



## Corruption in the Perspective of Islamic Criminal Law and Indonesian Criminal Law Reform

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### Article Info

#### Article History

Received : 2026-04-13

Revised: 2026-04-21

Published: 2026-05-10

#### Keywords:

Corruption; Islamic Criminal Law; Anti-Corruption Fiqh; Maqāṣid al-Syarī'ah; Ta'zīr

### Abstract

Corruption is a multidimensional problem that not only harms the state's finances, but also damages the moral, social, and justice order of society. In an Islamic perspective, corruption is seen as a despicable act that is contrary to the principles of trust and justice, although the term corruption is not found explicitly in classical jurisprudence literature. The Qur'an and Sunnah have substantively regulated the prohibition of acts that have a corrupt character through the concepts of *ghulul*, *thioniah*, *risywah*, *ghasab*, and unlawful possession-eating. This condition requires the formulation of anti-corruption fiqh that is contextual and relevant to modern legal challenges. This research aims to analyze the concept of corruption from the perspective of Islamic criminal law and formulate anti-corruption jurisprudence with the approach of maqāṣid al-syarī'ah, as well as examine its relevance to the Indonesian criminal law system. The research method used is normative legal research with a conceptual, philosophical, and legislative approach, through the study of the Qur'an, Sunnah, fiqh rules, classical and contemporary fiqh literature, as well as laws and regulations related to corruption. The results of the discussion show that corruption in Islamic criminal law is more appropriately qualified as *jarimah ta'zīr* because it does not have explicit sanctions in nash, but it has a broad and systemic impact. The principles of maqāṣid al-syarī'ah place corruption as a serious violation of the protection of property and even human souls. Corruption eradication regulations in Indonesia's positive law are basically in line with the principle of ta'zīr as long as it is oriented towards the public good. This study concludes that the integration of anti-corruption fiqh values with national criminal law is a strategic step in realizing the rule of law that is just and based on moral and social values.

## I. INTRODUCTION

Theft and corruption are forms of crime that have been present for a long time in the history of human civilization and until now remain a serious problem in the life of the state. Both acts not only cause material losses, but also have a systemic impact on the social, moral, and public trust order. In Muslim-majority countries, this problem becomes even more complex because it touches on a double dimension, namely the violation of positive law as well as the denial of religious values that expressly uphold justice and trust (Sumarwoto et al., 2014).

In the perspective of Islamic criminal law, theft (*Squirt*) and corruption which in classical literature is known through the concept of *Ghulul* or *Betrayal of trust* It is seen as a despicable act that damages the joints of people's lives. Islam does not simply view

crime as a violation of formal law, but as an act that harms the moral, social, and spiritual balance. This is reflected in the normative provisions of the Qur'an and Hadith which strongly condemn both acts, as well as stipulate legal sanctions aimed at maintaining the public interest (Siroj, 2017).

Nevertheless, there are fundamental characteristic differences between theft and corruption in the construction of Islamic law. Theft has a relatively simple and personal element, so the sanctions are explicitly formulated in the Qur'an, with very strict conditions to guarantee substantive justice. On the other hand, corruption has a more complex dimension because it involves the abuse of power, position, and public trust, and has a broad and long-term impact on people's welfare. In this context, corruption not only harms state finances, but also undermines

institutional legitimacy and deepens social inequality.

The complexity of corruption makes it an extraordinary crime (*extraordinary crime*), both in the perspective of modern law and in Islamic values. Hadith of the Prophet Muhammad PBUH who condemns the practice *Ghulul* shows that Islam has since its inception placed the abuse of trust as a serious crime for which the responsibility is not only worldly, but also ukhrawi. However, although Islam has strong moral and normative principles in opposing corruption, the Qur'an and Hadith present provisions that are global and principled, thus requiring interpretation and conceptual development to be relevant to the context of modern corruption crimes (Ilmi, 2011).

On the other hand, Indonesia's criminal law reform through the reform of the Criminal Code and the strengthening of corruption regulations shows that there are efforts by the state to adapt the law to social developments and the complexity of contemporary crimes. Nevertheless, the reform still leaves fundamental questions about the philosophical foundation, the value of substantive justice, and the effectiveness of the repressive approach that has been applied. It is at this point that the dialogue between Islamic criminal law and national criminal law becomes relevant and strategic.

Based on these problems, this study seeks to explore how the concept of corruption is understood in the perspective of Islamic criminal law, especially through the affirmation of the values of the Qur'an and Hadith, as well as how these principles can be re-read in the framework of Indonesian criminal law reform. With a normative and philosophical approach, this research is expected to be able to make a conceptual contribution in formulating a corruption eradication paradigm that not only emphasizes the aspect of sanctions, but also builds moral awareness, social justice, and the benefit of the people in a sustainable manner.

