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The adaptability of Islamic Criminal Values to The Reformulation of Corruption Criminal Sanctions in Indonesia from Human Rights Perspective

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Abstract. Islamic criminal law values related to the formulation of sanctions against perpetrators of criminal acts of corruption have an open opportunity and a way to be used as a reference in reforming criminal sanctions for corruption in Indonesia. However, so far, they still find a dead end because they are confined by understanding Islamic law's textualism. They want the application of Islamic criminal law purely under the texts. This research answers how the transformation of Islamic criminal law values in understanding contextualism through legal hermeneutics. There are forms of punishment that suit the needs and can be adaptively accepted by the community. Indonesia. The object of this study is the formulation of criminal sanctions for corruption in Islamic criminal law through the method of reorienting the thought of Islamic criminal law, based on the concept of "maqasyid al-syar'iyah" which is universally accepted by all Indonesian people because in this study it aims to position the sanctions. Islamic punishment as an alternative sanction in the framework of reformulation of the criminal sanctions of corruption in Indonesia by still considering human rights values, so that reformulation of criminal sanctions for corruption in Indonesia can achieve the main objective of the law, namely to create problems for human life, both in the world and in the hereafter.

Keywords. Adaptability, Islamic criminal law values, Criminal sanctions for corruption.

1. Introduction

One of the universal legal problems faced by countries in the world is domination, including that Indonesia is currently in the grip of the danger of corruption which has been entrenched and rooted in almost every vein of people's lives. So it takes high seriousness to be able to eradicate it by finding the right way and solution. One of them is improving the legal substance (regulatory instrument), which is the basis for its eradication efforts accompanied

by reformulation and heavy sanctions. When discussing the handling of corussive cases, it is always trapped in the wrong mechanism, where the specialty is only in matters of handling and law enforcement which must be specific. At the same time, the sanctions do not show any meaningful specificity. Whereas when it comes to criminal law, the most decisive thing is the sanctions considered capable of making the perpetrators deterred and repented. If traditions and criminal values and Islamic criminal law sanctions are included as one of the sanctions for perpetrators of criminal acts of corruption, perhaps this will be the right solution to reduce corruption in Indonesia, especially since criminal sanctions in Islam are believed and understood as sanctions contained in Al-Qur'an, and this can fulfill juridical and sociological reasons, that the Indonesian people want to create laws and create norms that are based on the essential values of society.

The criminal form's adaptability in Islamic criminal law to the reform of criminal law both in the Criminal Code and those outside the Criminal Code, such as the law to eradicate corruption, will, of course, invite disagreements from several circles. On the one hand, it may be acceptable because Islamic criminal law is used as a law source in reforming national law, including laws governing corruption. However, on the other hand, they may not accept it because they consider the form of punishment in Islamic penalties to be too harsh and contrary to the conception of human rights, especially if it is associated with Indonesian society, which does not consist of only one religion. Each of these groups certainly has its perceptions and conceptions regarding the laws governing the lives of the people they are a part (Hutagalung, 1985).

However, for Indonesian people who have the Pancasila philosophy of life in shaping and carrying out the process of reforming national law, especially reforms in the field of the criminal law of corruption, these laws should not be just laws which are only one aspect of the incarnation of social life or which are solely based on elements that exist in human relations only. Still, the formation of the law and the law's renewal is rooted in something that also has the Supreme Godhead dimension. Moreover, when discussing the law of corruption, it is not only talking about the law in the social and cultural dimensions. Still, it is closely related to the spiritual mentality that leads from religious values towards creating personal, social, and universal righteousness.

The problem in this article is the discussion on the adaptability and transformation of the values of the criminal form in Islamic Criminal Law against the renewal of corruption criminal sanctions in Indonesia from the Human Rights perspective.

2. Result and Discussion

In the dynamics of Islamic legal thought, there is always a conflict between textualism and contextualism. In this connection, two theories emerge: First, the theory of immortality and the second theory of adaptability (Suhirman, 2010). The theory of immortality believes that Islamic law cannot change and be changed to not adapt to the times. The role of human reason is only to understand the doctrine of legal texts. While the Adaptability theory believes that Islamic law, as a law created by God for the benefit of mankind, can adapt to the times so that it can be changed for the benefit of mankind.

