

**DEATH CRIMINAL POLICY AGAINST PERSONS OF CRIME OF CORRUPTION  
IN CRIMINAL LAW IN INDONESIA  
VIEWED FROM THE PERSPECTIVE OF ISLAMIC CRIMINAL**

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**Abstract**

Corruption is included in the category of very large criminal acts and is very detrimental to the nation and state in a region. Indonesia according to the Transparency International (TI) report has a Corruption Perception Index (GPA) of 38 in 2021, higher than the previous year which reached 37. This shows that Indonesia is not good at handling criminal acts, even in the top 5 most corrupt countries in Asia. While the threat of punishment in Law no. 31 of 1999 Jo. UU no. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption is quite high, namely life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp. 200,000,000 (two hundred million rupiah) and a maximum fine of Rp. 1,000,000,000 (one billion rupiah), and the death penalty. It's just that in practice the death penalty has never been implemented. Therefore, it can be said that law enforcement against criminal acts of corruption has not run optimally, as seen from the data from Indonesia Corruption Watch (ICW), during 2010-June 2018 there were 253 regional heads who were designated as corruption suspects. While the death penalty according to the Qur'an is possible as stated in Q.S. Al-Kahf verse 79 and Surah al-Ma'idah verse 33.

**A. Purpose**

Reviewing and analyzing the death penalty policy against corruption in the perspective of Islamic criminal law in Indonesia.

**B. Methodology**

This study applies qualitative data analysis methods with inductive and deductive theories in making decisions.

**C. Finding**

Based on the results of research using empirical data supported by expert opinions, it is time to implement the death penalty for perpetrators of corruption. This is in accordance with Article 2 paragraph (2) of Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning the Eradication of Corruption Crimes is supported by the concept of Islamic criminal law based on the Qur'an. Islamic law bases the formulation of a crime on two basic aspects, namely retribution and deterrence. In several verses it is clearly stated that the punishment for criminals is actually a recompense for their actions. According to this retributive theory, the rational reason for the enforcement of punishment is based on at least two things that are inherently underlying, (1) the violence of a punishment, (2) the necessity of the punishment being given to the perpetrator of a crime. In contrast to retribution which tends to look backwards, this deterrence theory is projected forward, namely the importance of a preventive measure so that similar crimes do not happen again. Islam views the aspect of deterrence as the most important element in sentencing. Criminal acts in Islam are called Jarimah or Jinayah. In Jarimah or jinayah hirabah, the death penalty can be applied, including corruption.

#### D. Originality

The uniqueness of this research compared to similar research is that the object of this research consists of possibility death penalty for corruption crimes that never applied in Indonesia criminal justice system before. Keywords: death penalty, corruption crimes, Indonesia criminal justice system, jarimah or jinayah, hirabah.

#### I. Introduction

The Hand-Catching Operation (OTT) carried out by the Corruption Eradication Commission (KPK) which occurred recently, namely at UNILA involved the Chancellor and several of his staff, and against Supreme Court Justice Sudrajat Dimiyati, Substitute Registrar, and two (2) Advocates, added to the gloom and the destruction of law enforcement in Indonesia, especially law enforcement against perpetrators of corruption.

Law enforcement against perpetrators of corruption has actually been going well, as evidenced by a large number of perpetrators of corruption, both those who are being processed through law enforcement at the Attorney General's Office, the police, and the Corruption Eradication Commission (KPK). In fact, the Attorney General's Office and the Corruption Eradication Commission (KPK) often carry out acts of detention and arrest against perpetrators of corruption, with the term Hand Catch Operation (OTT).

The arrest process continued with detention carried out by the Corruption Eradication Committee and the Attorney General's Office, as well as the Police, did not deter the perpetrators of corruption, or officials at both the central and regional levels, including law enforcement officials, such as judges, prosecutors, police, and advocates. as well as private agencies that become partners or are involved, are not afraid of committing corruption. OTT perpetrators of corruption always occur.

