



The Reality of Eradicating Corruption in Indonesia: A Comparative Legal Study

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ABSTRACT

ARTICLE INFO

Articles history:
Received
January 03, 2023
Revised
February 26,
2023
Accepted
March 29, 2023

The purpose of this research is to find out and analyze the reality of eradicating corruption in Indonesia with a comparative legal review between positive law in Indonesia and Islamic law. This research is a descriptive-qualitative legal sociology research that explains the reality of the problem of eradicating corruption in Indonesia. The perspective used in analyzing and finding the ideal construction is Islamic Law with a conceptual approach, historical approach, comparative approach, case approach, and constitutional approach. The findings in this study outline that: First, the reality of corruption that occurs in Indonesia can be seen from the theory of law as a tool of social engineering and law enforcement theory, it is necessary to carry out reforms to encourage reform in society, the emphasis lies on the revision of laws and regulations so that the construction of a new society to be realized in the future through the enactment of laws and regulations in accordance with the needs of the community. Because a good law is a law that is extracted from the norms that live in the community. Second, the purpose of Islamic law is to protect religion, soul, mind, offspring, and property, and to protect the state from corruptive behavior. Efforts to eradicate corruption in the perspective of Islamic law are by providing social sanctions and ta'zir sanctions. prevention efforts can also be carried out by considering cultural aspects and educational aspects, both through formal, non-formal, and informal channels.

Keywords: *Corruption, Indonesian Law, Islamic Law.*

How to cite

Syawaluddin Hanafi (2023) The Reality of Eradicating Corruption in Indonesia; A Comparative Legal Study. International Journal on Advanced Science, Education, and Religion (IJoASER), 6 (1) 2023. P.1-13 <https://doi.org/10.33648/ijoaser.v6i1.300>

Journal Homepage <https://ojs.staialfurqan.ac.id/IJoASER/>

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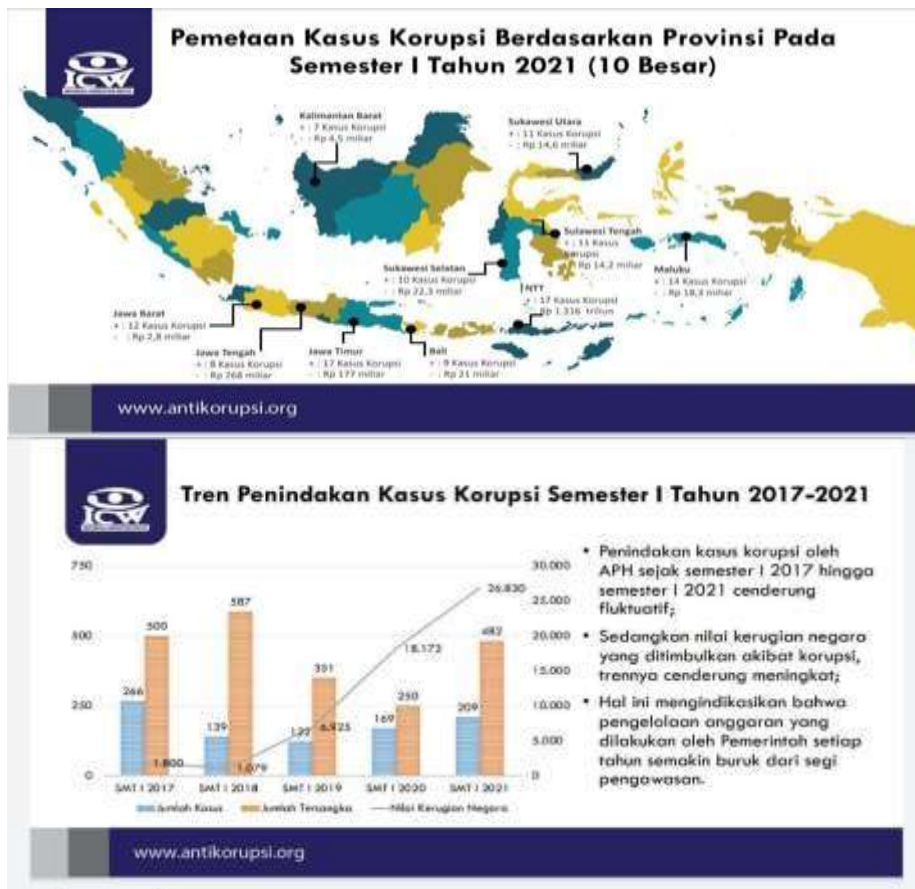
INTRODUCTION

Corruption is a pleasant behavior, if it is not caught and not processed in court. However, corruption will be very painful if it turns out that it must be accounted for by serving a life sentence and impoverishing the perpetrator. If in Islamic law corruption is a theft that has an extraordinary impact on the lives of humanity, the punishment is not only cutting hands but the most severe punishment, namely *rajam* (Farizya, 2017).

