
Giving Gifts to Public Officials: A Comparative Analysis of Islamic Law and Indonesian Anti-Corruption Law

Ilgafur Tanjung^{1*}

¹MAS Tahfizh Ulumul Qur'an, Medan, Indonesia

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ABSTRACT

As usual gifts given to officials/employees, the intention of the giver cannot be separated from one of two things, namely: the gift giver aims to win the hearts of officials/employees so that they can get convenience and relief in every matter both at that time and in the future. And the giver of the gift who does give it on the basis of affection and does not expect anything in return, either material or service. This study examines the regulation of gift-giving to public officials from the perspectives of Islamic law and Indonesian Law No. 20 of 2001 on corruption. The result of this discussion is that gifts are given to officials/employees because their work and legal position are haram for those who give and receive as prohibited by Islam and the Law. The basis of the haram and impermissibility of the gift is the non-realization of equal rights between fellow human beings, both individuals and social. As for gifts given to employees or officials not because of their work and position, the law is permissible for both the giver and the receiver. Especially if the giver intends to strengthen the bond of friendship and strengthen relationships between others.

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Corresponding Author:

Ilgafur Tanjung

MAS Tahfizh Ulumul Qur'an, Medan, Indonesia

Email: ilgafurtanjung@gmail.com

1. Introduction

The increasing prevalence of unethical practices has significantly contributed to social inequality and public hardship. This phenomenon is closely related to governance failures, particularly the lack of accountability and public oriented. Especially with the number of irregularities in financial matters that are increasing. Thus, the rich are getting richer and the poor are more suffocated because they are unable to meet their daily needs, along with the increasing price of necessities needed every year.

One of the crimes that often emerge to the surface is corruption. This crime often disturbs the community and does not receive proper attention from the government. Corruption among public officials manifests in various forms, including bribery, illegal levies, and disguised practices such as gift giving. The Prophet (peace and blessings of Allaah be upon him) encouraged his people to give gifts to each other, because it can foster a sense of affection between fellow Muslims. However, the law can change at any time according to conditions and circumstances, such as gifts given to officials or the government.

The term *hidayah* (هداية) in Arabic fundamentally refers to “guidance,” derived from the root letters hā’, dāl, and yā’ which linguistically convey the act of leading someone toward the correct path or direction, especially in a moral and religious context. In Islamic scholarship, *hidayah* is understood not only as general guidance but also as the divine direction that brings a person closer to faith, truth, and righteous conduct, representing a merciful form of instruction from Allah to His servants that enables them to discern and follow the straight path (*ihdina al-sirāt al-mustaqīm*) in their lives (Muhamad Fathul Arifin & Muhajirin, 2024; Wardatun Nabilah et al., 2024)

Gifts are often understood in Islamic law as voluntary transfers or donations of property made by a person to another without expecting compensation, and they are categorized within the broader legal concept of grants (*hibah*), which are conducted during the giver’s lifetime and without consideration (*iwad*) to benefit the recipient and strengthen social relations (*hibah* or gifts) (Mursalin Sulaiman, 2024). In this context, gifts are viewed not merely as material transfers but also as legal acts that reflect generosity and social solidarity, where both the giver and receiver engage in an altruistic transaction that is recognized in Islamic jurisprudence as a non-commercial voluntary transfer of rights (Mursalin Sulaiman, 2024). These gifts, whether given to relatives or others, serve to uphold social bonds and are regulated to ensure validity and fairness within both Islamic and civil legal frameworks.

Basically, giving gifts is something that is allowed in Islam. In fact, Islam encourages giving gifts to each other in order to create a sense of affection between them. Of course, the gift that can foster affection is a gift that arises from a sincere and sincere conscience, only hoping for pleasure from Allah.

Gifts can be categorized into two: First, gifts that are in the form of gifts to someone because of their achievements or indeed purely because of respect. There is no other purpose than the honor. Second, gifts are given to someone because they have a certain purpose either for their own benefit or the interests of others.

