

An Examination of Qur'anic Concept on Corruption

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Abstract: *The social problem that continues to be discussed endlessly today is a case of increasingly concerned corruption. Discussion of corruption problematics almost deadlocked because what made the eradication of corruption in this country is inversely correlated with the increasing index of corruption rank in Indonesia. Therefore, many people are more pessimistic about the eradication of corruption in Indonesia, even some of them are permissive. In addition, Corruption is also a crime classified as extra-ordinary crimes, because what resulted from corruption has brought a direct result, which is aggravating the poverty of the people. Some scholars began to track the Qur'an's affirmation of corruption. It is done as an effort to find epistemology eradication corruption case remember that al-Qur'an is holy book which give hint. Meanwhile, the Qur'an, which is still global and universal, remains a matter to be scrutinized and studied comprehensively. The discourse of corruption, for example, is still an implicit concept that is not clearly described by the Qur'an. But, it does not mean, the Qur'an can not solve this case.*

Keywords: *corruption, al-Qur'an*

Introduction

The social problem that continues to be discussed today is a case of increasingly concerned of corruption. Discussion of corruption problematics almost deadlocked because what made the eradication of corruption in this country is inversely correlated with the increasing index of corruption rank in Indonesia. Therefore, many people are more pessimistic about the eradication of corruption in Indonesia, even some of them are permissive. In addition, corruption is also a crime classified as extra-ordinary crimes , because what is generated from corruption has brought a direct result, which is aggravating the plight of the people.

Departed from its problem above, some of the scholars start tracking the assertion of the Qur'an about corruption. It was done as an effort to

find the epistemology eradication of corruption cases remember that the Qur'an is the scripture that provides guidance. Meanwhile, the Qur'an, which is global and universal, leaves the problems that must be considered and examined in a comprehensive. The discourse of corruption, for example, is still a concept that implicitly that is not described by the Qur'an explicitly. But it does not mean, the Qur'an cannot resolve this case.

Through this paper, the author tries to look at the Quranic view of corruption by tracking down some indications of corruption by using thematic methods or popularly known as '*maudhu'i*' with an ontological approach to finding the essence of meaning and the essence of everything. Then linked with fiqh review to find the legal answer. It is not the intention of the writer to justify that the formulation of fiqh as a form of rule of law should be applied, because the writer's opinion will certainly trigger other problems in this multi-religious country. The authors hope through this paper only as a bargaining value to the dynamics of corruption eradication discourse.

Definition and History of Corruption

Before discussing further the Quranic verses of corruption, it is better to understand the definition and history of corruption, to make it easier to trace the verses pertaining to the topic of this discussion. The word 'corruption' is rooted in Latin corruption or from the origin of *corrumpere*. Etymologically, in Latin the word corruption means rotten, corrupted, destabilizing, twisting, and bribing.¹ Whereas in English, corrupt words mean people who have corruption intend to commit illegal cheating to gain personal benefits.² In French, it is also known as corruption, while in Dutch it is known as *corruptie (korruptie)*. According to Andi Hamzah, the word of corruption that is up to and often used in Indonesian is plagiarism of the word *korruptie* in Dutch.³ In terminologically many experts have their respective definitions. Robert Klitgaard defines "*corruption is the abuse of public power for private benefit*," corruption is the misuse of public power

¹ Bam bang Soesatyo, *Perang-perangan Melawan Korupsi*, (Jakarta: Ufuk Press, 2011), p. 24.

² Jonathan Crowther (ed), *Oxford: Advanced Learners Dictionary* (1995), p. 247

³ Andi Hamzah, *Pemberantasan Korupsi Melalui Hukum Nasional dan Internasional*, (Jakarta: Raja Grafindo Persada, 2005), p. 4.

for personal gain. Corruption also means levying money for services that are supposed to be given or using authority to achieve unlawful purposes.⁴

But in principle, the approach that can be done to the problem of corruption has a press point that varies according to the perspective and scientific point of view used. In a sociological perspective such as Alatas in his book *The Sociology of Corruption*, incorporating nepotism in a group of corruption in the sense of 'putting a family or friend in a certain position in government without qualifying for it'. If this is used it certainly will not find its meaning and norm from the perspective of criminal law.⁵ This meaning is different if used in a political or economic perspective.

Various definitions put forward by experts, Sayyid Husain al-Alatas concluded that corruption would not escape some of its special features, namely:

1. a betrayal of trust
2. fraud against government agencies, private institutions or the general public
3. deliberately neglecting the public interest for special purposes
4. by confidentiality
5. involving more than one person or party
6. mutual obligations and benefits
7. centralization of corrupt activities to those who want a definite decision and those who can influence it
8. an attempt to cover up corrupt acts in the form of legal endorsement
9. denotes a dual function for any individual who is corrupt.⁶

The history of corruption itself is long enough. According to Hans G. Guterbock's guidance, the archaic record of this issue refers to bribery against judges and the behavior of government officials. In the history of Egypt, Babylon, Hebrew, India, China, Greece and Ancient Rome, corruption often surfaced as a problem. In the history of Islam itself,

⁴ Robert Klitgaard dkk., *Penuntun Pemberantasan Korups idalam Pemerintahan Daerah*, terj. Hermoyo, (Jakarta: YayasanObor Indonesia, 2002), p. 3.

