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## Criminal Acts of Gratification of State Civil Apparatus According to Positive Law and Islamic Law in Jambi Province

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**Abstract:** Basically, gratification is not a negative thing and something wrong, but the basis for the formation of regulations on gratification is a form of awareness that gratification can have a negative impact and can be misused. This study uses a descriptive qualitative sociological legal research method with a purposive sampling technique. Furthermore, data collection techniques use Observation, interviews, Questionnaires, documentation studies and data analysis. The results of this study found that first, the act of gratification legally violates Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption. While in Islamic Law, gratification is forbidden. Second, the procedure for resolving cases of criminal acts of gratification, namely: investigation, prosecution, trial, and execution of punishment. Third, the factors causing gratification: 1) the mindset of society. 2) lack of moral commitment of the State Civil Apparatus. 3) Economy. 4) Weak supervision of leaders. 5) Weak law enforcement. 6) Low punishment. Fourth, the efforts made are 1) Instilling a culture of not giving in society. 2) Increasing the understanding of State Civil Apparatus not to accept gratification. 3) Improving the quality of law enforcement. 4) Severe punishment for perpetrators of gratification. The results of this study are recommended to: first, the Jambi Provincial Government provides support for State Civil Apparatus to reject gratification. Second, the Education Office provides sanctions in the form of dishonorable dismissal to State Civil Apparatus who commit gratification. Third, Law Enforcement Officers thoroughly investigate State Civil Apparatus who commit gratification and give severe punishment. Fourth, the community does not give gratification in any form.

**Keywords:** Criminal Acts, Gratification, State Civil Apparatus, Positive Law, Islamic Law

### INTRODUCTION

In Indonesia, corruption has become such a big problem, it can even be said to have become a political tradition in this country. In the 50s, the problem of corruption was never free from discussion, debate, and efforts to continue to improve legislation, even a sense of frustration arose to make it more burdensome. Law enforcers seemed to run out of ideas on where to start a criminalization. The more they pursued it, the further it was, the more they

explored it and observed it, the more real it became. Like tracing a long rope and at the end it was linked to political elites, businessmen and law enforcers. The anti-corruption law began to be implemented, but efforts to eradicate it were not easy and always encountered many obstacles. Even so, the Corruption Eradication Commission (KPK) in recent years has been increasingly active in monitoring and arresting officials who commit acts of corruption, the results can be said to be significant because many state officials have been punished for corruption cases. Corruption has infected the bureaucracy from top to bottom. It has become an epidemic in all sectors of life, from the palace to the sub-district level and even the RT. One of the forms of corruption that is most often revealed today is corruption in the form of gratification. Gratification is a gift, reward or reward from a person who has received services or benefits or from a person who has or is dealing with a public or government institution, for example to obtain a contract.

Corruption is one of the words that is quite popular in society and has become a daily topic of conversation. However, it turns out that many people still do not know what corruption is. In general, people understand corruption as something that only harms state finances. In fact, in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the eradication of criminal acts of corruption, there are 30 types of criminal acts of corruption that can basically be grouped into seven, namely state financial losses, bribery, embezzlement in office, extortion, fraudulent acts, conflicts of interest in procurement and gratification. Of the various types of corruption gratification regulated in the law, gratification is something that is relatively new in the enforcement of corruption law in Indonesia.

Corruption cases that occurred in Indonesia from 2018-2023 from various sectors can clearly be seen in table 1 below.

**Table 1. Number of Corruption Cases in Indonesia  
2018-2023**

No	Years	Number of Cases	Description
1.	2018	200	Various sectors
2.	2019	145	Various sectors
3.	2020	91	Various sectors
4.	2021	108	Various sectors
5.	2022	120	Various sectors
6.	2023	161	Various sectors
Number of Cases		825	

Data Source: KPK Statistics 2023

From table 1 above, the most corruption cases occurred in Indonesia in 2018 with a total of 200 corruption cases. Furthermore, in 2019 to 2023 there was a decrease in corruption cases. Corruption cases that occurred were in the form of procurement of goods/services/KN, licensing, gratification/bribery, levies/extortion, misuse of budget, and TPPU. Based on the sectors where corruption occurred in Indonesia, they were law enforcement and bureaucracy, education, food, forestry and fisheries, health and social, national defense and security, state revenues (taxes, customs), infrastructure, natural resources and energy, State Finance (APBN/D, Banking), others.

In 2001, Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption was amended with Law Number 20 of 2001. In this new law, elements in the articles of the Criminal Code (KUHP) were further elaborated, which were initially only mentioned in Law Number 31 of 1999. In this amendment, for the first time, the term gratification was used in Indonesian legislation, which is regulated in Article 12B.

