

Legal Politics of Corruption Crimes from the Perspective of Islamic Criminal Law as a Restoration of Community Welfare Rights

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ABSTRACT

This article discusses the legal politics of eradicating corruption crimes from the perspective of fiqh jinayat (Islamic criminal jurisprudence) as a means of restoring community welfare rights. Corruption in Indonesia has become a structural phenomenon that not only damages state finances but also undermines social and economic justice. This study employs a library research method with a descriptive-analytical approach, analyzing various sources of positive criminal law and Islamic legal texts. The findings indicate that conventional punitive approaches have proven insufficient in combating corruption, as they often fail to address the root issue of public welfare losses. In Islamic law, corruption is classified as ghulul (embezzlement), risywah (bribery), and betrayal of public trust, and in certain cases may even be categorized as hirabah (grave criminal acts). Sanctions under fiqh jinayat include ta'zir, hudud, and in extreme cases, hirabah punishments, as well as asset confiscation as a tangible effort to recover public losses. The implementation of restorative justice is offered as a strategic alternative to shift from merely retributive justice to a more balanced model that incorporates social justice. Progressive legislation such as the ratification of the Asset Forfeiture Bill is essential to strengthen the state's commitment in returning rights usurped by corrupt practices. This study recommends harmonizing national law with Islamic legal principles to build a more just, firm, and welfare-oriented legal system.

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INTRODUCTION

As a fundamental legal policy of the state, legal policy influences how laws are formulated, implemented, and enforced to advance national objectives. In addition to demonstrating a commitment to upholding justice, the state's decision to adopt an asset confiscation policy in the context of corruption crimes also reflects its intention to reduce disparities in the financial gains obtained by those engaged in corrupt activities. This implies that imprisonment alone, as a form of repression, is no longer sufficient. By seizing the proceeds derived from criminal acts, the state must compensate for the harm inflicted upon the public and effectively prevent its recurrence.

Asset confiscation in corruption cases is not always easy to implement. The application of legal policy in Indonesia presents several challenges, including issues related to regulation, evidentiary techniques, and the underlying ideology of the national legal system. One of the fundamental issues that often triggers debate is how to balance the principles of due process with the need for effective corruption eradication, particularly when a state decides to adopt a non-conviction-based asset confiscation model. In one sense, the presumption of innocence should not be compromised, and the protection of private property rights must be respected. On the other hand, highly organized corruption often prevents the state from directly establishing the perpetrators' involvement; however, assets derived from corruption can still be identified and analyzed.

One of the most extreme forms of crime with diverse systemic impacts is corruption. Corruption not only directly undermines state finances but also erodes the rule of law, diminishes public trust in official institutions, weakens the foundations of democracy, and exacerbates socio-economic inequality. One of the major challenges in combating corruption, despite various law enforcement efforts, lies in how the government can legally punish perpetrators while restoring public losses through the confiscation of assets derived from illegal activities. In this regard, the legal practice of asset confiscation has emerged as a significant yet controversial instrument within Indonesia's comprehensive strategy to combat corruption.

However, there are also moral and symbolic dimensions to the legal politics of asset confiscation. The public will believe that justice is more than mere rhetoric when the state is able to seize corrupt assets and return them to society in the form of infrastructure development, healthcare services, or educational funding, for instance. Such measures can enhance public participation in safeguarding the integrity of the state and restore trust in the judicial system. Nevertheless, policymakers must possess the political will and courage to implement these measures effectively. Without it, asset confiscation will remain a noble legal concept with poor practical application.

Indonesia declares itself a state based on the rule of law, as stipulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This affirmation serves as a fundamental foundation for organizing national and state life, as well as a formal symbol of constitutional governance. Within

the framework of a rule-of-law state, all governmental authority must be exercised in accordance with the law, rather than at the discretion of those in power. All political, social, and economic powers must be subject to the sovereignty of law. In line with this, Indonesia affirms its commitment to the values of justice, equality before the law, and the supremacy of law.