⁵ M. Nurul Irfan, 2011, *Korupsi dalam Hukum Pidana Islam*, (Jakarta: Amzah, 2011), p. 35.

⁶ S.H. Al-Alatas, *Korupsi; Sifat, Sebab dan Fungsi*, terj.Nirwono, (Jakarta; LP3ES, 1987), p. 2.

corruption during the time of Prophet SAW has never happened, among which the story of Karkirah narrated by al-Bukhari as follows:

عن عبد الله عمرو قال: كان على ثقل النبي رجل يقال له كركرة فمات, فقال النبي صلى الله عليه وسلم: هو في النار, فذهبوا ينظرون إليه فوجدوا عباءة قد غلبها
(روى: البخاري)⁷

Abdullah ibn Amr ra, he said: "There's someone named Karkirah, namely luggage carrier of the Prophet, he died in battle, the Prophet said: " He goes to hell ". Then the companions examined, it turns out they get a piece of garment that he is corrupt from ghanima(spoils of war)". (HR: al-Bukhari)

Karkirah a person who like to bring the Prophet's goods during the war, when he died the Prophet sent him to hell, even the Prophet reluctant to pray for his corpse and told the friends to pray. The Companions wondered, what was it that made all his charity futile? Evidently, he hid a piece of ghanimah (Spoils of war) clothing that had not been split into pieces. Or in the history of Abu Daun; jewelry that weighs not reach 2 dirhams.

In the era of Khulafā al-Rāsyidīn precisely at the time of Umar bin al-Khattab also has encountered the practice of corruption. This was corroborated by Umar's attempt to order a friend named Maslamah to oversee the assets of government officials.⁸

By looking at some historical facts, then actually in the Arab era 'Era of the al-Qur'an' corruption case has been found. However, as the authors say in advance, the Qur'an does not put forward explicit verses of corruption. Even explicitly Ahmad Baidlawi mentions that in Islam, in this context of the Qur'an, corruption cases are not clearly described.⁹ Therefore, in the next discussion, the author will try to describe the interpretation of verses containing term corruption by defining corruption definitively in the contemporary context.

⁷ CD-ROOM, *al-Makhtabah al-Syamilah*, No. Hadis 2845.

⁸ Muhammad Husain Haikal, *Sayyidina Umar bin Khattab*, (Jakarta: Litera Antar Nusa, 2003), p. 665.

⁹ Ahmad Baidlawi, "Pemberantasan Korupsi dalam Persepektif Islam", dalam *Jurnal Esensia*, Vol. 10, No. 2, Juli, 2009, p 8.

Corruption in the Review of the Qur'an

Indeed, in the Qur'an, there is no clear term of corruption, but to resolve this case there are several verses that are indicated about it. Among them are the following.

1. The letter Al 'Imran verse 161

May not a prophet in the matter of the booty of war. He who dealt treacherously in the matter of the spoils of war, then on the day of judgment he will come bringing what misappropriated, then every soul will be given a judgment about what he did with unjustly persecuted."(Surat.3:161)

For the decline of this verse, as the hadith narrated by Ibn Abbas RA. That after the battle of Badr, there was a man who lost a red headgear. Then there is someone who alleges that Nabilah took it, then the verse goes down to contradict it as well as the news that every Prophet will never steal / corrupt.

In this verse is the term '*ghulul*' which means betrayal. According to al-Maraghi in his book, *Interpretation of al-Maraghi* explained that the word *ghulul* the verse means '*al-akhdz al-khufiyyah*', namely take anything in secret, such as stealing something. Then the meaning is often used in the term steal the booty of war before distributed.¹⁰

Rasulullah SAW himself extends the meaning of *ghulul* into two forms:

- a. Commission, ie the act of taking something out of salary income that has been given. About this Prophet SAW states:

عَنْ عَبْدِ اللَّهِ بْنِ بُرَيْدَةَ عَنْ أَبِيهِ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ مَنْ اسْتَعْمَلَنَاهُ عَلَى عَمَلٍ فَرَزَقْنَاهُ رِزْقًا فَمَا أَحَدَ بَعْدَ ذَلِكَ فَهُوَ غُلُولٌ (رواه: أبو داود)¹¹

He the Holy Prophet replied: Whoever we lift to employees on a work and then we assign specific salary for him, then what is picked up after it is fraud (corruption). (HR.Abu David)

¹⁰ Al-Maraghi, *Tafsir al-Maraghi*, (Bairut: Dar al-Kutub al-Ilmiyyah, 2006), p. 98.

¹¹ CD-ROOM, No. The hadith. 2554

- b. Rewards, ie gifts that a person obtains because of his inherent position. Regarding this matter, Rasulullah SAW said, "The prize received by officials is corruption (ghulul)". (HR Ahmad)¹²

Quraysh Syihab in his tafsir al-Misbah reveals that the real betrayal mentioned in the first verse was at the time of the battle of Uhud. The battle of Uhud is an incident in which the brotherhood experience defeat. One of the factors that defeat signal is the greed of the companions who then spend to the bottom of the mountain to take the booty of war. By this act, they have also betrayed the command of the Prophet (s) to remain on the mountain whatever happens. This strategy is the main tactic of Rasulullah SAW to win the war with an unbalanced number of troops and logistics between the two sides. Basically, in addition to the background of greed, they are also worried Rasulullah SAW will not give the division of spoils of war with the fair to the soldiers. Furthermore, Quraish adds that the equivalent of *al-ghulul* here is *lafadz al fadhahah*, i.e. to do something that denigrating and shame.

