

Bribery Crimes in Two Paradigms: A Comparative Study Between Criminal Law and Islamic Criminal Law

Nurhaliza

Universitas Islam Negeri Sumatera Utara, Indonesia

email: nurhaliza0205212082@uinsu.ac.id

Ramadani

Universitas Islam Negeri Sumatera Utara, Indonesia

email: ramadani@uinsu.ac.id

Abstract

Bribery is a form of abuse of power that not only undermines justice but also erodes the integrity of the legal system. This study aims to evaluate the level of public understanding of bribery practices, analyze its regulation in national criminal law and Islamic criminal law, and examine the role of law enforcement in prevention efforts. The research method used is empirical legal research, combining normative analysis of legislation with field data obtained through observation and interviews. The results show that the public's low understanding of the prohibition of bribery and the weakening of the moral integrity of officials and public servants are the main factors driving bribery practices. In positive criminal law, provisions regarding bribery are regulated in Law Number 31 of 1999 concerning Eradication of Corruption Crimes, while in Islamic criminal law, bribery is considered a *jarimah ta'zir* because it damages the public interest (*maslahah 'ammah*). Sanctions against perpetrators are determined based on the judge's discretion, taking into account the degree of guilt and its impact on society. This study emphasizes the need for a more comprehensive preventive and repressive approach in both legal systems to strengthen the effectiveness of combating bribery and foster a culture of integrity in law.

Keryword: Criminal Acts of Bribery, Islamic Criminal Law, Criminal Law.

INTRODUCTION

Efforts to enforce criminal law against bribery in Indonesia are comprehensively regulated through Law No. 31 of 1999 concerning Eradication of Corruption, which was amended by Law No. 20 of 2001. (Golonggom, 2021) The focus of law enforcement against bribery lies in two main aspects, namely the prosecution of bribery perpetrators and prevention so that similar cases do not recur in the future. Prosecution is strictly regulated through criminal penalties for both the giver and receiver of bribes. Article 5 stipulates a prison sentence of up to 5 years and a maximum fine of Rp250 million for the giver of bribes, while Article 11 stipulates similar sanctions for the receiver. The element of "intent" in the criminal act of bribery refers to the perpetrator's intention to give bribes in order to gain benefits, while "purpose" refers to the expected outcome of the act. The position of the perpetrator, whether the giver or the receiver, is important in legal assessments to understand the dynamics of power involved. Bribery is a serious threat to the state, undermining the judicial system, hindering development, and creating social injustice. Therefore, all

parties, including the government and society, must be committed to eradicating this practice through the establishment of special institutions, law enforcement education, and increased public awareness. Investigations and prosecutions are carried out by the police and prosecutors (Tawang et al., 2023)

The bribery case in the PPPK recruitment in Langkat has harmed many people, especially honorary teachers who reported the alleged practice to the Medan Regional Police. The lack of transparency in the results and the additional technical competency selection (SKTT) that was not publicized have worsened the situation. Many individuals have used their positions to facilitate bribery practices in exchange for money ranging from Rp40 million to Rp75 million, triggering teachers' desire to engage in such practices. From an Islamic legal perspective, public awareness of bribery and gifts is very limited. Some people believe that bribery is not a crime, but only a minor sin. Others, even though they know that bribery is prohibited, do not care about the prohibition, especially because they are influenced by the promised rewards. On the other hand, some people consider bribery to be a gift or a token of gratitude. Some even consider it as payment for assistance provided by someone, so they do not see it as a mistake or violation, let alone a crime. In a hadith, it is stated: "The curse of Allah is upon the briber and the bribe-taker in law" (HR Ahmad, Abu Dawud and at-Tirmidzi). (Haryono, 2016) The research topic chosen by the author is very important to study because bribery is one of the biggest challenges in governance and national development. This practice not only harms the state but also creates a destructive effect on society, and this destroys public trust in state institutions.