This paper is based on the theory of adaptability because the author believes that the texts that underlie Islamic criminal law can change according to the times through reinterpretations that still maintain the meaning of maqasyid al-syar'iyah in Islamic criminal law itself. The concept of adaptability is used because it refers to a transformed effort (Departemen Pendidikan Nasional, 2003). Islamic criminal law values regarding legal reform, especially regarding the reconception of criminal sanctions for Indonesian corruption.

However, the author is not anti to the first theory. Therefore the author seeks a middle way by offering the author's concepts and thoughts, namely the concept of "Diversification of Criminal Sanctions," which is a combination of immortality and adaptability theory. In this discussion, the concept of adaptability is used to find suitability. The values of criminal sanctions in Islamic criminal law by sticking to the authority of the truth of texts, against the renewal of criminal sanctions for corruption in Indonesia, which are currently contained in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crime, in connection with the possibility of the relevance and contribution of Islamic criminal law in the framework of establishing a national criminal law, especially concerning reform of criminal law on corruption. The term adaptability is used because in the process of inserting the values of the Islamic criminal law into the formation of the criminal law of corruption in Indonesia, modifications and changes will be made which are still within the limits of reasonableness and will stick to the authority of the truth of the text, but will be adjusted to the context that covers the reality of social life in the Indonesian context.

In general, corruption is an issue that often creates disagreements in understanding and interpreting it. There have been many meanings and definitions born from legal experts. If simplified, then corruption can be interpreted as public power (public power) for personal gain or political benefit (Kaffah & Amrulloh, 2003), which is a deviant act because it can cause extensive losses due to the abuse of position for personal, other people, or corporate purposes outside the entrusted (mandated) purposes and interests. In detail, the meaning and definition of corruption can be described as follows: Whereas the term corruption comes from the Latin word “corruptio” or “corruptus”, which is then copied into various languages, such as English as “corruption” or “corrupt”, in French it becomes "Corruption", in Dutch it becomes "corruptie (korruptie)". It seems that from the Dutch language the word corruption was born in Indonesian, which is defined as rottenness, ugliness, corruption, dishonesty, bribes, immorality, deviation from holiness, words or utterances that are insulting or defamatory (Hamzah, 1991). Or literally means evil or rotten, corruptie (from Dutch: corruptien), which means corruption and bribery (Wijowasito, 1999).

In the formal juridical formulation, the term corruption in Indonesia has not found a definite formula. However, the author refers to article 2 paragraph 1 of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption Crime. In essence, it reads as follows "Any person who illegally commits an act of enrichment to himself or another person or a corporation that can harm the State finances or the State economy".

Whereas in the Islamic criminal law tradition textually, it is not found in the Al-Qur'an or Al-Hadith, which underlies corruption, but contextually, the hermeneutics of law on corruption can be interpreted based on text texts that have illat and mafsadat similar to corruption. It seems that Classical Fiqh has not provided a proper and adequate discussion for the discussion of corruption. Ulama and salaf fuqaha only talk about the crime of eating human property inappropriately (akl amwal al-nas bi al-bathil) as is forbidden in the text. Still, when referring to the original word for corruption (corrupt), it can mean to destroy (in the form of cheating) or in bribes. Because in classical jurisprudence there is no specific discussion regarding corruption, Ulama and Fuqaha then carry out ijtihad on the problem of corruption, especially regarding the corruption class against the law, which has been discussed in classical fiqh, which of course relies on the text of the text, as if it were related to theft. (A-Sariqoh); violent theft (Al-Hirobah); Al-Ghulul, which is defined as a betrayal of the mandate

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in managing spoils of war or misuse of office; and Al-Risywah is commonly known as bribery.