Corruption is not merely an administrative issue affecting a nation's economy; it represents the most blatant violation of morality, justice, and the rule of law. Corruption undermines public trust in national institutions, erodes the principle of meritocracy, hampers development, and entrenches deep social and economic disparities. Despite numerous efforts to address the problem, corruption remains a systemic issue in Indonesia that has persisted throughout the reform era. For instance, the establishment of the Corruption Eradication Commission (KPK) in 2002 was a significant step that assured the public of the state's serious commitment to combating corruption, akin to that of strong economies. However, this assurance stands in contrast to the reality, which shows that corruption practices have instead become more sophisticated and increasingly involve actors occupying high positions of power.

In Indonesia, corruption has spread beyond the central government and deeply penetrated regional administrations. Numerous regional leaders have been implicated in cases involving budget misuse, gratuities, and bribery. Law enforcement officials, members of the legislature, and even the judiciary have not been immune to corruption. In reality, institutions that are supposed to serve as the frontline defenders of justice often end up contributing to the problem. Amidst this situation, the public has grown to believe that Indonesian law is "blunt at the top but sharp at the bottom." This perception undermines the legitimacy of the state as the ultimate authority in national affairs and fosters widespread skepticism toward the enforcement of law.

The Indonesian public has long been familiar with the dynamics of corruption. People seem unsurprised by the prevalence of corruption cases and the constant stream of related news, as corruption has almost become a hereditary culture something perceived as impossible to eradicate. During an appearance on the program *tv*, former President Abdurrahman Wahid (Gus Dur) once remarked that the nation lives in fear because it lacks the courage to take firm action against wrongdoers. Efforts to prevent crime continue to evolve alongside the changing nature of criminal behavior. Particularly in cases of crimes driven by unlawful profit motives, conventional strategies such as arresting and imprisoning perpetrators to create a deterrent effect have increasingly proven ineffective. Consequently, crime prevention efforts have begun to shift from merely punishing offenders to targeting and confiscating the proceeds of crime obtained through unlawful means.

The political climate of a country has a significant impact on its legal system. The political structure of a governing regime determines the nature and substance of the laws it produces. In a democratic political system, laws tend to be more responsive and oriented toward serving the public interest.

Conversely, under an authoritarian political system, legal products are generally more conservative, elitist, and inclined to preserve the status quo. This theme lies at the core of Prof. Dr. Moh. Mahfud MD, S.H., S.U., M.I.P.'s book *Politik Hukum di Indonesia* (Legal Politics in Indonesia).

Several prerequisites must be fulfilled to implement the concept of a state governed by law, whether in the Anglo-Saxon tradition (Rule of Law) or the Continental European tradition (Rechtsstaat). These requirements include the separation of powers, the protection of human rights, the supremacy of law, and an impartial and independent judiciary. Unfortunately, these ideals remain far from being fully realized in the Indonesian context. The law is often applied inconsistently, and perpetrators of corruption continue to receive preferential treatment based on their social status or political connections. As a result, public trust in legal institutions has declined significantly.

In many countries, efforts to eradicate corruption are primarily driven by the need to preserve state resources, though the strategies employed may vary. For anti-corruption legislation to achieve this objective, it must be drafted in a manner that facilitates comprehensive and methodical implementation. A strong foundation is essential for the formulation and establishment of anti-corruption standards, which must accurately reflect these objectives from both philosophical and theoretical perspectives.

As an addendum to Law Number 31 of 1999 on the Eradication of Corruption Crimes, Law Number 20 of 2001 elaborates on various issues related to corruption and serves as an instrument for its implementation. Indonesian society is no stranger to corruption, which can be understood as an act that violates the social and economic rights of the people while causing losses to the state's finances. Given the rapid advancement of technology, statistical data and media reports indicate that corruption continues to afflict both the upper and lower strata of society, to the extent that it has become normalized almost perceived as an inherent part of Indonesian life. The draft bill on asset confiscation for corruption crimes was first formulated in 2008, and after nearly two decades, it was finally included in the 2023 National Legislative Program (Prolegnas) priority list. However, to this day, there have been no concrete signs of progress or response from the House of Representatives (DPR) since President Joko Widodo submitted the Presidential Letter (Surpres) to the legislature.