This verse also asserts that a Prophet (especially Prophet Muhammad SAW) will not commit a betrayal, because it is contrary to the nature of the Prophet's message. Thus, treasonous in this verse also means treason in general, such as in carrying out a public mandate (eg position) or trust between individuals (eg entrusted goods or messages to be conveyed to others).¹³

If compared with some other term, leading *ghulul* has the point of press to a betrayal of the mandate has been entrusted. Betrayal is generally associated with a sincere (Office) and it has a broad meaning, but what is meant here is the betrayal in property matters.

This *ghulul's* deeds are unlawful and they have to account for something that has been hidden. A mufassir even mentions that in the hereafter, someone who has darkened something will carry something that has never been hidden so that it cannot be hidden and known by everyone.¹⁴

2. Surat *al-Baqara* verse 188

¹² Ahmad Baidlawi, 2009, p. 4.

¹³ QuraisySyihab, *Tafsir al-Misbah*, (Jakarta: LenteraHati, 2002)

¹⁴ Hafidz Dasuki (dkk.), *al-Qur'an dan Tafsirnya*, (Yogyakarta: UII Press, 1991), p. 77.

And let not some of you eat some of the treasures of thee in the way of vanity and (bring) not the treasure unto the judge, that ye may eat part of the other man's possessions by sin, you know. " (QS.2: 188)

Because Ibn Kathir declares that this verse refers to a man who bears the debt, while the person who gives the debt does not have strong evidence (when wanting to collect the debt). So the man who has the debt deny his debts and complain his case to the judge when he knows that he is dealing with the rights of the case and that he is in the wrong side. This historical setting is then responded by the Qur'an with the descent that verse explicitly forbids a person to eat the property of others and fight for something vanity. Therefore, Islam strictly prohibits the bringing of property to the judge if the underlying thing is a falsehood.¹⁵

In the *Encyclopaedia states the Qur'an* recounted *asbabunnuzul* this verse that on a day, there were two rival each other and share the same claims that they are the owner of a valid land. But they do not have the witnesses and evidence that can strengthen the recognition. Because this process tough enough, then judges memerintahkan both sides for the same swear. Both of them are equally swear. But one of them, named Imri'i Qays gives a false oath. It is for this reason that this verse then down. This is also closely related with the habit of the community (may also today who made the judgment as the savior of the media to defend them that was actually on the wrong party. The irony of this is caused by the current mushrooming in judicial. In the court of the skilled wrangle over the tongue and have sufficient funds, is very possible to win the case even though it is in the wrong party. This is the *outcome* of the practice of bribing judges, lawyers and those who engaged in the judicial institution.¹⁶

This verse uses the term *addalwu (jama` from dalyun) - al idla`*.¹⁷In essence, the meaning of this word is to lower the bucket to take water. *Thaba` Thabai* added that the notion of lowering the timba into a source whose purpose is to get the water is similar to the practice of bribery that is done in secret. As it is known that when a bucket is inserted into the well, other people can not see it. Automatically, other people also do not know

¹⁵ Ibn Katsir, *Tafsir al-Qur'an al-Karim*, Terj. Salim Bahraesi dan Said Bahraesi, (Surabaya: BinaIlmu, 1986), Jilid II, p. 226.

¹⁶ Chamamah Suratno (ed), *Ensiklopedi al-Qur'an: Dunia Islam Modern*, (Yogyakarta: Bhakti Prima Yasa, 2003), p. 401.

¹⁷ Chamamah, 2003, p. 400.

that there is a bucket that is trying to take water (benefits) from the well. This is similar to the circumstances of the practice of bribery that was deliberately disguised from the public for the purpose of bribes are still off the record.¹⁸ If it is read in the context of corruption, it contains a very strict meaning prohibiting to eat other people's treasures in a way that is not justified by religion (al-bathil). The meaning of the verse in this verse is to bribe judges, kadis, and others who have the power to free the bribe from the demands of something.¹⁹

One example of the practice of *confound*, namely buying off a judge with the purpose to make judges do a thing that he commanded and would benefit the si's Briber Could Face. The equivalent of the term *ad-dalwu* this is *ar-risywah*. Ironically, as mentioned in the text of this verse, the Fed realized that the giver of bribes is located in the wrong party. However, due to get bribes, judges who accept bribes is then lied to his conscience itself and use his master to defend the one.

In judicial practice is no longer a wonderful thing today. The 'envelope' given to the prosecutor or judge seems to have been the legal requirement of a judiciary. This is an irony because ideally, courts are institutions that seek and uphold justice. The treasures obtained by the judge (from the bribes) will not be disbursed and happy. This is similar to what the briber has experienced. Although he was released from his case in court, he suffered material losses after bribing judges.

Different with *al-ghulul*, term one is more meaningful bribes (or commonly called *risywah*). Bribery is usually given in a practice judgments to the parties enough influential, such as prosecutors and judges and lawyers. It is for this reason that this practice is done in secret. The purpose of the expected si's Briber Could Face in this activity is to win the case or get the ease of completing something. Something that you want to solve can it is lawful and unlawful. But regardless of the law that you want to reach the presence of *ad-dalwu* in efforts to achieve this already provides value *minus*. There is no reflection on the punishment of this practice in the Qur'an. But the presentation of the *fi'il to abstain from* in the adjacent are enough to represent that this practice unlawful done, because it will harm themselves and others.