Gifts that fall into the first category are given by someone with sincerity and without ulterior motives, serving as a voluntary expression of gratitude or goodwill. However, when a gift is associated with a person’s position or authority, especially with the expectation of receiving favourable treatment, it becomes vulnerable to being classified as bribery (*risywah*) rather than a sincere gift, because it aims to influence the recipient’s actions contrary to justice and ethical norms (Sabir & Mutmainnah, 2020). In Islamic legal discourse, scholars distinguish between permissible gifts given out of pure intention and prohibited acts of *risywah* that corrupt justice and undermine societal trust; thus, attention to intent and context is crucial in determining whether a gift remains an ethical act of generosity or has crossed into bribery, which is strongly condemned in both Islamic jurisprudence and positive law.

In contemporary practice, gift giving has increasingly functioned as an instrument to pursue particular personal or institutional interests, as a medium of approach to gain profit and safety. Among the intended forms of gifts are gifts given to government officials or rulers.

In Indonesia, such a thing is commonly called gratuity. Gratification is a wage given outside of salary to employees whose salaries have been set by the state or company. This kind of thing is often done by officials and implementers in an agency. Generally, gift-giving to public officials is intended to influence administrative decisions or obtain preferential treatment. Although gratuity is included in the category of gifts, it is not a gift intended by the Prophet (saw). The recommended gifts are gifts that are given on the basis of love and appreciation and sincerity because of Allah swt. Solely. The Prophet Muhammad (peace and blessings of Allaah be upon him) said:

أَخْبَرَنَا أَبُو مُصْعَبٍ، قَالَ: حَدَّثَنَا مَالِكٌ، عَنْ عَطَاءِ بْنِ عَبْدِ اللَّهِ الْخُرَّاسِيِّ، قَالَ: قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: تَصَافَحُوا يَدَّهَبِ الْعُلُ، وَتَهَادُوا تَحَابُّوا وَتَذْهَبِ الشُّحْنَاءُ. (Mâlik, 1412 H)

"Narrating to us Abû Mush 'ab, he said: narrating to us Mâlik, from 'Atha' bin Abdillah al-Khurasânî, he said: The Messenger of Allah (peace and blessings of Allaah be upon him) said: shake hands with each other, surely (shaking hands) will remove hatred, give each other gifts, surely (gifts) will make you love each other and take away revenge."

The primary objective of gift-giving in Islam is to foster mutual affection. Such practices, however, lose their legitimacy when driven by ulterior motives. It is not expecting other things such as hoping to be released from his case, or hoping for the issuance of a permit for the project he is working on, or being promoted to rank and position, or other worldly expectations mixed with *shubât* and tyranny.

In ancient times, the practice of gratuity (bribery) was also carried out by the queen of Bilqis (queen of the Land of Saba') to the Prophet Solomon. This story is recorded in the Qur'an: وَإِنِّي مُرْسَلَةٌ إِلَيْهِمْ بِحَدِيثِ فَنَاظِرَةٌ بِمَ يَرْجِعُ الْمُرْسَلُونَ (35) فَلَمَّا جَاءَ سُلَيْمَانَ قَالَ أَتُمِدُّونَنِ بِمَالٍ فَمَا آتَانِيَ اللَّهُ خَيْرٌ مِمَّا آتَاكُمْ بَلْ أَنْتُمْ بِحَدِيثِكُمْ تُفْرَحُونَ (36) أَرْجِعْ إِلَيْهِمْ فَلَنَأْتِيَنَّهُمْ بِنُجُودٍ لَا قِبَلَ لَهُمْ بِهَا وَلَنُخْرِجَنَّهُمْ مِنْهَا أَدْلَىٰ وَهُمْ صَاغِرُونَ (37)

"And indeed I will send messengers to them with gifts, and (I will) wait for what the messengers will bring back. So when the messenger came to Solomon, Solomon said, "Should you help me with wealth?" So what Allah has given me is better than what He has given you, but you are proud of your gift. Return (the gift) to them, for we will come to them with an army against which they have no power, and we will surely drive them out of the land (Saba') with humiliation and they will become despicable."

The above verse relating to the encounter between Prophet Solomon and the Queen of Sheba in *Surah An-Naml* (27:36–37) has been interpreted in contemporary Qur'anic studies as highlighting not only diplomatic exchange but a moral test of allegiance and integrity, where the Queen's offer of gifts is presented as an attempt to influence or placate Solomon, which he firmly rejects, demonstrating that his commitment to divine guidance outweighs the allure of worldly gifts (Lala, 2022). This rejection of the Queen's gifts, which were sent with the hope of swaying Solomon's stance, reflects a theme in Qur'anic exegesis emphasizing that prophetic authority and submission to God's command cannot be bought or compromised by material richness, and it underscores the broader ethical principle that true guidance cannot be purchased (Lala, 2022).