Based on the facts in the field, not a few provincial and district / city heads, leaders of ministries and institutions (executive), legislative members, and even judges (judiciary) have been caught in corruption. One of the demands of reform is the eradication of corruption, various ways and efforts have been made to eradicate it, but these efforts do not seem to have produced the expected results. Corruption seems to be very difficult to eradicate, perhaps because of individual legal awareness or perhaps because the punishment given to the perpetrators does not cause a deterrent effect.

The phenomenon of corruption in Indonesia when looking at data through ICW documents in 2021, ICW found 209 cases of corruption handled by law enforcement. This number increased compared to the same period in the previous year, which was 169 cases. The total number of suspects named is 482 people with various professional backgrounds. The amount of state losses recovered by law enforcers is around Rp 26,830,943,298,338 (Rp 26.8 trillion), bribes around Rp 96,073,700,000 (Rp 96 billion), and illegal levies around Rp 2,552,420,000 (Rp 2.5 billion). On average, every month there are 35 corruption cases with 80 suspects named by law enforcement. So, on average, each law enforcement institution investigates 12 corruption cases with 27 suspects per month. Of the 209 corruption cases handled by law enforcement, 17 cases or around 8.5% of them were case developments. In addition, corruption cases that use the Hand Capture Operation (OTT) method are 4 cases or around 1.9%. The remaining 188 cases were newly investigated cases between January and June 2021.

In brief, the mapping of corruption cases in 2021 by region can be seen as follows (Kurnia, et al, 2021):



Judging from the graph above, from the first semester of 2017 to the first semester of 2021, the prosecution of corruption cases carried out by law enforcers tends to fluctuate, both in terms of the number of cases handled and the suspects named. Meanwhile, the value of state losses incurred due to corruption has an increasing trend. This at least indicates that the budget management carried out by the government every year still needs to be improved in terms of supervision to prevent corruption. Indonesia has been named the fifth best country for democracy, but it turns out that the level of corruption is still high, which is an anomaly.

In addition, it should be noted that the phenomenon of corruption committed by law

enforcement officials themselves also occurs in Indonesia. The arrest of Akil Mochtar, former chairman of the Constitutional Court, who committed a corruption case by smoothing out fraud in regional election disputes in several regions such as the Lebak Banten election, the Central Tapanuli election, and the Palembang election. Mochtar was charged with six counts at once from the six counts Akil was accused of pocketing money around RP 35 billion and 500 US dollars from the election fraud. For his actions Akil was rewarded with a life sentence, a fine of Rp. 10 billion, and did not have the right to vote and be elected in elections (Movanita,2014). Corruption cases involving legal officials did not only happen to Akil Mochtar, the case of Prosecutor Pinangki also became a series of names of legal officials who were caught in corruption cases in 2020. Pinangki became a defendant in an alleged corruption case related to the management of fatwa at the Supreme Court (MA) with the intention of releasing Djoko Tjandra from the execution of a two-year sentence for the transfer of Bank Bali receivables. To smoothen the plan, Djoko Tjandra gifted Prosecutor Pinangki a sum of 500 US dollars (Halim,2020).

Broadly speaking, the mapping of corruption cases based on actors in 2021 can be seen as follows:



Corrupt behavior that seems to be ingrained needs to be studied sociologically. The law can actually be a means of reform in society (law as a tool of social engineering). One of the reforms here is to update the existing regulations on corruption. Even if the existing rules are weak in their application, then the weak punishment does not solve the problem but creates a new problem. Therefore, the current homework of the Indonesian government is to find the right punishment solution for perpetrators of corruption, so that corruption cases can be resolved properly, quickly and accurately. However, in exploring the right punishment, it must not let go of the five principles contained in Pancasila and religious corridors.

The rise of corrupt behavior, society, the rule of law, legislation / legal substance, is part of the sociological concept, so it is interesting if the problem in this study comprehensively describes the phenomenon of corruption in Indonesia. Based on the background of the problem above, the main problem in this research is "a sociological study of the reality of eradicating corruption in Indonesia and its eradication efforts from the perspective of positive and Islamic law". The main problem is then formulated into 2 (two) problems as follows: First, how is the sociological analysis of the phenomenon of corruption in Indonesia; second, how are the efforts to eradicate corruption from the perspective of Islamic Law?