¹⁸ Thabathaba'i, *Tafsir al-Mizan*, (Beirut: Yayasan al-I'lami, [t.th]), Juz 2, p. 52.

¹⁹ Al-Maraghi, 2006, p. 255.

3. Surat *al-Surah Maida*, verse 42

They are people who like to hear lies, eat a lot of harams. if they (Jews) come to you (to seek verdict), then decide (the matter) among them, or turn away from them; if you turn away from them, they will not give you any harm. and if you decide their case, then judge (the matter) among them fairly, Verily Allah loves the just ones. (Surah 5: 42)

The context of this verse is the Jewish community that cultivate the habit of bribes and bribing. This is the domination of those who have the power and can oppress the people with the money bribe as these bribes when people middle small need help the officials. Bribes which aims to justify the one and blame the right side has become the eyes of secondary *pencaharaan* senior Jewish days. So the most likely, in every *event of the judiciary*, the rich man or can pay greater bribes will certainly win cases.²⁰

And then , there is the term *al-suht*, lexically derived from the word *sahata* which has the meaning of obtaining a unlawful.²¹ The same thing is also explained by *al-Zamakhsyari* in his commentary that what is meant by *al-suht* is ill-gotten possession.²² *Ibn Khuwaizi* *mandad*, as quoted by *al-Qurthubi*, explains that what is meant by *al-suht* is when one eats because of his power. That's because he has a position on the side of the ruler, then someone asks for something necessary to him, but he does not want to meet except with the bribe (*risywah*) he can take. If re-examined, the verse describes the practice of corruption as it happens in contemporary contexts. Where the practice of bribe bribing people who have power is part of the form of corrupt practices that have mushroomed in the community. Many have not realized that bribery (*al-suht*), both receiving and giving, is included in the act of corruption.

In his *tafsir/interpretation* *In tafsirnya*, *Thaba' Thabai* asserts that *assuht* is wealth how to earnings through the way the unclean and not legal. This practice indicate that the perpetrators did not have a strong commitment in religion and his attitude.²³ *Al-Maraghi* supports this

²⁰ Dasuki (dkk.), 1991, p. 422.

²¹ Ahmad Warson *al-Munawwir*, *al-Munawwir*, (Surabaya: Pustaka Progresif, 1997), p. 614.

²² *Al-Zamakhsyari*, *Tafsir al-Kasyaf*, (Bairut: Dar al-Ilmiyyah, 1968), Juz III, p. 57.

²³ *Thabathaba'i*, 3, [t.th];, p. 341.

opinion with explained that the definition of *suht* is a bad pencahariaan eyes and forbidden.²⁴

If it refers to what is described in the al-Mizan tafsir, it seems that these characteristics have broader and more general meaning than *dalwun*, even equated with *al-bathil*. That is, this term still overshadows some other terms that fall into the category of corruption, because *as-suht* defined as activities to earn money and income are done in ways that are not good, or even haram. But if it is related to the verses before and after it, then it appears that the threat to the *as-suht* actor is not kidding.

The proof, Allah SWT likens people who do this activity with those who like (and deliberately) hear-hear the news that has been known lie the news. The preceding verse also asserts that they (intended) in this verse tend to be 'selective' in the practice of the Qur'an. If the punishment in the Qur'an they consider lightly, then they will accept it. But if the Qur'an gives rules that are heavy enough, then they will manipulate the rules and replace them with light rules. Naturally it would be if Allah SWT to command the Prophet to be a little indifferent to this class.

4. Surat *al-Surah Maida*, verse 33

Indeed vengeance on those who fight Allah and His Messenger and make mischief in the earth, only they are killed or crucified, or cut off their hands and feet on a reciprocal basis, or thrown out of the land (his residence). Such is an affront to them in the world, and in the Hereafter, they shall be subject to great tribulation, (Surah 5: 33)

The cause of this versedown by Allahis an accident in Medina when there are several people from the children of U'shallow and Urainah which convey the desire to enter Islam to (saas). But they said that they did not feel comfortable living in Medina. The prophet also ordered a shepherds to accompany some of the person out of Medina. The prophet also includes a camel that will become their transportation and allow them to drink milk from the camels. Some people went was accompanied by a shepherds.

In the middle of the journey, who intends to enter Islam is then kill the shepherds who accompany them and take them away camels that belong to the state that comes the results of charity. Heard the news, the

²⁴ Al-Maraghi, 2006, p. 207

messenger then sent troops to hunt and pursue the murderers and robbers who have apply evil. After caught, they received the punishment pry the eyes, and cut off their hands and feet in a cross-reference to the death penalty. They got the penalty *plus-plus* is for doing evil is also plus, i.e. kill and rob, and betrayed the trust and facilities that have been entrusted (saas). The death penalty is usually given to those who interfere with the rest of society wide and kill. While the punishment of the cross date of death imposed on those who disrupt, kill, and robbed. The law cut the hand of the intended for people who do only the seizure of. The punishment set aside in this verse can be interpreted by the imprisonment or imprisonment.²⁵