Penelitian sebelumnya yang dilakukan oleh St. Muhlisina dan Nur Fitri Hariani (2024) berjudul "Praktik Menyuap (Risywah) Dalam Penerimaan Aparatur Sipil Negara (ASN) Perspektif Hukum Islam". Hasil penelitian tersebut menekankan bahwa hukum Islam melarang praktik suap dalam proses seleksi ASN, dan mengkategorikannya sebagai perbuatan tercela yang diharamkan, dengan landasan kuat dari Al-Qur'an Surah Al-Baqarah ayat 188 (Muhlisina & Hariani, 2024).

The second study was conducted by Ismi Wakhadtul Hikmah, entitled "Bribery in Q.S. Al-Baqarah/2: 188 (Ma'na-Cum Analysis Study -Maghza)," which found that risywah is a gift to an authority to obtain a decision in accordance with the giver's wishes, which is strictly prohibited by religion because it is considered a form of consuming other people's property unjustly. (Hikmah, 2022) Both studies focus on the normative prohibition of bribery from an Islamic perspective. In contrast, this study presents a comparative approach between national criminal law and Islamic criminal law in dealing with bribery crimes in a juridical and empirical manner, while also examining the role of law enforcement officials in prevention. The novelty of this study lies in the integration of normative-comparative analysis and an empirical approach based on real cases, which has not been widely explored in previous studies.

Based on this background, the urgency of this study is to provide an in-depth understanding of the legal review of PPPK cases in Langkat, as well as to analyze the weaknesses of existing regulations and the effectiveness of prevention efforts. Bribery practices are a serious obstacle to law enforcement and clean governance, requiring in-depth comparative studies to produce applicable solutions in positive criminal law and Islamic criminal law.

METHODS

This study uses an empirical legal research method, which is an approach that not only examines written legal norms but also observes their application in real-world practice. (Sunggono, 2015) The research was conducted in Langkat Regency, North Sumatra Province, focusing on legal issues arising in the selection process for Government Employees with Work Agreements (PPPK) in 2023. The issues examined include allegations of bribery, manipulation of applicant scores, lack of transparency in the selection results, and participants' objections to the announcement of the passing scores. The approach used is a case approach. (Mahmud, 2016) which examines reports of objections from selection participants and analyzes the legal response and handling of alleged bribery in the process. The data sources in this study consist of primary and secondary data. Primary data was obtained through in-depth interviews with three key informants, namely two selection participants who felt aggrieved by the PPPK selection process, and a lawyer from the party suspected of being involved in bribery. To maintain data validity and reliability, triangulation techniques were used, namely by cross-checking the results of interviews, legal documents, and media reports.

Meanwhile, secondary data was obtained from various relevant regulations and legal literature, including Regulation of the Minister of PAN-RB Number 14 of 2023, mass media reports, journal articles, and other supporting documents related to the implementation of PPPK selection. Data collection techniques were carried out through structured interviews and documentation studies. The collected data was then analyzed qualitatively and descriptively using thematic analysis to identify patterns of legal issues and assess the effectiveness of law enforcement in cases of alleged bribery. Finally, the analysis results were concluded using inductive methods, namely drawing general conclusions based on empirical facts found in the field.

DISCUSSION AND RESULT

Criminal acts of bribery in the PPPK case in Langkat Regency

In this case, the criminal act committed by the bribe giver to the bribe recipient with the aim of being approved/accepted as a Government Employee with a Work Agreement (PPPK) Teacher in Langkat Regency is categorized as bribery because the act of offering or giving money to a state official to influence a decision that will benefit oneself or another person is a criminal act of bribery and is punishable by law. (Arafa, 2018) One form of bribery that is often committed is giving a sum of money to an influential person for the sake of one's own interests and desire to obtain something beneficial. In this study, the author examines a bribery case that occurred in Langkat Regency, namely the PPPK teacher bribery case. This bribery case involved officials, namely the Head of the Langkat Regency Education Office, the Head of the Regional Civil Service Agency, and the School Principal as the recipients of the bribe, while the perpetrators of the bribery were the participants of the 2023 PPPK Teacher test.

