



Islamic Legal Philosophy Approach in Preventing the Culture of Bribery in Indonesia

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Abstract

Indonesia is a constitutional state based on Pancasila and the 1945 Constitution, which upholds human rights and equality before the law. Corruption harms development and eradication of corruption is not the best option. Professional and transparent law enforcement is very important. The Islamic legal philosophy approach to preventing corruption needs further scrutiny. This study adopts a normative legal approach and literature research, examining written law, including legal theory, history, and philosophy. Data are collected from legal codes, Islamic legal philosophy literature, and legal encyclopedias. A deductive approach was used to conduct a qualitative analysis by linking Islamic legal principles to the reality of bribery culture in Indonesia. The sociological perspective of law was also used to understand the interaction between law and society. The aim was to provide a comprehensive understanding of how to prevent a bribery culture. Corruption, including bribery, is considered to violate Islamic legal principles such as justice and prevention of harm. Islamic legal philosophy emphasizes personal integrity and community involvement in preventing corruption. The philosophical approach of Islamic law to prevent bribery emphasizes the improvement of personal morality and the principle of monotheism. The prohibition of bribery is based on fairness and the prevention of harm. Community stability can be improved by strengthening morale and integrity and involving the community in overcoming the culture of bribery.

Keywords: corruption; philosophy of islamic law; bribery prevention

1. INTRODUCTION

The state of Indonesia is a state of law (*rechtstaat*) based on Pancasila and the 1945 Constitution. As a country of law, Indonesia upholds human rights and guarantees the equality of every citizen before the law (*equality before the law*). The law is the lifeblood of all aspects of life, used as a tool to achieve the nation's goals, namely protecting the entire Indonesian nation and all Indonesian bloodshed, promoting public welfare, educating the nation's life, and participating in implementing a world order based on independence, eternal peace, and social justice.

In an effort to carry out national development, the Indonesian nation needs conditions that support the creation of a just and prosperous society based on Pancasila. One of the absolute conditions (*conditio sine qua non*) to achieve this is the enforcement of the rule of law, especially in the eradication of corruption. (Nasution 2021) Legal conditions in Indonesia are often reflected in the performance of existing legal apparatus and apparatus. However, the role of the community is also urgently needed in law enforcement. However, the concept of feudalism that is still firmly embedded causes the

apparatus and legal apparatus to become the main benchmark in its enforcement. (Satria 2020)

Corruption crimes that often occur in Indonesia are a crime phenomenon that is carried out in an organized and systematic manner, undermining and hindering the implementation of development. The number of corruption cases continues to increase from year to year, both in terms of quantity and quality. Corruption has penetrated into all aspects of people's lives, causing significant losses to the state. (Primary 2024)

In various parts of the world, corruption has always received more attention than other criminal acts, considering that the negative impact it has can have on various areas of life. Corruption is a serious problem that can endanger the stability and security of society. (Yoesuf et al. 2024)

Corruption especially in the form of bribery has become an endemic problem that damages the joints of the life of the nation and state in Indonesia. This cultural bribery practice hinders development, weakens institutions, and erodes public trust in the government. (Sudarti and Lasmadi 2021) The practice of bribery has become ingrained in Indonesia, making it difficult and even thwarting efforts to pursue a clean and transparent bureaucracy. It is as if all affairs "can be arranged" according to desires and passions. This has a bad impact on individuals, communities, and countries.

Bribery is included in one of the forms of corruption crimes regulated in Law No. 31 of 1999 concerning the Eradication of Corruption Crimes, as amended by Indonesian Law No. 20 of 2001. To realize the state's goals, legal norms of laws and regulations and law enforcement officials who are professional, integrity, and disciplined are needed. (Bagus PSP et al. 2020) Institutions such as the Indonesian National Police as investigators, the Prosecutor's Office of the Republic of Indonesia as public prosecutors, judicial institutions, the Corruption Eradication Commission, and advocates hold very important roles and functions in upholding the rule of law and eradicating corruption. In enforcing the law, every law enforcer must be based on the law, not arbitrarily (abuse of power). (Kurniawan and Hermawan 2019)

Various approaches, both positive and religious, have been used to combat corruption. However, the approach of Islamic legal philosophy in the context of preventing bribery culture in Indonesia is still not widely explored. The philosophy of Islamic law, with principles such as justice, general welfare (maslahah), and prevention of damage (mafsadah), can offer a valuable perspective in formulating effective anti-bribery strategies that are in line with the religious values embraced by the majority of Indonesian society. (DJ 2019)

This study aims to examine how the approach of Islamic law philosophy can be applied in preventing bribery culture in Indonesia. By understanding the philosophical roots of the prohibition of bribery in Islamic law, as well as analyzing the relevant principles and methodologies of Islamic legal philosophy, it is hoped that a more comprehensive and effective bribery prevention strategy can be formulated, and in line with the religious and cultural values of the Indonesian people.

