

23rd
March
2019



Certificate of Attendance

No: S.001/001/SEMITER/2019

This Certificate is given to

Sahmiar Pulungan

as

Presenter

By Topic

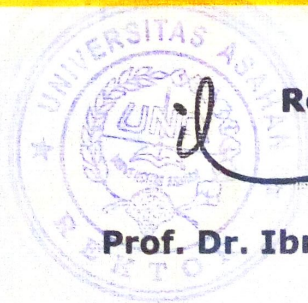
Bribery in Islamic Perspective and Implementation in Life (The study of Surah Al-Baqarah verse 188 and Al-Maidah 62)

In The Event Of Multi-Diciplinary International Conference of Asahan University

at Sabty Garden Hotel Kisaran, Indonesia

Theme:

The Role of Science in Development in The Era of Industrial Revolution 4.0 based on Local Wisdom



Rector,

Prof. Dr. Ibnu Hajar, M.Si.



The 1st Multi-Disciplinary International conference University Of Asahan2019
Thema: *The Role of Science in Development in the Era of Industrial Revolution
4.0 based on Local Wisdom.* in Sabty Garden Hotel-Kisaran North Sumatra,
March 23rd, 2019

BRIBERY IN ISLAMIC PERSPECTIVE AND IMPLEMENTATION IN LIFE (THE STUDY OF SURAH AL-BAQARAH VERSE 188 AND AL-MAIDAH 62)

Sahmiar Pulungan

Syari'a and Law, UIN North Sumatera, Indonesia

Email: sahmiaarpulungan@gmail.com

Abstract

The purpose of this study is to explain or describe the "Bribery in the Islamic perspective" and the categories of bribery. To obtain the representative data, this research used literature research method (library reseach) by searching, collecting, reading, and analyzing books that had relevance to research problem. The type of research in writing this paper was qualitative. The results of bribery research in the perspective of Islam and its implementation in the life was found in Surat al-Baqarah verses 188 and al-Maidah 62. The significance of this study is expected to be developed and practiced both theoretically/ practically is giving hasanah thoughts or insights of Islamic science in general and bribes according to Islam in particular especially about bribes according to Islam in the study of Surah Al-Baqarah Verses 188 and Al-Maidah 62.

Keywords: *Bribe, Islamic Perspective, Implementation*



A. Introduction

Human use many ways to survive in this world. It has become a sunnatullah that humans in life is demanded various needs to survive, whether it is in the form of eating, clothing, or shelter. To obtain such a requirement, religion has forbidden to obtain unequal, wealth is vanity, and vanity is something wrong, and it's not justified in Islamic law.

One of the forbidden often done in society is bribery. In this verse it is likened to the act of lowering the bucket into the well to obtain water. The drops are not visible to others, especially those that are not near the well. The bribery reduces its desire to the authorities to decide something, but secretly and with the intention of taking something illegitimately. Do not you eat your treasure among you with vanity and stretch out your judgment to the judge, who has the authority to decide, for the purpose of eating a portion of the property of the people other that by sinning, when you have known the bad deeds.

B. Method

In this study, the researcher used qualitative research method. The researc used descriptive research. It means that descriptive research is used to explore the phenomena by conducting interview, observation, library studies.

C. Research Finding

The research found that after conducting a study of the verses, hadiths and the opinions of scholars regarding bribery, the law of bribery is banned and even prohibited. It is applied to the people who accepts bribes and gives bribes and mediators between the givers and receivers. This is motivated by the fact that bribery can cause damage and tyranny in society. As a result of this bribery, the playing of the legal player emerged, the fact that the truth turned out to be wrong and that the wrong one became true. So that people cannot obtain their rights properly.



D. Discussion

This research shows the position Risywah for rulers as found in Quran:

1. Risywah

In common definition risywah is known as bribery and a person who gives bribery is called by *rasyi*, and a person who accepts as called by *murtasyi*; and a person who connects between *rasyi* and *murtasyi* is *raisy*. *Risywah* has meaning as everything that is given by someone to someone else who has power in a certain position to cancel or obtain a right from an incorrect way. From this understanding it can be understood that a form of money or property is given to a person in order to achieve something desired. It may also be mentioned that a bribery is something given by a person to a judge or other official in any way. Something given is sometimes a treasure or something beneficial to the recipient so that the bribery's desire can be realized, either by rights or vanity.

2. Law of Risywah

Islam is very concerned about the safety of one's property and anticipate it in order not to change hands unlawfully, as the bribery case is bribed. The changing of such property is not justified because the bribery gives up his property in the hope that the recipients of bribes, officials or judges can obey the bribery's will. Islam explicitly forbids its people to take the way of bribery, both to the *rasyi*, *murtasyi*; and a *raisy*. The thing behind it is that bribery can spread damage and injustice in society. Because, from a bribery came the game of reversal of the law. The right to be wrong and the wrong is free so that one can not get his rights properly.