Based on the above explanation, if it is related to the formulation of criminal sanctions in Islamic criminal law, there are two major groups, namely; First, the criminal sanction of corruption is included in the Hudud, which has been determined in the textual text, this is when corruption is analogous to al-sariqoh and al-hirobah. The legal basis for the theft of this finger is the Al-Qur'an surah Al-Maidah, verse: 38, which means it reads as follows:

The man who stole and the woman who stole, cut off their hands as a reward for what they have done as torment from Allah. And Allah is Mighty and Most Wise (Surin, 1979).

While Jarimah hirobah, namely: Al-Qur'an surah Al-Maidah verse: 33, which means it reads as follows:

Indeed, the retribution against those who fight against Allah and His Messenger cause destruction on the face of the earth. They are killed or crucified or cut off their arms and legs crosswise or banished from the land (their residence), which is an insult to them in the world and in the hereafter got a great torment (Surin, 1979).

From these two verses, the sanctions for corruption in Islamic criminal law are as follows: Criminal cut hands, death penalty, crucifixion, cut off hands and feet crosswise, and exiled from the face of the earth. This is the textual sanction based on the two verses mentioned above. However, in the Indonesian context, it can be further analyzed using a hermeneutical approach of law, which has contextualistic values, which means that to transform the criminal sanctions of corruption in Islamic criminal law into the reform of corruption in Indonesia, the values are taken only, so even though it is not exactly what is stated in the text of the text, it is at least able to color the reformulation of criminal sanctions for corruption so that Islamic law is created.

Second, criminal sanctions are included in the takkzir's finger, that is, if corruption is associated with al-ghulul and al-riswah. Whose formulation of sanctions is left to the Qodhi or Ruler. And this is a characteristic of sanctions or punishments in Islamic criminal law, which is diversified, which contains legal choices, the application of which is adjusted to the degree of severity of a criminal act committed by a person, with strict and strict conditions. Takzir punishment is a type of punishment whose form is left to the judge (qodi), which in practice is in the form of punishment that is tadrib (lessons) and moral sanctions or a weighting sentence against the criminal forms specified above. In the criminal practice, takzir can be in the form of imprisonment is the development or modernization of the penalties for expulsion; Whip; Confinement; Criminal Conclusion; Development Crime; Criminal Warning; Union Crime; etc. (Asshiddiqie, 1995).

Meanwhile, in Indonesia, the formulation of criminal sanctions for corruption is formulated in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption, including criminal sanctions in main and additional crimes.

First, the main punishment is in the form of the Death Penalty; Capital punishment is contained in Article 2 paragraph (2) of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crime. The provisions of Article 2 paragraph (2) indicate that the perpetrator of a criminal act of corruption can be sentenced to death if the criminal act of corruption is committed in certain circumstances. This particular situation has been clarified in the elucidation of Article 2 paragraph (2), which states that the existence of the term certain condition is intended as an objection to the perpetrator of the criminal act of corruption if the criminal act is committed against funds intended for:

a) Countermeasures for hazard situations;
b) National natural disaster;
c) Overcoming economic and monetary crises, and
d) Repetition of the criminal act of corruption.

The second is Criminal Prison. Almost every formulation of corruption in this law is also accompanied by imprisonment. The imprisonment sanctions include Article 2 paragraph (1), Article 3, Article 5, Article 6, Article 7, Article 8, Article 9, Article 10, Article 11, Article 12, Article 12A paragraph (2), Article 12B, Article 13, Article 15, and Article 16.

The third is Fines, like imprisonment, and fines are also found in almost every formulation of a criminal act of corruption. Imprisonment followed by fines accompanies almost all formulations of corruption in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption. Criminal fines include Article 2 paragraph (1), Article 3, Article 5, Article 6, Article 7, Article 8, Article 9, Article 10, Article 11, Article 12, Article 12A paragraph (2), Article 12B, Article 13, Article 15, and Article 16. The punishment of imprisonment is known in the Criminal Code as the main crime. Still, in Law Number 31 of 1999, in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption, there is no mention of imprisonment as a criminal sanction for perpetrators of criminal acts of corruption.

The second is the additional punishment in the form of :

(1) Confiscation of movable property that is a tangible or intangible or immovable property that is used for or obtained from a criminal act of corruption, including the company owned by the convict where the criminal act of corruption was committed, as well as from the goods that replaced these items. The additional penal provisions in Article 18 paragraph (1) letter mention objects that can be confiscated.