The next term indicated as the term corruption in the Qur'an is *hirabah* (robbery). Describing this, Judge Young Harahap elaborated that another meaning of the word yuharibuna when traced to the origin of the original formation of the mujarradsulatsi then he means someone who seizes the property and leaves it without any provision.²⁶ The same thing also comes from the view of some fiqh experts about the word *hirabah*. According to those who perform the *hirabah* act as *qathi'u al-thariq* or rogues and *al-sariq al-kubra* or theft are great. In other words, the meaning of *hirabah* here is someone who robs someone else's property. Understanding like this is then often used by scholars to interpret the word *yuharibuna* in surat al-Maidahayat 33.²⁷

Looking at the chronology of *asbabunnuzul* above, presumably, these people did not have a sincere and determined intention to embrace Islam. This, at least proved by their considerable demand and making it up to the Prophet. Or even, it is fair to say that their intention from the beginning was none other than to rob and kill, but under the guise of converting to Islam in order to facilitate the achievement of their plan. This allegation is reinforced by what al-Maraghi expressed that after killing the shepherd and carrying the camel run, some of these people then returned to his people and declared that they re-infidels.²⁸ This verse generally forbids human beings to create chaos on earth, especially chaos which is a deprivation of the rights of others, such as the seizure of property and life.

²⁵ Dasuki (dkk.), 1991, p. 428.

²⁶ Hakim Muda Harahap, *Ayat-ayat Korupsi*, (Yogyakarta: Gama Media, 2009), p. 80-82.

²⁷ Abdul Halim Hasan Binjai, *Tafsir al-Ahkam*, (Jakarta: Kencana, 2006), p. 384.

²⁸ Al-Maraghi, 2006, p. 189.

Pieces of verses that show the hard object (combat) Allah and His Messenger are still abstract. This is concretized by the next piece, which is to make the damage on earth that actually still has such a broad dimension. Perhaps, the chaos referred to in this verse is an act that threatens the five things that must be guarded and protected (ie soul, property, mind, descent, and wealth)

The punishment for al-muharabah perpetrators is mentioned expressly and concretely in the Qur'an. The Qur'an also mentions that those who practice it suffer misery in the world and in the hereafter. The misery in the world seems to be certain because he has created widespread chaos. Automatically, the laws that threaten him are much heavier than indiscriminate acts that are individual objects. Al-Maraghi added that for this category, one who wants to repent can pay off his repentance with determination and restore all that he has ever taken. In addition, he must also get the forgiveness of a group of people who have harmed.

5. Surat *al-Surah Maida*, verse 38

The man who stole and the woman who stole cut off both hands (as) vengeance for what they do and as punishment from God. and Allah is Mighty Wise. (QS: 5: 38)

At the time of Rasulullah SAW there was a woman who committed theft. Then the woman cut off her hand, as Allah has commanded in this 38th verse. At one time he asked the Messenger of Allah: "Is there any repentance you received, O Messenger of Allah?" In connection with the question of the Messenger of Allah (SWT) down verse 39 which explicitly provides information, that Allah Almighty always accepts the repentance of someone who has committed a crime, as long as he willing to correct oneself, replacing the evil deeds with good deeds.

Ibn Kathir in his commentary explains a narrative from Abdullah ibn Amr, he says that this verse goes down with a woman who steals, then came the stolen person and told the Prophet (s). "O Prophet, this woman has stolen our jewelry". Then the woman said, "We will make up for the stolen." The Prophet said, "Cut off his hand!" His people said, "We will redeem it with five hundred denarii." Then Prophet SAW. also said, "Cut off his hand!" So cut off his right hand. Then the woman asked. "Apostle, is there a way for me to repent?" The Prophet replied, "You are now clean

from your sins as you were born from your mother's belly". Then down the letter al-Maidah verse 38.²⁹

The word '*saraqah*' in the verse etymologically consumes "*akhdu ma li al-ghairikhufyatan*" (taking the treasures of others secretly).³⁰ While terminologically the word 'stealing' (*al-sarq*) first divided into two parts, namely theft large and small. Big theft is another meaning of the term *hirabah* as the author describes in the previous term. While the definition of theft is small, some scholars have varying meanings, namely (a) taking the treasures of others secretly, ie treasures well-kept according to their custom, (b) taking other people's treasures secretly by persecuting them (c) take the treasure of another person secretly, the treasure not entrusted to him.³¹ From this, it can be concluded that what is meant by *al-sarq* is to take the property of someone else who is not hers with a stealthy way without the owner's willingness.

The culture of cutting hands as punishment for whoever stole is actually a tradition of ignorance adopted by Islam with some complementary changes.³² In his *Ahkam* commentary, Shaykh Abdul Halim Hasan asserted that there are two kinds of thefts, namely theft and small theft. Unfortunately, Shaykh Abdul Halim Hasan did not provide sufficient exploration of the characteristics and characteristics of grand thefts. He was more interested in what he termed a petty theft. This is at least evidenced by considerable exploration of small thefts. He only mentions that the punishment for the perpetrator of grand theft is the death penalty, or cutting off hands with the crucified system. Compared with the *al-Maidah* interpretation of verse 33, this great theft is a theft that results in widespread chaos, not just at the individual level.

Shaykh Abdul Halim Hasan said that petty theft is a stealthy theft against property that is not mandated to the person who stole. He also asserted that there are two kinds of punishment in this petty theft, namely *hadd* (cut hands) and *ta'dzir* (exiled, plagued, and imprisoned). Characteristics of the theft then greatly affect the type of punishment that must be accepted person. Shaykh Abdul Halim Hasan quoted one of the

²⁹ Ibn Katsir, 1986, p. 94.

