir is a legal sanction imposed on a perpetrator of jarimah or a criminal act that commits violations both related to the rights of Allah swt and human rights, and these violations are not expressly determined in the form of sanctions in the nash of the Qur'an and hadith because it is not expressly determined, takzir becomes the competence of the judge or local ruler. Legal sanctions for takzir can be in the form of imprisonment, fines, inclusion in the list of reprehensible persons, dismissal laws, and even the death penalty.
- c. Very strict sanctions contained in the Islamic Criminal Law can be an option to be adopted into the Corruption Crime Law.
- d. Corruption and its Sanctions according to Law No. 20 of 2001

Background of the Emergence of Laws Number 20 of 2001 Changes and developments in the criminal offense of corruption are apparently continuing to move and cause the need for new regulations that are more able to accommodate new criminal offenses of corruption, this is indeed a social reality where corruption is an extraordinary crime (extra ordinary crime) and results in the loss of the rights of the small people to a more prosperous and prosperous life. This has been mandated in the preamble and body of the 1945 Constitution.

The changes that have occurred are indeed felt to be important, this can be seen by the changes in the editorial in, among others: First, articles 2 and 3 which have not changed substantially, the changes lie in the explanation of the article. Second, the provisions of articles 5, 6, 7, 8, 9, 10, 11, 12 in these articles are formulated by not referring to the articles of the Criminal Code but directly mentioning the elements contained in each article of the Criminal Code that are referred to. Third, between articles 12 and 13, three new articles are inserted, namely articles 12A, 12B, and 12C. Fourth, between Articles 26 and 27 a new article was inserted so that it became article 26 A. fifth, Article 37 was broken down into two new articles so that it became article 26 A. fifth, Article 37 was broken down into two articles, namely article 37 and article 37A. sixth, between articles 38 and 39 three new articles were added, namely 38A, 38B, 38C. Seventh, between chapters VI and VII, a new chapter is added, namely chapter VI A concerning the Transitional Provisions which contains or articles, namely article 43 A which is placed between articles 43 and 44.

Formulation and Identification of Criminal Acts

Criminal acts in this sense are formulations of acts that are prohibited in laws and regulations accompanied by criminal threats against those who commit the prohibited acts. The meaning contained in the above limitation when combined with the word corruption, so that it becomes a criminal act of corruption, thus easy to understand, is the formulations of all acts prohibited in Law Number 31 of 1999 amended by Law Number 20 of 2001 concerning the Eradication of Corruption.

Criminal provisions are contained in Law Number 31 of 1999 concerning the Eradication of Corruption Crimes jo. Law Number 20 of 2001 has been explained in 13 articles, namely: articles 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 12B, 12C and 13. Based on these articles, corruption can be formulated into thirty forms or types of corruption crimes, which can basically be grouped as follows: Corruption related to the State's financial losses.

This group is explained in two articles, namely articles 2 and 3 of Law Number 20 of 2001, the reading of these articles is:

Article 2

Paragraph 1, Any person who unlawfully commits an act of enriching himself or another person or a corporation shall be punished with life imprisonment or imprisonment for a minimum of 4 years and a maximum of 20 years and a fine of at least Rp. 200,000.00 and a maximum of Rp. 1,000,000.00

CONCLUSIONS AND RECOMMENDATIONS

Islam is a religion that is rahmatanlil\`alamin, namely grace for all of nature, covering everything that exists on this earth. It is not regulated by Islam, if Islam is given as a name for a teaching in life, if confronted with religious terminology as an equivalent of the word al-din from the Semitic language, which means law or law, then are al-din al-Islam actually the rules that govern human behavior in all aspects (vertical and horizontal relationships), so that people may enjoy their Lord (Allah swt.) in their lives, so that they may attain salvation in this world and the hereafter gain. That is why Islamic treatises are complete and universal, no one escapes a life whose perpetrators are categorized as committing Jinayaat al-kubra (great sin).

