



Islamic Law Analysis on Charity from the Proceeds of Corruption Crimes

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ABSTRACT

Charity is an act that has many virtues for those who give it and is beneficial for those who receive it. Over time, the perception has developed in society that charity can purify wealth obtained through means prohibited by Sharia (haram wealth). This research aims to analyze the practice of giving alms with wealth obtained from the proceeds of corruption according to Islamic law. This research is a library study using normative qualitative research methods with analysis techniques through an inductive approach (istiqrā' ma'nawi). The research results show that charitable donations from the proceeds of corruption are not accepted by Allah because the wealth was obtained through means prohibited by Sharia

INTRODUCTION

In the Fiqh terminology dictionary, the definition of charity (sedekah) is a gift in the form of something useful for others in need (the poor and the needy) with the intention of worship (seeking reward) from Allah alone. Quraish Shihab defines charity as the expenditure of wealth sincerely in accordance with the Sunnah or recommendation. Charity is an act of giving something for others to use or possess, hoping for rewards in the hereafter or seeking the pleasure of Allah. Charity can be in the form of tangible items (material) or services (non-material). (Karim et al., 2018).

The scholars unanimously agree that giving alms is a highly recommended Sunnah to practice. Among the virtues of charity is that it will protect a servant from all calamities and evils. Ibnul Qoyyim, may Allah have mercy on him, said: "This has been known by both the general public and the scholars, as they have experienced it. Even if the charity comes from an oppressor or a disbeliever, Allah prevents many evils and calamities with that charity."

LITERATURE RIVIEW

The virtues of charity based on the hadiths of the Prophet (peace be upon him): first, a good deed that can follow a believer after death. Second, Allah will provide shade on the Day of Judgment. Third, a person who postpones a debt in difficulty will receive charity every day until the debt is due. Fourth, charity given to the poor will earn one reward, and charity given to relatives will earn two rewards, namely the reward of charity and the reward of maintaining family ties. Fifth, the charitable will be called in heaven from the door of charity. Sixth, the wealth of those who give charity will not decrease. Seventh, those who give charity will be rewarded tenfold. Eighth, charity is the best way to help others. Ninth, those who give charity will be under the protection of their charity until all matters of humanity are decided. Tenth, charity is among the most important good deeds. Eleventh, extinguishing the heat of the grave. Twelfth, it erases sins. Thirteenth, prayed for by angels every day. Fourteenth, calming God's wrath and rejecting bad consequences. Fifteenth, it prolongs life. And sixteenth, it increases wealth, serves as a cure for diseases, Allah will remove all calamities, one will cross the sirâtal mustaqîm like lightning, and will enter heaven without reckoning. (Mamduh et al., n.d.).

From the explanation above, it can be understood that charity (sedekah) is a primary practice that holds many virtues for a Muslim. However, in reality, the phenomenon occurring in Indonesian society, particularly, is that the perception of charity for the purpose of purifying wealth is used by some people to justify that giving charity from haram wealth, such as the proceeds of corruption, is acceptable with the aim of purifying wealth. Corruption itself is no longer a foreign concept to Indonesian society. Corruption in Indonesia seems to have become a common occurrence from generation to generation among officials in Indonesia today, from lower-level officials to top-level officials, as if no one is exempt from the opportunity to engage in corrupt practices. Corruption can be said to have become a deeply ingrained culture in Indonesia. (Basir et al., n.d.).

Corruption, in practice, indeed becomes a way to accumulate wealth in large amounts in a relatively short time, but this becomes problematic when the wealth obtained from corrupt practices is used for charity. Against this background, the author is interested in analyzing Islamic law regarding charitable donations made from the proceeds of corruption. Previous studies of a similar nature, such as Firdaweri's 2018 work titled "Islamic Law Analysis on Zakat from Corruption Proceeds," have focused solely on normative studies examining the arguments and laws of zakat from corruption proceeds, while charitable donations have a relatively broader meaning and are not bound by time limits or the type of wealth given. It is hoped that this research can contribute theoretically, namely to enrich the study of fiqh regarding the use of wealth donated from the proceeds of criminal acts of corruption. Practically, this research contributes to enhancing understanding while simultaneously raising the moral and spiritual awareness of the community.

METHODOLOGY

This research is a type of library research with a normative qualitative method using a fiqh text approach and a critical approach to the concept of charity. Library research is a study involving data collection by understanding and studying theories from various literature related to the research. There are four stages of library research in the study, namely preparing the necessary tools, preparing a working bibliography, organizing time, and reading or taking notes on the research materials. The data collection uses methods of searching for sources and constructing from various sources of academic literature such as journals, books, and previous research results. The literature obtained from various references is critically and thoroughly analyzed to support the propositions and ideas. (Adlini et al., 2022).