³⁰ Al-Munawwir, 1997, p. 628.

³¹ Binjai, 2006, p. 375.

³² IbnuKatsir, 1986, p. 91

hadiths as saying that there is no hadd penalty for anyone who betrayed the mandate. It was from this point that he then concluded that the punishment of hadd (as mentioned in this verse) applies only to the person who stole the right of another person and not the property entrusted to the perpetrator of the theft. Thus, it can be understood that the most representative penalty for corruptors is imprisonment.³³

Tafsir published by UII added that a punishment against this theft can only be executed if the perpetrator has acknowledged or already have evidence and witnesses that are strong and validated. However, this punishment may still be foiled if the victim concerned apologizes to the perpetrator, usually accompanied by certain conditions, such as returning stolen property.³⁴ Scholars still differ on the amount (nisab) of stolen goods that causes a person to have a hand cut.³⁵ But almost all scholars' interpretations agree that the purpose of this punishment is to cause a deterrent effect on the offender and on others.

If it is reviewed in the context of this verse at the time of its descent, then this verse seems to emphasize more on the theft by the unemployed. In that sense, the perpetrator of this theft is not one who takes advantage

³³ Binjai, 2006, p. 377.

³⁴ Dasuki, 1991, p. 437.

³⁵ IbnuKatsir, 1986, p. 92-93. Nishab is the value of the minimum price that when met, then it requires the establishment cut the hand of theft. In case of goods stolen was small value and still under price nisab, then not verily it. But clerics are not precisely agreeing the nisab. The scholars thinking including al-Malikiyah, al-Syafi'iyah and al-Hanabilah agreed that nishab theft is ¼ dinar gold or silver drachmas 3. this value equal to the price of 4.45 gram of pure gold. So when the price of pure gold 24 per gram Rp 100, 000,-, then one nisab is Rp. 100.000,- x 4, 45 grams = Rp. 445.000,-. When things stolen by someone price equal or more than Rp. 445.000,-, he can already to get and cut. Is the oracle of the Messenger from Aisha ra. "The hand of a thief cut when its value up to ¼ dinar". HR. Bukhara, Muslims and ashabusittah pole. From Abdullah bin Umar ra. That the messenger SAW will cut the hand of thief ". HR. Bukhari, Muslim Abu David, at the Tirmizydan an-Nasai. While al-Hanafiyah specify that the amount of the theft is 1 shillings or ten pieces of silver or same with both with argues, on the hadiths of the Prophet the result is prophet, "will not get hand cut punishment during its value under 10 darics." HR Ahmad. also other hadith, "not cut the hands except worth 1dinar or 10 darics". HR. At-Thabarani. Also other hadith, "is not the hand of the thief will get hand cut punishment except value costing "mijan" when it costing 10darics". HR. Abu Shaibah.

When we examine the background of the difference is really only center around the announcement of the price of mijan. Where jumhurscholar agreed that the price of the silver t ¼ silver coins. While al-Hanafiyah considers price when it 1 silver coins. See: Ahmat Sarwat, *Study Verse Ahkam; the verses of the Qur'an which contains the Law of shari'ah*, (Jakarta: Du Center, 2009), Cet to-2: 42

of the narrowness in his opportunity and facilities as a person in office or what we commonly call corruption.

There are some differences in responding to the punishment of the perpetrators of this theft, as well as the difference in the nominal property stolen so that the thief must undergo the law of hand cut. The difference is generally due to the different viewpoints used by each 'scholar'. However, the scholar's *jumhur* states that the stolen property is at least a quarter of the dinar. As for the punishment, here the scholar holds that in the first theft, the right hand is cut. The size of this cut is up to the wrist. If you still repeat the mistake, then the left leg to be cut, followed by the left hand, then the right foot. The last punishment for this theft is an exile.³⁶

Dealing Penalties for Corruptors

Since the early period of Islam to the present day in the classical fiqh books has not found a clear formula of corruption.³⁷ But the substances covered in the meaning of corruption have been much discussed by scholars even as the Qur'an and hadith implicitly have alluded to it in general or outline that is by using some of the above terms.

In the hadith, punishment is found for the *ghulul* (stealing the spoils of war), among them:

عَنْ مُصْعَبِ بْنِ سَعْدٍ قَالَ دَخَلَ عَبْدُ اللَّهِ بْنُ عُمَرَ عَلَى ابْنِ عَامِرٍ يَعُودُهُ وَهُوَ مَرِيضٌ فَقَالَ أَلَا تَدْعُو اللَّهَ لِي يَا ابْنَ عُمَرَ قَالَ إِنِّي سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ لَا تُقْبَلُ صَلَاةٌ بِغَيْرِ طُهُورٍ وَلَا صَدَقَةٌ مِنْ غُلُولٍ (رواه: المسلم)

From Till'abibnSA'd. He said, Abdullah ibn 'Umar entered into the house of Ibn 'Amir to visit because of sick. Then Ibn 'Amir said, "Why do you not pray to God for my healthy, O Ibn Umar?" Ibn Umar said, "I heard Thereupon he said: "Prayer without purification was not accepted and so also charity from ghulul results." (HR: Muslims)

There is also the history of hadith narrated by Abu David:

³⁶ Dasuki, 1991, p. 434

³⁷ Duski Ibrahim, "Perumusan Fikih Anti Korupsi" dalam Suyatno (ed), *Korupsi, Hukum dan Moralitas Agama*, (Yogyakarta: Gama Media, 2006), p. 128.