The weakness of human integrity and institutional processes is one of the main causes of the widespread corruption in rule-of-law countries such as Indonesia. The existing laws are, in many cases, sufficient to prosecute corrupt officials. However, political interests, pressure from certain groups, and even interference from within the judicial system itself often hinder their effective enforcement. The legal reforms carried out thus far are widely perceived as procedural rather than substantive. The ethics and morals of key stakeholders often remain unchanged despite institutional reorganizations, legislative amendments, and the introduction of new policies.

Given all these challenges, it is crucial to reaffirm that Indonesia's legal

system must not exist merely as a normative symbol. Every citizen should be able to experience the tangible reality of living under the rule of law. In this context, the eradication of corruption serves as a vital indicator of a nation's legality and governance quality. Public trust in the law will be restored only when corrupt officials are prosecuted impartially, without favoritism or political interference. However, Indonesia risks becoming a "corrupt rule-of-law state" if corruption continues unchecked and without fair, decisive action. This paradox poses a serious threat to the sustainability and future of democracy.

To build a legal system that is not only strong in combating corruption but also just and transparent, collaboration among the government, the legislature, the judiciary, law enforcement agencies, and civil society is essential. Continuous efforts must be made to strengthen legal and moral education, bureaucratic reform, budget transparency systems, and whistleblower protection mechanisms. However, to prevent power from operating without restraint, civil society organizations and the mass media must actively, critically, and independently perform their roles as instruments of social oversight.

Indonesia Corruption Watch (ICW) has criticized the House of Representatives (DPR RI) for excluding the Draft Bill on Asset Confiscation (RUU Perampasan Aset) from its legislative priorities. ICW argues that this decision reflects the DPR's lack of commitment to strengthening the anti-corruption agenda. The inconsistency where the bill was listed as a priority in the 2023 National Legislative Program (Prolegnas) but omitted from the 2024 list announced on November 23, 2024 illustrates a troubling lack of political will, suggesting that certain interests within the DPR may be attempting to conceal something. This issue has become even more urgent under President Prabowo's administration, as several major corruption cases have surfaced, ranging from the PT Timah scandal to the more recent Pertamina oil adulteration case. These incidents, involving losses amounting to trillions of rupiah, have led the public to believe that such vast sums of money no longer hold real value in the eyes of those in power. Moreover, these cases appear to have been handled inadequately, failing to reflect the scale of damage inflicted upon the state and the suffering caused to the public.

Transparency International further defines corruption as the act of public officials and politicians who abuse the power entrusted to them to unjustly and unlawfully enrich themselves and those around them. In recent years, Indonesia's position among countries with lower levels of corruption has declined significantly. Previously, Indonesia ranked 96th on this index.

In addition to serving as an effort to reduce or address the persistently high rate of corruption, the establishment of strong and enforceable regulations will help ensure legal implementation that aligns with societal realities. However, a review of the existing legal framework reveals that it remains insufficient to accommodate the ambition of significantly lowering corruption levels in Indonesia whether due to shortcomings in enforcement or

inherent weaknesses within the regulations themselves.

Thus, the legislature holds the authority to draft, enact, and ratify new laws concerning asset confiscation. The Draft Bill on Asset Confiscation (RUU Perampasan Aset) has, in fact, been included in two previous National Legislative Program (Prolegnas) periods: the 2015–2019 period (which comprised 189 additional laws) and the 2020–2024 period (which included 284 additional measures). However, since the DPR has never prioritized the Asset Confiscation Bill, there are no indications that it will be passed into law in the near future.

METHODS

This research was conducted using a literature-based approach, in which the author systematically reviewed various sources such as books, academic journals, and other relevant publications to gather comprehensive data related to the research object. The collected materials were then analyzed through a descriptive-analytical method aimed at identifying patterns, relationships, and theoretical implications connected to the study's focus. By relying on secondary data obtained from credible and scholarly references, this approach allows the author to construct a coherent conceptual framework and provide a critical understanding of the topic under investigation. Furthermore, the use of a literature-based method rooted in theoretical discussions from authoritative works and peer-reviewed studies underscores the study's objective to synthesize existing knowledge, evaluate ongoing debates, and contribute to a deeper academic discourse on the subject matter.