Research data were collected through a systematic literature review of various references discussing verses on charity in the Qur'an, as well as the exploration of hadiths related to the virtues of charity and the views of the commentators. The author uses the Analysis Technique for this research in the form of text analysis using an inductive approach (*istiqra' ma'nawi*), which involves collecting as much relatively similar data as possible to derive the central meaning contained within it. The thematic induction of nas texts is a method of thinking that does not solely rely on individual understanding of a nas (deductive rational thinking), but rather prioritizes the exploration and inventory of nas that have supporting themes and meanings (collaborative). The inventory of nas is conducted to such an extent that the central meaning of these nas reaches a convincing degree (*qath'i*) cumulatively. (Muhyidin & Triyono, 2018).

Furthermore, the data analysis technique is carried out by delving into the concept of charity (*sedekah*) that uses wealth derived from corruption crimes based on religious texts (*nash-nash syar'i*) by exploring the meaning and essence of corruption crimes and the wealth generated from such acts, then correlating it with the practice of charity using the proceeds from corruption.

RESULT AND DISCUSSION

Terminology of Corruption in Islamic Law

The Qur'an is the main guide for humans in living their lives. Within it, there are guidelines that teach how a person should live according to the values of goodness and truth. However, because the Qur'an has a global and universal nature, the discussion of corruption is not explicitly mentioned. However, there are several terms in the Qur'an that are often associated with corrupt practices, such as *ghulul* (betrayal), *suht* (bribery), *sariqah* (theft), and *hirabah* (robbery). These terms are used as a basis for discussing corruption from an Islamic perspective. Therefore, a more in-depth study is needed to understand how the teachings of the Qur'an can be effectively applied in the efforts to eradicate corruption. (Amalia & Syafitri, n.d.).

The term corruption is estimated to have emerged during the time of Caliph Umar ibn al-Khattab r.a. According to Hasbi Amiruddin, as described in the book titled "Umar Bin Khatab dan Pemberantasan Korupsi," it does not clearly state when the term corruption appeared, but it suggests that corruption was born during the reign of Caliph Umar Bin Khatab r.a. However, the terminology was not yet clear. The existing term for corruption generally revolves around only three terms, although many other words are used for the term. The three words are *al-ghulūl*, *al-riswah*, and *al-ikhtilās*. At that time (during the era of the Prophet Muhammad PBUH and his companions RA), the term considered by some scholars today to refer to corruption was *al-ghulul*, and at that time, the term corruption in the modern context was not yet known. The term *al-ghulūl* is used in Indonesia, *al-riswah* is used in Saudi Arabia, *al-ikhtilās* is used in Egypt, while in Malaysia, the term *rasuah* is used. (Syarbaini, 2024).

The meaning of corruption according to *fiqh* is fundamentally related to matters concerning the crime of state funds, if viewed from the perspective of classical *fiqh*. However, if viewed in the context of modern *fiqh*, the meaning of corruption is very broad, so its terminology varies, and there has not yet been a consensus on its definition. However, the meaning that is very close to the term corruption when viewed from the perspective of classical *fiqh* is *ghulūl*. However, the state of Indonesia uses the term *ghulūl* to define corruption. (Syarbaini, 2024).

Linguistically, *ghulul* is a *mashdar* of *ghala - yaghuulu - ghulul* which means betrayal. Terminologically, it is defined as hidden treachery. "Ghulul is an act of treachery, originally meaning theft of war booty before it is distributed" (Syarah Abu Daud, 1997). The term *al-ghulul* can be found in Surah Al-Imran, verse 161.

"It is not possible for a Prophet to betray in matters of war booty. Whoever betrays in war booty, on the Day of Judgment he will come carrying what he has betrayed, then each soul will be given recompense for what it has earned, and they will not be wronged." (Q.S Ali-Imran:161).

This verse was revealed during the Battle of Badr (year 2 Hijrah). Ibn Abbas said this verse was revealed concerning the case of the lost red velvet during the Battle of Badr. Some people say that perhaps the Prophet Muhammad took it, so Allah revealed this verse, which emphasizes that it is impossible for a prophet to betray at any time and under any circumstances, because one of the

absolute traits of a prophet is trustworthiness, including the impossibility of betrayal in matters of war booty. This is impossible for all prophets, especially Prophet Muhammad, the leader of the prophets. His followers would also not be reasonable to commit betrayal. Whoever betrays in matters of war booty or in any other matter, on the Day of Judgment, he will come carrying what he has betrayed, and each soul will be fully compensated for what it has done, good or bad, and they will not be wronged in the slightest. The language used in the verse is in the general sense of betrayal, whether it is the betrayal of trust entrusted by the community or the trust entrusted by individuals. So all forms of embezzlement, betrayal, dishonesty, corruption, are included in the behavior of *ghulul*. (Amelia, 2010).