The number of Corruption Crimes committed by the Officials and Law Enforcers mentioned above, and the endless corruption that occurs in Indonesia, is even increasing every year, it is not surprising that Non-Governmental Organizations such as Transparency International (TI) say that Indonesia is the fifth most corrupt country in Southeast Asia. This can be seen from the GPA

numbers, namely; Indonesia is number 38 in 2021, an increase of one point compared to the previous year in numbers 37. Indonesia's position is below Vietnam with a GPA of 39, Singapore is still the country with the largest GPA in Southeast Asia, namely 85. The Singapore GPA score has not changed compared to the previous year. Malaysia is in second place with a GPA of 48. Then Timor Leste is in third place with a GPA of 41. Meanwhile, Thailand and the Philippines are below Indonesia with a GPA of 35 and 33 respectively. Laos is in the eighth position with a score of 30. This Corruption Perception Index, using a scale of 0 to 100. A score of 0 indicates that a country is highly corrupt. On the other hand, a score of 100 on the GPA indicates a country free from corruption. (<https://dataindonesia.id/ragam/detail/indeks-persepsi-korupsi-indonesia-ranking-5-di-asean-pada-2021>.)

From the position of Indonesia as the fifth most corrupt country mentioned above, Indonesia is one of the countries which implementing their punishments against perpetrators of corruption (law enforcement) is very weak, namely only being punished with imprisonment and fines. Meanwhile, the neighboring country is far harsher, namely the Death Penalty. Weak sentences against perpetrators of corruption in Indonesia (prison and fines), can be seen in ICW's records, namely that in 2019 there were at least 1,019 cases of corruption that were tried at various levels of courts. From the whole case, 1,125 people were found as defendants. This finding is not too different from the previous year in which there were a total of 1,053 cases with 1,162 defendants. The above findings are divided into 3 domains of court, namely: 941 cases were heard at the Court of the first instance, 56 cases were at the appeal level, and 22 other cases were at the cassation and review levels at the Supreme Court. The average sentences at each court level are as follows: Court Level Average Prison Sentences; First Instance Corruption Court 2 years 6 months, High Court (Appeal) 3 years 8 months, Supreme Court (Cassation/Review) Average Prison Sentence 3 years 8 months 2 years 7 months. Referring to Article 10 of the Criminal Code which states the main punishment (imprisonment and fines), ICW found that the average prison sentence for corruptors was only 2 years and 7 months in prison. As for the fine of IDR 116,483,500,000. The findings related to the sentence were an increase compared to last 2018 which was only 2 years and 5 months in prison. Then for additional punishment in the form of replacement money of IDR 748. 163,509,055. This

figure will be very far in comparison if you look at the number of state losses which reached IDR 12,002,548,977,762. Practically less than 10 percent of the value of assets can be returned to the state treasury. As for the crime of bribery itself, where the number of cases was dominant throughout 2019, it was found that at least Rp. 422,712,229,450 (four hundred twenty-two billion seven hundred and twelve million two hundred twenty-nine, four hundred and fifty rupiah) ( ICW notes, trend of court verdicts for Corruption Crimes in 2019).

From the description of the punishments for the perpetrators of criminal acts of corruption mentioned above, it can be seen that law enforcement in Indonesia, especially against perpetrators of criminal acts of corruption, is still running in place, there have been no changes or extraordinary breakthroughs. Crimes that should be included in extraordinary crimes (Extra Ordinary Crimes), must be overcome or carried out breakthroughs in extraordinary punishments as well so that people do not dare to commit corruption, and of course, the aim is for Indonesia to become a clean country free from criminal acts of corruption, at least whether or not the GPA is getting better.

## **II. Formulation of the problem**

The state of corruption in Indonesia which is already severe as mentioned above, there must be an extraordinary effort or solution, so that corruption in Indonesia will be reduced. Thankfully, there are no more corruption crimes in Indonesia. For this reason, according to the author, law enforcement in the context of punishment must be extraordinary, for example the death penalty is actually applied, like crimes that have been regulated in other applicable laws, such as narcotics, terrorism, premeditated murder and others. The problem discussed is *"How can the Death Penalty Policy be applied to perpetrators of Corruption Crimes in Indonesian Criminal Law?"*

## **III. Discussion**

### **1. Views of Criminal Law**

#### **a. Definition of Corruption**

The term Corruption comes from Latin, namely *Corruptio* or *corrupts* which is copied into various languages, for example in English it becomes *corruption* or *corrupt*. In French it became *corrupted* and in Dutch it was copied into the term *corruptie* (*koruptie*). Presumably from the Dutch language, the word *Corruption* was born in Indonesian. *Koruptie*, which is also copied into *curruptien* in Dutch, means *corrupt acts, bribery* ( Adami Chazawi, *Corruption Criminal Law in Indonesia*, Publisher PT. Raja Grafindo Persada, 2016).