From the perspective of *fiqh jinayah*, the prohibition of such gratuities is grounded in the principles of *saddu al-dharī'ah* and the prevention of public harm (*mafsadah 'ammah*), which have the potential to cause harm to a person, This practice can be examined through the doctrine of *saddu al-dharī'ah*, which aims to prevent lawful acts from becoming pathways to prohibited outcomes, and not justify the gifts given to officials as a whole? Considering that the giving of gifts or gratuities is misused in the sense of enriching oneself and can harm many people.

From the description above, the author suspects that the giving of gratuity gifts in the corruption category still often occurs due to several factors:

First, there is a lack of in-depth knowledge of the limits of the recommendations and prohibitions from two sides, namely the Law on gratuity itself and also the limits justified by the *shari'î* which in this case are represented by Islamic criminal law.

Second, from the cultural aspect, because there is a strong suspicion that the phenomenon of gift-giving is inseparable from the habits of society that have taken root and cultured, whether they are realized or not.

The purpose of the discussion on the law of giving gifts to officials is to emphasize the concept of justice and equal rights between fellow human beings. Through this discussion, we can also clearly understand, without doubt or ambiguity, the legal status of gifts given to officials. In addition, this discussion serves as a normative guideline to distinguish between socially acceptable gift-giving and practices that potentially lead to abuse of power, corruption, or conflicts of interest.

2. Research Methods

This research is a literature study (Library research). The data supporting the study comes from literature sources in the form of books, magazines, journals, encyclopedias, papers, articles, newspapers and so on.

This research is literature; this research employs a normative juridical method using a comparative legal approach to analyze Islamic jurisprudence and Indonesian statutory law on gratuities. Descriptive means explaining what is meant by the text packaged in the language of the researcher, so that the research can provide an accurate, systematic picture of the facts of the object being studied. Meanwhile, analysis means a more in-depth explanation than just a description, namely a deepening of the study of library sources related to the giving of gifts to employees/officials.

The method of data collection is by collecting primary data sources, namely from the Qur'an, hadith and laws that discuss the giving of gifts to employees/officials, bribery, corruption with a focus on the subject matter. In addition, the researcher also collects data from secondary data sources as a primary data booster, namely books, encyclopedias, journals, papers, online media and so on. The subject of discussion is directly or indirectly related but still relevant to the subject of the research, namely "Giving Gifts to Employees/Officials (Review of Islamic Law and Law of the Republic of Indonesia No. 20 of 2001)."

3. Results and Discussion

From the background of the problems that have been explained above, the question arises whether in the concept of *saddu al-dzarī'ah* officials are not absolutely allowed by the sharia to receive gifts? In response to this, the sharia does not prohibit gifts absolutely to officials, because gifts are one of the doors of friendship recommended by the Prophet (peace be upon him), only the procedure and purpose of the gift itself must be considered. For example, a person performs Hajj using the money he gets from gambling, then what is forbidden by the Shari'ah is the way the person gets his money and does not prohibit Hajj at all. Then it is conceptualized in *saddu al-dzarī'ah* that the government prohibits (does not give permission) to a person who performs Hajj using money from gambling because basically the act has been forbidden by Islam.

The Shari'ah provides the means and conditions under which an officer/officer can receive gifts, namely:

1. Gifts that have received permission from their government or agencies. The gift is given to the employee/official and is allowed by the leader (person of higher position) that the employee/official may receive the gift. This is based on the words of the Prophet Muhammad (saw):

حَدَّثَنَا أَبُو كُرَيْبٍ قَالَ: حَدَّثَنَا أَبُو أُسَامَةَ، عَنْ دَاوُدَ بْنِ يَزِيدَ الْأَوْدِيِّ، عَنِ الْمُغِيرَةِ بْنِ شُبَيْلٍ، عَنِ قَيْسِ بْنِ أَبِي حَازِمٍ، عَنْ مُعَاذِ بْنِ جَبَلٍ قَالَ: بَعَثَنِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِلَى الْيَمَنِ، فَلَمَّا سِرْتُ أُرْسِلَ فِي أَتْرِي فَرُدُّدْتُ، فَقَالَ: " أَتَدْرِي لِمَ بَعَثْتُ إِلَيْكَ؟ لَا تُصِيبَنَّ شَيْئًا بغيرِ إِذْنِي فَإِنَّهُ غُلُولٌ." (al-Turmudzī, 1975).