The significance of this research lies in its contribution to enriching the discourse on religious approaches, especially Islamic legal philosophy, in efforts to prevent corruption in Indonesia. The findings of this study are expected to provide a philosophical foundation and practical recommendations for policymakers, religious institutions, and the wider community in combating the culture of bribery and building a cleaner and more integrity society.

2. RESEARCH METHODS

This research is a normative legal research using literature studies. Normative legal research, also known as doctrinal legal research, is research that examines written law from various aspects, namely theoretical aspects, history, philosophy, comparison, structure and composition, scope and material, consistency, general explanation and article by article, formality and binding force of a law, as well as the legal language used. (Rifa'i et al. 2023)

In this study, the legal materials used consist of:

1. Primary legal materials, namely laws and regulations related to corruption crimes, such as Law Number 31 of 1999 concerning the Eradication of Corruption Crimes and Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999.
2. Secondary legal materials, namely literature, articles, and research results related to Islamic legal philosophy, legal sociology, and corruption eradication.
3. Tertiary legal materials, namely legal dictionaries and encyclopedias that provide explanations of the legal terms used in this study.

The data collection method in this study is a literature study, namely by collecting and analyzing legal materials relevant to the research topic. These legal materials will be studied in depth to understand the principles of Islamic legal philosophy that can be applied in the prevention of bribery culture in Indonesia. (Martupa and Marune 2023)

Data analysis was carried out qualitatively, using a deductive method. The deductive method is a way of analyzing the general conclusion or generalization that is described into concrete examples or facts to explain the conclusion or generalization. In this study, the general principles of Islamic legal philosophy will be elaborated and associated with facts about the culture of bribery in Indonesia, to then draw conclusions about how these principles can be applied in the context of bribery prevention.

In addition, the concepts of legal sociology will also be used to analyze the interaction between law and society, as well as how social and cultural values can affect the effectiveness of law enforcement in bribery prevention. By combining the perspectives of Islamic legal philosophy and legal sociology, this research is expected to provide a more comprehensive understanding of efforts to prevent bribery culture in Indonesia.

3. RESULT AND DISCUSSION

Bribery (*risywah*) is a form or mode of corruption. Corruption itself comes from the Latin word "corruptio" or "corruptus," which was later adopted in various languages, including Indonesian. Literally, corruption can be interpreted as crime, corruption, bribery, immorality, depravity, and dishonesty. (Fadhil 2019) In the Islamic view, there is no special understanding of corruption. However, after understanding the definition of corruption and its types regulated in Law No. 31 of 1999 jo. Law No. 20 of 2001 concerning the Eradication of Corruption, it can be understood that bribery is a part or type of corruption crime.

Bribery (*risywah*) has three main elements: first, receiving, giving, or taking something to enrich oneself, others, or a group; second, betrayal of the mandate of power; and third, there are losses that must be borne by individuals, communities, and/or the state. Etymologically, the word *risywah* comes from the Arabic language which can be interpreted as wages, gifts, commissions, or bribes. (Sidik, Santoso, and Annisa 2020) In terminology, *risywah* is something that is given to create benefits or justify the wrong and blame the right. In fiqh books, *risywah* is usually interpreted as a gift to a judge or a person who has authority and influence to decide the case in favor of the giver or according to his wishes.

Risywah is different from gifts given to respect, glorify, love, and love, without expecting anything in return. Bribery is prohibited based on hadiths that curse bribers, bribe recipients, and intermediaries. Bribery is an organized crime that involves cooperation between bribers and bribe recipients, so it is classified as a corruption crime. The elements of bribery broadly are: giving something to a judge or an authority, with the intention of changing right into wrong or vice versa. (Mukarromah 2019)

The Qur'an has recorded an attempted bribery carried out by Queen Balqis to the Prophet Solomon. The story begins when the Hud-hud bird brings news about a kingdom that is resilient and prosperous but still worships the sun. The Prophet Solomon then sent a letter to Queen Balqis, inviting her to establish diplomatic relations and follow the teachings of monotheism. Queen Balqis decided to send a gift to the Prophet Solomon, but the gift was rejected by Sulaiman. The Prophet Solomon, as a leader with integrity, exemplifies the importance of maintaining integrity by rejecting the gifts offered.