(2) Payment of replacement money in an amount equal to the number of assets obtained from the criminal act of corruption (Article 18 paragraph (1) letter b). Regarding the penalty for paying replacement money, the Supreme Court's Chief Justice once delivered a fatwa which in essence considered the replacement money as a debt that the convict had to pay to the State. Therefore at any time, it could still be collected through a civil lawsuit. This has shifted the essence of replacement money as an additional penalty, which should have been forced to pay 79 The payment of replacement money as an additional punishment should be forced to pay the perpetrator of the criminal act of corruption as compensation for the losses caused by the perpetrator as a result of his actions. That is why the amount of replacement money is adjusted to the number of state losses arising from the criminal act of corruption committed by the perpetrator, unlike a fine determined in the amount by law.

(3) The closure of all or part of the company for a maximum period of one year. The elucidation of Article 18 paragraph (1) letter c states that what is meant by 'closure of all or part of the company' is the revocation of business licenses or the suspension of activities for a while under the court's decision, where at the same time it has been determined that no more than one year.

(4) Revocation of all or part of certain rights or removal of all or part of certain benefits that have been or can be given by the Government to the convicted person. The provisions of Article 18 paragraph (1) letter d, regarding certain rights, are not stated in more detail in the explanation. In contrast to additional penalties in the form of revocation of rights in the Criminal Code Article 35 paragraph (1) which states in detail the rights that can be revoked from the convicted person.

Theoretically, the sources of customary law, Islamic law, western law, and others have the same value as sources for reforming the national criminal law. It's just the extent to which

that possibility can be in accordance with Indonesian society's existence. Therefore, in this paper, it concerns Islamic criminal law whose main source is the Al-Qur'an to be used as a reference in reformulating corruption criminal sanctions in Indonesia so that it can be appropriate and objectively accepted by plural Indonesian society, then about the approach to the verses Al-Qur'an needs to pay attention to interpretive theories to develop and formulate legal terms (legal stipulations), which are always faced with certain conditions and situations so that the nuances of sublimation will always appear in it. It is important to find the understanding that is contained in the text, especially in the field of Islamic criminal law, it is inseparable from the nuances of the surrounding context, namely: time context, spatial context, cultural context, historical context, psychological context, and religious context (Fuad,2003).

The verses of the Al-Qur'an that underlie Islamic criminal law are understood in-depth, especially those related to the criminal al-sariqoh and al-hirobah (Qias: Corruption) style is mujmal, meaning that these verses are still general (global). There it does not explain what conditions and elements must be in place so that the thief can be sentenced to cut off his hand. In this case, the verse can't be understood only by looking at the text (literally). Still, it must be related to the conditions and situations surrounding the theft, both situations and conditions that occurred in the thief, and situations and conditions related to time and circumstances around where the theft took place. This is quite reasonable because the Al-Qur'an verse was revealed to regulate human life, which continues to develop, so it is very relative when the Al-Qur'an verses are only understood rigidly, regardless of the changing context. So it is not true or even completely untrue if the understanding of the verses of the Al-Qur'an is only concerned with literal problems. To find a humanist and dynamic understanding of the law, an analysis knife is needed, such as the theory of teleological hermeneutics, which is a combination of textualist interpretation theory and contextualist interpretation theory.

In the area of the theory of interpretation, besides hermeneutics can be understood as a method, it can also be understood as a philosophy that cannot be separated from the view of the object of hermeneutics itself. On the one hand, some thoughts make interpretive events the focus of discussion, while on the other hand, some pay attention to text problems. This last view is relevant in exposing the mystery of "Maqasid Al-syar'iyah" (legal purpose) from the verse ahkam jinayah (criminal law), especially regarding verses that represent corruption, such as qias corruption against theft in Islam. Because the latter assumes that the task of hermeneutics is to investigate valid methods of interpretation through analysis of the interpretation process by proposing the best ways of interpretation to avoid distortion of understanding and aim to reach the truth (Saenong, 2002)