According to Gurnar Myrdal, corruption is To include not only all forms of improper or selfish exercise of power and influence attached to a public office or the special position one occupies in public life but also the activity of the bribers. (Such corruption includes improper power-related activities, governmental activities, or attempts to improperly obtain a position, as well as other activities such as bribery). (Ermansjah Djaja, 2013) Then the meaning of corruption that has been accepted in the Indonesian language vocabulary, concluded by Poerwadar Minta "Corruption is a bad act such as embezzlement of money, receiving bribes and so on (Ermansjah Djaja, 2013) ".

Henry Campbell Black in *Black's Law Dictionary*, *Corruption* is an act carried out with the intention of providing an advantage that is inconsistent with official obligations and the rights of other parties, wrongly using his position or character to obtain an advantage for himself or for others, along with the obligations and rights of others. In another sense, corruption can be interpreted as "behavior not complying with principles", carried out by individuals in the private sector or public officials. When decisions are made based on personal or family relationships, corruption will arise, including conflicts of interest and nepotism. Literally, corruption is something rotten, evil, and destructive ( Abdul Muis BJ, 2021).

According to Subekti, corruption is a criminal act that enriches oneself and directly harms the country's finances or economy. The Indonesian Transparency Society (MTI) defines corruption as the abuse of public power and trust for personal gain. Developments in Indonesia in the definition of criminal acts of corruption are always changing, this is due to the existence

of a dynamic nature of the notion of criminal acts of corruption based on the ever-changing conditions of society ( H.Agus Kasiyanto, 2020).

Arnold Heidenheimer and Michael Johnston, said there were two (2) authorities in the study of corruption, making three (3) categories of definitions proposed by the Oxford English Dictionary. Definitions that still reflect the broad meaning of corruption, namely:

1. Physical definition, the decay or decay of things, especially through the destruction of the whole and the destruction of form with the accompanying results, namely damage and loss of integrity, disgust and decay (B. Herry Priyono, 2018).
2. Definition of Morale, Misappropriation or Destruction of Integrity in the performance of public obligations through bribes and gifts; the existence and use of fraudulent practices, especially within a country, public bodies/enterprises and the like; the process of becoming morally rotten; rotten facts or conditions; moral decline or decay; depravity.
3. Turning everything upside down from the original condition of purity, for example the deviation of institutions, customs and the like from original purity; upside down situation.

Evi Hartanti in her book *Corruption Crime Second Edition*, quoted from Muhammad Ali's book in the *Complete Dictionary of Modern Indonesian*, says that literally corruption is something rotten, evil and destructive (Gradios Nyoman Tio Rae, 2020). Talking about corruption will indeed find such a reality, because corruption involves moral aspects, rotten nature and circumstances, positions in government agencies or apparatus, abuse of power in positions due to gifts, economic and political factors, and the placement of families or groups into service under his authority. Literally it can be concluded that the term corruption actually has a very broad meaning, namely:

1. Corruption, misappropriation or embezzlement (state or company money and so on) for personal and other people's interests;
2. Corruption is rotten, damaged, likes to use goods or money entrusted to him, and can be bribed (through his power for personal gain) ( Gradios Nyoman Tio Rae, 2020).