RESULT AND DISCUSSION

Corruption is often defined as the abuse of power or resources to achieve personal or group objectives and gain undue advantages. More broadly, corruption can also be understood as activities carried out by public officials and/or government employees in collaboration with members of the private sector that violate the principle of “maintaining authority” in the management of state finances and economic decision-making. Furthermore, the term corruption originates from the Latin word *corrupteia*, which in English translates to “bribery” or “entice.” The related Latin term *corrupto*, meaning “to destroy” or “to seduce,” also refers to acts of corruption, emphasizing its destructive nature not only toward institutions but also toward moral and ethical values in governance.

According to Andrei Shleifer and Robert W. Vishny, when government officials sell public property for their own personal gain, it constitutes corruption. For instance, unauthorized taxes on licenses, permits, customs fees, or entry bans for competing businesses are often imposed by civil servants. These officials neglect their primary responsibilities or exploit public property for their own benefit.

The Anti-Corruption Law categorizes various forms of corruption offenses into seven groups, as mentioned in the previous paragraph: “namely (1) acts causing financial losses to the state or abuse of authority resulting in state

financial losses, (2) bribery, (3) gratification, (4) embezzlement in office, (5) extortion, (6) fraudulent acts, and (7) conflict of interest.”

Sanctions for Corruption Crimes

Corruption is defined as an “extraordinary crime” or one that goes “beyond the bounds of normality.” According to all theories of punishment whether absolute, relative, or a combination of both corruption deserves and justifiably demands severe legal sanctions. Under the absolute theory, also known as the retributive theory, criminal sanctions must be imposed because society recognizes corruption as a serious wrongdoing that warrants punishment. The justification lies in the existence of the corrupt act itself, which is widely perceived as negative because it undermines national development and damages the national currency and economy. Meanwhile, the relative theory, or goal-oriented theory, emphasizes that punishment should aim to prevent the offender or others from committing similar acts in the future. The combined theory, which merges elements of both the absolute and relative theories, asserts that corruption must be punished not only as a fair retribution for the crime but also as a means to prevent its recurrence. Undoubtedly, criminal penalties serve as an instrument to deter crime and rehabilitate offenders. Therefore, criminal sanction.

A number of criminal sanctions, including principal and additional penalties, are stipulated in the Corruption Crime Act (UU Tindak Pidana Korupsi). The principal penalties consist of the death penalty, imprisonment, and fines. Meanwhile, the additional criminal sanctions include the following:

- a. the confiscation of immovable or movable property, whether tangible or intangible, that has been used or obtained unlawfully through acts of corruption, including businesses owned by the convicted person, as well as substitute assets for such property.
- b. the payment of compensation in an amount not exceeding the total value of assets acquired from the proceeds of corruption.
- c. the partial or complete closure of a company.
- d. the revocation of all or part of rights, or the annulment of all or part of privileges previously granted or to be granted by the government to the convicted individual.

These provisions reflect the seriousness with which Indonesian law treats corruption, emphasizing not only punitive justice but also the recovery of state losses and the deterrence of future violations.

The criminal sanctions imposed for money laundering offenses may pose a potential threat to corruption crimes. In other words, money laundering offenses can create risks for corruption cases, particularly through the use of legal instruments such as asset seizure and confiscation. This connection demonstrates how money laundering can serve as both a facilitator and a protective mechanism for corruption, allowing illicit proceeds to be concealed or legitimized, thereby complicating efforts to trace and recover assets derived from corrupt practices.

Law No. 31 of 1999 and Law No. 20 of 2001 regulate the policy on asset confiscation resulting from corruption offenses. According to the Anti-

Corruption Law, asset confiscation can be executed through two legal avenues: civil law via civil lawsuits and criminal law via criminal court decisions. Based on Article 28 paragraph (1) of Law No. 31 of 1999, the practice of asset confiscation under the criminal justice system is grounded in the existence of additional criminal sanctions stipulated in the Anti-Corruption Law. In line with Article 28 paragraph (1), the policy of seizing assets through criminal procedures is justified not only by the increased penalties under the Anti-Corruption Law but also by the additional sanctions under the Indonesian Criminal Code (KUHP), which include:

- a. Confiscation of property obtained from acts of corruption; and
- b. Imposition of fines or compensation equivalent to the value of the assets acquired through corrupt practices.