This bribery offense occurred in 2023 when the head of the education office coordinated with his subordinates to find PPPK test participants in the Langkat Regency who were willing to give money in order to pass, and requested Rp. 40,000,000.00 (forty million rupiah). Subsequently, the subordinates of the head of the Education Office coordinated with the school principals and requested 50,000,000.00 (fifty million rupiah) and increased it by 10,000,000.00 (ten million rupiah) for personal gain. The stages in the PPPK procurement selection consist of administrative selection and competency selection, but government agencies can carry out additional

competency selection. (Rosanto et al., 2022) In accordance with the agreement of the local government, the mechanism for passing those who give money is in this additional competency selection, where based on the announcement of the selection schedule, there is no additional technical competency selection stage, so the competency score should be 100% if there is no additional competency selection. However, the Langkat government conducts additional competency selection, so the competency score is no longer 100%.

In this study, the author investigated one of the individuals involved who brought in 22 teachers who were willing to pay money to pass the PPPK test, whereby once they had paid, their additional competency scores would be raised, and the awarding of high scores greatly influenced the total passing score, so that even if the competency selection score was high, if the additional competency selection score was low, the participant would still not pass. (Hussain et al., 2023) This fraud has harmed hundreds of people who participated in the selection process but did not pay. The act of accepting money from PPPK participants is contrary to the provisions of Article 3 of the Regulation of the Minister of State Apparatus Empowerment and Bureaucratic Reform of the Republic of Indonesia Number 14 of 2023 concerning the procurement of government employees with work agreements for teaching positions, which states that the PPPK procurement selection process must be carried out in a competitive, fair, objective, transparent, free from corruption, collusion, and nepotism, and free of charge (North Sumatra High Prosecutor's Office, Medan District Prosecutor's Office, 2025).

According to Dr. R. Yando Zakaria, Anti-Corruption Expert at Gadjah Mada University: "The PPPK bribery case in Langkat shows weaknesses in the government's human resource management system. Therefore, systemic reforms are needed to prevent such cases in the future." (Wiratraman, n.d.) The bribery case in the PPPK selection in Langkat Regency, North Sumatra, is a clear example of a criminal act of corruption that damages the integrity of the government system. This practice of bribery not only undermines public trust in government institutions, but also affects the private sector by distorting fair competition.

In the Langkat PPPK case, officials involved in bribery must be held accountable for their actions. They must be tried and punished in accordance with applicable laws. In addition, systemic reforms are needed to prevent bribery in the future, such as increasing transparency and accountability in the PPPK selection process. In order to prevent bribery, several steps need to be taken, such as:

1. Increasing transparency in the PPPK selection process.
2. Increasing the accountability of officials involved in the selection process.
3. Raising public awareness about the dangers of bribery
4. Improving the ability of law enforcement officials to tackle bribery.

Thus, the handling of bribery cases in the PPPK selection process in Langkat Regency should be an important momentum for making broader changes in the government system. The steps that have been identified, such as increasing transparency and accountability, as well as increasing public awareness and the capabilities of law enforcement officials, are crucial foundations for creating an environment that is free from corruption (Yasir et al., 2021).

Bribery as a Criminal Offense in Positive Criminal Law

Bribery is a form of corruption that poses a serious problem for law enforcement in Indonesia. This crime not only undermines the integrity of the

government system but also affects the private sector. Bribery can undermine public trust in government institutions and decision-making processes, which should be transparent and accountable.(Alschuler, 2015) In the context of Indonesian law, both the giver and receiver of bribes are criminally liable under Law No. 31 of 1999 on the eradication of criminal acts of corruption, which was amended by Law No. 20 of 2001. Article 5 of this law states that both the giver and the recipient of bribes are considered perpetrators of criminal acts. In this case, the criminal act of bribery is regulated in Article 12e of Law No. 31 of 1999 concerning the eradication of criminal acts of corruption as amended by Law No. 20 of 2001 concerning amendments to Law No. 31 of 1999 concerning the eradication of criminal acts of corruption in conjunction with Article 55 paragraph (1) of the Criminal Code.