"Narrating to us Abû Kuraib, he said: narrating to me Abû Usâmah, from Dâwud bin Yazîd al-Audî, from al-Mughirah bin Shubail, from Qais bin Abî Hâzim, from Mu'âdz bin Jabal he said: The Messenger of Allah (peace and blessings of Allaah be upon him) sent me to Yemen. When I departed, the Prophet sent (someone) to follow in my footsteps, so I was worried about him. He said: Do you know why I was sent to see you? You should never accept anything without the permission of the Messenger of Allah, because that is ghulûl (corruption)".

Contemporary Islamic legal scholarship explains that while giving gifts is generally permitted, the giving or receiving of gifts to or by employees or officials because of their

position is strongly discouraged and can be classified as a form of bribery (*risywah*) or corruption when the intent is to obtain preferential treatment or influence decision-making, because this undermines justice and equality of treatment (*korupsi, hibah, dan hadiah dalam perspektif hukum Islam dapat menjadi praktik suap apabila terkait pejabat publik*) (Sabir & Mutmainnah, 2020). In this context, scholars highlight that gifts given to officials should be scrutinized for intent and transparency, and that ethical Islamic jurisprudence condemns the acceptance of gifts by employees or officials that are connected to their duties, as doing so could compromise their integrity and public trust. Such gifts, when tied to authority or organizational role without clear permission or ethical grounding, risk transitioning from a permissible act of generosity to prohibited conduct similar to bribery (*risywah*) in both Islamic and positive law frameworks (Sabir & Mutmainnah, 2020).

The Prophet Muhammad (peace and blessings of Allaah be upon him) said:

حَدَّثَنَا أَبُو بَكْرِ بْنُ أَبِي شَيْبَةَ، حَدَّثَنَا وَكَيْعُ بْنُ الْجَرَّاحِ، حَدَّثَنَا إِسْمَاعِيلُ بْنُ أَبِي خَالِدٍ، عَنْ قَيْسِ بْنِ أَبِي حَازِمٍ، عَنْ عَدِيِّ بْنِ عَمِيرَةَ الْكِنْدِيِّ، قَالَ: سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: «مَنْ اسْتَعْمَلْنَا مِنْكُمْ عَلَى عَمَلٍ، فَكَتَمْنَا مَخِطًا، فَمَا فَوْقَهُ كَانَ غُلُولًا يَأْتِي بِهِ يَوْمَ الْقِيَامَةِ.» (Al-Naisâbûrî, t.t.)

"Narrated to us Abû Bakr bin Abî Syaibah, narrated to us Waqî' bin al-Jarrâh, narrated to us Ismâ'il bin Abî Khâlid, from Qais bin Abî Hâzim, from 'Adî bin 'Amîrah al-Kindî, he said: I heard the Messenger of Allah (peace and blessings of Allaah be upon him) say: Whoever we ask to do something (is rewarded), then he hides (something) from us even if it is only the size of a needle, So the rest is corruption and he will bring it on the Day of Resurrection (what he is hiding)".

The above hadith is a strong threat to employees/officials who take even the slightest gift without permission from the leader. This act is one of the acts that the Prophet (peace and blessings of Allaah be upon him) hated and is a form of betrayal of trust.

2. Gifts given to employees/officials that have nothing to do with the employee's work (who is given a gift).

If someone gives a gift to an employee who has nothing to do with his job, then the gift is believed to be purely for the sake of friendship and to strengthen the bond of brotherhood among fellow Muslims.

This gift is allowed to be given and received, because the gift does not contain a specific purpose or interest in the employee's position.

Ibn Hummâm explained in his book:

والهدية في هذه الحالة جائزة سواء بالنسبة للمهدي أو للمهدي إليه، لإنتفاء الإتهام فيها الرشوة من قبل المهدي، ولعدم المجازات بما على عمل من قبل المهدي إليه. (al-Humâm, t.t.)

"Gifts in this situation are allowed for the giver or the recipient, because there is no indication and avenue to take bribes from the giver, and there is no process that would violate the authority of the work of the giver".