Gratuities to civil servants have been explained in the explanation of Article 12B of Law No. 20 of 2001 which states "what is meant by gratification in this paragraph is a gift in the broad sense, namely including the provision of money, goods, discounts, commissions,

interest-free loans, travel tickets, accommodation facilities, tours, free medical treatment, and other facilities. The gratification is received both domestically and abroad and is carried out using electronic means or without electronic means. According to the Corruption Eradication Commission (KPK), it received 4,365 reports of gratification from January 1 to December 22, 2022. The types of gratification most often reported were flower arrangements, food, or drinks, with a total of 658 reports. Then gratification in the form of money, vouchers, precious metals, and other exchange tools reached 409 reports; souvenirs, plaques, goods with agency logos 105 reports; and travel tickets, meals, accommodation facilities, and other facilities 34 reports. There were also gratification in the form of other goods with a total of 387 reports. According to KPK records, the agencies that reported the most gratification were the Ministry of Finance (836 reports), Bank BNI (285 reports), the Financial Services Authority (215 reports), the Food and Drug Supervisory Agency (135 reports), and the Social Security Administration for Employment (122 reports). Furthermore, gratification cases from 2018-2023, for more details, see table 2 below:

**Table 2. Number of Corruption Cases in Indonesia 2018-2024**

No	Years	Number of Cases	Description
1.	2018	169	
2.	2019	119	
3.	2020	55	
4.	2021	65	
5.	2022	100	
6.	2023	85	
Number of Cases		593	

Data Source: KPK Statistics 2023

From table 1 above, the most cases of gratification occurred in Indonesia in 2018 with the number of gratification cases as many as 169 cases. Furthermore, in 2019 to 2023 there was a decrease in gratification cases. Furthermore, the gratification cases of Jambi Province 2018-2024 can be seen in table 3 below:

**Table 3. Number of Gratification Cases in Jambi Province 2018-2023**

No	Years	Number of Cases	Description
1.	2018	8	
2.	2019	2	
3.	2020	2	
4.	2021	2	
5.	2022	2	
6.	2023	1	
Number of Cases		17	

Data Source: KPK Statistics 2023

From table 2 above, the most cases of gratification occurred in Jambi Province in 2018 with 8 cases of gratification. Furthermore, in 2019 to 2023 there was a decrease in gratification cases. This is because the KPK always conducts socialization about the legal consequences for people who provide gratification in accordance with Article 12 of Law Number 20 of 2001 which states that recipients of gratification can be punished with life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least IDR 200,000,000.00 (two hundred million rupiah) and a maximum of IDR 1,000,000,000.00 (one billion rupiah).

Gratification is an important element in the system and mechanism of gift exchange, so that this condition raises many questions for state administrators and the public, such as what is meant by gratification, and whether gratification is the same as giving gifts that are commonly done by the public or every gratification received by state administrators and state employees is an act that is contrary to the law, then what form of gratification is prohibited or permitted. All of these are questions that are often encountered in every issue of gratification

In the Qur'an, Allah SWT forbids misappropriation of joint assets or corruption. This is illustrated in the letter al-Baqarah verse 188:

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

Meaning: "And do not let some of you consume the property of others among you in a false way and (do not) bring (the affairs of) that property to the judge, so that you can consume part of the property of others by (doing) sin, even though you know."

In the content and meaning of this verse, Allah SWT forbids that someone who misappropriates wealth or corruption for many people or property that is used for the common benefit of himself or others and who does so will suffer painful punishment. The Prophet Muhammad saw prohibited risywah behavior in the following hadith: "From Abu Hurairah who said: Rasulullah saw said: Allah's curse will befall those who bribe and those who accept bribes according to the law. (HR Ahmad, Abu Daud, and Tirmidhi)."

In Islam, gratification can be called (risywah) or bribery, which is a heinous act and the perpetrators have been cursed by Allah and His Messenger and will receive a place in Hell in the future.<sup>17</sup> Nurul Irfan said, there are at least six terms as part of the criminal act of corruption; *gulūl* (embezzlement), *risywah* (bribery), *gaṣab* (forcibly taking someone else's rights/property), *khiānat*, *sariqah* (theft) and *ḥirābah* (robbery).

## METHOD

This study uses a descriptive qualitative approach to sociological legal research with a purposive sampling technique. Furthermore, data collection techniques use observation, interviews, questionnaires, documentation studies and data analysis. This research approach is a qualitative descriptive study, where researchers focus more on collecting data sources by conducting field studies, conducting interviews, and collecting documents related to this study. With data collection as above, this study uses a descriptive research approach. Where descriptive research is a study that describes events that occur in a particular area or a particular population in the form of subjects such as institutions, groups, and communities. In descriptive research, hypotheses are not made so that there is no initial research formulation that can obtain initial findings. Furthermore, the study uses a qualitative approach, where the study analyzes the data obtained in the form of the results of instruments given to the community, and documentation obtained by researchers in the field.

## RESULTS AND DISCUSSION

### Definition of Gratification

Gratification in its formulation as one of the corruption crimes is part of the Government's efforts to eradicate corruption by updating the underlying laws and regulations. The Government in its speech on the approval of the Bill on amendments to Law Number 31 of 1999 concerning the Eradication of Corruption in the DPR-RI Open Plenary Meeting on October 23, 2001 emphasized this. Therefore, this criminal act of gratification was only recognized and began to be implemented after the approval of the Bill. Gratification is an act that is prohibited by the state and religion. In the State itself, the law has emphasized it in number 31 of 1999 in conjunction with Law number 20 of 2001 concerning the eradication of corruption in article 5 where gratification is a prohibited gift in the form of tangible or intangible objects, in the form of facilities, tickets, and hotels or aspects related to the granting of rights including intellectual property rights (IPR).