## II. RESEARCH METHODS

This research uses normative legal research, which is research that views law as a norm or rule that regulates and assesses human behavior in social life (Rizkia & Fardiansyah, 2023). This research focuses on the study of

legal norms, legal principles, and legal doctrines related to corruption crimes in the perspective of Islamic criminal law and Indonesian national criminal law in the framework of criminal law reform.

The approaches used include a legislative approach and a conceptual approach. The legislative approach is used to examine the regulation of corruption in the Indonesian positive legal system, especially in the Criminal Code as a result of the reform and related laws and regulations. Meanwhile, a conceptual approach is used to examine the concepts and principles of corruption in Islamic criminal law, such as *ghulul*, *amanah*, and justice, which are sourced from the Qur'an, Hadith, as well as the views of Islamic scholars and scholars.

The legal materials used consist of primary legal materials in the form of the Qur'an, Hadith, and related laws and regulations, as well as secondary legal materials in the form of books, scientific journals, and relevant scientific works. The collection of legal materials is carried out through literature studies. Furthermore, legal materials are analyzed qualitatively with prescriptive-analytical methods to interpret legal norms and principles and formulate legal arguments oriented towards strengthening criminal law policies. The conclusion is drawn deductively, namely from general law principles to a more specific conclusion about the relevance of Islamic criminal law in supporting Indonesian criminal law reform against corruption eradication.

## III. RESULTS AND DISCUSSION

### A. Theft and Corruption in the Normative Perspective of Islam and National Criminal Law

In the construction of Islamic criminal law, theft (*Squirt*) is placed as an act that is expressly prohibited because it violates property rights and damages social order. The Qur'an through Surah Al-Māidah verse 38 provides a normative basis for the prohibition, but it cannot be understood textually alone. The scholars emphasized that the provisions of hudud sanctions for theft must be read within the framework of substantive justice and the protection of human rights. Therefore, theft in Islamic law is not only determined by the act of taking the property of others, but also by the fulfillment of strict elements such as the value

of the property that reaches *Nisab*, the existence of a safe storage place (*Hirz*), as well as the method of taking it secretly. These restrictions show that Islamic criminal law from the beginning avoided excessive criminalization and placed prudence as the main principle in the application of criminal sanctions (Lestari, 2020).

Abdul Qadir Audah's view makes it clear that if these elements are not met, then the act cannot be qualified as *Squirt* subject to hudud, unless they can be sanctioned *ta'zīr* which is discretionary. This confirms the flexibility of Islamic criminal law in responding to the social and economic context of the perpetrator, while showing that the primary purpose of punishment is not retribution, but rather the protection of the public interest and the maintenance of social justice (Siroj, 2017).

In contrast to theft, corruption has a much more complex character and structural dimensions. Conceptually, corruption is not only related to the illegal taking of property, but also to the abuse of power, position, and public trust. In the perspective of Islam, this act is known as the *Ghulul* or *khiyānah*, which is substantially understood as a betrayal of trust. Hadith of the Prophet Muhammad PBUH who condemns the practice *Ghulul* shows that Islam views the abuse of office as a serious moral and social evil, because its impact is not only felt by certain individuals, but by society at large (Siroj, 2017).

Syed Hussein Alatas's thinking enriches the analysis of corruption by positioning it as a crime that has a systemic, organized, and often disguised character through formal legitimacy. Corruption, in this view, does not stand as a mere individual act, but as a symptom of the pathology of power that involves the relationship of interests between decision-makers and the parties who benefit. This perspective is in line with Islamic criminal law which views crimes based on the degree of damage (*Mafsadah*) that it causes, so that corruption is placed in the category of serious crimes that threaten the public interest (Fad, 2020).

In Indonesia's national criminal law, the difference in character between theft and corruption is also reflected normatively. Theft is regulated as a conventional offense that is general and does not require a position relationship (Eman, 2021). On the contrary,

corruption is positioned as a crime of office that is closely related to public power and authority. The codification of corruption offenses in Law Number 1 of 2023 concerning the National Criminal Code shows that there are systematic efforts to integrate corruption crimes into the general criminal law system, without eliminating its characteristics as crimes that harm the country's finances and economy.

However, both Islamic criminal law and national criminal law have a conceptual meeting point in viewing theft and corruption as unlawful acts aimed at controlling property that are not the right of the perpetrator. The similarity lies in the violation of trust and the principle of justice. However, the difference between the two lies in the scale of impact and the weight of accountability. Theft generally has a direct impact on individual victims, while corruption has a collective impact that undermines the system of government, weakens public trust, and exacerbates social inequality (Gunawan, 2018).