METHODS

The legal research that the author conducts regarding the reality of eradicating corruption in Indonesia with a comparative legal analysis is a type of normative legal research (Sarjoeno et al, 2015). and prospective. This research can be qualified as normative legal research, because it examines the rules or norms contained in the Legislation regarding the eradication of corruption, including relevant laws and regulations.

This research can also be qualified as prospective legal research, because this research is expected to provide conceptual input on the eradication of corruption in Indonesia by examining comparative law, both the authority / authority given under the law on the eradication of corruption, as well as the conceptually correct authority according to Islamic law.

There are several approaches used in this research, including: historical approach, conceptual approach, comparative approach, constitutional approach and case approach. Because this research is a literature research, analyzing and answering the first problem formulation will use a historical and conceptual approach. The conceptual approach serves to find the ideal concept of eradicating corruption, while the comparative approach is used to find similarities and differences in the model of eradicating corruption in positive law in Indonesia and Islamic law. The case approach is used to analyze corruption cases that have permanent legal force (inkracht).

RESULTS AND DISCUSSION

1. Understanding the Meaning of Corruption

Corruption comes from the word corrupt which means bad, damaged and rotten, corrupt also means that it can be bribed through power for personal gain (Depdikbud,1998). In Webster's Third New International Dictionary, corruption is defined as "an invitation (from a public official) by undue consideration to commit a breach of duty" (Basyaib,2002). According to Robert Klitgaard, corruption is an act of (1) collecting money for services that should have been provided, (2) using authority to achieve unauthorized goals, and (3) not carrying out duties due to negligence or forgetfulness (Klitgaard,2001). The World Bank adheres to the classic short but broad definition that views corruption as the abuse of public office for private gain. Thus, the main elements of corruption are actually reflected in the existence of (1) deviating from the norm, (2) the act causes losses to the state or society, although not always in the form of financial losses, for example losses in the form of poor public services or the actions of the legal system, (3) the abuse of authority.

Law No. 20 of 2001 on the Amendment to Law No. 31 of 1999 on the Eradication of the Crime of Corruption can be concluded that the crime of corruption is the unlawful act of enriching oneself or another person or a corporation that can harm state finances or the state economy. What

is included in the crime of corruption according to Law No. 31 of 1999 and the actions of Law No. 20 of 2001 are the acts referred to in Article 2, Article 3, Article 5, Article 6, Article 7, Article 8, Article 9, Article 10, Article 11, Article 12, Article 12 B, Article 13, and Article 14.

Corruption is characterized by the characteristics of (1) betrayal of trust, (2) secrecy, (3) containing fraud against public bodies or the public, (4) deliberately neglecting the public interest for special interests, (5) cloaked in legal forms, (6) the concentration of corruption in those who want personal decisions and those who can influence them (Alatas, 1975). There are several types or kinds of corruption. According to Alatas, these types include first, transaction corruption, which is a type of corruption that takes the form of a mutual agreement between the parties concerned in order to seek mutual benefits. This type of corruption usually occurs between businessmen and government officials or members of the public and the government. Second, extortive corruption, which is a form of corruption in which the giver is forced to commit an act of bribery in order to prevent losses that will threaten himself, his interests, people or things that are important to him. Third, defensive corruption, which is corruption committed by the victim of extortion corruption. Fourth, the corruption of certain benefits, apart from the benefits envisioned in the future. Fifth, nepotistic corruption (kinship), which is collusion in the form of unauthorized appointment of friends or relatives to positions in government, or giving preferential treatment to them in contravention of applicable norms. Sixth, autogenic corruption, which is carried out alone without involving others, for example making incorrect expenditure reports. Seventh, supportive corruption, which is an action intended to protect or strengthen existing corruption. An eighth type of corruption that has recently come to the fore can also be added, namely a type of corruption called legal corruption, which is a policy that is legally valid because it is in accordance with the provisions of the applicable regulations, but is actually basically a corruption when viewed in terms of the vision of good governance. Included in this category is what is called democratic corruption, which is a policy passed by the legislature, but which is contrary to the true vision of good governance. For example, the budget for official houses is much larger than the budget for the construction of elementary school buildings.