A Restorative Justice Perspective on Corruption Crimes

One of the major developments in the evolution of the modern criminal justice system is the emergence of the restorative justice approach. Through its Basic Principles, the United Nations recognizes restorative justice as a relevant and rational strategy that can be integrated within the criminal justice system. This recognition reflects a significant paradigm shift in law enforcement from a retributive model of justice to a restorative model. According to Immanuel Kant, retributive justice views punishment as a natural and proportionate consequence of the offense committed. This implies that every offender must be punished as a form of retribution for their wrongdoing.

Corruption from the Perspective of Fiqh Jinayah

Risywah, which means bribery or the act of giving and receiving bribes, is another Arabic term synonymous with corruption. Other terms related to corruption include *ghulūl* (embezzlement of public assets) and *fasād* (*ifsād*), which denote moral and social decay. In Islamic thought, corruption is regarded not only as a moral deviation but also as a form of treachery and subversion that disrupts the ethical and social order. Depending on the field and the perspective adopted, corruption may carry various meanings and implications. It can damage and destroy the structures of family, society, governance, and the state, often leading to widespread crime, deceit, and injustice.

In Fiqh Jinayah (Islamic criminal jurisprudence), corruption falls under the category of *jarimah māliyah* (financial crimes), characterized by three essential components:

- a. Betrayal of public trust (*khiyānah al-amānah*), particularly concerning the misuse of authority or position.
- b. Public harm or loss (*ḍarar 'āmm*), indicating that corruption inflicts material and moral damage on society at large.
- c. *Taşarruf*, referring to unlawful acts of taking, receiving, or giving property in violation of legal and ethical principles.

Thus, corruption in Islamic legal and moral frameworks is seen as an act that corrupts both the individual's soul and the collective well-being of society, necessitating strong preventive, moral, and legal measures to preserve justice (*'adl*) and public welfare (*maṣlahah*).

Lexically, the Arabic phrase “akhadha al-shay’a wa dassahu fi matā’ihī” means “to steal something and conceal it among one’s possessions.” The term “ghulūl” originally referred to the act of stealing spoils of war (ghanimah) before their lawful distribution. Thus, “al-khiyānah fi al-maghnām” meaning “betrayal in war booty” is how Ibn Hajar al-‘Asqalānī characterizes it. Furthermore, according to Ibn Qutaybah, the act is called ghulūl because the one who commits it hides the stolen property within his own belongings. Another definition of ghulūl refers to betrayal or embezzlement involving the bayt al-māl (public treasury), ghanimah (war booty), or zakāt (almsgiving funds). In a broader sense, ghulūl represents deceit, dishonesty, and the misappropriation of public resources, resulting in harm to the state’s or society’s finances. The term ghulūl itself appears in the Qur’an, where it serves as a moral and legal warning against the misuse of entrusted wealth. Both corruption (fasād) and ghulūl share the same essence an abuse of power and betrayal of trust involving public assets. This concept is explicitly mentioned in the Qur’anic verse Surah Āli ‘Imrān [3]:161, which states:

وَمَا كَانَ لِنَبِيٍّ أَنْ يَغُلَّ وَمَنْ يَغْلُلْ يَأْتِ بِمَا غَلَّ يَوْمَ الْقِيَمَةِ ثُمَّ
تُؤْفَى كُلُّ نَفْسٍ مَّا كَسَبَتْ وَهُمْ لَا يُظْلَمُونَ

Meaning: “It is not befitting for a Prophet to act dishonestly (with the spoils of war). Whoever commits dishonesty shall come forth on the Day of Resurrection carrying what he has misappropriated. Then every person shall be fully recompensed for what they have done, and they shall not be wronged.”

According to this verse, every transgression, including ghulul, will be punished accordingly in the Hereafter. All rulers are warned not to commit acts of ghulul. The prohibition of ghulul is strongly emphasized, as illustrated by a well-documented incident in Islamic history. During the caliphate of ‘Umar ibn ‘Abd al-‘Azīz (63H/682M–102H/720M), the caliph’s daughter once received a gold necklace from the state treasury (Bayt al-Māl) supervisor as a token of gratitude for her father’s service. This act greatly angered ‘Umar ibn ‘Abd al-‘Azīz, who immediately ordered that the necklace be returned to the state treasury. Because the property belonged to the state, the contents of the Bayt al-Māl could only be used for public purposes and not for personal benefit.