As the source on which the basis is prohibited to bribe and accept bribes are the Qur'an, al-Hadis and Ijma'.

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبُطْلِ وَتُدْخُلُوا بِهَا إِلَى الْحُكَّامِ لِنَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ

بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ ﴿٥١﴾



And do not consume one another's wealth unjustly or send it [in bribery] to the rulers in order that [they might aid] you [to] consume a portion of the wealth of the people in sin, while you know [it is unlawful] (al-Baqarah verse188)

This verse describes that people should not try to seek illegitimate benefits by bribing magistrates. Another meaning is that when a person is aware that the property, he claims rightfully belongs to someone else, he should not file a judicial petition either because the other party lacks the evidence to support their case or because by trickery and cunning the petitioner can usurp that property. A bribery is one of them, because bribery can lead to the tricking of a law. The above prohibition means haram, then the bribe is forbidden. Eating the treasure is to get treasure from others by not mutual pleasure. One of them felt compelled.

According to Quraish Syihab, the word vanity means everything that goes against the provisions of religious values. The Qur'an, in line with its attitude towards things that are not pure worship. Basically they do not give details (tafsil). This is to provide opportunities to humans or the public at large. Its ever changing nature, to adapt to the changes of society as long as it is in line with Islamic values.

The above verse also indicates that judges or rulers' rulings within a broad range of meanings do not negate the unlawful and may not otherwise justify the vanity, but a judge only decides on the basis of accurate and accountable evidence. In another verse there is a prohibition on the acquisition of property in vanity (bribery) ways, in the Qur'an surah an-Nisa verse 29.

يٰۤاَيُّهَا الَّذِيْنَ ءَامَنُوْا لَا تَأْكُلُوْا اَمْوَالِكُمْ بَيْنَكُمْ بِالْبَاطِلِ اِلَّا اَنْ تَكُوْنَتْ تِجَارَةً عَنْ تَرَاضٍ
مِّنْكُمْ وَلَا تَقْتُلُوْا اَنْفُسَكُمْ اِنَّ اِلٰهَكُمْ كَانَ بِكُمْ رَحِيْمًا ﴿٢٩﴾

O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful (an-Nisa verse 29).

The above verse indicates that surrendering property to a person by means of a false body includes prohibited deeds, in this case means giving an opportunity to people to eat food in a vanity, and to eat in a



vanity means to waste property, while wasting the treasure is unlawful. Thus, accepting bribery is haram.

As well as in dosage engineering, scales, quality and cheats. This is spoken by Allah in Surat al-Muthaffifin verse 83: 1-6.

وَيْلٌ لِّلْمُطَفِّفِينَ ﴿٨٣﴾ الَّذِينَ إِذَا أَكْتَالُوا عَلَى النَّاسِ يَسْتَوْفُونَ ﴿٨٤﴾ وَإِذَا كَالُوهُمْ أَوْ وَزَنُوهُمْ
نَخَسِبُونَ ﴿٨٥﴾ أَلَا يَظُنُّ أُولَئِكَ أَنَّهُمْ مَبْعُوثُونَ ﴿٨٦﴾ لِيَوْمٍ عَظِيمٍ ﴿٨٧﴾ يَوْمَ يَقُومُ النَّاسُ لِرَبِّ
الْعَالَمِينَ ﴿٨٨﴾

Woe to those who give less [than due], Who, when they take a measure from people, take in full. But if they give by measure or by weight to them, they cause loss. Do they not think that they will be resurrected. For a tremendous Day- The Day when mankind will stand before the Lord of the worlds (Al-Muthaffifin verse 1-6).

3. Something made risywah.

Anything that a person gives to a particular person to obtain a thing in a way that vanity is sometimes in the form of material, such as money, goods and sometimes non-material, such as promises, benefits and so forth, such as:

1. A litigant shall hand over some money to a competent judge/ official deciding his case in order to be freed and the angle of prosecution or sentence.
2. A person apply for an employee to an agency he promises not to receive his salary for several months, if the head of the agency is willing to lift it and so forth.

4. Various kinds of fees that have to do with the duties of a judge, including:

- a. Gift is something given to someone voluntarily not in return for a work or service.

Gift which given to a judge can be divided as follows:



- 1) The prize comes from a person who is used to give a gift before someone takes office as a judge, then continue the gift is not forbidden.
- 2) If the gift comes from a person who never gives a gift other than after a person takes office, then it can be distinguished whether the person gives the prize is a litigant or not. Thus the gift comes from a litigant. which is not forbidden, only the act of giving the gift is worshiped.

b. Ujrah (wages) is money in the service of a worker

If a judge has been appointed as a civil servant and paid by the state, then according to ijmak and all scholars he is expected to receive the wages / fees given by the person who recives it.

c. Rizqu (salary). Salaries that have been regulated by the civil service salary regulations or other legitimate rules applicable to judges are not prohibited for receipt, whether it is paid weekly, monthly or at certain times.