2. Prohibition of Corruption in Islamic Law

In the modern Arabic dictionary the word corruption is translated with *fasad* or *ifsad* (Wehr,1976). According to Mahmud Muhammad, in terms of *fasad*, it is every crime and offense that is contrary to Islamic law, its purpose, and application, called the *fasad* (Muhammad,2011). Departing from this understanding and also paying attention to the definition of corruption put forward by experts, in principle there is no difference between the shar'i and other definitions of corruption, which in essence is the existence of harmed public interests, which are carried out by public officials on their authority as servants of the interests of the people. This is because where there is *maslahat*, there is Islamic law. According to him, corruption committed by public officials and other government officials is an act of *fasad*, which is called *fasad idari* or administrative corruption. Based on the above understanding, it is understood that the behavior of public officials who come out of the legal provisions, objectives, and application of Islamic law relating to their authority or duties as servants of the public interest. Still according to him, the most common practices of *fasad idari* are *risywah* (bribery), *pickpocketing* (*takhlis*) and *forgery* (*t'azir*). In addition, Sheikh Hussein Alatas emphasized that "the essence of corruption is theft through deception in a situation that betrays trust". Samuel Huntington in his book "*Political order in changing societies*" defines corruption as *behaviour of public official with deviates from accepted norms in order to serve private ends* (Huntington,1968).

Looking at this definition, it is clear that corruption does not only concern legal, economic and political aspects but also concerns human behavior, which is the main topic and norms accepted and adopted by society. The definition of corruption above identifies the deviation of public employees from the norms accepted and embraced by society with the aim of gaining personal benefits (serving private ends). In line with Azyumardi Azra, he quotes:

The abuse of public or private office for personal gain. corruption involves behavior on the part of officials in the public and private sector, in wich the improperly and unlawfully enrich themselves and/or those close to them, or include others to do so, by missusing the position in wich they are placed (Huther,2000).

Abuse of public or private office for personal gain. A more comprehensive definition is as follows: Corruption includes the behavior of public and private sector employees, where they improperly and unlawfully enrich themselves and/or those close to them, or induce others to do so, by abusing the position in which they are placed. From the above definition, there are elements inherent in corruption, first, the act of taking, hiding embezzling state or community assets, second, against legal norms that are valid and applicable, third, abuse of power or authority or trust that is in him, fourth, for the benefit of oneself, family, corporate relatives or institutional agencies, fifth, harming other parties, both society and the state.

When referring to the Quran, there are discussions about actions that can be seen as corruption. Allah's words in QS. Al-Baqarah/1: 188 (Kemenag,2019):

Translation:

And let not some of you eat of the wealth of others among yourselves by unlawful means, and let not your property be brought before a judge, that you may eat of the wealth of others by way of sin, while you know.

In this verse, it is forbidden to eat one's neighbor's wealth through false means, namely by taking it to the authorities, including the haki, by bribing them to win the case so that they can control the wealth. The phrase 'eating one's neighbor's wealth through false means' here refers to the act of enriching oneself, others or corporations contrary to the law (sharia).

In QS. Ali Imran/2: 161 "(Kemenag,2019):.

Translation:

It is not possible for a prophet to betray the spoils of war. Whoever betrays the spoils of war, then on the Day of Resurrection he will come with what he betrayed, then each one will be rewarded for what he has done, and they will not be wronged.

In this verse, the reference to corruption is made using the word gulul. Gulul literally means betrayal of trust (amanah). Indeed, as emphasized by Syeh Hussein Alatas, an observer of the phenomenon of corruption, "the essence of corruption is the abuse of trust for personal gain" or "theft through deception in situations that betray trust"(Kemenag,2019).

In QS. Al Maidah ayat 42 "(Kemenag,2019).

Translation:

They are those who love to hear false news, and eat much that is unlawful. If they (the Jews) come to you (for judgment), then judge between them, or turn away from them; if you turn away from them then they will not do you any harm. And if you judge between them, then judge between them justly; surely Allah loves the just.

In the verse, the reference to corruption is made by mentioning akl as-suht 'eating unlawful things'. The commentary Ahkam Al-Qur'an cites the definition of the Companion Ibn Mas'ud of *assuht* as "to intercede by accepting a reward between a person and the ruler for an interest". Caliph Umar Ibn al-Khattab expressed the same understanding as Ibn Mas'ud in which he stated, '*As-suht* is that a person who has influence within the source of power intercedes by accepting a reward for another person who has an interest so that the ruler passes the person's need. This means that there is an element of using position or power or authority to enrich oneself or others or a corporation by accepting rewards from others for that action.