There is always a special tendency for individuals or groups to carry out gratification. Because gratification does not just happen without a clear reason. However, in general and apart from the bad connotation of gratification itself, gratification occurs for several reasons, namely: a). Gratitude Gratification based on gratitude tends to be an output, either in the form

of helping or giving an item to someone or a group. However, it should be underlined that this is done because of gratitude and regardless of things that could lead to the law, and focuses on the meaning of gratification and gratitude, b). The Desire to Give This can be many things if based on the word gratification purely linguistically, namely because of a situation or without any basis, someone gives something to another group or individual. Again, regardless of the bad connotation of gratification, c). The Desire to Get Something Here, many result in gratification getting a bad connotation. Namely, by giving, he will get an advantage or other benefit, either more or equal to what he gave. This has a bad impact on the environment or society.

**Table 4. Difference between Legal Gratification and Illegal Gratification**

No	Characteristics	Legal Gratification	Illegal Gratification
1.	Purpose/Motive of Giving	Done to maintain good relations, respect one's dignity, fulfill religious demands, and develop various forms of symbolic behavior (given for reasons justified by society)	Intended to influence decisions and given because of what the recipient controls/masters (authority inherent in his/her position/other resources)
2.	Relationship between giver and recipient	Equal	unequal
3.	Strategic relationship	generally none	definitely exists
4.	Emergence of Conflict of Interest	generally none	definitely exists
5.	Giving Situation	Social events are rooted in customs and collective events	Not a collective event although it is possible for gifts to be given at social events
6.	Reciprocity (mutual nature)	Ambiguous in perspective, can be reciprocal and sometimes not reciprocal	Reciprocal in nature
7.	Time Gap	Allows a long time gap when giving back (reciprocating giving)	Long time gaps are not possible
8.	Nature of Relationship	Social alliances to seek social recognition	Patronage and often nepotism and similar ties are important to achieve goals
9.	Bonds formed	Long-term and emotional in nature	Short-term and transactional in nature
10.	Tendency for circulation of goods/products	Circulation of goods/products occurs	No circulation of goods/products
11.	Value or price of giving	Emphasizes intrinsic social value	Emphasis on monetary value
12.	Giving Method	Generally direct and open	Generally indirect (through agents/intermediaries), and secretive
13.	Mechanism for determining value/price	Based on fairness, social appropriateness (society)	Determined by the parties involved
14.	Social accountability	Accountable in the social sense	Not socially accountable

Data Source: Nindya, Guidelines for Handling Gratification, (Jakarta: PT. Nidya Karya, 2020), 10-11

## Basis for Gratification

### The basis for regulating gratification in Law Number 20 of 2001 is:

#### 1. Philosophical Basis

The general explanation in Law Number 20 of 2001 states that the purpose of inserting Article 12 B in Law Number 31 of 1999 is to eliminate the sense of injustice for perpetrators of corruption in cases where the value of the corruption is relatively small. Article 12 B of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption reads: "Any gratification to civil servants or state administrators is considered a bribe, if it is related to their position and is contrary to their obligations or duties." Legally, there is actually no problem with gratification. This action



is simply an act of someone giving a gift or grant to another person. Of course, this is allowed. However, along with the development of time, culture, and lifestyle, the giving that is often called gratification has begun to experience dualism of meaning.

## 2. Sociological Basis

Corruption practices nowadays are developing with the emergence of new practices that try to exploit loopholes or weaknesses in various existing laws and regulations. We often consider giving gifts as just an expression of gratitude or congratulations to an official.

Giving gifts as an act or action of someone who gives something (money or objects) to another person is of course permitted. However, if the gift is given in the hope of influencing the decision or policy of the official who is given the gift, then the gift is not just a congratulation or a sign of gratitude, but as an effort to gain benefits from the official or examiner that will affect their integrity, independence and objectivity, is an act that is not justified and this is included in the definition of gratification. Black's Law Dictionary defines Gratification as "a voluntarily given reward or recompense for a service or benefit" which can be interpreted as "a gift given for obtaining assistance or benefits".

## 3. Legal basis

The Republic of Indonesia at the time it was declared in a state of war based on Law Number 74 of 1957 in conjunction with Law Number 79 of 1957, in order to eradicate criminal acts of corruption, issued the Regulation of the Central Warlord/Chief of Staff of the Army dated April 16, 1958 No. prt/peperpu/013/1958 and its implementing regulations and the Regulation of the Central Warlord/Chief of Staff of the Navy dated April 17, 1958 No. prt/Z/I/7. Because the regulation of the central warlord is only valid temporarily, the government of the Republic of Indonesia considers that the regulation of the central warlord in question needs to be replaced with legislation in the form of a law. Given the urgent situation and the need to immediately regulate criminal acts of corruption, then on the basis of Article 96 Paragraph (1) of the 1950 UUDS, the replacement of the regulation of the central warlord is stipulated with legislation in the form of a government regulation in lieu of law, namely with Perpu No. 24 of 1960 concerning Investigation, Prosecution, and Examination of Corruption Crimes, which was then based on Law Number 1 of 1960 concerning Investigation, Prosecution, and Examination of Corruption Crimes.