5. Risywah in Legislation

Most countries have laws that prohibit (bribery) by imposing legal sanctions. Both against the rasyi, murtasyi or raisy. The sanctions are of course different from country to country. In the Criminal Code of Islam, the bribe is not included in the hudud's finger, which is a serious criminal offense and the form of law has been determined by God and is not included in Jarimah qishash and diyat, that is a criminal offense whose law is qishash or substitute qishash as specified in Al-quran or hadith, but included in the ta'zir finger, which is a criminal act whose law is submitted to the wisdom of the Judge completely.

6. Implementation In Life

Humans as God's creations have been given a significant role and function as God's khalifah in the earth. At the same time such a position has a logical ground and gives a high regard for its humanitarian status. It is logical if they are burdened with the trust identified as Allah's trust. Allah will Humilitietes in the world and afterlife when breaking a trust is



provided place of hell. The implementation of the mandate is also part of the legal provisions that deserve to be obeyed and should be implemented. In view of the laws in Indonesia contained in the Criminal Procedure Code 209,210, 387, 388, 415, 416, 417, 418, 419, 420, 423, 425 and 435 on criminal penalties for offenders who misuse their positions and powers.

One of the most crucial discussions on this topic is remembering the word of God written in the Qur'an:

وَلَوْ أَنَّ أَهْلَ الْقُرَىٰ ءَامَنُوا وَاتَّقَوْا لَفَتَحْنَا عَلَيْهِم بَرَكَاتٍ مِّنَ السَّمَاءِ وَالْأَرْضِ وَلَٰكِن كَذَّبُوا
فَأَخَذْنَا مِنْهُم مِّمَّا كَانُوا يَكْسِبُونَ ﴿٩٦﴾ أَفَأَمِنَ أَهْلُ الْقُرَىٰ أَن يَأْتِيَهُم بَأْسُنَا بَيِّنًا وَهُمْ لَا يُؤْمِنُونَ

"And if only the people of the cities had believed and feared Allah, We would have opened upon them blessings from the heaven and the earth; but they denied [the messengers], so We seized them for what they were earning." (Q.S al-A'raf verse 96)

According to Wahbah Zuhaili the above verse suggests that the people of a faithful and devout country, Allah Almighty will open sustenance from heaven and earth and Allah swt gives you easy access, confidence to Allah swt, and accompanied by the ability, diligence, hard work of Allah swt. Provide abundant provision and get the peace of the hereafter. The chance of obtaining blessings in their own country will give them the greatest opportunity to experience the good life from the material and spiritual as well. Conversely, if a country's inhabitants are not faithful and devout as the current realities for employment or other things that human beings have to pay or in terms of religious bribery, this could be one of the factors causing the state not to get the country coveted by all people are the countries that have the blessing, peace and prosperity in the life of society and state.

E. Conclusion

1. The act which contains Riswah element is a reflection of injustice. a leader does his duty in carrying out the command of Allah in the form of a mandate to the master.



2. Something made risywah unlimited to material such as money, goods, etc., but it can also be non material such as promises and benefits and so on.
3. Giving, receiving and intermediaries risywah (bribery) law is forbidden.
4. A leader should perform his function of duty as an opportunity for worship facilities, and provide welfare to the community in all. shape and circumstances required.

Bibliography

A-Qur'an dan terjemahannya, Depag RI.

Al-Shan'ani. (2004). *Subulus Salam*, Maktabah Dahlan, Bandung: Juz IV

Abdullah bin ABD Muhsin. (2001). *Suap Dalam Padangan Islam* (Terjemahan), Jakarta: Gema Insani Press

Abdullah Yusuf Ali. (1993). *Qur'an Terjemahan Dan Tafsirnya*, Jakarta: Pustaka firdaus.

Fathur Rahman. (1996). *Hadis-hadis tentang Peradilan Agama*. (Jakarta: Bulan Bintang.

Ibn Kasir. (1994). *Tafsir Al- Qur'an al- 'azim*, Dar al-Turas al-' Arabi, juz I, Jamaluddin Muhammad bin Mukrim, *Lisanul Arab*, Dar al-Shadir, Cet. Xe-III, Jilid II.

Kamus Pusat Pembinaan dan Pengembangan Bahasa. (1994). *Kamus Bahasa Indonesia*. Balai Pustaka:Jakarta cet. Ke VII

Quraish Syihab. (2002) *Tafsir Al-Misbah, Pesan, Kesan dan Keserasihan al-Qur'an*, Jakarta: Lentera Hati.