Taking another person’s property is also regarded as a form of corruption. The term sarīqah comes from the Arabic word sarīqah, meaning “to secretly take something belonging to another person.” Examples include musāraqat al-naẓar (stealing glances) and staraqqa al-sam’a (eavesdropping). According to ‘Abd al-Qādir ‘Awdah, sarīqah refers to the act of secretly taking another person’s property that is, taking something that belongs to someone else without their knowledge or consent, such as when a person steals an item from a house lawfully owned by another while the owner is asleep or away. Shaykh Muḥammad al-Nawawī al-Bantānī defines sarīqah as “a person who

secretly takes something from a place where it is unlawful to take it.” He further explains that *sarīqah* requires that the act of taking be done covertly and from a place where the item is lawfully protected. He also notes that items placed in locations where they are not meant to be kept are excluded from the legal definition of *sarīqah*.

Al-Syarbīnī al-Khāṭib defines theft (*sarīqah*) as the secret taking of property from a place of safekeeping with the intention of acquiring it deliberately and voluntarily, under certain specified conditions. The requirement that the act be done “in a hidden or concealed manner” excludes those who openly seize another person’s property from the legal category of theft such acts may instead be punishable by other forms of punishment, even the death penalty, depending on the severity and circumstances. The rationale for this distinction is found in a ḥadīth attributed to the Prophet Muhammad ﷺ, which states: “The hand of a pickpocket is not to be cut, nor is the hand of a deceiver to be cut.” This ḥadīth clarifies that individuals who take the property of others through deceit, manipulation, or false pretense of ownership do not meet the criteria for ḥadd punishment for theft but are still considered guilty of dishonesty (*ghish*). In essence, those who pretend to be rightful owners of property while knowingly deceiving others fall under the moral and legal category of betrayal rather than classic *sarīqah*.

Because corruption is aimed at seizing the assets of the state or others, it is evident that corruption constitutes a crime against property. However, classifying corruption merely as an ordinary *sarīqah* (theft) is inaccurate, as the two differ fundamentally in nature. Since the essence of corruption goes beyond *al-sarīqah al-ṣuġhrā* (minor theft), it is more appropriately referred to as *al-sarīqah al-kubrā* (major theft). Its main characteristics include the following:

- a. *Sarīqah* is carried out secretly, whereas *ḥirābah* (robbery or banditry) is committed openly.
- b. *Sarīqah* is generally committed individually, while *ḥirābah* is carried out collectively and often involves the use of weapons.
- c. *Sarīqah* is typically conducted without the use of force or deceit, whereas *ḥirābah* involves coercion or deception.
- d. *Sarīqah* usually targets specific property discreetly, whereas *ḥirābah* disrupts public safety and order through open aggression and intimidation.

Thus, corruption aligns more closely with the characteristics of *al-sarīqah al-kubrā* a large-scale, systematic, and destructive offense that threatens not only property but also justice and social stability.

Corruption can also be categorized as a form of betrayal, and a betrayer (*kha'in*) is someone who is entrusted to take care of or manage something through a contract of lease or safekeeping, yet takes the item and later claims that it has been lost or denies having it in his possession. Betrayal is an evil trait, a sign of not keeping promises. One of the characteristics of a hypocrite (*munafiq*) is betrayal, as the Prophet Muhammad (peace be upon him) said: “The signs of a hypocrite are three: when he speaks, he lies; when he promises, he breaks it; and

when he is entrusted, he betrays the trust.” Therefore, deceiving fellow humans is the same as deceiving Allah and His Messenger, as mentioned in Surah al-Anfal verse 27:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَخُونُوا اللَّهَ وَالرَّسُولَ وَتَخُونُوا أَمْنَكُمْ وَأَنْتُمْ تَعْلَمُونَ

Meaning: “O you who have believed, do not betray Allah and the Messenger, and do not betray the trusts that have been entrusted to you while you know [the consequence].”