Thus, it can be concluded that corruption cannot be simply equated with ordinary theft, both from the perspective of Islamic criminal law and national criminal law. Corruption is a more complex and dangerous form of crime because it involves the abuse of power and betrayal of public trust. Therefore, the legal approach to corruption demands a more comprehensive paradigm, not only emphasizing the criminal aspect, but also strengthening moral values, integrity of office, and social justice as the main foundation for eradicating corruption.

## B. Conceptual Construction of Corruption in Qur'anic Terminology

The Qur'an does not use the term "corruption" as it is known in modern law, but the substance of the act of corruption is clearly reflected through various terminologies that describe the abuse of property, power, and trust. The thematic approach (*maudhu'i*) to the verses of the Qur'an shows that corruption is not a foreign concept in Islam, but rather a part of a moral and social evil that has been anticipated from the beginning through strict normative prohibitions. The diversity of terms used in the Qur'an actually shows the breadth of the scope of deeds that is substantially in line

with the character of contemporary corruption (Alfitra, 2015).

Terms *Ghulul* is the terminology of the Qur'an that is closest to the concept of corruption in the context of abuse of office and betrayal of public trust. The Qur'an affirms in Surah Ali 'Imran verse 161 that it is impossible for a prophet to betray the trust property, and whoever does it *Ghulul* will be fully accountable for his deeds on the Day of Resurrection. This verse places *Ghulul* Not just as an administrative violation, but as a great sin with ukhrawi implications. The interpretations of scholars, such as al-Maraghi and Ibn Kathir, show that *Ghulul* It originally referred to the embezzlement of spoils of war before partition, but its meaning evolved into any form of betrayal of collective property entrusted to a person because of his position or position (Ramadhan et al., 2021).

The hadith of the Prophet Muhammad PBUH further expands the scope of meaning *Ghulul* by including the practice of receiving commissions and office prizes as a form of corruption. The Prophet's words stated that every official income outside of his official salary is *Ghulul* (HR. Abu Dawud) and that the reward for the official was *Ghulul* (HR. Ahmad) shows that Islam expressly closes the gap of moral legitimacy against the practice of gratuity. This principle affirms that power in Islam is inseparable from trust, and any deviation from that trust is a reprehensible form of corruption (Syarbaini, 2024).

Terms *Ghasab* It also has a strong relevance to corruption, especially in the context of taking property by unlawful means. The prohibition of illegally eating other people's property is affirmed in Surah Al-Baqarah verse 188 and Surah An-Nisa' verse 29. These verses not only prohibit the direct taking of property, but also condemn the use of legal mechanisms and power to legitimize falsehoods, including the practice of bribery against judges or officials. Tafsir al-Qurtubi and al-Jassas expand the meaning *Al-Bathil* including usury, fraud, extortion, embezzlement, and all forms of transactions that harm other parties without a valid basis of rights. The context of *asbab al-nuzul* verse shows that Islam has since its inception criticized the manipulation of the law as an instrument of justifying the taking of other people's property, a character that is

very synonymous with modern corrupt practices (Ramadhan et al., 2021).

Concept *Hirabah* in Surah Al-Maidah verse 33 presents another dimension in the meaning of corruption, especially related to the destructive impact it causes. *Hirabah* is understood as a major robbery that is carried out openly, accompanied by threats, violence, or the creation of fear in the community. Scholars such as Abdul Qadir 'Audah and Wahbah al-Zuhaili affirmed that *hirabah* is an extraordinary crime because it undermines public order and creates collective fear (Mulyadi, 2020). The analogy between *hirabah* and corruption becomes relevant when corruption is carried out systematically, involves state power, and causes mass suffering. Large-scale corruption is no longer just a matter of taking property, but actions that damage the economic structure, weaken the state, and threaten the welfare of the people, so that it has a 'illat comparable to *hirabah* (Munthe et al., 2023).

Terms *Suqut* or theft, as affirmed in Surah Al-Maidah verse 38, also has a wedge with corruption, although the characters of the two are not entirely identical. *Sariqah* etymologically means to stealthily take someone else's property from a safe place of storage. Scholars distinguish between petty theft and grand theft, with *hirabah* placed as a form of grand theft. Corruption often resembles *sariqah* in terms of taking property without rights, but it has a higher complexity because it is carried out through mechanisms of power and formal justification. The widespread and systemic impact of corruption makes it substantially closer to *hirabah* than ordinary *sariqah* (Siroj, 2017).