Based on the hermeneutic interpretation and maqasyid al-al-syar'iya above, Islamic criminal law concerning the criminal sanctions of corruption has the flexibility to change places and times, including in efforts to transform the reformulation of criminal sanctions for corruption in Indonesia. The formulation of sanctions in Islamic penalties into the realm of hudud and takzir, will have adaptive and diversified values, which contain legal choices, the application of which is adjusted to the degree of severity of the crime committed by a person, with strict conditions and assertive. Indeed, the punishment seems harsh, and there are even some circles that think that the criminal sanction (uqubat) in Islamic criminal law is sadistic and violates human rights. But this assumption can only be seen as a one-sided tie, that is if it is seen only from the form of punishment. Still, if seen comprehensively, then such assertiveness and impressions will be lost, especially if it is related to the concept of balance between assertiveness and the things that become a prerequisite for the law's imposition

Example: The law of cutting off hands in Islamic criminal law is a punishment for limbs, but it should not be assumed that every thief must have his hands cut off. Because to apply the law of cutting off the hand, there are strict conditions, and if these conditions are not met, then cutting the hand can be replaced with a punishment that falls into the category of takzir, such as whipping, whipping, to returning several items, even to forgiveness.

Even in an understanding that relies on the reorientation theory of Islamic criminal law, it states that Islamic law that the text has defined can change when the reality of society wants it (theory: adaptability), this is in line with the emergence of hermenutic thinking of Islamic criminal law in the Muslim intellectual perspective that is concerned with reform. Islamic law, such as: Fazlur Rahman (Rahman,1970) with the theory of "double movement", Abdullah Ahmed al-Na'im who discovered the theory of "shari'ah deconstruction", and Muhammad Syahrur who produced the idea of the theory of "limits" (nazhariyyat al-hudūd) in Islamic criminal law. From the viewpoint of the three thinkers of Islamic criminal law reform, it becomes clear that Islamic criminal law sanctions can be reinterpreted, so that the values of Islamic criminal law can be formulated anywhere and everywhere, as long as the objectives of the stipulation of Islamic criminal law (maqasyid al-syariah) can be achieved for the misdeeds of the world and the hereafter, even the understanding of cutting off the hand can be interpreted majazi, in the sense that it is not the actual cutting of the hand, but is interpreted non-physically, for example, "cutting" the rights of a thief so that he cannot steal, by inserting it into jail (Aryaputra, 2016), or in the context that the perpetrator of a criminal act of corruption is an official who has the power. The meaning of cutting off his hand can be interpreted as cutting off his power. In this case, he can be dismissed from his power or position. These are understandings that are constantly evolving and are always interesting to discuss. It is different from the group that understands the text in a textual way, closing the room for reorientation and reinterpretation. For them, cutting off a hand cannot be interpreted differently, except cutting off a hand in its true meaning (lafzdiyah). In this connection, the author wants to accommodate and take a middle path to transform the values of Islamic criminal law against the reformulation of criminal sanctions for corruption in Indonesia, as will be discussed further. For the author, in determining punishment based on Islamic criminal law's values, it can be carried out both based on text and context. The most important thing is that it can create a deterrent effect for the perpetrator under punishment's concept and purpose.

When viewed from a human rights perspective, no punishment does not violate human rights. Prison punishment, for example, is against human rights because it is a deprivation of a person's freedom. But imprisonment is not considered to violate human rights if it is imposed based on a clean and fair trial process, through judges' decisions, as a result of an evil act committed by someone, in other words, having committed an act that violates one of the articles in the criminal law. Likewise, with the concept of Islamic criminal law, it does not become a violation of human rights if the sanctions in Islamic criminal law have been formulated as one of the sanctions in Indonesian criminal law and have gone through judicial processes.