In the history of Islam, there were at least four cases of corruption during the time of the Prophet Muhammad (PBUH). First, the case of *ghulul* (embezzlement) accused by some of the Uhud war troops against the Prophet PBUH. Second, the case of a slave named Mid'am or Kirkirah who embezzled the mantle. Third, the case of a person who embezzles jewelry worth two dirhams. Fourth, the case of gratuities for zakat collection officers in the village of Bani Sulaim, named Ibn al-Lutbiyyah. In the first case, Allah sent down Surah Ali Imran verse 161 to affirm that the Prophet PBUH could not commit embezzlement. The second case shows that the slightest act of corruption, such as taking a shoelace from the spoils of war, can lead the perpetrator to hell. (Subhan 2023)

The third case involved a friend who embezzled jewelry worth two dirhams. The Prophet PBUH refused to blame his body as a lesson for others not to imitate wicked deeds. The fourth case is related to Abdullah bin Al-Lutbiya, a zakat collector who received gifts while on duty. The Prophet PBUH rejected the gift and emphasized that the gift received while being an officer was a form of corruption. These hadiths show that Islam expressly prohibits all forms of corruption and gratuities, and provides severe consequences for the perpetrators. The Prophet Muhammad PBUH set an example in maintaining integrity and rejecting all forms of giving that have the potential to cause conflicts of interest. (Syarbaini 2024)

There are several causes of corruption in Indonesia, including internal factors and external factors. Internal factors related to corruption perpetrators as mandate holders are in the form of an unbalanced system of government and leadership and supervision so that it can open up opportunities for corruption. (Maulida et al. 2020) External factors include vulnerable economic conditions, weaknesses in organizational mechanisms, failure to carry out supervisory functions reasonably, inconsistent law enforcement, abuse of power or authority, anti-corruption environment, low income of state administrators, poverty and greed, culture of giving tribute, rewards and gifts, permissive/all-inclusive culture, not wanting to know, and failure of religious and ethical education. (M and Iskandar 2022)

According to Franz Magnis Suseno, religion has failed to be the moral barrier of the nation in preventing corruption because of people's behavior in embracing religion itself. Religious believers consider that religion only dwells on the problem of how to worship so that religion barely functions in playing a social role. In the view of Islamic legal philosophy, these factors occur because the bribery perpetrators do not uphold the principle of monotheism as the principle of Islamic legal philosophy. (Sidik, Santoso, and Annisa 2020)

One of the temptations that often plunge people into is the love of the world (*ad-dunya hub*). The love of the world is not hindered, in fact we are asked to seek and fulfill worldly demands, because the way to the hereafter is the world. But what is despicable

is the excessive love of the world so that there is not enough room for non-worldly inner affairs. Therefore, one must be able to control oneself from the love of the world. People who are intoxicated by the world tend to justify all means in fulfilling all their worldly desires. (Hidayat and Gunawan 2023)

Excessive lovers of the world have never known the retirement age of pursuing life satisfaction. Actually, what they were looking for was a long time ago. However, they do not seem to realize that in fact they chase the shadows like thirst when they die, even if they are given one ocean of water, they will not lose their thirst, because it is not an ordinary thirst. The love of the world is excessive (*hub ad-dunya*) are the ones who put in their lives.