## Forms of Criminal Acts of Gratification

Gratification according to the explanation of Article 12B of Law Number 20 of 2001 concerning the Eradication of Corruption has the meaning of giving in a broader sense, namely including giving money, goods, discounts, commissions, interest-free loans, travel tickets, accommodation facilities, tours, free medical treatment, and other facilities. The giving has forms that can be classified as gratification, as referred to in Article 12B, including: 1) Giving gifts or money as an expression of gratitude for having been helped. 2) Gifts or donations from partners received by officials at the time of their child's wedding; 3) Giving travel tickets to officials/civil servants or their families for personal needs free of charge. 4) Giving special discounts for officials/civil servants for the purchase of goods or services from partners; 5) Giving costs or expenses for the Hajj from partners to civil servants; 6) Giving birthday gifts or at other personal events from partners. 7) Giving gifts or souvenirs to officials/civil servants during working visits. 8) Giving gifts or parcels to officials/civil servants during religious holidays, by their partners or subordinates.

Gratification in the form of giving is not only limited to those mentioned above, in this increasingly advanced and modern era, the forms of giving gratification have also progressed, but in bad things. The giving of gratification that is currently rampant is in the form of objects of satisfaction but in the form of women, some of the cases include the bribery case of the arrangement of beef import quotas at the Ministry of Agriculture through the KPK's OTT

operation, Ahmad Fatanah was arrested in a room at the Le Meridien Hotel Jakarta named with a young woman, Maharani Suciono, and there is also a bribery case by Judge Setiabudi which is suspected of also containing elements of sexual gratification or giving in the form of sexual services.

### **Criteria for Criminal Acts of Gratification**

The criteria for prohibited gratification are as follows: 1). The gratification received is related to the position. 2). The acceptance is prohibited by applicable regulations, is contrary to the code of ethics, has a conflict of interest or is improper/unreasonable acceptance. With the criteria for prohibited gratification as mentioned above, it can be interpreted that there are some gratifications that should not be accepted, but there are also gratifications that may be accepted. The gratifications that may not be accepted by civil servants or state administrators are as follows: a). related to the provision of services to the community outside of legitimate acceptance; b). related to tasks in the budget preparation process outside of legitimate acceptance; c). related to tasks in the process of examination, audit, monitoring and evaluation outside of legitimate acceptance; d). related to the implementation of official travel outside of legitimate/official acceptance from the agency; e). in the process of employee acceptance/promotion/transfer; f). in the process of communication, negotiation and implementation of activities with other parties related to the implementation of their duties and authorities; g). as a result of a cooperation agreement/contract/agreement with another party; h). as an expression of gratitude before, during or after the procurement process of goods and services i). is a gift or souvenir for employees/supervisors/guests during an official visit; j). is an entertainment facility, tourist facility, voucher by officials/employees in activities related to the implementation of their duties and obligations with the giver of gratification that is not relevant to the assignment received; k). in order to influence the policies/decisions/treatment of the authority holder; l). in the implementation of work related to the position and contrary to the obligations/duties of officials/employees; m). and so on.

Meanwhile, gratification that may be received by civil servants or state administrators on the condition that the gratification is reported to the KPK. Determination of the status of gratification reported by the recipient of gratification to the KPK is expressly regulated in Article 17 of the KPK Law as follows: 1). The Corruption Eradication Commission (KPK) within a maximum of 30 (thirty) working days, calculated from the date the report is received, is required to determine the ownership status of the gratification accompanied by considerations. 2). In determining the ownership status of the gratification as referred to in paragraph (1), the KPK may summon the recipient of the gratification to provide information relating to the receipt of the gratification. 3). The ownership status of the gratification as referred to in paragraph (1) is determined by a decision of the KPK leadership. 4). The decision of the KPK leadership as referred to in paragraph (3) may constitute a determination of the ownership status of the gratification for the recipient of the gratification or become the property of the state. 5). The KPK is required to submit the decision on the ownership status of the gratification as referred to in paragraph (4) to the recipient of the gratification no later than 7 (seven) working days from the date of determination. 6). The submission of the gratification to become the property of the state to the Minister of Finance, is carried out no later than 7 (seven) working days from the date of determination.

### **Sanctions for Criminal Acts of Gratification**

#### **1) Based on Positive Law**

Criminal Penalties for Gratification Gratification to civil servants or state administrators is considered a bribe, if it is related to their position and is contrary to their obligations or duties. Article 12C paragraph 1 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption

states that the provisions referred to in Article 12B paragraph 1 do not apply if the recipient reports the gratification he received to the Corruption Eradication Committee.<sup>63</sup> The legal provisions in Article 12B paragraph 2 of Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption state that: (2) The criminal penalty for civil servants or state administrators as referred to in paragraph (1) is life imprisonment or a minimum imprisonment of 4 (four) years and a maximum of 20 (twenty) years, and a fine of at least IDR 200,000,000.00 (two hundred million rupiah) and a maximum of IDR 1,000,000,000.00 (one billion rupiah).