³⁸ CD-ROOM, No.Hadis. 329.

عَنْ زَيْدِ بْنِ خَالِدِ الْجُهَيْنِيِّ أَنَّ رَجُلًا مِنْ أَصْحَابِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ تُوِيَ
يَوْمَ حَيْبَرَ فَذَكَرُوا ذَلِكَ لِرَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ صَلُّوا عَلَيَّ صَاحِبِكُمْ
فَتَعَبَّرَتْ وُجُوهُ النَّاسِ لِذَلِكَ فَقَالَ إِنَّ صَاحِبِكُمْ غَلَّ فِي سَبِيلِ اللَّهِ فَفَتَشْنَا مَتَاعَهُ
فَوَجَدْنَا حَرَزًا مِنْ حَرَزِ يَهُودَ لَا يُسَاوِي دِرْهَمَيْنِ (رواه: أبو داود)³⁹

From Zaid ibn Khalid al-Juhaini, that a man of the Prophet's companions died in the Khaibar war, then up to the Prophet, then the Prophet said: "Salute your brother". So the faces of the shahabat changed in surprise. Then the Prophet said: "Your brethren are corrupt in the war in the cause of Allah, then check the goods". Apparently, they found jewelry that is not senyai with two dirhams ". (HR.Abu Daud)...

However, these two hadiths only sanction the morality of the perpetrators ghulul, that is by do not doing the prayer for corpse and Allah SWT not accept his kindness which the money or treasure from result ghulul, not penal sanction firmly.

Therefore, in addition to based on the texts of the Qur'an and the Sunna, the formulation of this anti-corruption fiqh should refer to at least two frameworks of fiqh rules, namely, first:

الأمر بالأعظم من المصلحة والمفسد

The dominant case of the consideration of benefit and conscience

This rule is similar to this rule:

درأ المفاسد أولى من جلب المصالح

Preventing danger is more important than attracting goodness.

It appears that corruption has its own *maslahah*(Benefit) and *mafsadat*(Harmful). The side *maslahah*nya example is the act that can benefit the perpetrators, families, parties, or certain groups who enjoy the facilities or the results. This is definitely a worldly *maslahah*. But the side of *kemafsadat*annya even greater because the corruption then means

³⁹ CD-ROOM, No.Hadis. 2335.

sacrificing the interests of the people. It is a tyranny, a betrayal which means wasting people's trust.⁴⁰

The second rule is:

ما تقوم به الحياة الدنيا للحياة الآخرة

Whatever is done in this world must be attributed to its consequence in the afterlife.

So far corruption has sacrificed the benefit of *ukhrawiyah* (good thing for hereafter life), a value that cannot be released when doing every deed according to Islamic teachings.⁴¹ Of course, it can not be separated from materialistic life with a hedonistic and glamorous attitude of life so that on certain dimensions *ukhrawi* values began to be forgotten.

During this time, what is attempted by *fiqh* (*fuqaha*) is a step in legitimizing every movement of life dimension to be in harmony with *maqashid al-syari'ah* goal. As has been well known, the main purpose of Islamic *Shari'ah* (*maqasid al-syari'ah*) is the effort to safeguard and protect the important dimensions of man.⁴² This protection described by *Ash-Shatibi* in *al-Muwafaqat* has five purposes: protection of religion (*hifdz al-din*), protection of the soul (*hifdz an-nafs*), protection of the mind (*hifdz al-'aql*), protection of offspring (*hifdz an-nasab*), and the protection of property (*hifdz al-mal*).⁴³

The act of corruption is obviously a misappropriation of the fifth goal, namely the protection of property (*hifdz al-mal*). If the popular example of dealing with the purpose of protection of property (*hifdz al-mal*) is the stealing of private property, then corruption as a crime stealing the property of the nation and the country is more worthy to be recorded as a very serious violation of the principle of protection of property (*hifdz al-*

⁴⁰ Abdul Haq, dkk, *Formulasi Nalar Fiqh*, (Surabaya: Kalista, 2006), Juz I, p. 237.

⁴¹ Ibrahim, 2006, p. 137-138.

⁴² Infact, goals according to *al-Syatibi* there are three. *First*. The purpose of his nature most home (*dlaruriyyah*), is something that must be there for the establishment of the life of man. *second* The purpose of his nature needs (*hajjiyyah*), namely all things required by the man to avoid the difficulties. *Third*, The purpose of the nature of the perfection/goodness (*tahsiniyyah*), namely use all that worthy and worth is justified by the custom that all of this is covered by the *makarim al-moral*. See Abu Ishaq *al-Syatibi*, *al-Muwaffaqat fi Ushul al-shari'ah*, Chapter II, (Beirut College: Dar al-Pole al-Ilmiyyah, 2004), p. 7-9.

⁴³ *Al-Syatibi*, 2004, p. 9.

mall). Corruption is not an ordinary theft with its individual impact but corruption is a form of grand theft with a social impact. Even when corruption is rampant in a country so that it is almost bankrupt and powerless in the welfare of its people's lives, unable to save them from malnutrition and malnutrition, the further corruption can be regarded as a threat to the objectives of shari'ah in protecting the human soul (hifdz an-nafs).