The way of judging people and the way of looking at material things are very worldly. He seems to forget that life in this world is pseudo-and eternal life and the real life is the hereafter. The quality of life in the hereafter is only determined by what we prepare for in this world. There can be no other opportunity to improve the quality of our lives now. If we cannot draw close to God now, never hope to have another opportunity to draw close to Him, let alone to do good to Him. (Rohman 2022)

Greed is one of the greedy attitudes that is strictly prohibited in Islamic teachings. Because greed will have a bad impact on yourself and others. Greed is also one of the liver diseases. As for those who tempt someone to be greedy, it can be because of wealth and power. Because of greed for wealth, people in general love wealth very much, do not feel satisfied with little or a lot of wealth, continue to look for wealth and people are actually very greedy for wealth and like to prolong wishful thinking. (Burhanudin 2021)

Wealth becomes a goal so that a person becomes very fond of it, forgetting that the nature of this treasure is ephemeral. Actually, the property owned by a servant is his property that is used for alms and the property that is used in other ways of Allah. Clothes with famous brands and accessories will be used up. Eating food at a premium restaurant with a single meal costs millions of rupiah per person, feels good on the tongue only for a short time and later is wasted. In God's word it is clear that we are reminded not to love possessions excessively. (Mumtazah, Abdul Rahman, and Sarbini 2020)

Treasures are needed in life and make these treasures a means of provision for the hereafter. Wealth and long-term wishful thinking make a servant with an old heart become young. First, the philosophy of Islamic law views bribery as an act that is strictly prohibited. In the Qur'an, bribery (*risywah*) is categorized as an act of immorality and tyranny (QS. Al-Baqarah: 188). The Prophet Muhammad PBUH also emphasized that bribe-givers, bribe-takers, and bribe-brokers are all cursed by Allah (HR. Abu Daud). This prohibition is based on the principles of justice, equality before the law, and prevention of damage (*mafsadah*) which is the main goal of Islamic law (*maqashid al-sharia*).

The philosophical principles of Islamic law, such as justice, public welfare (*maslahah*), and prevention of corruption (*mafsadah*), are very relevant to be applied in the context of bribery prevention in Indonesia. The principle of justice demands that everyone be treated equally before the law, regardless of social or economic status. The principle of *maslahah* requires that public policies be directed to realize the general welfare, not personal or group interests. The principle of prevention of *mafsadah* requires that actions that have the potential to damage the social and legal order, such as bribery, must be prevented and eradicated. (Permana 2019)

The approach of Islamic legal philosophy needs to be integrated with the perspective of legal sociology in formulating effective bribery prevention strategies. Legal sociology views that the effectiveness of law is not only determined by the substance of the law and law enforcement officials, but also by the legal culture of the community. (Mustopa, Sururie, and Fu'adah 2021) In the Indonesian context, the culture

of patronage, feudalism, and 'maintaining harmony' is often an obstacle to anti-bribery law enforcement. Therefore, the anti-bribery strategy must include not only legal reform and strengthening law enforcement agencies, but also public education to change the permissive mindset and culture towards bribery.

The approach of Islamic legal philosophy emphasizes the importance of internalizing the values of integrity and accountability in each individual. Everyone must have the awareness that he will be accountable for every action before Allah (mas'uliyah). This awareness is expected to be a moral brake that prevents a person from engaging in the practice of bribery. In the context of bureaucracy, the internalization of these values can be done through ethics education, anti-corruption training, and the implementation of a strict code of ethics.

The philosophy of Islamic law also encourages public participation in the prevention of corruption. The concept of amar ma'ruf nahi munkar (telling goodness and preventing evil) requires every Muslim to play an active role in fighting corruption. Public participation can be realized through increased transparency, strengthening the whistleblower system, and supervision by the media and civil society organizations.

By combining the approach of Islamic legal philosophy and legal sociology, it is hoped that a more comprehensive, effective, and harmonious bribery prevention strategy can be formulated. (Wirabhakti 2020) This strategy must include strengthening legal substance, law enforcement institutions, and an anti-corruption legal culture. Only with the synergy of all these elements can the goal of eradicating the culture of bribery in Indonesia be realized.

4. CONCLUSION

The approach of Islamic legal philosophy in preventing bribery culture in Indonesia highlights the importance of individual moral and spiritual improvement. Bribery, as a form of corruption, reflects the loss of the principle of monotheism and excessive love of the world. The prohibition of bribery in Islam is based on the principles of justice, equality before the law, and prevention of damage. The integration of the approach of Islamic legal philosophy and legal sociology is needed to formulate an effective bribery prevention strategy.

In overcoming the culture of bribery, it is important to strengthen moral values and integrity in society. The philosophical approach of Islamic law offers a framework that is relevant to the principles of justice, general welfare, and prevention of damage. By integrating this approach with a more comprehensive prevention strategy and involving public participation, the hope of eradicating the culture of bribery in Indonesia becomes more real.

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