Efforts to transform Islamic penalties towards reforming the criminal act of corruption in Indonesia are an effort to create diversified forms of sanctions in the formulation of positive laws in Indonesia, which will be a solution to the problems of imprisonment that have so far overwhelmed the state and government inappropriately the deterioration of the prison system, which currently has its mouth in the Penitentiary, namely the problem of overcapacity, where prisons are no longer equal and not ideal between the ratio of the number of correctional institutions to the number of inmates, which continues to boom from time to time, not to

mention the problem the number of Correctional Institution officers who are also not balanced with the number of assisted citizens, not to mention talking about the state budget which is not small to finance the Correctional Institution, and even worse, it turns out that in the Penitentiary, there are many practices of violation of the law, and wide open the opportunities for wrongdoing new corruption funds in it, such as buying and selling luxury rooms, extortion fees, and other actions that violate human rights itself. All of this is exposed nakedly when the Like-Poor Penitentiary devoted to corruption convicts (assisted citizens) turns out to be full of rotten practices, as mentioned above.

In line with the explanation above, then the author argues that the adaptability of corruption sanctions in Islamic Criminal Law to the reformulation of criminal sanctions for corruption in Indonesia with the following pattern choices: First, if al-sariqoh punishes corruption, the textual penalty is cutting off the hand, then The author is of the view that in the context of Indonesians if cutting off a hand is physically interpreted, then cutting off the hand can be transformed into a reformulation of criminal sanctions for corruption in Indonesia, it's just that the cutting off the hand is positioned as an alternative sanction from capital punishment, which is a sign of corruption if the finger of al-hirobah punishes corruption. What is more, the death penalty is currently included in the formulation of corruption charges as regulated in Article 2 paragraph 2 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crime. The cutting off of hands in the meaning of majazi, such as cutting off freedom (imprisonment) cutting power (termination of office), is now included in the formulation of criminal sanctions for corruption in Indonesia. Second, when it is understood that the criminal sanction of corruption is included in the takzir area, this takzir punishment tradition may be transformed into the reformulation of criminal corruption because the determination is determined by the authorities in the form of taknin / qanun, such as law, or determined by Qodhi in the form of jurisprudence. In this form of takzir punishment, penalties for perpetrators of corruption can be varied and diversified, so that if the values of takzir punishment are adopted, there will be many choices of punishment (diversification) to be imposed on someone who has been proven to have committed a criminal act of corruption under the severity of the criminal act committed, in which in every form of punishment, there are values of justice based on universal protection. Islam does not want the imposition of (criminal) sanctions for the perpetrators of criminal acts. It will cause other injustices to both the perpetrators and victims of crime and society in general, that's why Islam places criminal sanctions as a punishment that does not only have the dimension of retaliation but also contains the value. The value of learning to create a deterrent effect, both lessons for actors and society in general. This is in line with Allah SWT's purpose to determine punishment based on Islamic law through the Prophet Muhammad SAW, who is tasked with conveying revelation to mankind in the world. The purpose of lowering and implementing the law is to realize the human benefit, namely happiness in the world and the hereafter as well as its function as "rahmal lil alamin", as indicated in the Qur'an surah Al-Anbiya 'verse: 107: "And we are not sending you, but to (be) a blessing for the universe ".

The benefit is realized by taking advantage (jalb al-manafi '/ al-mashalih) and resisting damage (dar' al-mafasid). Benefit (taking benefits and rejecting damage) is based on the maintenance of five main things (al-kuliyat al-khams), which include religion (al-din), soul (al-nafs), reason (al-aql), descent (al- nasl), and property (al-mal). These five main things are basic human needs that must exist in navigating life in the world. In other words, human life in the world is upheld by these five main points. To enforce these five main points, Islam establishes provisions that humans must guide and obey. These provisions can be in the form

of demands to make an act (command: al-amr) or demand to leave an act (prohibition: al-nahy).