Baharuddin Lopa quoted the opinion of David M. Chalmers, explaining the meaning of the term corruption in various meanings, namely those relating to bribery, those related to manipulation in the economic field, and public interest. This conclusion was drawn from the definition put forward, which reads, among other things, financial manipulations and delictions injurious to the economy are often labeled corrupt (manipulations and decisions regarding finances that endanger the economy are often categorized as acts of corruption). Next, he explained that the term is often applied also to misjudgements by officials in the public economy. It is also said, distinguished payments in the form of gifts, legal fees, employment, favors to relatives, social influence, or any relationship that sacrifices the public and welfare, with or without the implied payment of money, is usually considered corrupt any relationship that is detrimental to the public interest and welfare, with or without payment of money, is usually considered as an act of corruption). He also described other forms of corruption, which he termed political corruption, namely electoral corruption including purchase of votes with money, promises of office or special favors, coercion, intimidation, and interference with administrative of judicial decisions, or governmental appointments (corruption). on public research, including obtaining votes for money, promises of office or special gifts, coercion, intimidation, and interference with freedom of choice. Corruption in the office involves the selling of votes in legislatures, administrative decisions or decisions concerning government) ( Gradios Nyoman Tio Rae, 2020).

In the perspective of the Corruption Eradication Law, namely Law no. 31 years 1999 Jo Law No. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption (TPK), Article 2 Paragraph (1) which states that Corruption is "everyone who violates the law commits acts of enriching himself or another person or a corporation that can cause financial harm State or state economy, shall be punished with imprisonment for life or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp. 200,000,000 (two hundred million rupiah) and a maximum of Rp. 1,000,000,000 (one billion rupiah). While in Paragraph (2) it is explained that if the crime of corruption is committed in certain circumstances, capital punishment can be imposed.

From the Definition of Corruption described and given by the Law Scholars and Positive Law mentioned above, it becomes clear that Corruption is a very bad, disgraceful and humiliating act. It can even be said that acts are anti-social, anti-establishment and have no humanity. So it is natural that Corruption is said to be an Extra Ordinary Crime (extraordinary crime). For this reason, handling it requires decisive action that is extraordinary in nature. The decisive action that is extraordinary for "Corruption" which is suitable and appropriate is the Death Penalty.

#### **b. Forms of Criminal Acts of Corruption**

The form or type of Corruption Crime, in the Corruption Crime Eradication Law No. 31 of 1999, which was amended by Law no. 20 of 2001, it can be seen that there are thirteen (13) Articles, and from those Articles, there are thirty (30) types/forms of corruption that can be subject to legal sanctions. The 30 forms/types of corruption can basically be grouped into 7 (seven groups), namely: (1) State Financial Losses, this is contained in Article 2 Paragraph (1), Article 3 Paragraph (1) and Article 4, (2) Bribery is in Article 5, Article 6, Article 11, Article 12 letters a, b, c and d, and Article 13, (3) Embezzlement in office, (Articles 8, 9 and Article 10 letters a, b, c), (4) and (5) Extortion, and fraudulent acts, are included in Article 7 paragraph (1) letters a, b, c, d and Article 7 paragraph (2), and Article 12 letters h, (6) Conflict of interest in procurement, (article 12 letter i, and (7) Gratification in Article 129;

Of the seven (7) groups, the sanctions/penalties imposed on the perpetrators were imprisonment and fines, as explained above in the results of the 2019 ICW Records, where there were 1,019 cases of corruption that were tried at various levels of the Court. From the whole case, 1,125 people were found as defendants. This finding is not too different from the previous year in which there were a total of 1,053 cases with 1,162 defendants. The above findings are divided into 3 domains of court, namely: 941 cases were tried at the Court of first instance, while 56 cases were at the appeal level, and 22 other cases were at the cassation and review levels at the Supreme Court. The average sentences at each level of court are as follows: Level of Court Average Prison Sentences;

First Instance Corruption Court 2 years 6 months, High Court (Appeal) 3 years 8 months, Supreme Court (Cassation/Review) Average Prison Sentence 3 years 8 months 2 years 7 months. Referring to Article 10 of the Criminal Code which states the main punishment (imprisonment and fines), ICW found that the average prison sentence for corruptors was only 2 years and 7 months in prison. As for the fine of IDR 116,483,500,000. The findings related to the sentence were an increase compared to last 2018 which was only 2 years and 5 months in prison. Then for additional crimes in the form of replacement money of Rp. 748,163,509,055. This figure will be very far away if you look at the amount of state losses which reach Rp. 12,002,548,977,762. Practically less than 10 percent of the value of assets that can be returned to the state treasury (ICW notes, trend of state court verdicts on Corruption in 2019.) .