## 2) Based on Islamic Law

Gratification in the application of legal sanctions for its perpetrators in Islam is not much different from the legal sanctions for perpetrators of *ghulul* or embezzlement, namely *takzir* because both are not included in the realm of *qisas* and *hudud*.<sup>66</sup> The parties involved in the crime of *risywah* are declared cursed or damned, this makes *risywah* categorized as a major sin. However, because there are no strict provisions regarding the type and procedure for imposing sanctions, that is why *risywah* is included in the group of criminal acts of *takzir*.<sup>67</sup> *Takzir* will be briefly discussed in its meaning. *Takzir* is a legal sanction imposed on a perpetrator of a crime or criminal act who commits violations, both related to the rights of Allah and human rights and the violations in question are not included in the category of *hudud* and expiation, but that does not mean that *takzir* cannot be harsher than *hudud*, it is even very possible among the many types and forms of *takzir* in the form of the death penalty. Therefore, *takzir* punishment is not directly determined by the Qur'an and hadith, so this type of punishment is the competence of the judge or local ruler.

## Concept of State Civil Apparatus

After the enactment of Law Number 5 of 2014, the term Civil Servant was replaced with State Civil Apparatus or abbreviated as ASN. Based on Article 1 paragraph (1) and Article 1 paragraph (3) of Law Number 5 of 2014 concerning State Civil Apparatus, it is explained that the differences in understanding between ASN and PNS include the following; Article 1 paragraph 1. State Civil Apparatus (ASN) is a profession for Civil Servants and government employees with work agreements who work in government agencies.<sup>70</sup> State Civil Apparatus is a form of profession that is the organizer of state tasks that exist in all aspects of government. The implementation of state administration activities is carried out by the State Civil Apparatus as a human resource driving the bureaucracy. The management of state civil apparatus is very important to do, one of which is to realize bureaucratic reform. As a state civil apparatus, it is his obligation to continue to hone his skills, manage his abilities, and develop his potential to be able to compete in the organization and be able to be accountable for his performance. ASN is a profession for civil servants and government employees with work agreements (PPPK) who work in government agencies.

## Criminal Act of Gratification

The term Criminal Act or *strafbaarfeit* or criminal act is an act that is prohibited by a rule of law, the prohibition of which is accompanied by a threat (sanction) in the form of a certain penalty, whoever violates the prohibition.<sup>83</sup> There are several figures who have different opinions about the term "*strafbaarfeit*" or criminal act, including: A criminal act is an unlawful act that has been carried out intentionally or unintentionally by someone who can be held responsible for his actions and which by law has been declared as an act that can be punished.<sup>84</sup> A criminal act is a violation of the norm (disruption of the legal order) which has been intentionally or unintentionally carried out by a perpetrator, where the imposition of punishment on the perpetrator is necessary for the sake of maintaining the legal order and ensuring the public interest.



Some of the terms and definitions above, in the author's opinion, are considered the most appropriate to use are "Criminal Acts and Criminal Acts", for the reason that apart from containing a precise and clear meaning, as a legal term it is also very practical to pronounce and is already known by the public in general.

According to Moeljatno, Criminal Acts are defined as acts prohibited by a legal rule, the prohibition of which is accompanied by a threat (sanction) in the form of a certain penalty, for anyone who violates the prohibition. According to Adam Chazawi, criminal acts are more appropriately used for the following reasons:

1. The prohibited act is the act (human act, namely an event or condition caused by the person's behavior), meaning that the prohibition is directed at the act. Meanwhile, the criminal threat is directed at the person.
2. Between the prohibition (which is directed at the act) and the criminal threat (which is directed at the person), there is a close relationship. Therefore, the act (which is a condition or event caused by the person, violating the prohibition) with the person who caused the act is also closely related.
3. To state the existence of this close relationship, it is more appropriate to use the term criminal act, an abstract understanding that refers to two concrete conditions, namely first, the existence of a certain event (act), and second, the existence of a person who does or causes the incident

Sudradjat Bassar concluded the definition of a criminal act defined by Moeljatno that an act will become a criminal act if the act: 1) Against the law, 2) Harms society 3) Prohibited by criminal regulations, 4) The perpetrator is threatened with punishment.

According to Roeslan Saleh, a criminal act is defined as an act that is contrary to the order or order desired by law.<sup>89</sup> He differentiates the term criminal act from strafbaarfeit. This is because a criminal act only refers to the nature of the act that is prohibited by laws and regulations. Soedarto uses the term criminal act as a substitute for strafbaarfeit, his reason is because criminal acts have been accepted by society.

There are groups of scholars who have monistic and dualistic views in relation to criminal acts. The monistic view argues that all elements of a criminal act, namely the element of the act, the element of fulfilling the provisions of the law, the element of unlawful nature, the element of error and the element of responsibility are used as a whole unit, so that it is possible to impose a penalty on the perpetrator. Those who have a dualistic view, separate the act from criminal responsibility in the sense that if the act has fulfilled the elements contained in the formulation of the law, then the act is a crime. Regarding the perpetrator, in terms of criminal responsibility, it must still be reviewed separately, whether the perpetrator has certain qualifications so that he can be sentenced to a criminal offense. For example, if the perpetrator has a mental disorder, he cannot be punished. The crime of gratification in the law is a formulation of all acts prohibited in Article 12 of Law Number 20 of 2001 concerning amendments to Law Number 31 of 1999 concerning the Eradication of Corruption, which states that it is punishable by life imprisonment or a short prison sentence of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp. 200,000,000,- (Two Hundred Million Rupiah) and a maximum of Rp. 1,000,000,000,- (One Billion 62 Rupiah), civil servants or state administrators who receive gifts, even though it is known or reasonably suspected that the gift was given as a result or caused by having done or not done something in their position that is contrary to their obligations.