Article 12 letter e of Law Number 20 of 2001 concerning Eradication of Corruption Crimes (Tipikor Law) regulates criminal acts of extortion by civil servants or state officials. This article criminalizes those who abuse their power to force someone to give something, pay, accept payment with deductions, or do something for personal gain. Article 55 paragraph (1) of the Criminal Code: This article relates to "Participation in criminal acts". In this context, Article 55 of the Criminal Code expands the scope of criminal corruption to those who participate in corrupt acts, even if they did not directly commit the core act of corruption.

Givers and recipients of bribes have criminal liability as stipulated in Law No. 31 of 1999 concerning the eradication of criminal acts of corruption, which has been amended by Law No. 20 of 2001. According to Article 5 of this law, both the giver and the recipient of a bribe are considered perpetrators of a criminal act.(Galiot, 2017) A bribe giver who offers or gives something to a state official to influence a decision that will benefit himself or another person can be sentenced to criminal punishment. The same applies to a bribe recipient who accepts something with the intention of abusing his authority. Giving bribes is regulated in Article 5 of Law No. 31/1999, which states that a person who gives or promises something to a state official with the intention of influencing a decision in favor of the bribe giver is punishable by a maximum of 5 years imprisonment and/or a maximum fine of 250 million rupiah.

Recipients of bribes are regulated in Articles 11 and 12 of Law No. 31/1999, which states that state officials or administrators who accept gifts or promises with the intention of influencing actions related to their position are subject to a maximum prison sentence of 20 years and/or a maximum fine of 1 billion rupiah. Bribery recipients are considered more serious offenders because they exploit their position for personal gain and violate the integrity of the public office entrusted to them. Law enforcement efforts against bribery focus on two main aspects: punishing bribery perpetrators and preventing similar cases from occurring in the future. Prosecution of bribe givers is strictly regulated through criminal penalties for both the giver and the recipient of bribes. Article 5 of Law No. 31 of 1999 regulates criminal penalties for bribe givers, which include imprisonment for up to 5 years and a maximum fine of Rp250 million. In order to prevent and eradicate corruption in Indonesia, the government has issued Law No. 20 of 2002 on the Corruption Eradication Commission. (Safriadi & Rambey, 2024) The enactment of this law was motivated by the fact that the eradication of corruption has not been optimally implemented to date.

Efforts to prevent corruption in the judiciary include the establishment of a special court to handle corruption cases The establishment of the Corruption Court (Tipikor) This was done by transferring several types of corruption cases involving

state officials from the general court, which was previously the forum for determining such matters. The Corruption Court, exactly as intended, has eliminated several opportunities for corruption that could potentially benefit corrupt judges. In doing so, and by increasing the possibility that general court judges themselves may one day appear before it as defendants, it also poses an implicit threat to the impunity of state actors and, in particular, other judges. The Corruption Court was established in 2003 to try cases investigated and prosecuted by the Corruption Eradication Commission (KPK). (Azzahra et al., 2023) The KPK, which consists of carefully selected police officers and prosecutors, is institutionally independent from Indonesia's law enforcement agencies. The KPK has the authority to investigate and prosecute corruption cases involving law enforcement officials or government officials, involving large or small amounts of state funds.

Efforts to prevent corruption and bribery in the attorney general's office include structural prevention measures, namely strengthening the internal control system, implementing this system to minimize opportunities for bribery and corruption in the law enforcement process, as well as operational prevention efforts, namely applying a comprehensive preventive approach through various internal guidance and supervision programs. This approach begins with improving the integrity of the attorney general's office through a continuous education program that includes anti-corruption socialization, professional ethics training, and an in-depth understanding of the risks and impacts of bribery. (Rose-Ackerman, 2002) This program is carried out periodically, involving all levels from leadership to technical implementers in the field. The Attorney General's Office also applies a firm repressive approach by strengthening internal capacity in handling cases of alleged bribery involving its own officials. The capacity of anti-corruption agencies or commissions is strengthened through the investigation, prosecution, trial, and punishment of corruptors with a deterrent effect.