Corruption in Islam is an act of violating Sharia law. Islamic Sharia aims to realize the benefit to humanity through the so-called Maqashidussy Sharia. The benefits sought include protection of property (hifdzul maal) from various forms of infringement and misappropriation. Islam regulates and values property from its acquisition to its issuance. Islam provides guidance so that the acquisition of property is done in a moral manner and in accordance with Islamic law, namely, through no cheating, no usury, no treason, no embezzlement of other people's property, no stealing, no cheating in moderation and measure, no corruption and so on.

Imam madzhab views corruption as a heinous act. Acts of corruption in the context of Islam are the same as facades, which are acts that damage the order of faith, do not eat each other's property in a false way."

Corruption is haram, in Surah Ali Imran: 161 so that it becomes one of the causes that can hinder the fulfillment of prayers, as understood from the words of the Prophet (peace be upon him):

The law of acts of corruption according to Islamic law, by acclamation and consensus (Ijma') is haram because it is contrary to the principles of maqashidussy shari'ah. The haram of these acts of corruption can be reviewed from various aspects, first, acts of corruption are acts of fraud and fraud that have the potential to harm the State's finances and public interests (society) which are condemned by Allah swt with appropriate punishment in the hereafter.

ADVANCED RESEARCH

Each study has limitations; thus, you can describe it here and briefly provide suggestions for further research.

ACKNOWLEDGMENT

"This journal article was written by (dedi of the Tasikmalaya Islamic Institute, West Java, Indonesia) based on the results of research (Aspects Of Criminal Sanctions In Corruption From Islamic Legal Perspectives (FUQAHA) And Law In Indonesia) which was independently funded in 2024. The contents are entirely the responsibility of the author ."

REFERENCE

- Al-Qur'an Terjemahan Jakarta, 2013
- Abdur Rafi', Abu Fida'. terapi penyakit korupsi Jakarta: Republika,2006.
- Ali, H.Muhammad Daud. Hukum Islam Jakarta;Raja gradindo perkasa, 2006.
- Anshori, Abdul Ghofur. dan Yulkarnanin Harahab, Hukum Islam Dinamika danPerkembangannya di Indonesia Jakarta: total media,2008.
- Badan Pembinaan Hukum Nasional, koordinasi lembaga hukum dalam pemberantasan korupsi. Jakarta: Departemen Hukum dan HAM RI,2009.
- Bin Ismail, Abdul Ghani. Hukum Suap dan Hadiah Jakarta: Cendekia, 2003
- Djaja, Ermansjah. Meredesain pengadilan tindak pidana korupsiJakarta;bumi aksara 2010.
- Djaja, Ermansyah. Memberantas korupsi bersama KPK (Komisi Pemberantasan Korupsi) Jakarta; Sinar Grafika 2010.
- Farid, A. Zainal Abidin. Hukum Pidana I, Jakarta:Grafika Offset 1995.
- Hartanti, Evi. tindak pidana korupsi Semarang;Sinar grafika,2009.
- Hosen Ibrahim. Jenis-jenis hukuman dalam Hukum Pidana Islam dan Perbedaan Ijtihad Ulama dalam Penerapannya, Jakarta: Mimbar Hukum Al Hikmah & DITBINBAPERA ISLAM, 1995.
- Irfan, Muhammad Nurul. Tindak Pidana Korupsi di Indonesia dalam Perspektif Fiqih Jinayah Jakarta: Badan Diklat dan Litbang ,2009.
- Irfan, Nurul. Korupsi dalam Hukum Pidana Islam Jakarta: Amzah, 2011.
- Muslich, H.Ahmad Warsi. pengantar dan asas hukum pidana Islam Jakarta;Sinar Grafika, 2006.
- Muhammadiyah, Nahdatul Ulama Partnership-Kemitraan, Koruptor itu Kafir Jakarta : Mizan, 2010.
- Moeljatno. Asas-asas hukum pidana,Jakarta;Rineka Cipta,2000.
- Patiro, Yopie Morya Immanuel. Diskresi pejabat publik dan tindak pidana korupsi Bandung;keni media 2012.
- Prastowo, Andi. metode penelitian kualitatif , dalam perspektif rancangan penelitian Jogjakarta: Arruuz media, 2011.
- Samin, Sabri. Pidana Islam dalam Politik Hukum Indonesia Jakarta: Kholam, 2008.
- Syahatah, Husain Husain. Suap & Korupsi dalam Perspektif Syariah Jakarta: Amzah, 2008.
- Taufiq, H. Dimensi Filosofis Hukum Pidana Islam Jakarta: Mimbar Hukum Al Hikmah & DITBINBAPERA Islam, 1999.
- Usfa, A. Fuad. dan Tongat Pengantar Hukum Pidana,Malang:UMM,2004.
- Utomo, Setiawan Budi. Fiqih Aktual Jawaban tuntas masalah kontemporer Jakarta: Gema Press Insani, 2003.
- Al-Qur'an Terjemahan Jakarta, 2013
- Abdur Rafi', Abu Fida'. terapi penyakit korupsi Jakarta: Republika,2006.
- Ali, H.Muhammad Daud. Hukum Islam Jakarta;Raja gradindo perkasa, 2006.