The Qur'an and the Prophet's Hadiths contain more references to corruption both in terms of what constitutes corruption and the Prophet's efforts to eradicate corruption. In his hadiths corruption is called *gulul*. Regarding what constitutes corruption, the following can be mentioned:

No.	Corruption Category	Basis of Islamic Law	Description
1.	Gift Giving	' <i>Abu Humaid as-Sa'idi (narrated) that the Prophet said: Giving gifts to officials is corruption (gulul).</i> ' [HR. Ahmad].	Gifts from citizens or the community to an official are seen as a form of corruption and should not be accepted. A gift is a gift received by an official or employee (officer) that is related or

			reasonably suspected to be related to his/her position.
2.	Bribery (Risywah)	<i>'Sauban (it is narrated that) said: The Messenger of Allah (peace and blessings of Allaah be upon him) cursed the perpetrator, the recipient, and the intermediary of riywah, i.e. the one who mediates between them.'</i> [HR. Ahmad].	Bribery is a prohibited act and can be categorized as corruption. The perpetrators are not only those who bribe, but also include bribe recipients and intermediaries between bribers and bribe recipients. The recipient of a bribe here is an official or officer who organizes public services.
3.	Khianat	<i>O you who believe, do not betray Allah and the Messenger (Muhammad) and (also) do not betray the trusts entrusted to you, while you know.</i> (QS. Al-anfal/8: 27)	Betrayal is an attitude that is not in accordance with the trust that has been given to him, besides taking something secretly and showing good behavior to the owner. In addition, betrayal can also be by unilaterally canceling the agreement that has been agreed upon.
4.	Thievery (Sariqah)	<i>As for the men and women who steal, cut off their hands (as) recompense for what they have done and as a punishment from Allah. And Allah is the Mighty, the Wise.</i> (QS, Al-Maidah/5: 38)	Transferring property ownership rights by unlawful means, which is usually done secretly and also by deception.
5.	Hirabah	The punishment for those who fight against Allah and His Messenger and cause mischief on earth is only to be killed or crucified, or to have their hands and feet cut off crosswise, or to be exiled from their homes. Such is their disgrace in this world, and in the Hereafter they shall have a great punishment. (QS, Al-Maidah/5: 38)	Hirabah is taking the rights of others by means of violence sometimes to the point of murder.

According to Imam An-Nawawi, the Prophet's hadith about gifts explains the reason why it is forbidden to receive gifts, which is related to office. The context is different if the gift is given not to officials, instead such hadith is recommended to be given to people who cannot afford it (Nawawi,1932).

As for the hadith about rasywah above, bribery is a prohibited act and can be categorized as corruption. The culprit is not only the one who bribes, but also includes the recipient of the bribe and the intermediary between the briber and the bribe recipient. The recipients of bribes here are officials or officers who organize public services. Apart from that, there are still many hadiths that show corruption, namely embezzlement (Bukhari,1987), unauthorized use of public property (At-Tirmidzi,2017), protecting corrupt acts is corruption (As-Sijistani,2013), paralyzing the operation of the legal system (Taimiyah,1980).

3. The phenomenon of corruption in Indonesia

Corruption in Indonesia is no longer an ordinary phenomenon, in its development corruption has occurred systematically and widely. Corruption has caused losses to the state and tormented the people. For this reason, corruption is now considered an extra ordinary crime. Corruption has become an extraordinary phenomenon for Indonesian society, Indonesia Corruption Watch (ICW) said, there were 1,298 defendants in corruption cases in Indonesia, and caused state

losses of Rp. 56.7 trillion and total state losses due to bribery reached Rp. 322.2 billion during 2020 (Zikri,2019). Corruption cases continue to increase from year to year, making corruption a phenomenon that has its own existence, but this existence leads to damage to the state and society.

Furthermore, the Corruption Eradication Commission (KPK) revealed the phenomenon of corruption cases handled throughout 2020 that the crime of Corruption (Tipikor) is almost evenly distributed from Sabang to Merauke, corruption does not differentiate between parties, not then party A is holy while other parties are guilty. Likewise, corruption does not distinguish the ethnicity and religion of the perpetrators, that the perpetrators are relatively the same, namely from elements of the state civil apparatus, the private sector, regional heads, council members and central and regional officials (Setiawan,2012).

Looking at the alarming phenomenon of corruption in Indonesia, it can be said that this cannot be separated from law enforcement caused by the law itself, namely laws and regulations on corruption that need to be addressed (Alim,2012), Then the policy that should be put forward is the need for legal reform by returning aspects of material and formal law to legal sources that are more in touch with the heart and personality of the Indonesian people, which in a religious context is religious law (Islamic law). Because in fact, a good law is a law that is extracted from the norms that live in the community.

Satjipto Rahardjo distinguishes three main elements involved in the law enforcement process. First, the law-making element (legislative body). Second, law enforcement elements (police, prosecutors, and judges). Then the third, environmental elements which include private citizens and social institutions (Raharjo,1983). Citing the opinion of Satjipto Raharjo, that the application of law in society does not have to look at the legal product, but how a product can be interpreted as much as possible and practiced in accordance with the needs of society to achieve justice (Soemitro,1998). Law as an institution that works in society has at least 3 (three) perspectives of its function (legal function), namely: *First*, as a social control of law which is one of the concepts that are usually, most widely used in societal studies. In this perspective, the main function of a legal system is integrative because it is intended to organize and maintain social regulation in a social system. Therefore, Bergers said that no society can live safely, comfortably, and peacefully without social control from the law as a means to do so (Berger,1992).