However, behind the goal of punishing corruptors to create a deterrent effect, there are many weaknesses in the enforcement and eradication of corruption in Indonesia due to weak implementation. Although the regulations stated in formal and material provisions are clear, it is unfortunate that law enforcement in Indonesia tends to be inconsistent over time. Inconsistent law enforcement is evident in the disparity in the punishment of each perpetrator of corruption and the imposition of sentences that are relatively light compared to the crimes committed, as well as the protracted handling of major corruption cases. Yuris Rezha (2023) argues that interference with anti-corruption institutions has been going on for a long time. The friction and intense pressure that has been directed at the KPK over time is an urgent matter that illustrates the government's lack of concern in seriously improving efforts to eradicate corruption in Indonesia. In addition, one of the facts that shows this interference is the e-KTP mega-corruption case that ensnared former House of Representatives Speaker Setya Novanto. The independence of anti-corruption institutions is now being assessed by the public thanks to amendments to the Corruption Eradication Commission Law. It cannot be denied that corrupt practices also occur within anti-corruption institutions. According to analyzed data, on January 15, 2024, 78 KPK employees were implicated in an illegal collection scandal. This is certainly very shocking among anti-corruption activists. How can corruption be eradicated with corrupt officials (Ariyanti & Ariyani, 2020).

Bribery in Islamic Criminal Law

In Islam, bribery (Yunus, 2004) is considered a despicable act and is strictly prohibited. In the Qur'an, Allah SWT states in Surah Al-Baqarah verse 188:

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْلُوا بِهَا إِلَى الْحُكَّامِ لِتَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنتُمْ تَعْلَمُونَ

Meaning: "And let not some of you devour the wealth of others among you unjustly..." This verse emphasizes that obtaining something through improper or unlawful means, including bribery, is forbidden. In addition, in a hadith, the Prophet Muhammad SAW said, "Allah curses the giver of bribes, the recipient of bribes, and the intermediary of bribes." (HR. Ahmad). This strict prohibition places bribery in the category of major sins because of its destructive impact on society and social order. *Risywah* is said to be commonplace because the practice has become a necessity and has become a culture when registering for PPPK to pass as a government employee with a work agreement (PPPK). This action has tarnished or sullied the values of Islam, which prohibits wrongdoing and actions outside the provisions of sharia.

Terminologically, bribery is something (property) given by someone with the aim of obtaining something desired. In other words, it is property given to someone who has the authority to make decisions, either to win an unjust case or to prevent a just one. The person who gives the bribe is called the *rasy*, and the person who receives it is called the *muntasy*. (Abdullah, 2022) Meanwhile, the person who acts as an intermediary or liaison is called the *rais*. In the case of PPPK, bribery falls under the category of *jarimah ta'zir*. This classification is based on several fundamental reasons related to the source of law, the nature of the sanction, and the characteristics of the act.

1. The reason for bribery is included in the category of *Ta'zir*

Bribery is categorized as *ta'zir* because the purpose of *ta'zir* is to prevent similar acts, provide a deterrent effect, and improve character and behavior. In addition, the reason for *ta'zir* is because it does not meet the criteria for *hudud* or *qishas-diyat*. *Hudud* crimes are criminal acts whose penalties are explicitly stipulated in the Qur'an and Hadith with very specific provisions, such as theft, adultery, slander, highway robbery, apostasy, and drinking alcohol. Meanwhile, *qishas-diyat* crimes relate to criminal acts against human life and limb. Bribery does not fall into either of these categories because its punishment is not explicitly mentioned in the text of the Qur'an or the Hadith of the Prophet Muhammad (PBUH).

2. Characteristics of *Ta'zir* in the context of bribery

As a *ta'zir* crime, the punishment for bribery is left to the discretion of the judge or ruler (*ulil amri*), taking into account the circumstances of the perpetrator, the impact of the act, and the public interest. This provides flexibility in determining sanctions, which can take the form of physical punishment, fines, dismissal from office, or other forms of punishment deemed appropriate to the level of the crime and existing social conditions. This principle is in line with the *fiqh* rule that states that a leader's policies towards his people must be based on public interest.