3. A gift from a superior to his subordinate, which is a gift given by a person whose position is higher than that employee. The award is solely due to the good performance and work done by employees both personally and collectively. This form of reward is also commonly called a bonus.

Gifts like this are allowed to be received by officials because there is no way to make the employee accused of embezzlement or bribery. The gifts given by the government (agencies) to their employees can be called a form of affection from them

4. The gift of an unusual person gives a gift to an employee whose testimony is not valid, such as *Qâdi* (judge) testifying for his son, and the gift has nothing to do with his job and position.

5. A gift from someone who has nothing to do with the job (department). Before the person took office, he had often also given gifts, because of relatives or other relationships. And the gift still does not increase, even though what he gives is now in office.

Ibn Qudâmah said: if a person is in the habit of giving a gift to a certain person before he is appointed to an office, then the gift can be accepted by that officer even if the gift is given after he has taken office. Because the prize is given not based on a specific purpose but purely friendship. As proof of the purity of his gift intention, he often gave gifts to the official before being mandated to become an official. (Qudâmah, 1405 H)

6. Rewards after he leaves his position, whether it is firing, resigning or retiring. In this case, the official/employee is the same as other people both in terms of rights and obligations. As the Prophet Muhammad said:

مَالِي أَسْتَعْمِلُ الرَّجُلَ مِنْكُمْ فَيَقُولُ: هَذَا لَكُمْ وَهَذَا إِلَيَّ هَدِيَّةٌ؟ أَلَا جَلَسَ فِي بَيْتِ أُمِّهِ لِيَهْدِيَ لَهُ؟ (al-Bukhârî, 1422 H)

"Why did I hire a man from among you and then he said this is for you and this is a gift for you? Why not just stay at his mother's house to be given a gift?"

7. Gifts are often given to honor and recognize people who possess knowledge, noble character, or serve the community such as knowledgeable scholars, educators, mosque caretakers, or teachers when the gift is bestowed *solely because of their personal merits, sincerity, and goodness* rather than because of their official position or authority. From an Islamic legal perspective, such gifts are considered permissible (*mubāḥ*) when the intention (*niyyah*) is to show appreciation and respect without creating favoritism, undue influence, or expectations of advantage, particularly in educational contexts where teachers maintain professional integrity and fairness (Pondok Pesantren Al Haris Makassar & Setiawan, 2023). This approach reflects the ethical view that gift-giving as a form of honor is valid and even commendable within certain social relationships, provided that it is not connected with positional power or expectations that compromise justice and trustworthiness.
8. A gift given by someone to an employee/official who at that time the official was outside his area. This means that the gift given has nothing to do with the official's work. For example, an employee/official who leaves for the city of Mecca to perform the Umrah pilgrimage, then meets and gets acquainted with someone unknown before, then the person gives him a gift. Gifts in such forms can be accepted and even sunnah.

In essence, the form of giving to an official that he or she can receive is the person who gives the gift that has no particular interest in the employee's position and authority. In things like this, the reward is more deserving to receive.

While Indonesian positive law defines gratification broadly under provisions such as Article 12B of the Corruption Eradication Law, which includes "gifts in a broad sense" such as money, goods, rebates, commissions, interest-free loans, travel tickets, accommodation, free medical treatment, and other facilities received domestically or abroad, this expansive definition demonstrates how gifts can easily intersect with corrupt practices when connected with official positions (Bego et al., 2024). From a positive law perspective, such gifts are considered *gratification* and may be classified as bribery when they are related to the duties or positions of civil servants or state officials contrary to their obligations, illustrating both normative convergence with anti-corruption principles and the potential divergence with cultural practices of gift-giving that are socially accepted outside of official duties.

Examples of gifts that can be categorized as gratuities that often occur are:

1. Giving gifts or parcels to officials during religious holidays, by their partners or subordinates.
2. Gifts or donations at the time of marriage of the official's children by the associate of the official's office. Giving travel tickets to officials or their families for personal purposes for free.
3. Providing special discounts for officials for the purchase of goods from partners.