- Anshori, Abdul Ghofur. dan Yulkarnanin Harahab, *Hukum Islam Dinamika danPerkembangannya di Indonesia* Jakarta: total media,2008.
- Badan Pembinaan Hukum Nasional, koordinasi lembaga hukum dalam pemberantasan korupsi. Jakarta: Departemen Hukum dan HAM RI,2009.
- Bin Ismail, Abdul Ghani. *Hukum Suap dan Hadiah* Jakarta: Cendekia, 2003
- Djaja, Ermansjah. *Meredesain pengadilan tindak pidana korupsi*Jakarta;bumi aksara 2010.
- Djaja, Ermansyah. *Memberantas korupsi bersama KPK (Komisi Pemberantasan Korupsi)* Jakarta; Sinar Grafika 2010.
- Farid, A. Zainal Abidin. *Hukum Pidana I*, Jakarta:Grafika Offset 1995.
- Hartanti, Evi. *tindak pidana korupsi* Semarang;Sinar grafika,2009.
- Hosen Ibrahim. *Jenis-jenis hukuman dalam Hukum Pidana Islam dan Perbedaan Ijtihad Ulama dalam Penerapannya*, Jakarta: Mimbar Hukum Al Hikmah & DITBINBAPERA ISLAM, 1995.
- Irfan, Muhammad Nurul. *Tindak Pidana Korupsi di Indonesia dalam Perspektif Fiqih Jinayah* Jakarta: Badan Diklat dan Litbang ,2009.
- Irfan, Nurul. *Korupsi dalam Hukum Pidana Islam* Jakarta: Amzah, 2011.
- Muslich, H.Ahmad Warsi. *pengantar dan asas hukum pidana Islam* Jakarta;Sinar Grafika, 2006.
- Muhammadiyah, *Nahdatul Ulama Partnership-Kemitraan, Koruptor itu Kafir* Jakarta : Mizan, 2010.
- Moeljatno. *Asas-asas hukum pidana*,Jakarta;Rineka Cipta,2000.
- Patiro, Yopie Morya Immanuel. *Diskresi pejabat publik dan tindak pidana korupsi* Bandung;keni media 2012.
- Prastowo, Andi. *metode penelitian kualitatif , dalam perspektif rancangan penelitian* Jogjakarta: Arruuz media, 2011.
- Samin, Sabri. *Pidana Islam dalam Politik Hukum Indonesia* Jakarta: Kholam, 2008.
- Syahatah, Husain Husain. *Suap & Korupsi dalam Perspektif Syariah* Jakarta: Amzah, 2008.
- Taufiq, H. *Dimensi Filosofis Hukum Pidana Islam* Jakarta: Mimbar Hukum Al Hikmah & DITBINBAPERA Islam, 1999.
- Usfa, A. Fuad. dan Tongat *Pengantar Hukum Pidana*,Malang:UMM,2004.
- Utomo, Setiawan Budi. *Fiqh Aktual Jawaban tuntas masalah kontemporer* Jakarta: Gema Press Insani, 2003.