Sanctions in Islamic criminal law related to corruption, which is the point of concern in this study, are related to the enforcement and maintenance of state assets or finances, which not only harm individuals but also cause harm to society in general. That is why the adaptability of Islamic criminal sanctions is very relevant for reforming the criminal law of corruption in Indonesia. Islam stipulates the procedures for obtaining assets and their consequences (legal consequences). There are many ways and ways to obtain and control property that is true and legitimate in Islam. Assets can be owned by obtaining and taking assets that are ascertained that they do not belong to other people, let alone the public in general (the state). Apart from these general prohibitions, Islam also stipulates sanctions (punishments) for people who acquire property through unjustified and illegal methods. In the historical course of human life from one generation to the next, the act of obtaining property incorrectly and illegally always appears in social life, and the forms of criminal activity in the matter of property continue to develop. In this day and age, there is a form of action to gain property that seems right, but it is very detrimental to others. The losses suffered are experienced by one individual and generally felt by the social community. It even has the effect of destroying and destroying the social order, and at an extreme point, it can result in the collapse of a state-building. Unlike in cases of theft and robbery in their "usual" form, the loss is only experienced by one individual (private) or several individuals and does not involve the crowd (public). Thus, the act has a bigger negative result than cases of theft and robbery in their "usual" forms. The intended action is what people know by the term "Corruption". The phenomenon of corruption in Indonesia has long grown and has taken root in Indonesian society's culture.

It is a natural thing when the maximum form of punishment and social justice is applied to perpetrators of criminal acts of corruption. One that is trying to offer by some groups is to reformulate the form of punishment for perpetrators of corruption, with special and specific punishments, one of which is to formulate and implement cutting hands against perpetrators of corruption in Indonesia, of course with a reorientation under the needs of the Indonesian people, as the author has mentioned above. And this is certainly a matter of controversy and debate going on profusely between those who agree and those who reject. However, there are important things that must be agreed upon: there needs to be deterrence of corruption perpetrators by positioning corruption as an extraordinary crime. The sanctions must be extraordinary. The public is already bored and disappointed with the prison sentence, which has been the custom for perpetrators of corruption in Indonesia. It is proven that it is not a fair sentence for a corruption case that has a major impact on society's social fabric.

This research tries to find the formulation of punishment that can provide a deterrent effect on the perpetrators of corruption and not abolish the prison sentence in the formulation of criminal sanctions in the eradication of corruption in Indonesia, it just tries to offer the extent to which the value of the concept of criminal punishment can have a positive and positive impact justice, by trying to offer several other alternative criminal sanctions. Imprisonment sanctions are still part of the formulation of criminal forms in the eradication of corruption in Indonesia. Still, there needs to be a diversification of criminal forms, which allows the imposition of crimes that vary according to the crime severity. The criminal act of corruption is committed. This study talks about cutting hands, but there are still sanctions, such as the death penalty, revocation of certain rights, and others.

Thus, in eradicating the criminal act of corruption, there should be efforts to reformulate a diversified form of crime, from mild to the heaviest punishment. Juridically, this

is possible considering the law in Indonesia still applies the death penalty. From this point, the implementation of the death penalty for corruptors has philosophical and juridical roots. Especially in article 2 paragraph 2 of Law Number 31 of 1999 concerning the Eradication of Corruption Crime which was renewed by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999, states explicitly that, "If the criminal act of corruption as referred to in paragraph (1) is committed under certain circumstances, the death penalty can be imposed". In the elucidation of the article, what is meant by "certain conditions" is a situation that can be used as a reason for criminal action against the perpetrator of a criminal act of corruption, that is, if the criminal act is committed against funds allocated for overcoming dangerous situations, national natural disasters, overcoming the consequences of social unrest expanding, overcoming economic and monetary crises, and as a repetition of corruption.

The adaptability of the criminal law of corruption in Islamic criminal law in the form of cutting off hands and others will certainly cause controversy in some circles. Of course, some agree, and some are against it. It is especially related to the conception of human rights, which is considered cutting hands too hard when applied in Indonesia. Whereas because the State of Indonesia is a constitutional state, everything is returned to the law. The 1945 Constitution, especially in article 28 J paragraph 2, generally regulates human rights limitation to protect other human rights broader and public interest. Such limitation is valid insofar as it is based on law. Thus, the form of Islamic criminal sanctions, if it has been internalized and adopted into the reform of Law Number 31 of 1999, which was renewed by Law Number 20 of 2001 concerning the Eradication of Corruption, the application of Islamic Criminal sanctions cannot be said to be a violation of human rights. What's more for the Indonesian people who have the Pancasila philosophy of life in forming and carrying out the process of reforming national law, especially reform in the field of the criminal law of corruption, plus the public's desire to impose strict penalties for perpetrators of corruption, of course, need new things related to the form of punishment and sanctions, namely not only law which is only one aspect of the incarnation of social life or which is solely derived from the elements that exist in human relations with humans, but the formation of law and legal reform is rooted in something that also has a religious dimension, with considerable legal values that come from religious teachings that are believed to be true. So that Islamic criminal sanctions can be adapted into the formulation of legal reform to eradicate corruption by looking comprehensively from the stages and prerequisites for the perpetrators of criminal acts of corruption, so that assumptions of violating human rights can be eliminated on philosophical and juridical reasons as already mentioned outlined above.