3. The wisdom and purpose of classifying bribery as *ta'zir*

Classifying bribery as a *ta'zir* crime has profound wisdom in maintaining the public interest. By giving authorities the power to determine the appropriate punishment, Islamic law can respond to the various forms and levels of bribery crimes that continue to develop in society. This also allows for the application

of more effective sanctions in providing a deterrent effect while repairing the social conditions damaged by the practice of bribery.

Public understanding of bribery (*riswah*) and gifts is very limited. Some people consider bribery to be a minor sin. Others, even though they know that bribery is prohibited, do not care about the prohibition, especially because they are influenced by the promised rewards. On the other hand, the public considers bribery a gift or a sign of gratitude. Some even consider it a service fee for someone's help, so they do not consider it a mistake, a violation, let alone a crime. Muhammad Ibn Asyur, in his book on the philosophy of Sharia economic law, argues that the purpose of Sharia in prohibiting bribery of public officials, especially judges who decide cases, is to realize and guarantee the fulfillment of the rights of the disputing parties and to maintain the professionalism of public office. Bribery can cause certain parties to not carry out their duties professionally because they are influenced by the interests of the party giving the bribe. All scholars agree that bribery is haram. In fact, this act is considered a major sin. This is indicated in the following verses of the Qur'an and Sunnah of the Prophet:

وَتَرَى كَثِيرًا مِنْهُمْ يُسْرِعُونَ فِي الْأَيْمِ وَالْعُدْوَانِ وَأَكْلِهِمُ الشَّحْتِ ۚ لَبِئْسَ مَا كَانُوا يَفْعَلُونَ
لَوْلَا يَنْهَاهُمُ الرَّبَّانِيُّونَ وَالْأَحْبَارُ عَنْ قَوْلِهِمُ الْإِيمِ وَأَكْلِهِمُ الشَّحْتِ ۚ لَبِئْسَ مَا

Meaning: And you will see most of them (the Jews) rushing to commit sins, hostility, and consuming what is forbidden. Indeed, what they have done is very bad. Why do their scholars and priests not forbid them from speaking lies and consuming what is forbidden? Indeed, what they have done is very bad.

Comparison of Bribery Crimes in Positive Criminal Law and Islamic Criminal Law

Bribery is a crime that undermines social justice and the integrity of state administration. In the Indonesian context, bribery is positioned as part of the crime of corruption, which is strictly regulated in legislation, while in the Islamic perspective, bribery, known as *risywah*, is one of the major sins that is strongly condemned in both the Qur'an and the Hadith of the Prophet. Although these two legal systems originate from different legal philosophies, they share similarities in condemning and prohibiting bribery due to its destructive effects on society.

In Indonesian positive criminal law, provisions regarding bribery are regulated in Law Number 31 of 1999 concerning Eradication of Corruption Crimes, which has been amended by Law Number 20 of 2001. Bribery is positioned as a crime that can be committed by anyone, both the giver and the receiver, and both are subject to criminal sanctions. Law enforcement is carried out formally by institutions such as the Corruption Eradication Commission (KPK), the police, the attorney general's office, and the criminal court for corruption. The sanctions imposed include imprisonment, fines, and revocation of certain rights. On the other hand, Islamic criminal law classifies bribery as part of *jarimah ta'zir*, which are criminal acts that do not have standard sanctions in the Qur'an or Hadith, and the sanctions are left to the *ijtihad* (independent reasoning) of the judge (*ulil amri*) based on the public interest. To clarify the fundamental differences and similarities between the two legal systems, the following table is provided:

Aspect	Indonesian Positive Criminal Law	Islamic Criminal Law
Legal Basis	Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 (Anti-Corruption Law)	Al-Qur'an (Surah Al-Baqarah: 188), Hadith of the Prophet
Term	Bribery or Gratification	<i>Risywah</i>
Classification of Crime	Included as a corruption offense	Classified as <i>Jarimah Ta'zir</i>
Subject of Law	Bribe giver and receiver (both officials and civilians)	<i>Rāsy</i> (giver), <i>Murtasy</i> (receiver), <i>Rāisy</i> (intermediary)
Sanctions	Imprisonment, fines, and additional penalties (up to 20 years, fine up to IDR 1 billion)	Determined by the judge; may include flogging, fines, or dismissal from office
Purpose of Law Enforcement	To create deterrence and ensure legal order	To preserve public welfare (<i>maslahah</i>) and prevent moral and social decay
Burden of Proof	Formal and material, based on evidentiary rules under KUHAP	Based on <i>qarinah</i> (strong indication) and consideration of <i>maslahah</i>
Approach	Legalistic, based on written norms	Ethical-normative, based on moral values and contextual justice
Distinctive Feature	Enforced by formal institutions (KPK, Police, Prosecutors, Corruption Court)	Implemented under the authority of <i>ulil amri</i> and the <i>hisbah</i> system

The fundamental difference between the two legal systems lies in their approaches. Positive law emphasizes a formal legal approach that focuses on evidence, legal procedures, and rigid sanctions. Meanwhile, Islamic law places greater emphasis on ethical and normative dimensions rooted in Sharia values and considers the interests of society. This can be seen in the flexibility of sanctions in Islamic law, which allows judges to consider the social context and impact of an act when imposing punishment. Positive criminal law targets two main aspects: enforcement and prevention. (Faaza, 2022) Enforcement is carried out through criminal threats and deterrent effects, while prevention is carried out through legal institutional reform, the formation of the Corruption Eradication Commission (KPK), and the Corruption Court. However, in practice, weaknesses in implementation remain a serious obstacle, such as inconsistencies in law enforcement, political intervention in the KPK, and scandals involving anti-corruption officials themselves.

In contrast, in Islamic criminal law, the prohibition of bribery is absolute and derived from sacred texts, making bribery a haram act that undermines the structure of justice in society. *Risywah* is seen not only as a violation of the law, but also a moral and religious violation. In addition, the designation of bribery as *jarimah ta'zir* opens up space for the application of contextual and progressive punishments. The main objective is not only to punish, but also to reform and maintain social stability. Thus, although the approaches of positive criminal law and Islamic criminal law to the crime of bribery have common ground in terms of prohibition and sanctions, they differ in

their philosophical foundations, methods of enforcement, and ultimate goals. Positive criminal law emphasizes legal certainty and deterrence, while Islamic criminal law emphasizes public interest and moral reform. The two systems can complement each other in forming a legal enforcement framework that is fair, effective, and highly ethical.

CONCLUSION

Based on the results of the study, it can be concluded that bribery in the PPPK selection process in Langkat Regency in 2023 reflects a serious deviation from the principles of transparency and fairness as mandated in Minister of State Apparatus Empowerment and Bureaucratic Reform Regulation No. 14 of 2023. This act also contradicts the values of national criminal law and Islamic criminal law. From a positive criminal law perspective, bribery is regulated in Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning Eradication of Corruption, with strict sanctions for both the giver and the recipient of bribes. Meanwhile, in Islamic criminal law, bribery is classified as a *ta'zir* crime, with the type and severity of punishment left to the discretion of the judge based on the principle of public interest.

The practice of bribery occurs due to the weak integrity of public officials, the low level of public understanding of the prohibition of bribery, and the suboptimal role of law enforcement officials in prevention and enforcement. Therefore, eradicating bribery requires a comprehensive approach, namely through consistent law enforcement, strengthening the monitoring system, and continuous educational efforts to instill values of integrity and morality in both positive law and Islamic law perspectives.