4. Giving gifts or souvenirs to officials during regional visits.
5. Illegal levies on the highway and not accompanied by evidence signs with the purpose of donations are unclear, the individuals involved could be from police officers (traffic police), levies (regional revenue offices), LLAJR and the community (thugs). If this case occurs, the KPK suggests that the report be published by the mass media and strict action be taken against the perpetrators.
6. The construction of places of worship in government offices (because usually there is a budget available for the construction of places of worship where the budget must be used in accordance with the budget post and the need for additional funds can be used in charity boxes).

Then what is the difference between bribery and gratuity? According to UU.No. 20 of 2001 concerning the Crime of Corruption above, bribes can be in the form of promises while gratuities are in the form of gifts in a broad sense. In the case of bribery, there is an intense element to influence public officials/state administrators in their policies and decisions so that it benefits the briber giver. In gratuity, which is interpreted as a gift in a broad sense, it can be included in the category as bribery if it is related to the position of State administrators/public officials and which is contrary to their obligations or duties.

In essence, bribes must be gratuities. Meanwhile, gratification is not necessarily bribery. If the bribe is directly related to a project, then the gratuity is not necessarily related to a project. Generally, gratuities are given to establish good relations with State officials/State administrators.

These procedural provisions demonstrate that Indonesian anti-corruption law adopts a preventive and administrative approach to gratuity regulation, which complements the moral-ethical framework of Islamic law, and article 18 of Law No. 30 of 2002, namely:

- 1) The KPK (Corruption Eradication Commission) within a maximum of 30 working days from the date the report is received is obliged to determine the status of gratuity ownership accompanied by consideration.
- 2) In determining the status of gratuity ownership, the KPK can summon the gratuity recipient to provide information related to the receipt of gratuities.
- 3) The status of gratuity ownership is determined by the decision of the KPK Chairman.
- 4) The KPK's decision can be in the form of determining the status of gratuity ownership for the recipient of the gratuity or becoming the property of the State.
- 5) The KPK is obliged to submit a decision on ownership status to the gratuity recipient no later than 7 working days from the date set.
- 6) The submission of gratuities that belong to the State to the Minister of Finance is carried out no later than 7 working days from the date of determination.

The KPK is obliged to announce gratuities that are determined to belong to the State at least 1 time a year in the State Gazette. (Djaja, 2010)

In Islam itself, "gift" is a gift from one person to another without any substitution with the intention of glorifying it. And it is permissible to have the law of mubah or permissible, as the Hadith narrated by Imam Bukhâri from Aisha r.a. said:

حَدَّثَنَا مُسَدَّدٌ، حَدَّثَنَا عَيْسَى بْنُ يُونُسَ، عَنْ هِشَامٍ، عَنْ أَبِيهِ، عَنْ عَائِشَةَ رَضِيَ اللَّهُ عَنْهَا، قَالَتْ: «كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقْبَلُ الْهَدِيَّةَ وَيُثِيبُ عَلَيْهَا» (al-Bukhârî M. b., Sha hiḥ Bukhârî, 1422 H)

"Narrated to us Musaddad, narrated to us 'Isâ bin Yûnus, from Hisyâm from his father from 'Aisha r.a. said: The Prophet (peace and blessings of Allaah be upon him) once received a gift and repaid it (with the same reply)".

In the Hadith it is stated that the Prophet (peace and blessings of Allaah be upon him) once received a gift and repaid it with the same gift. And there are also some scholars who say that it is not permissible to refuse the gifts that have been given, the evidence that is used as a hold

by some of these scholars is the hadith of the Prophet narrated by Imam Bukhârî and Turmudzî from Abû Hurairah r.a. that the Prophet (peace and blessings of Allaah be upon him) said:

حَدَّثَنَا مُحَمَّدُ بْنُ بَشَّارٍ، حَدَّثَنَا ابْنُ أَبِي عَدِيٍّ، عَنْ شُعْبَةَ، عَنْ سُلَيْمَانَ، عَنْ أَبِي حَازِمٍ، عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: «لَوْ دُعِيتُ إِلَى ذِرَاعٍ أَوْ كُرَاعٍ لَأَجِبْتُ، وَلَوْ أُهْدِيَ إِلَيَّ ذِرَاعٌ أَوْ كُرَاعٌ لَقَبِلْتُ» (al-Bukhârî M. b., 1422 H)

"Narrated to us Muhammad ibn Bashâr, narrated to us Ibn Abî 'Adî, from Shu'bah, from Sulaimân, from Abi Hâzim, from Abî Hurairah r.a., from the Prophet (peace be upon him). He said: If I am invited to eat the legs of the goats (front and back), I will certainly fulfill them and if they are given to me the legs of the goats (front and back) I will accept them."