The prison sentences and fines imposed on the perpetrators of corruption mentioned above are actually in accordance with the norms and sanctions stipulated in the applicable anti-corruption law, however, these sanctions do not deter the perpetrators and do not frighten the public, which in turn Corruption is still rampant from year to year, until now.

In Law no. 20 of 2001, as a change from Law no. 31 of 1999, Concerning the Eradication of Corruption, there are three penalties that can be applied, namely Imprisonment, Fines and Death Penalty. Imprisonment and fines are imposed in accordance with the severity of the act and the loss of state finances. Initially, the law enforcers in this case, especially the Tipikor judges handed down sentences against the perpetrators of various corruption crimes (diversity in sentences occurred), then the Supreme Court of the Republic of Indonesia issued Perma No. 1 of 2020 which has two main important roles. First, provide an interpretation and refinement of the formulation of Articles 2 and 3 of the Law on Corruption Eradication, by determining and quantifying, among other things, the categories of state losses along with state economic losses, and the minimum and maximum scale of prison sentences imposed.

PERMA No. 1 of 2020 has indeed caused debate among criminal law experts, because it eliminates the freedom of independent judges in imposing sentences on perpetrators of corruption.

So far, the freedom of judges in imposing sentences, especially against perpetrators of corruption, is not merely free without rules/values/legal principles that apply. It's just that there is indeed a long distance between prison sentences or fines imposed by judges against perpetrators of corruption. For this reason, so that the judges in convicting the perpetrators of corruption are not too far apart / the occurrence of illegal disparities, the Supreme Court issued Perma No. 1 this year 2020.

In fact, the Corruption Eradication Law No. 31 of 1999, which has been amended by Law no. 20 of 2001, specifically in Article 2 Paragraph (2) stipulates the death penalty for perpetrators of corruption. It's just that the Death Penalty is imposed on perpetrators of Corruption committed in certain circumstances. These certain circumstances, for example committing corruption when and/or at the time of a national disaster.

Certain circumstances as referred to in Article 2 Paragraph (2) of Law no. 20 of 2001, Amendments to Law no. 31 of 1999, concerning the Eradication of Corruption Crimes, it is a condition or event that is difficult to predict, meaning that it is possible for a long time to occur, which it is difficult for humans to know. However, state losses caused by corruption as referred to in Article 2 paragraph (1) often occur and again there is OTT by the KPK, or there is an investigation process by the Attorney General's Office.

Arrests and detentions by the KPK and the Attorney General's Office, even to the judges' sentences with imprisonment and fines, did not deter the perpetrators and did not make the public afraid. Corruption crimes have always occurred to this day, it even seems that corruption crimes have increased from year to year. Then to overcome or eradicate this crime of corruption, as formulated in the first problem above, should the death penalty be applied or imposed on perpetrators of corruption? Death Penalty Indeed, there is still debate for and against, but criminal law in Indonesia is still regulated, for example in Law No. 35 of 2009, Concerning Narcotics, Law Number. 26 of 2000, Concerning Human Rights Courts, Law Number. 15 of 2003, Concerning the Eradication of Criminal Acts of Terrorism, and in the Criminal Code (KUHP), namely Article

340 of the Criminal Code regarding premeditated murder, Article 365 of the Criminal Code paragraph (4) regarding theft by force. Article 104 of the Criminal Code regarding Treason against the President and Vice President. Article 111 paragraph (2) of the Criminal Code, regarding persuading foreign countries to be hostile or to war. Article 124 of the Criminal Code regarding protecting enemies or helping enemies during war. Article 140 paragraph (3) regarding treason against kings or heads of friendly countries. Article 368 paragraph (2) of the Criminal Code, extortion with violence resulting in serious injury or death. Article 444 of the Criminal Code, piracy in the sea, coast and rivers resulting in death. Article 104 of the Criminal Code regarding Treason against the President and Vice President. Article 111 paragraph (2) of the Criminal Code, regarding persuading foreign countries to be hostile or to war. Article 124 of the Criminal Code regarding protecting enemies or helping enemies during war. Article 140 paragraph (3) regarding treason against kings or heads of friendly countries. Article 368 paragraph (2) of the Criminal Code, extortion with violence resulting in serious injury or death. Article 444 of the Criminal Code, piracy in the sea, coast and rivers resulting in death. Article 104 of the Criminal Code regarding Treason against the President and Vice President. Article 111 paragraph (2) of the Criminal Code, regarding persuading foreign countries to be hostile or to war. Article 124 of the Criminal Code regarding protecting enemies or helping enemies during war. Article 140 paragraph (3) regarding treason against kings or heads of friendly countries. Article 368 paragraph (2) of the Criminal Code, extortion with violence resulting in serious injury or death. Article 444 of the Criminal Code, piracy in the sea, coast and rivers resulting in death. (Oksidela Yanto<sup>2017</sup>) For Corruption Crimes regulated in Article 2 paragraph (2) of Law no. 20 of 2001, Amendments to Law no. 31 of 1999, concerning the Eradication of Corruption Crimes.