Furthermore, according to Parsons, so that the law can carry out the control function, there are 4 (four) functional prerequisites of a legal system, namely the basic problem of legitimacy, which concerns the ideology that is the basis for structuring the rule of law; the problem of community rights and obligations that are the target of legal regulation of the legal process; the problem of sanctions and institutions that apply these sanctions; and the problem of the authority to enforce the rule of law (Campbel,1994). *Second*, law as social engineering which is the most widely used review by officials (the official perspective of the law) to explore what sources of power can be mobilized by using law as a mechanism. Third, the perspective of community emancipation towards the law. This perspective is a bottoms up view of the law, the law in this perspective includes objects of study such as legal capacity, legal awareness, law enforcement and so on. The main task of law is social engineering (law as a tool of social engineering, Roscoe Pound). The law is not only formed based on the interests of society but must also be enforced in such a way by jurists as a social control effort in a broad sense whose implementation is oriented towards the desired changes (Raharjo,1977). Therefore, it is strongly influenced by components outside the law, so law enforcers in realizing the main task of law must correctly understand the logic, history, customs, customs, correct behavior guidelines so that justice can be upheld. Fair legal decisions can be used as a means to develop society. The main task is a means of renewing society in development.

When looking at the three perspectives of the legal sociology approach above, then in the theory of law as a tool of social engineering, Islamic law can be used as a form of regulation enacted in Indonesia into the formation of corruption legislation to provide sanctions for perpetrators of corruption. There are several reasons that underlie this (Safira,2017):

First, Islamic law as social control is one of the concepts that is usually most widely used in social studies, because the majority of Indonesian society is Muslim. In this perspective, the main function of Islamic law in an integrative manner is intended to regulate and maintain the social regulation of Indonesian society, which is predominantly Muslim, in a well-regulated legal system. In this case is the incorporation of Islamic law in positive law in Indonesia, namely against the crime of corruption.

Second, Islamic law as a social engineering which is a review can be used by officials (the official perspective of the law) to explore what sources of power can be mobilized by using Islamic law as a mechanism. This is because the crime of corruption in Indonesia has been very severe and the punishment received by the perpetrators of corruption in Indonesia is also still very light. Indeed, the crime of corruption is a crime that even though there are strict and compelling laws and regulations, the fact is that corruption will always exist. So here the role of government officials, both as policy makers and as supervisory and regulatory apparatus of a legal product must make a policy or legislation that can later become social engineering for all people in Indonesia. One of them is in making the legislation itself, it is also necessary to pay attention to the sources of law that live in society, one of which is Islamic law. In relation to corruption crimes that occur in Indonesia, although the Corruption Law contains an article on the death penalty, the fact is that in the application of sanctions there is no death penalty. Indeed, the death penalty is needed because corruption is a form of extra ordinary crime, or known as an extraordinary crime, just like terrorism and drugs.

Third, the perspective of emancipation of Islamic society in Indonesia towards law (legal culture). This perspective is a bottoms up view of the law, the law in this perspective includes objects of study such as legal capacity, legal awareness, law enforcement and so on. Indonesian society has suffered greatly from the many cases of corruption that are always repeated and occur continuously in Indonesia, even cases of corruption have also been cultured at the smallest level of government in Indonesia. Here, the perspective of the Islamic community in Indonesia also needs to be considered by the Government.

4. Corruption Eradication Efforts from an Islamic Law Perspective

As an effort to eradicate corruption, the prevention factor is the key to success in eradicating corrupt behavior. Corruption prevention is defined as steps taken by the government to prevent, avoid and even keep corrupt behavior to a minimum. In Indonesia, the process of preventing corruption is more emphasized on the criminal aspect (Risal,2017). Thus, efforts to eradicate corruption must wait for the criminal practice to occur.

In the anti-corruption law, corruptors can be punished according to the high and low levels of their actions. In Law No. 31/1999, a person whose actions can harm state finances is sanctioned with life imprisonment or imprisonment for a minimum of four years and a maximum of twenty years. The law of corruption, which includes various modus operandi, has been well regulated in Law No. 31 of 1999 in conjunction with Law No. 20 of 2001. Thus, the eradication of corruption in Indonesia is still considered normative because it must always make the law the most important thing in tackling it. There is almost never a process of preventing and eradicating corruption other than referring to these laws.