Terms *São Paulo* or bribery is emphasized in Surah Al-Maidah verse 42 through condemnation of the practice of eating *Al-Suht*, which is illegal property obtained through destructive means. Tafsir M. Quraish Shihab emphasizes that *Al-Suht* refers to property that morally and socially destroys the perpetrator. The practice of bribery has become one of the main instruments in modern corruption, as it allows crimes to be committed covertly through transactions that appear legal. The Qur'an places justice as the main principle in every legal decision, so that every form of bribery is a betrayal of the value of justice (Ningtias, 2024).

Concept *Betrayal* in Surah Al-Anfal verse 27 emphasizes the prohibition of betraying the trust of Allah, the Messenger, and the trust between humans. *Khiyanah* includes any form of denial of the trust given, whether in the form of property, position, secrets, or public responsibility. Tafsir Al-Mishbah emphasizes that *amanah* is the foundation of social and political relations in Islam. Corruption, in this context, is the most serious form of treachery because it is carried out consciously by those who are actually entrusted to manage the public interest (Saroni, 2018).

The entire terminology shows that the Qur'an builds the concept of corruption in a substantive and multidimensional way. Corruption in the perspective of the Qur'an is not only a crime against property, but a crime against trust, justice, and social order. This approach provides a strong theological and philosophical foundation to place corruption as a serious crime that requires extraordinary handling, both through strict legal sanctions and through strengthening ethics and moral integrity in the administration of power.

### C. The Normative Foundation of Anti-Corruption Fiqh

Efforts to formulate anti-corruption jurisprudence are an urgent need in the context of contemporary Islam and nationalism. The absence of explicit formulations of corruption in classical jurisprudence cannot be understood as a void of norms, but rather as a methodological challenge to contextually reconstruct Islamic law. Classical fiqh literature discusses more deeds that are substantially in line with the character of corruption, such as *Ghulul*, *São Paulo*, *Betrayal*, *Ghasab*, and *Hirabah*. The Qur'an itself has provided an implicit normative foundation through universal prohibitions against betrayal of trust, unlawful consumption of property, and destruction of the public good (Al-Kavafi et al., 2025).

The formulation of anti-corruption fiqh must depart from the fiqh approach that places the benefit as the main orientation of the law. Rules *Al-Amru Al-A'Zamu min Al-Mashlahah wa Al-Mafsadah* affirms that legal judgment should not stop at the partial benefits enjoyed by individuals or small groups. Corrupt practices often present the illusion of benefits in the form of economic gains, family welfare, or stability of

certain groups. This kind of advantage includes the *Maslahah Mulghah* because it is contrary to the larger purpose of the Shari'ah. The damage caused by corruption is extensive, systemic, and long-term, so the resulting damage far exceeds the apparent benefits enjoyed by the perpetrators (Syaifudin, 2023).

This principle is in line with the principle of *dar'u al-mafāsīd muqaddam 'alā jalb al-mašāliḥ* which places the prevention of damage as a priority over the acquisition of benefits. Corruption is at the expense of the public interest, hurts distributive justice, and undermines social trust. This perspective places corruption as an act of tyranny that is contrary to the basic value of justice as affirmed in the Qur'an, "*Indeed, Allah loves those who act justly*" (QS. Al-Ma'idah: 42).

The ukhrawi dimension is an important foundation in the formulation of anti-corruption fiqh. Kaidah *mā tuqāmu bihi al-ḥayāt al-dunyā li al-ḥayāt al-ākhirah* affirms that every human action in this world has consequences in the hereafter. Corruption not only undermines the worldly order, but also destroys the spiritual values that are the main orientation of Muslim life. The materialistic and hedonistic orientation of life becomes a fertile ground for corruption when ukhrawi values are marginalized. The Qur'an reminds that wealth and position are tests, not goals, as affirmed in QS. Al-Taghabun verse 15.

The framework of *maqāṣid al-syarī'ah* provides strong theoretical legitimacy in placing corruption as a serious crime. Protection of property (*ḥifẓ al-māl*) is the goal of sharia that is most clearly violated by corruption. If the theft of individual property has been categorized as a serious offense, then corruption as the deprivation of the collective property of the nation and state is a greater and more destructive offense. The impact of corruption does not stop at financial losses, but extends to the state's inability to meet citizens' basic rights, including health, education, and food (Pertiwi & Herianingrum, 2024).

Corruption on a massive scale even has the potential to threaten the purpose of sharia in preserving the soul (*ḥifẓ al-naḥs*). When corruption causes structural poverty, hunger, and limited access to public services, these acts are no longer just economic crimes, but crimes against humanity. This perspective strengthens the argument that corruption can

be juxtaposed with extraordinary crimes that demand extraordinary legal handling.