Thus in Islamic penalties, there is the essential conception in applying any form of punishment, namely justice from the victim's side and justice from the perpetrator's side, which is then attached to the purpose of punishment, namely as guidance and justice. So the essence and purpose of Islamic penalties value humans as perfect both in Allah's eyes and in the eyes of humans. However, when a human has already committed an act categorized as a criminal (crime), he must be held accountable for all his actions according to the applicable law. If a human being has ever committed a criminal act (crime) that has stepped on his dignity and injures Human Rights, then he must be ready to be harmed as well as his human rights. So the choice is if you don't want your human rights to be harmed, then you don't want to injure other human rights.

3. Conclusion

Reflection on legal values is an effort to deep contemplate, especially regarding the effectiveness of the Piana sanctions contained in Law Number 31 of 1999 in conjunction with

Law Number 20 of 2001 concerning the Eradication of Corruption in the context of reformulating the form of criminal sanctions on corruption based on the values of Islamic criminal law in Indonesia. Because the values of Islamic criminal law have strong roots both historically and philosophically to be used as a reference in the framework of reforming national law, including in efforts to reform the criminal sanctions of corruption that are currently in effect in Indonesia, this reflection is important because there are values that must be grounded in law, namely the value of certainty, the value of justice, and the value of the benefit. These three values are the law's spirit to create order and prosperity in society and serve as a measure of the law's effective enforcement, philosophically, juridically, and sociologically.

Reformulation of criminal forms for perpetrators of corruption in Indonesia must be carried out by exploring legal values that live in society, especially values that come from Islamic criminal law, with a contextualism approach (adaptability) which is still within the limits of reasonableness and authenticity of the text (immortality). This means that in the reformulation of criminal sanctions for corruption in Indonesia based on the values of Islamic criminal law, in addition to being based on the text, reinterpretation must also be carried out under the times, so that sanctions are found that are under the Indonesian context based on diversification sanctions ranging from the heaviest to the lightest, which in the author's concept are referred to as the concept of Diversification of Sanctions so that the Indonesian people can objectively accept them. Adaptability to the criminal law of corruption that comes from Islamic criminal law cannot be a violation of human rights if it has been internalized and normalized in the reform of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crime because the conception of human rights can be limited by the law, under the provisions of the 1945 Constitution, especially those contained in article 28 J paragraph 2, which generally regulates human rights restrictions, to protect other human rights that are broader and in the interests of general. Thus, human rights restrictions are valid insofar as they are based on the Prevailing Laws.

4. Recommendation

1. In the reformulation of the criminal form against perpetrators of corruption in Indonesia, which is currently regulated in Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Corruption Eradication, it is necessary to explore values from religion in which society is a part. The reform of the Law on Corruption Eradication in Indonesia is necessary, especially the reformulation of criminal sanctions that currently does not have a deterrent effect, namely by transforming the criminal form's values in Islamic criminal law, which has more criminal sanctions values. Clear and decisive and have more diversification values which, God willing, will have a more deterrent effect. Criminal forms in Islamic criminal law most relevant to the Corruption Eradication Act are the criminal forms: Had and Takzir.
2. The author can also suggest, especially to the committee/team drafting the Corruption Eradication Bill, to reformulate criminal forms against perpetrators of corruption in response to the public's desire to have a criminal law of corruption with sanctions that reflect the values. Certainty and justice in law. So that in the end, the Islamic Corruption Eradication Law was formed.

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