### **Criminal Acts of Gratification According to Positive Law**

In positive law, the act of gratification in a broad sense, namely including the provision of money, goods, discounts, commissions, interest-free loans, travel tickets, accommodation facilities, tours, free medical treatment, and other facilities. The gratification is received both domestically and abroad and is carried out using electronic means or without

electronic means. The provisions of Article 12 b of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001, namely "any gratification to civil servants or state administrators is considered a bribe, if it is related to their position and is contrary to their obligations or duties." Article 12B paragraph 1 of Law Number 20 of 2001, explains about gratification, this article is an addition formulated in Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. What is meant by gratification according to the explanation of Article 12 B paragraph 1 is "gift in the broad sense", which includes giving money, goods, discounts, commissions, interest-free loans, travel tickets, accommodation facilities, tours, free medical treatment, and other facilities. The gratification is received both domestically and abroad and is carried out using electronic means or without electronic means.

Gratuity in the United States is known as gratification, or illegal gratuity. Gratuity actually means a neutral gift. A gift that is considered a bribe if it is related to a position and is contrary to the obligations or duties of the recipient. The crime of corruption "Gratification" is different from the crime of corruption "bribery" this needs to be emphasized considering that so far there has been confusion in thinking as if the crime of gratification is another form of bribery or equating the crime of gratification with bribery, here are a number of legal arguments that confirm that the crime of gratification is not a bribe, namely:

Gratification is a new type of crime. This was emphasized in the government's speech on the approval of the Bill on amendments to Law Number 31 of 1999 on the Eradication of Corruption in the DPR-RI Open Plenary Meeting on October 23, 2001.

- 1) Decision of the Corruption Court Number: 34/Pid.B/TPK/2011/PN.JKT.PST and Decision of the Supreme Court Number: with the defendant Dhana Widyatmika confirming that the sentence "gratification considered a bribe" means gratification with bribery or gratification is not a bribe.
- 2) Views of legal experts and legal practitioners, namely: Eddy Omar Syarif, revealed that: "
  - a) The difference between gratification and bribery lies in whether or not there is a meeting of minds at the time of acceptance. In the crime of bribery, there is a meeting of minds between the giver and the recipient of the bribe, while in the crime of gratification there is no meeting of minds between the giver and the recipient. Meeting of minds is another name for consensus or something that is transactional in nature."
  - b) Djoko Sarwoko, Former Chief Justice of Special Crimes and Chief Justice of the Supreme Court of the Republic of Indonesia, explained that: "Bribery and Gratification are different. In the case of a sting operation carried out by the KPK, when the suspect reports after being arrested by the KPK while the act indicating a meeting of mind has occurred previously, then it cannot be called gratification under Article 12C.

### **Criminal Acts of Gratification According to Islamic Law**

Gratification or violation of any form of gift-giving to someone related to their capacity as an official or state administrator is not something new. Islam in its own tradition has left us historical traces regarding this matter, especially at the beginning of the development of Islamic civilization. Acquisitions that are in principle permissible, such as donations, alms, gifts, and gifts, can change their legal status to become forbidden if the recipient is a government official or state administrator, this is enforced with consideration of concerns about the damage to the official's mentality and the fading of the objectivity of state administrators in carrying out duties or handling a case.

Gratification in Arabic is called risywah. Etymologically, the word risywah comes from the word rasya-yarsyu whose masdar form is risywah, rasywah, or rusywah which means al-ja'lu (wages, gifts, commissions, or bribes). Risywah in terminology is 1) something given in

order to realize welfare; or 2) something given in order to justify what is wrong or blame what is right.

Risywah in another sense, namely something given by someone to a judge or others so that the person obtains legal certainty or something desired, this last formulation is known as the term *isti'jal al-qadhiyah*, namely an effort to expedite the management of legal problems, including the management of other problems without going through the applicable procedures. Some scholars allow bribes to judges if it is intended to obtain their rights, this assumption is denied by al-Syaukani by calling it an extraordinary moral decay. Thus, even though risywah is intended for purposes that do not harm others or the public, it can still result in the destruction of values in the legal system.

Risywah in a case will at least involve three main elements, namely the giver (*al-rasyi*), the first party (*almurtasyi*), and the gift (*al-musryalah*). However, in certain cases of risywah it may not only involve the giver, the recipient, and the gift; but it can also involve a fourth party as an intermediary between the giver and the recipient, and it can even involve a fifth party, such as the party recording the agreement.