The sanctions system in Islamic criminal law provides flexible space to crack down on corruption through mechanisms *jarimah ta'zīr*. Corruption does not meet the criteria *ḥudūd* because it does not have an explicit sanction provision in NASH, and cannot be qualified as a *qisās* because it is not directly related to the violation of individual human rights. The absence of nash does not mean the absence of punishment. The principle of ta'zīr actually gives authority to the ruler to determine the most effective sanctions for the public benefit (Calvin & Azizah, 2024).

The Shari'ah does not rigidly limit the form and severity of the punishment of ta'zīr. Variations of sanctions can be in the form of imprisonment, fines, property confiscation, revocation of office, exile, and even severe punishments as long as they do not conflict with the principles of justice and humanity. This approach provides normative legitimacy to Indonesia's positive legal policies in the eradication of corruption as stipulated in Law Number 31 of 1999 jo. Law Number 20 of 2001. As long as the regulation aims to protect the interests of the community and does not contradict the principles of sharia, then it can be categorized as the implementation of modern ta'zīr (Lubis et al., 2022).

The enforcement of anti-corruption fiqh cannot be separated from the moral integrity of law enforcement officials. A fair legal decision requires honesty and trust. The Qur'an expressly commands the delivery of the mandate and the enforcement of justice without discrimination as stated in QS. An-Nisa' verse 58. The principle of equality before the law is the main foundation so that the law does not turn into a tool of political, economic, or group interests.

The dimension of moral sanctions is an important complement in anti-corruption jurisprudence. Ethics education, character development, and moral assessment of leadership feasibility must go hand in hand with criminal law enforcement. Leadership in Islam requires an orientation to the benefit of the people, as affirmed in the rules *taṣarruf al-imām manūṭ bi al-maṣlaḥah*. Leaders who ignore the public interest lose their moral and spiritual legitimacy (Alias, 2021).

This overall construction shows that anti-corruption jurisprudence is not just a normative discourse, but an applicable methodological offer. The reconstruction of anti-corruption fiqh serves as a bridge between Islamic values and the needs of modern law. This approach opens up space for legal reform that is oriented towards social justice, the rule of law, and the benefit of the ummah in a pluralistic society.

## CONCLUSION AND SUGGESTIONS

### A. Conclusion

Corruption in the perspective of Islamic criminal law is a reprehensible act that has been substantially anticipated by the Qur'an and Sunnah through the prohibition of *ghulul*, *treason*, *risywah*, *ghasab*, and the act of eating property illegally. Although the term corruption is not found explicitly in classical jurisprudence literature, the substance and characteristics of its act have long been discussed by scholars as crimes that undermine trust, justice, and the public good. A thematic approach to nash suggests that corruption is not only a violation of the protection of property (*ḥifẓ al-māl*), but to some extent also threatens the protection of the soul (*ḥifẓ al-nafs*) and social stability.

The formulation of anti-corruption fiqh finds its relevance through the application of fiqh principles that place the prevention of fascism as the top priority and associate worldly deeds with ukhrawi consequences. The framework of maqāṣid al-syarī'ah provides a strong philosophical and normative basis for placing corruption as an extraordinary crime that demands firm and proportionate legal treatment. In the context of Islamic criminal law, corruption cannot be qualified as *jarimah ḥudūd* or *qisās*, but is appropriately categorized as *jarimah ta'zīr*, which gives the state the authority to determine the type and severity of sanctions in order to safeguard the interests of the ummah.

Corruption eradication regulations in Indonesia's positive law, especially the Law on the Eradication of Corruption, are in principle in line with the concept of ta'zīr in Islamic criminal law as long as they aim to realize justice, equality before the law, and the protection of the public interest. The integration of anti-corruption fiqh values with the national legal system is a strategic step in

building the rule of law that is fair and oriented towards social justice.

## B. Suggestions

The strengthening of anti-corruption fiqh needs to be directed at the development of contemporary ijihad methodologies that are able to respond to corruption crimes contextually and systemically. The study of fiqh does not stop at normative legitimacy, but must be expanded towards the formulation of legal policies that are applicable and oriented towards the public interest.

The state needs to continue to strengthen the enforcement of corruption laws by upholding the principles of justice, equality before the law, and the integrity of law enforcement officials. The integration of Islamic moral and spiritual values through ethics and trust-based anti-corruption education is also an important step in long-term prevention efforts. The synergy between national criminal law and anti-corruption fiqh values is expected to be able to build a fair, clean, and sustainable legal culture.

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