Indonesia, although not proclaimed as an Islamic country, is a religious-based country, especially Islam. Religion should inspire its adherents to uphold the principles of justice and social control. As a social control, Islam has actually taken decisive action in order to eradicate corruption. However, the principles of justice have failed to be applied in everyday life by its followers.

The problem of corruption that occurred during the Prophet's time was limited to two forms, namely corruption in the form of material that could harm the state economy (ghanimah) and corruption related to office (non-ghanimah). In addition, the objects and assets that were corrupted were relatively small when compared to the corruption that occurs today. However, the emphasis in the prohibition of corruption is not on the amount of corruption, but on the act of corruption itself. This is because no matter how small the corrupted item is, in essence, it has betrayed the general provisions and will be sinned against. Thus, the Hadith Imams placed the chapter on corruption in the chapter on ta'dim al-ghulul (on the magnitude of the sin of ghulul), and Gilaz tahrīm al-ghulul wa annahu lā yadkhul al-jannah illā al-mu'minūn (on the extreme prohibition of corruption and that none but believers will enter Paradise, H.R. Muslim). Departing from QS. Al-Imran: 161, the Prophet made efforts to eradicate corruption in several stages. First, threatening corruptors will not enter heaven. The hadith that explains this was narrated by al-Tirmidhi, Ibn Majah, Ahmad, and al-Darimi. In these narrations, the Prophet explains that ghulul (corruption), kibr (arrogance) and dain (unpaid debts) can prevent a person from entering heaven. The second is the rejection of charity from corruption. The hadith that explains this was narrated by Muslim, al-Tirmidhi, Ibn Majah, and Ahmad.

In the current context, this model of corruption is known as the *silih* mechanism. In a sense, corruptors with the proceeds of their corruption donate and organize social activities as a bleaching of the proceeds of their corruption. Third, corruptors are not prayed for. This is a moral sanction imposed on violators of the *ghulul* law, this sanction is in the form of not praying for the bodies of *ghulul* perpetrators, or will be humiliated before Allah on the Day of Judgment. This is based on the hadith of the Prophet Muhammad SAW. *translation*:

Malik narrated to me from Tsaur bin Zaid al Dili, from Abi Al Gais, former slave of Ibn Muthi, from Abu Hurairah, who said: We went out with the Messenger of Allah at the time of the conquest of Khaiba. We did not obtain the spoils of war in the form of gold and silver, what we obtained were immovable objects, clothes and goods. At that time, a slave named Mid'am. The Messenger of Allah set out for Wadi al Qura. When he arrived at Wadi al Qura, Mid'am, was unloading the Prophet's luggage suddenly a mysterious arrow (hit Mid'am) causing him to die. So the people who saw said "may he be heaven" then the Messenger of Allah SAW said: No, by the Lord in whose hand I am. Indeed the coat he took at the time of the conquest of Khaibar from the undistributed booty will ignite the fire of hell that will burn him. (HR. Abu Dawud).

Fourth, protecting corruptors is the same as the perpetrators of corruption. In the hadith narrated by Abu Dawud, it is said that the Prophet warned against protecting corruptors, hiding and covering up their actions (HR Abu Dawud). From the information of this Hadith, the Prophet consciously tried to prevent massive and systemic corrupt practices from occurring. Fifth, beating the corruptors and burning their property. This hadith narrated by Abu Dawud, al-Tirmidhi, and al-Darimi. Some scholars consider this tradition to be *daif*, but in the view of al-Asqalani it is considered *mauquf*. Although there are some who rate it as *daif*, this tradition is still worthy of being established as a crime of corruption. This is with the consideration that corruption in Indonesia is increasingly acute and needs repressive efforts to overcome it.

In conventional Islamic criminal law (*fiqh al-Jināyat*), the punishment for corruption is included in the *ta'zir* punishment whose severity is determined by the government. Corruption falls under the category of *ta'zir li maslahat al-Ummah* (*ta'zir* for acts that harm the public interest) because there is no text that explicitly mentions the act. Similarly, the classical scholars did not explain the position of corruption in the discussion of *jinayat* (Islamic criminal law), whether it falls into the category of *jarimah hudud* or *ta'zir*. Therefore, the government can fully regulate anti-corruption laws that can provide a deterrent effect. *Takzir* punishment is not included in the category of *hudud* law. However, *takzir* punishment does not mean that it cannot be harsher than *hudud* law, it is even possible that *takzir* law can reach the highest punishment in *hudud* punishment, namely the death penalty. There are at least two principles that must be held by the judge or government in imposing *ta'zir* punishment. First, the punishment should not contradict the general Islamic law. Second, the punishment chosen is the one that is most suitable with the type of criminal act committed, and with the circumstances of the criminal and his social environment, which can prevent the perpetrator from committing the same act. Even *ta'zir* punishment in the form of death penalty can be carried out if the public interest requires such punishment and the punishment is indeed considered as a way out (*iza iqtadat al-maslahah al-ammah taqir uqubah al-qatl*).