Manshur bin Yunus Idris Al-Bahuti has an opinion regarding risywah. According to him, if the first party gives something to the second party so that the first party is protected from the injustice of the second party and so that the second party is willing to carry out his obligations, this kind of gift is not considered as risywah which is prohibited by religion. In this definition, an assumption is put forward. If the second party commits injustice against the first party and the second party does not carry out the obligations that should be towards the first party, in this case the second party may be given a bribe. In relation to the assumption put forward by Al-Bahuti, Syamsul Haq Al-Azhim Abadi said that it is better if gifts in conditions like this are not given to judges and rulers because efforts to defend the right party and reject injustice are already their obligations. Therefore, judges and rulers may not take or accept this gift.

Al-Syaukani stated that among the evidence that shows the prohibition of risywah is the interpretation of Hasan Al-Bashri and Sa'id bin Jubair as narrated by Ibn Ruslan. According to both of them, the sentence *akkalun li al-suht* contained in the following verse is understood by both of them with risywah, Surah Al-Maidah (5) verse 42 reads:

سَمْعُونَ لِلْكَذِبِ أَكْثُونَ لِلسُّخْتِ فَإِنْ جَاءُوكَ فَاحْكُم بَيْنَهُمْ أَوْ أَعْرِضْ عَنْهُمْ وَإِنْ تُعْرِضْ عَنْهُمْ فَلَنْ يَضُرُّوكَ شَيْئًا وَإِنْ حَكَمْتَ  
فَاحْكُم بَيْنَهُم بِالْقِسْطِ إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ

Meaning: They really like hearing fake news, they eat a lot of haram (food). If they (the Jews) come to you (Muhammad to ask for a verdict), then judge between them or turn away from them, and if you turn away from them then they will not harm you in the slightest. But if you decide (their case), then decide fairly. Indeed, Allah loves those who are just. (Qs Al-Maidah (5): 42). Masruq bin Mas'ud argued that when asked about the meaning of *al-suht*, whether it means risywah, he did not answer yes, however, anyone who does not determine the law by the law revealed by Allah; he is an infidel, unjust and wicked. Ibn Mas'ud said, "The meaning of the word *al-suht* is that someone who asks for help in the context of injustice is given a gift; and the gift should not be accepted."

Islamic law in its philosophical terminology recognizes the principle of *sad al-dzari'ah*, this is done to prevent something bad. Fraud Prevention in Webster's Dictionary: Deceptive behavior or lies for the purpose of harming another party and in Black's Law dictionary: misrepresentation of the truth or concealment of material facts so that another person commits an act that is detrimental, occupational fraud and abuse is the use of one's position to enrich oneself through deliberate misuse or misuse of organizational resources or assets. Islamic law with its legacy regarding the problem of corruption which is quite a lot including gratification which is classified as bribery. However, it is ironic that this is not raised to the surface in the anti-corruption campaign in Indonesia, the stories of these role models should

be taken as lessons for law enforcement and the fight against corruption that is already acute in this country. Gratification in Islam or called *risywah* can be concluded based on the description above is something that is given in order to realize the benefit or something that is given in order to justify the wrong or blame the right.

### **Perpetrators of Criminal Acts of Gratification**

The object or perpetrator of the crime of gratification in positive criminal law and Islamic criminal law has the same aspect, namely state officials or state administrators.<sup>126</sup> What is meant by "state administrators" is stated in Article 5 paragraph 2 of the Corruption Crime Law, namely state administrators as referred to in Article 2 of Law Number 28 of 1999 concerning State Administrators who are clean and free from corruption, collusion, and nepotism, namely: 1). State Officials at the Highest State Institutions, 2). State Officials at High State Institutions, 3). Ministers, 4). Governors, 5). Judges, 6). Other state officials in accordance with the provisions of applicable laws and regulations; and, 7). Other officials who have strategic functions in relation to state administrators in accordance with the provisions of applicable laws and regulations. Where if a state official or state administrator accepts a gift in any form from someone related to his position, it is included in an unlawful act.

Regulations on gratification are needed to prevent criminal acts of corruption committed by state administrators or state employees. The following are the legal basis for criminal acts of gratification that are prohibited from being committed by state administrators, namely: Article 5 of Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption.

- a. Shall be punished with imprisonment of at least 1 (one) year and a maximum of 5 (five) years and/or a fine of at least Rp. 50,000,000.00 (fifty million rupiah) and a maximum of Rp. 250,000,000.00 (two hundred and fifty million rupiah) for anyone who: (a). gives or promises something to a civil servant or state administrator with the intention that the civil servant or state administrator does or does not do something in his/her position, which is contrary to his/her obligations or gives something to a civil servant or state administrator because of or in connection with something that is contrary to obligations, done or not done in his/her position.
- b. For civil servants or state administrators who receive gifts or promises as referred to in paragraph (1) letter a or letter b, shall be punished with the same punishment as referred to in paragraph (1).

Article 12B of Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption.

1. Any gratification to a civil servant or state administrator is considered a bribe, if it is related to his/her position and is contrary to his/her obligations or duties, with the following provisions: a). For a value of Rp. 10,000,000.00 (ten million rupiah) or more, proof that the gratification is not a bribe is carried out by the recipient of the gratification, b). For a value of less than Rp. 10,000,000.00 (ten million rupiah), proof that the gratification is a bribe is carried out by the public prosecutor.
2. The criminal penalty for civil servants or state administrators as referred to in paragraph (1) is life imprisonment or a minimum imprisonment of 4 (four) years or a maximum of 20 (twenty) years, and a fine of at least Rp. 200,000,000.00 (two hundred million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah).