Because the law that regulates capital punishment as mentioned above, is still valid. So, it is appropriate for serious or extraordinary crimes (Extra Ordinary Crimes) that the death penalty be applied/handed down to the perpetrators, such as corruption crimes and should not be limited as in Article 2 Paragraph (2) of Law No. 20 of 2001, changes to Law no. 31 of 1999, concerning the Eradication of Corruption Crimes. Even though the Death Penalty does not guarantee that corruption crimes will disappear from Indonesia, it can at least reduce corruption crimes.

## 1. Islamic Criminal View

In Islamic law, corruption is a study of Fiqh Jinayah and is included in the category of criminal acts. Fiqh Jinayah is the practical knowledge of shari'a law and is the result of a mujtahid's analysis of detailed arguments in both the Qur'an and hadith. Here's how in the jinayah define the notion of Corruption, namely;

1. Ghulul (Error),

steal spoils of war or hide some of it to be owned before delivering it to the place of distribution;

2. Risywah (Bribery),

something given to someone who has the power or position to succeed in his case by defeating his opponents according to what he wants, or to give him opportunities (such as an auction/tender) or get rid of his opponents. As stated by Yusuf Al Qardhawi, Risywah (bribery) is something that is given to someone who has power or position (whatever), to succeed in his case by defeating his opponents according to what he wants, or so that his business takes precedence or is postponed due to something of interest.

3. Ghasab (forced taking of other people's rights),

Taking property or taking possession of other people without the owner's permission, with an element of coercion and sometimes using violence and doing it openly.

4. Sariqah (Theft)

Taking other people's goods or assets by stealth from the place where they are usually stored.

5. Hirabah (Robbery)

Acts of violence committed by a person or group against another party with the aim of controlling or seizing the property of that other person.

6. Al-Maks (Illegal Fees)

Al-Maks is the act of collecting excise, namely taking what is not his right and giving it to what is not his right. This act is identified with illegal levies which usually occurs when someone is going to take care of something which is then charged a fee by the excise

collector without the consent of the person he is collecting. If the victim does not pay the levy, then the person's affairs will be complicated by the excise collector.

From the form of corruption in fiqh law mentioned above, it can be divided into criminal acts, namely Hudud and Ta'zir. In Hudud Islam, there are legal limits given, such as theft, within certain limits, hands are cut off. Whereas in Ta'zir, the penalty is handed over to Ulil Amri or the leader who determines.

In connection with the law currently applied in Indonesia, corruption cases are included in the Ta'zir category. Corruption Sanctions are handed over to Judiciary leaders. From the phenomenon of existing legal sanctions, it is possible that corruption sanctions in the Ta'zir category are more severe than hudud sanctions, because it depends on the judge's *ijtihad* to see the losses suffered by the people due to criminal acts of corruption. It can also happen the other way around, the result of *ijtihad* being unfair. Therefore, the key to Ta'zir is the ability of judges to have *ijtihad*. Muhadi Zainudin in his article entitled Death Penalty for Corruption Crimes, in the *Almawarid Journal*, said that when Islamic law fully surrenders Ta'zir criminal sanctions to leaders or judges, then it is possible that the punishment provisions in the law as minimum and maximum limits are enforced in the context of criminal sanctions for corruptors. This is in accordance with what is formulated in Law no. 31 of 1999, which was amended by Law no. 20 of 2001, with the concept of Ta'zir criminal sanctions in Islamic law.