Verse 161 of Surah Ali Imran has also been established by the Indonesian Ulema Council (MUI) as a legal basis regulating treachery and *ghulul* as acts of corruption, which are clearly haram for all layers of society and the government, and especially obligatory for Muslims to eradicate completely, even though the sanctions are not explicitly mentioned. In addition to the verses of the Qur'an, the Indonesian Ulema Council (MUI) also established several hadiths as a basis, one of which explains a government employee sent by the Prophet Muhammad (peace be upon him) to collect alms, but then betrayed by distinguishing between what was for himself and what was for the Prophet (the state). However, the hadith does not explain the sanctions. (Nurjaman et al., 2024).

The Great Dictionary of the Indonesian Language defines corruption as the embezzlement or misappropriation of state or company funds and so on for personal or others' interests. The international definition of corruption is that corruption is defined as the use of public office for personal gain, or in other words, the use of office, rank, or official status by an official for personal benefit. From this definition, examples of corrupt behavior include: (a) bribery, (b) extortion, (c) fraud, (d) embezzlement, (e) nepotism, (f) cronyism, (g) appropriation of public assets and property for personal use, and (h) influence peddling. In this list of corrupt behaviors, activities such as fraud and embezzlement can be carried out by an official alone and without the involvement of a second party. While others, such as bribery, extortion, and influence peddling, involve two parties, the giver and the receiver, in a corrupt agreement.

In Article 3 of Law Number 31 of 1999 on Corruption, it states that any person who, with the intention of benefiting themselves or others or a corporation, misuses their authority, opportunity, or means due to their position or status that can harm the state finances or the economy of the state. According to the law in Indonesia, corruption can be categorized into 7 (seven) types, namely, state financial loss, bribery, extortion, embezzlement in office, fraud, conflict of interest in the procurement of goods and services, and gratification (Law Number 31 of 1999 juncto Law Number 20 of 2001, in accordance with the 30 articles contained therein). (Susetyo, 2022).

Legal Status of Charity from Corruption Proceeds

According to Abbas Ahmad Muhammad al Baz in the book *Ahkam al-Mal al-Haram*, illicit wealth is divided into two parts:

- a. Forbidden because of its substance itself, which is something that is forbidden by origin and nature, that is something forbidden by Sharia due to the cause inherent in the forbidden thing itself, which cannot be separated from it in any way, because it contains danger, evil, and impurity such as alcohol, pork, carrion, blood, and all impurities that endanger humans.
- b. Haram Property due to External Causes, which is property prohibited by Sharia because of its nature, not its origin, because the reason for its prohibition does not lie in its substance and essence, but rather its prohibition comes from outside and is separate from the property itself. It is prohibited due to the cause that affects its nature, not its origin and essence, such as stolen property. Originally, this property is halal, but it becomes haram for its owner because it came into their possession through an unlawful means, namely theft. (Mubarak et al., 2024).

Corruption proceeds are assets obtained through unlawful means, as they involve embezzling property that does not belong to the individual, referred to in Islamic criminal jurisprudence as *ghulul* (embezzlement) and *risywah* (bribery) or receiving gratuities due to betrayal of the trust and authority they hold. Allah SWT has repeatedly warned in His revelations that it is forbidden to consume unlawful wealth and to take haram property. Among other things, Allah SWT emphasizes that the source of wealth must be halal and good. This is stated in QS Al-Baqarah (2), verse 168: "O mankind, eat from the lawful and good things..."

It is understood that the wealth obtained from corruption is included in the category of haram wealth, which is clearly forbidden by Allah SWT to consume. Imam Hasan Al-Bishri opined that giving charity with haram wealth encompasses two things:

- a. corruptor, if he gives charity for himself, then that act will not be accepted. The Prophet has explained this. He does not receive any reward, and in fact, he sins by giving away property that does not belong to him without permission. The owner of the property also does not receive any reward, because he did not intend for it.
- b. The corruptor gives charity and alms to the owner of the property if it is not possible to return it to the owner or their heirs. This can be done based on the opinion of the majority of scholars, including Imam Abu Hanifah, Imam Malik, and Imam Ahmad. Meanwhile, Imam Shafi'i opines that haram wealth should be kept and not given as charity until it is clear who the rightful owner is. The proceeds of corruption are considered unlawful wealth, and therefore, the laws governing unlawful wealth apply to them. So, a corruptor is a holder of illicit wealth; if they give zakat, their zakat is invalid and will not be accepted by Allah swt. Similarly, with charity, if that wealth is given as charity, it will not be accepted by Allah swt. This is

explained in the fiqh principle: What is forbidden to take is also forbidden to give. (Firdaweri, 2018).

CONCLUSIONS AND RECOMMENDATIONS

From the above discussion, it can be concluded that wealth obtained through corruption is considered haram. Corruption itself, in the view of Islamic law, is an act of ghulul (betrayal) which is prohibited in Islamic sharia. Therefore, practically, the wealth obtained from the proceeds of corruption cannot be given as charity. If the wealth is still given as charity, it will not be accepted by Allah swt.

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