Cut-hand penalty sanctions are of course unenforceable, because corruption is different from the criminal act of theft that has been clearly legal in the nash (al-Qur'an) although both are violations of the Hifdzul mall but corruption is not found in the law nash. However, this does not mean that the criminal act of corruption may escape punishment, since the act has clearly disturbed the common good, so it can be categorized as the ta'dzir finger, which in practice may equal or even exceed the punishment of Qishash or hadd.⁴⁴

Syara 'does not specify the various penalties for each ta'dzir finger but only mentions a set of punishments from the lightest to the toughest. In this case, the ruler is given the power to determine punishments according to the public interest, and should not be contrary to the provisions of shari'a and general principles.

Accordingly, all laws and regulations or penalties imposed by the Indonesian government on all criminal offenses include corruption as set out in Law Number 31 Year 1999 and which has been perfected by Law Number 20 Year 2001 which is classified into jarimah ta'dzir,⁴⁵ as long as it does not conflict with the principles of shari'ah and can realize *maslahatul ummah*, can be said to have been in accordance with the principle of ta'dzir in Islamic criminal law, which in principle is the right of government in order to maintain the welfare of the community he leads.

⁴⁴ Ibrahim, 2006, p. 139.

⁴⁵ Death Penalty for corruptors in Indonesia can take effect, when referring to the ACT OF THE REPUBLIC OF INDONESIA No. 20 2001 about the amendment of Act No. 31 1999 on eradication of corruption crimes. Article 2 paragraphs 2 list in the case of criminal acts of corruption as referred to in paragraph (1) done in certain circumstances, criminal dead can be overturned. What is meant by a certain situation is when the criminal acts of corruption that is done when the state of the country in danger, national disasters, the repetition of the criminal acts of corruption, or at the time of the state in the economic crisis and monetary circumstances ([Http://cetak.fajar.co.id/kolom/print.php?newsid=857](http://cetak.fajar.co.id/kolom/print.php?newsid=857)).

One of the most important things that must be enforced in the enforcement of Islamic law is to decide cases based on the principle of justice and equality to anyone. If a law enforcer does not have high morality and integrity, then he will decide the case according to lust, personal and group considerations, so that the decision taken harms one of the litigants. Therefore the main virtue of an Islamic criminal law enforcers should be built on the principles of justice as the word of Allah SWT:

Allah hath commanded you to fulfill the commandments to which it is entitled to receive, and (enjoin you) when establishing the law among men so that ye may judge equitably. Verily, Allâh teacheth the best for you. Allah is the Hearer, the Seer. (QS: 4: 58)

Therefore, the law must be enforced indiscriminately, whether committed by corrupt "separate" officials or small people. Every individual has the same value before the law. On the other hand, the people must obey the government, because religion has ordered it in the case of the ma'ruf.⁴⁶

In addition to criminal law, there are also moral sanctions committed by continuously instilling elements of morality to corruptors, through education or giving special consideration regarding a position in society and positions in government. Because, a person who deserves to be a leader is a person who in every action always pay attention to the interests of the people, in accordance with the rules of fiqh which reads:

تَصَرَّفَ الْإِمَامُ مَنُوطًا بِالْمَصْلُحَةِ

Leadership policy in accordance with the welfare of the people who lead.

Conclusion

Corruption as an extra-ordinary crimes crime is not explicitly mentioned by the Qur'an. But some terms such as ghulul, suht, sarq, hirabah, and others in terms of the context and perspectives of interpretation traced then some of the terms is considered to represent the idea of the Qur'an about acts of corruption. Therefore, what resulted from

⁴⁶ Verse that orders for U.S. crude'attai leader in whom surah an-Nisa' verse 59, reads: *O ye, who believe, obey Allah and obey the Messenger and those charged with authority among you. Then if ye differ opinions about something, refer it to God (al-') and the Apostles (while some may), if ye do believe in Allah and the last day. That is more and more as a result.*

the observation of corruption in the Qur'an is expected to contribute to formulating solutive steps to prevent and combat such acts of corruption.

The history of corruption has existed since the time of Rasul SAW, albeit with a very simple form like *ghulul* which Karkirah did. In the era of power Khulafā al-Rāsyidīn precisely at the time of Umar bin al-Khattab also has encountered the practice of corruption. This was corroborated by Umar's attempt to order a friend named Maslamah to oversee the assets of government officials.

As for the punishment of the perpetrators of corruption, the most appropriate according to the authors is the punishment of the *ta'dzir* finger in whose implementation may equal or even exceed the sanction of punishment. Because the penalty sanctions cannot be applied, because corruption is different from the criminal act of theft which has been clearly legal in the Qur'an. In this case, the ruler is given the power to determine the punishments according to the public interest, and should not be contrary to the provisions of *shari'ah* and general principles. Such as implementing Law Number 31 the Year 1999 and that has been perfected by Law Number 20 Year 2000.

Thus, the author's hope through this paper, the supremacy of the law that has been implemented so far needs to be recovered by looking at social justice. Therefore the supremacy of law that seemed "dilapidated" so far need fresh air of a reconstruction, which is the author's expectations, the formulation of anti-corruption *fiqh* can also be used as an offer of solutive measures to eradicate corruption by maintaining the plurality values.

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