Translation:

From Jabir bin Abdullah al Anshari said, the Messenger of Allah (SAW) said that the punishment of cutting hands does not apply to the perpetrators of pickpocketing, mugging and Betrayal. (HR. Al Baihaqi, Abu Dawud, al Tirmidzidan Malik)

When corruption is considered as a destroyer of the system of society and state order (arman,etal 2021), then even the death penalty can be realized as in the case of *hirābah* (Roni,2018). Corruption and *hirābah* almost have the same legal illat, that is, both have a major negative impact on society, such as threats to security stability and the economic and social welfare of the community. Therefore, the punishment that must be given to the perpetrators of corruption is the most severe punishment, ranging from material sanctions, imprisonment, dismissal from office, freezing of certain rights to the death penalty.

The eradication of corruption is certainly inseparable from its prevention efforts. Things that can prevent the perpetrators of corruption in Islamic Law can be seen from several aspects

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(Ihsan,2019). According to Majlis Tarjih and Tajdid Ulama Muhammadiyah, some of these aspects include (Tajdid PP Muhammadiyah,2015):

First, prevention through cultural channels. Efforts that can be made are to eliminate the culture that has been maintained for generations. This culture has created a sense of reluctance for someone who has a higher position, this causes the culture of corruption to be maintained; eliminating the culture of gifts given to people who have authority in public affairs aimed at expediting all the affairs they want; eliminating the instant culture by eroding the path that should be passed but the path is simply passed by eliminating the work ethic; the need to build a culture of critical and accountability in society, so as not to provide space for perpetrators of corruption.

Second, the education pathway, both formal, non-formal, religious, and legal pathways. Formal channels can include formulating and grounding civic education subjects in order to foster the values of honesty, justice and truth in individual students; creating an appropriate curriculum on the dangers of corruption that can be started from early childhood; encouraging academics to continue to conduct various studies and seminars on the problem of corruption; cleaning educational institutions from corrupt practices and illegal fees that do not know where to go. Non-formal channels can be in the form of improving family functions related to education issues about the dangers of corruption for the life of the nation and state; Parents are tasked with fostering a sense of pride in the efforts made by going through applicable procedures; So that parents, community leaders and leaders can be an example not only can exemplify; improve family functions in shaping children's character in accordance with religious orders. As for the religious path, the efforts that can be made are to encourage religious leaders to issue fatwas or opinions about the dangers of corruption and provide moral sanctions for perpetrators of corruption crimes; realizing the community to better live their religious teachings properly and correctly; optimizing the potential of mosque and mushola institutions, which number millions of units in Indonesia, in fostering the character of the people. Legal channels that can prevent corrupt behavior are encouraging public officials who sit in the executive and legislative branches to revise the law in terms of punishment for perpetrators of corruption by making the punishment bring a deterrent effect, clear laws and beneficial to the people of Indonesia; Law enforcement through strengthening social sanctions by labeling more extreme corruptors in the public sector and their descendants as traitors to the state and depriving them of their full political rights. Strict rules like this need to be made for corruption convicts so that the authority of law as social engineering is maintained.

In line with the above, in the case of corruption as an extra ordinary crime, it is necessary to formulate more severe sanctions by considering the harm caused. In terms of law enforcement officials, including police, prosecutors, judges in handling corruption cases, as well as those directly involved as perpetrators of corruption, an important aspect that needs to be reformed is to increase the integrity of the organizers of the rule of law. This is because law enforcement issues often involve crucial conflicts of interest, transactional, and economic motives

CONCLUSION

The reality of corruption that occurs in Indonesia can be seen from the theory of law as a tool of social engineering and law enforcement theory. Law as a means of encouraging societal renewal, the emphasis lies on the formation of laws and regulations by the legislature which are intended to initiate the construction of a new society to be realized in the future through the enactment of laws and regulations that are in accordance with the needs of the community. In this case, the legislation on corruption needs to be addressed, so the policy that should be put forward is the need for legal reform by returning aspects of material and formal law to legal sources that are more in touch with the heart and personality of the Indonesian people, which in a religious context is religious law (Islamic law). Because in fact, a good law is a law that is extracted from the norms that live in the community.

Efforts to eradicate corruption from the perspective of Islamic law are by providing social sanctions or moral sanctions and ta'zir sanctions. prevention efforts can also be carried out by looking at cultural aspects and aspects of education both formal, non-formal, religious, and legal.

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