REFERENCES

- Audah, A. Q. (N.D.). *At Tasyri' Al Jina'i Al Islami*. Dar Al-Kitab Al-'Araby.
- Ayyub, S. H. (2020). *As-Suluk Al-Ijtima'i Fi Al-Islam*. Pustaka Al-Kautsar.
- 'Arafa, M. A. (2018). White-collar crimes, corruption and bribery in Islamic criminal law: Lacuna and conceivable Paths. *Rule of Law and Anti-Corruption Center Journal*, 2018(1), 3.
- Abdullah, A. (2022). Juridical Study of Corruption Crime in Indonesia: A Comparative Study. *International Journal of Law, Environment, and Natural Resources*, 2(1), 45–61.
- Alschuler, A. W. (2015). Criminal Corruption: Why Broad Definitions of Bribery Make Things Worse. *Fordham L. Rev.*, 84, 463.
- Ariyanti, D. O., & Ariyani, N. (2020). Model perlindungan hukum terhadap justice collaborator tindak pidana korupsi di Indonesia. *Jurnal Hukum Ius Quia Iustum*, 27(2), 328–344.
- Azzahra, N., Alanus, V., & Athallah, L. (2023). Dampak korupsi PT Waskita karya (persero) tbk terhadap keberlangsungan bumh dan masyarakat Indonesia. *Kultura: Jurnal Ilmu Hukum, Sosial, Dan Humaniora*, 1(3), 56–64.
- Faaza, R. N. N. (2022). Juridical Analysis of Death Criminal Sanctions against Criminal Acts of Corruption in Indonesia And According To Islamic Criminal Law. *Proceeding of International Conference on The Law Development For Public Welfare*, 2(1), 50–66.
- Galiot, M. (2017). The Analysis of Active Bribery in Positive Criminal Law of Germany and Austria. *LeXonomica*, 9(1), 65–84.
- Golonggom, M. N. (2021). Penegakan tindak pidana suap menurut ketentuan hukum

- pidana nasional. *Lex Crimen*, 10(5).
- Haryono, H. (2016). Risywah (Suap-Menyuap) Dan Perbedaannya Dengan Hadiah Dalam Pandangan Hukum Islam (Kajian Tematik Ayat Dan Hadis Tentang Risywah). *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial*, 4(07).
- Hikmah, I. W. (2022). SUAP DALAM QS AL-BAQARAH/2: 188:(STUDI ANALISIS MA'NA-CUM-MAGHZA). *PAPPASANG*, 4(1), 79-92.
- Hussain, M., Ismail, M., Falak, N., Ali, S., Qureshi, A. U. R., & Bajwa, A. (2023). Comparative study of Islamic law and Western law in criminal law and justice systems. *Al-Qanṭara*, 9(3), 113-119.
- Mahmud, P. M. (2016). *Penelitian Hukum* (12th ed.). Prenada Media Grup.
- Muhlisina, S., & Hariani, N. F. (2024). Praktik Menyuap (Risywah) dalam Penerimaan Aparatur Sipil Negara (ASN) Perspektif Hukum Islam. *Jurnal Tana Mana*, 5(3), 307-314.
- Rosanto, Y., Mardiyanto, J., & Putra, T. H. (2022). Studi komparatif sanksi tindak pidana pembunuhan dalam perspektif Kitab Undang-Undang Hukum Pidana dan hukum Islam. *Jurnal Bedah Hukum*, 6(2), 114-128.
- Rose-Ackerman, S. (2002). Corruption and the criminal law. *Forum on Crime and Society*, 2(1), 3-21.
- Safriadi, F., & Rambey, G. (2024). Pertanggungjawaban Pidana Pemberi dan Penerima Suap dalam Proyek Pengerjaan Pembangunan Infrastruktur: Studi Putusan Nomor 438 K/Pid. Sus/2021. *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga*, 6(3), 1809-1820.
- Sunggono, B. (2015). *Metodologi Penelitian Hukum*, Rajagrafindo Persada. Jakarta.
- Tawang, D. A. D., Purwaningsih, R., & Nurbaiti, S. (2023). *PENANGANAN KEPOLISIAN TERHADAP TINDAK PIDANA SUAP MENURUT UNDANG-UNDANG NOMOR 20 TAHUN 2001 TENTANG PEMBERANTASAN TINDAK PIDANA KORUPSI*.
- Wiratraman, R. H. P. (n.d.). *The Ascendancy of Governance in Thailand and Indonesia*.
- Yasir, M., Widodo, J., & Ashar, A. (2021). Islamic Law and National Law (Comparative Study of Islamic Criminal Law and Indonesian Criminal Law). *Al-Hurriyah: Jurnal Hukum Islam*, 6(2), 167-181.