However, if you look at the gifts or gratuities that have been described in the previous chapter, which cause harm to a person, then the problem can fall under the rules of *saddu al-dzari'ah*, because the giving of gifts or gratuities is misused in the sense of enriching oneself and can harm many people.

In this context, such gratuities may be legally and ethically classified as bribes, and bribery is a work that is highly cursed by Allah, as the Prophet said:

حدثنا حجاج حدثنا ابن أبي ذئب، ويزيد قال أخبرنا ابن أبي ذئب، عن الحرث بن عبد الرحمن عن أبي سلمة عن عبد الله بن عمرو، عن النبي صلى الله عليه وسلم، قال: "لعن رسول الله صلى الله عليه وسلم الراشي والمرششي والرائس". (al-Syaibanî, 1995).

"Narrating to us Hajjâj, narrating to us Ibn Abî Dzi'b, from Al-Harts bin Abdurrahmân from Abî Salamah from Abdullâh bin 'Amr, from the Prophet Muhammad (peace be upon him) he said: Allah swt. curse bribery, bribery and bribery and bribery"

Not only for the person who receives the bribe but also for the person who gives the bribe will be cursed by Allah swt. This is because a certain amount of money or goods can reduce or damage the rights of others.

The current definition of gratification with the meaning of gifts in Islam is very different in this era, gifts in Islam that aim to help and glorify each other are far compared to gratuities that aim to enrich oneself and bring down others. And as we know, most of the people who carry out this gratuity activity are from among civil servants and state officials, which they can be said to be *ulil amri*.

The consequences of this gratuity activity are injustice and loss of wisdom from governments, state officials, company officials or ordinary employees. And this is a form of tyranny to oneself and others. Therefore, prohibiting gratuities serves as a necessary legal mechanism to prevent abuse of authority and ensure social justice. Likewise, Islam, judging from the benefits and harms caused by this gratuity, Islam forbids gratuities. If this gratuity is still allowed, then it is not impossible that the State and the people in it will become uncontrollable and destroyed because of it.

Therefore, tyranny by a ruler within the framework of Islamic *shari'ah* must be met with accountability and corrective measures by those responsible for oversight in order to uphold justice, as justice (*al-'adl*) is central to the objectives of Islamic law (*maqâsid al-sharî'ah*) and essential to public welfare. Islamic political and legal theory emphasizes that governance should be exercised with fairness, equity, and public welfare in mind, and that rulers who transgress these principles undermine the moral and legal foundations of the *shari'ah*, necessitating greater oversight and corrective action to prevent harm and promote justice in society (Zatari & Fili, 2024). This approach aligns with the broader Islamic principle that authority must be exercised as a trust (*amānah*) and that preventing injustice and tyranny is not only a legal imperative but also a moral obligation deeply rooted in Islamic governance literature.

One of the qualities that must be held by State officials or other officials and employees is the nature of trust, which when he is in the position in which he is appointed to occupy it is not abused to bring benefits to himself or his immediate family. And this act can also occur starting

with gratuities or bribes. The Prophet (peace and blessings of Allaah be upon him) said: (al-Muqtadîr, 2006)

حَدَّثَنَا زَيْدُ بْنُ أَحْزَمَ أَبُو طَالِبٍ، حَدَّثَنَا أَبُو عَاصِمٍ، عَنْ عَبْدِ الْوَارِثِ بْنِ سَعِيدٍ، عَنْ حُسَيْنِ الْمُعَلِّمِ، عَنْ عَبْدِ اللَّهِ بْنِ بُرَيْدَةَ، عَنْ أَبِيهِ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: مَنْ اسْتَعْمَلْنَاهُ عَلَى عَمَلٍ فَرَزَقْنَاهُ رِزْقًا، فَمَا أَخَذَ بَعْدَ ذَلِكَ فَهُوَ غُلُولٌ. (al-Sijistâmi, t.t.)