An Arab scholar named Al-Raqib al-Isfahani expressed his view on the meaning of the word khiyanah (betrayal) by comparing it with the term nifaq (hypocrisy). According to him, makar (deception) refers to an attitude that violates and opposes the truth by unilaterally breaking promises without clear justification, as well as the failure to uphold the trust or commitment that has been entrusted to someone. The term makar stands as the opposite of amanah (trustworthiness). Meanwhile, the term nifaq may refer to the act of breaking an agreement, particularly in matters of mu’amalah (social and transactional dealings), when a person violates or seizes the rights of others. In essence, both terms khiyanah and nifaq are often used interchangeably to describe deceitful behavior that contradicts the moral and ethical principles of Islam.

Criminal Sanctions for Corruption from the Perspective of Fiqh Jinayah

The classification of crimes against property includes corruption within the framework of Islamic criminal law (fiqh jinayah). Accordingly, corruption falls into the category of offenses that warrant sanctions against property. Criminal punishments under Islamic criminal law can generally be divided into three categories based on the target of the sanction: punishments against property, punishments against the mind or soul, and physical punishments against the body. Among the sanctions applied to property-related offenses are diyah (compensation), fines, and the confiscation of property. These measures aim to restore justice, deter wrongful acts, and uphold the integrity of public and private assets within the ethical and legal framework of Islam.

The punishment of ḥirābah represents one of the strictest and most severe sanctions that may be applied to those who commit corruption. This implies classifying corruption under the category of ḥudūd crimes, which are distinguished by specific and severe penalties. Offenders of ḥirābah face a range of punishments, including execution, crucifixion, amputation of hands and feet in a crosswise manner, and exile. Because perpetrators of ḥirābah use weapons to seize wealth and instill fear across communities, they are subjected to severe penalties. As noted earlier, however, some legal authorities do not agree with this identification, debating whether corruption fully meets the criteria for ḥirābah under classical Islamic jurisprudence.

From the discussion on the identification of corruption offenses above, it appears that researchers generally tend to classify corruption as a ta'zir offense. Its main components, such as ghulul (embezzlement) and risywah (bribery), at least support this view. The fuqaha (Islamic jurists) have developed specific punishments based on recognizing corruption as a ta'zir offense against property. These punishments are generally divided into four main categories:

- a. Ta'zir punishments affecting the body, such as execution by binding or other corporal penalties.
- b. Punishments affecting personal liberty, including imprisonment and exile.
- c. Ta'zir punishments related to property, such as confiscation/seizure of assets and destruction of goods.
- d. Other punishments determined by the ruler (wali amr) for the sake of public interest and general welfare.

This classification emphasizes that corruption, while not always fitting the rigid criteria of hudud, is still subject to significant punitive measures under Islamic law to protect property, maintain social order, and deter wrongdoing.

CONCLUSIONS

Alongside Law No. 20 of 2001, Law No. 31 of 1999 regulates the criminalization of corruption offenses in Indonesia. Due to its extensive impact on public welfare and state finances, corruption is classified as an extraordinary crime. The criminal sanctions that may be imposed include principal punishments (imprisonment, fines, and the death penalty) and additional punishments (asset confiscation, restitution, revocation of rights, and dissolution of legal entities). As part of the anti-corruption efforts, these laws also regulate the prosecution of money laundering offenses. However, there are numerous obstacles in maximizing the deterrent effect on corruption perpetrators, including weak law enforcement and the failure of the House of Representatives (DPR) to prioritize the Asset Confiscation Bill.

Corruption is classified as a crime against property under Islamic law. Terms such as fasād (harm), risywah (bribery), and ghulul (embezzlement) are among the concepts used to describe it. Ta'zir punishments can be applied to corruption, and if it meets the criteria for public tyranny and violence, it may even be categorized as ħirābah. Depending on the level of harm caused, the penalties can include physical punishments, asset confiscation, imprisonment, or even the death penalty. This perspective underscores the necessity of imposing severe punishments to ensure social justice and maintain public trust.

The primary objective of criminalizing corruption is to restore the socio-economic rights of the poor, uphold justice, and provide a deterrent effect. Emphasizing rehabilitation over retribution, the concept of restorative justice becomes highly relevant. Asset confiscation is crucial because it not only returns losses to the state and society but also punishes offenders. Seizing assets obtained through corruption represents a sincere effort to restore the welfare of communities whose rights have been violated by corrupt acts, particularly in light of the high levels of poverty and social inequality.

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