In the history of Islamic law, indeed the word corruption is not textually mentioned, but the category of corruption can be included in the category of theft or taking the rights of others. According to *Fiqh Jinayah*, the punishment is clear, namely cutting off one's hand. If the number of items stolen is sufficient to be punished with amputation. Rasulullah SAW once said, "By Allah, in whose hands my soul is in His hands, if Fatimah, Muhammad's daughter stole, I would have cut off her hands. (Narrated by Bukhari and Muslim). From the description of the hadith, it can be understood that Rasulullah SAW has given a clear example of how to fight corruption and deter

corruptors. With regard to the criminal act of Corruption, it can be seen/referring to the Al-Qur'an, namely;

**a. Surah Al Maidah verse 38,**

It means

Men who steal and women who steal, cut off their hands (as) habituation for what they do and as punishment from Allah, and Allah is Mighty, Most Wise."

**b. Surah Al-Baqarah Verse 188**

It means ;

"Do not eat up the wealth among you in a false way by seeking justification from the judges, so that you can eat other people's property by means of sin while you know it"

**c. Surah Al-Imran Verse 161,**

It means;

It is not proper for a Prophet to act Ghulul or betrayal, whoever behaves Ghulul will be presented with what has been betrayed and will be rewarded for his actions and they will not be wronged.

**d. Surah An-Nisa Verse 29**

It means;

“O you who believe, do not eat each other's property in a vanity way.

In War Deprivation on Jarimah Ghulul (Error) and Gasab, you can see Al-Qur'an Surah Al-Kahf/18:79, which means;

*As for the arks, they belonged to poor people who worked in the sea, and I intended to destroy the arks, because there was a king in front of them who seized every ark. (QS al-Kahf/18: 79)*

The verse above describes the arbitrariness of a ruler towards his people. According to al-Maragi (1883-1952 AD), this verse tells of the bad habit of a king who likes to snatch (gasab) the boats of the poor. Therefore, Khidir as. Hole in the boat so that the king would not seize it. Because

only with the boat that the poor people earn a living to support their families ( Ahmad Mustafa al-Maragi, 2000) .

The confiscation of property by the authorities in the verse above is similar to the actions of current corruptors. One of the corruptors' modus operandi is to seize assets secretly without the owner's permission. In classical fiqh, acts like this are categorized in Jarimah / Ghulul and gasab crimes.

Meanwhile, when viewed from the side of the impact, corruption is similar or even more dangerous than the impact caused by the Hirabah crime, which the authors explain above. In language, Hirabah is rebellion or destruction. In terms, Hirabah is the act of a group of people to commit chaos, shed blood, seize property, destroy honor, destroy crops, livestock, religious harmony, morals, and public security, both from Muslims and non-Muslims. Included in the Hirabah are crimes committed by syndicates, mafia and dark partnerships.( Sayyid Sabiq, 1998).

Regarding Hirabah punishment, Allah says in Surah al-Ma'idah verse 33:

***“Indeed, the retribution for those who fight against Allah and His messenger and make mischief on earth, is only that they are killed or crucified, or have their hands and feet cut off reciprocally, or are banished from the land (where they live), that is ( as) an insult to them in this world, and in the hereafter they have great torment. (QS al-Ma'idah/5: 33).***

From the impact caused by Corruption Crimes, referring to Islamic Criminal Law, the punishment for the perpetrators can be death penalty, in addition to imprisonment and fines. This is in line with the Criminal Law in force in Indonesia. It's just that in Islamic criminal law, corruption is committed in its entirety, unlike criminal law only in certain cases the death penalty is applied (Article 2 Paragraph (2) of Law No. 20 of 2001, amendment to Law No. 31 of 1999, concerning Eradication of Corruption Crimes Death penalty against perpetrators of Corruption can be applied in Indonesia, depending on the policy and willingness of the Government in law

enforcement, in order to achieve the objectives of legal certainty, justice and legal benefits for the people of Indonesia.

## ACKNOWLEDGEMENT

The authors would like to give sincere thanks for Universitas Islam As-Syafi'iyah for the opportunity and support for authors to finish this paper well.

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