"Narrated to us Zaid bin Akhzam Abû Thâlib, narrated to us Abû 'Ashim, from Abdul Wârîts bin Sa'îd, from Husayn al-Mu'allim, from Abdullâh bin Buraidah, from his father, from the Prophet Muhammad (peace be upon him). He said: "Whoever we employ in a job and then we give him a salary, then what is taken apart from that (salary), that is corruption."

And in another hadith the Prophet (peace and blessings of Allaah be upon him) said: "Gifts for workers are treachery". From the Hadith, it has been clearly explained that all forms of gifts given to officials or employees are not allowed.

Gratification is classified as a form of corruption. And in Indonesia itself, corruption still continues to disturb the conscience of the Indonesian people and even becomes *Black Culture* which adorns the historical life of the Indonesian State. In the Qur'an Allah swt. mention: (Thalhah dan Mufid, 2008)

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْلُوا بِهَا إِلَى الْحُكَّامِ لِتَأْكُلُوا فَرِيقًا مِنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ (188)

"And do not eat the wealth among you in an unlawful way, and (do not) bribe the judges with the intention that you may eat some of the wealth of others in a sinful way, even though you know it."

From the description above, the attention and main problem is focused on the problem of gratuity. If viewed from an Islamic perspective, this is included in one of the postulates of Islamic law, namely *saddu al-dzari'ah*, so it is forbidden to have gratuities to cover the path of bribery or corruption. Because it is clear that most gratuities do not bring much benefit to others but instead lead to *mafssadat* for many people. Meanwhile, when viewed from the State Law of the Republic of Indonesia, gratuities are not allowed because they violate the values of Pancasila, namely social justice for all Indonesian people.

This study contributes to legal scholarship by demonstrating that Islamic law and Indonesian anti-corruption law converge normatively in prohibiting gratuities that undermine justice and public trust. The reasons are as follows:

1. In general, bribery is a great sin. Allah swt. cursing all parties involved in it for helping each other in sin and evil and damaging the rights of others. It also includes the practice of eating haram money, and Imam Alî ra defined: "haram money is a bribe".
2. For law enforcers or officials, bribery can stimulate them to make decisions outside the procedure of the legal provisions that have been set by Allah and determined by the State. Decisions set by law enforcement or officials in accordance with the wishes and needs of the person giving the bribe. This practice is clearly an act of illegally replacing the laws of Allah and the State.

Bribers can be positioned as corrupt and destructive people on earth and cause damage to the rights of people who cannot afford to pay bribes. This phenomenon will obviously cause gaps and chaos in the patterns of interaction between humans.

4. Conclusion

Islam encourages its people to give and receive gifts to each other, both between fellow Muslims and non-Muslims. This is based on the Hadith which states that giving gifts to each other will produce the nature of mutual love. In this case, Islam divides the law of gifts into three, namely:

First, the gift that is allowed is even encouraged to give and receive it, which is a gift giving with the aim of expecting the pleasure of Allah swt. to strengthen the bond of friendship and affection of fellow Muslims or to establish *ukhuwah Islamiyah* without any intention aimed at obtaining worldly benefits.

Second, gifts that are forbidden for those who receive them and not haram (given relief) for those who give them. That is, the giving of gifts is done by force because something that is his right is not given or deliberately made difficult by the employee concerned with the aim that the owner of the right to give a gift as a reward other than what he receives from the State. For example, a gift given by a person to an employee or official to take back his rights or to prevent injustice against him. This is after investigating first that giving gifts is the main requirement to avoid injustice to him.

Third, gifts that are forbidden for the giver or receiver, namely gifts that are given with the aim of realizing or allowing something that is void, then the law of this gift is haram and should not be accepted. Gifts that are prohibited for the giver and receiver are gifts that are intended for rulers, officials and employees for a task that is basically obligatory for them to do with the aim that they give something that is not the right of the recipient as well as get certain benefits for them. Likewise, giving gifts to them with the aim of getting sympathy from them so that in the future the gift will be a cause that facilitates affairs in the present and in the future. So gifts with this form fall into the category of bribery.

Meanwhile, the Law. No. 20 of 2001 concerning the Crime of Corruption does not justify the giving and receiving of gifts to employees/officials, because it can damage the rights of others and create selective cuts between the rights of one person and another. If the employee/official has already received a gift from someone related to his position, then he must report it to the Corruption Eradication Commission a maximum of 30 days from the first day the gift is received in order to prevent criminal acts that will ensnare him.

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