### **Factors Inhibiting Law Enforcement Against Criminal Acts of Gratification**

Soerjono Soekanto's opinion is considered very appropriate to trace the factors that hinder the implementation of law enforcement against cases of gratification that are rampant.

Regarding the problem of the obstruction of law enforcement that occurs, according to Argiya there are 5 factors that apparently influence it, namely:

1) Legal Factors

Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption has substantially regulated the explanation, sanctions for recipients of gratification, but based on the opinions of experts and competent respondents, this Law has weaknesses that hinder the effectiveness of eradicating gratification. However, if we pay close attention, there are several weaknesses that are still visible in its substance, namely:

a) Implementation of article by article which appears to be selective logging.

In this case, law enforcement against gratification from a legal perspective is not in line with its implementation, there are still many incidents that can actually be seen in a number of cases involving state administrators such as what happened to Bank Indonesia Senior Deputy Miranda Goeltom which involved

Agus Condro Prayitno as a member of the DPR. Selective logging was seen when in its handling, Agus Condro was not immediately processed by the KPK because he then reported the gratification received from Miranda Goeltom to the KPK even though the journey had been going on for a year. In fact, Article 12 C paragraph (2) states that reporting of gratification must be done before the 30-day deadline. By cutting down the choice of law enforcement treatment, this is an example of a case that violates the principle of Equal Before The Law.

b) Lack of clarity regarding implementing regulations

Implementing regulations of Article 12 paragraph 1 letter a concerning reversed burden of proof for recipients of gratification above 10 million. From the explanation, there are differentiating elements between the crime of gratification which is considered bribery and the crime of bribery, it appears that the regulation of the crime of gratification requires the fulfillment of simpler elements than bribery, but has a heavier criminal threat and a reversal of the burden of proof. In fact, if we look at it more deeply, it is very contradictory to the Criminal Procedure Code which states that prosecution and proof are carried out by the Prosecutor's Office, so that its implementation then becomes dull. Although in practice absolute certainty will not be achieved, the purpose of proof is to seek and apply the truth in a case, not merely to find someone's fault.

c) Unclear meanings and words in laws result in multiple interpretations and confusion in their application.

Article 12 B paragraph 1 of Law Number 20 of 2001 states, "Any gratification to civil servants or state administrators is considered to be giving a bribe, if it is related to their position and is contrary to their obligations or duties". The word "considered" is what actually gives rise to multiple interpretations because the assumptions of each law enforcement officer can certainly be different. It could be that sexual services received by state administrators are interpreted as a form that is not considered gratification. In fact, lustful gratification is very close to the crime of supervision (overspel) if one or both perpetrators are married. However, if there is no complaint from the legal partner, then Article 284 of the Criminal Code concerning adultery cannot be applied.

d) The limits of the gratification given are not clear.

The difficulty in handling gratification cases so far has also been caused by the absence of standards for accepting a gift that is considered a gratification, so that in its implementation it causes many problems. An example is the Eid or Christmas parcels that are usually sent by colleagues, friends, or relatives of state



officials. Some consider receiving this gift as a form of gratification, but some consider it okay. There is an assumption that the initial purpose of giving parcels or parcels as a sign of ceremonial greetings during the holidays has been deviated. One of the interests is hoping that the activity can smooth the way for the giver to win the project tender, in other words, bribery or special lobbying. The targets are people's representatives and officials and state administrators who have the capacity, one of which is to give the authority to win the project tender. So it can be said that if you want to give a parcel to an official, make sure it really has nothing to do with work and the value is no more than 10 million so that it is not considered a gratification. However, difficulties will occur when the recipient of the parcel has to estimate the value of the contents of the parcel he received to the Corruption Eradication Committee. This will continue to give rise to pros and cons if the contents of the law are not immediately confirmed.

e) Criminal sanctions are still low.

The provisions of criminal gratification contained in the law are considered still low, especially in reporting the assets of state administrators or the State Asset Report (LHKPN). This of course occurs because so far the handling of gratification still shows an element of caution. Given that legal clarity is still very premature, coupled with the tendency of State Administrators who are still reluctant to report their assets, even though LHKPN also provides convenience for law enforcement officers 53 to track acts of gratification that occur to State Administrators. Seeing the importance of LHKPN in enforcing the law against gratification, the weight of the sanctions should be applied to State Administrators.

2) Factors of supporting facilities or infrastructure in law enforcement.

What is meant by facilities or facilities are things that include educated and skilled human resources, good organization, adequate equipment, and adequate finances in law enforcement efforts. This has a very important role because without these facilities or facilities, it is impossible for law enforcement and aligning its role to run in real terms. So far, the facilities owned by law enforcers in efforts to resolve criminal acts of gratification are still lacking. Supporting facilities such as existing buildings are no longer able to accommodate all KPK employees and the KPK does not yet have its own permanent detention center that is able to accommodate corruption convicts on a large scale. Serious corruption perpetrators from all over Indonesia should be accommodated in special prisons. With this treatment, the perpetrators get a deterrent effect, considering that the actions they have committed have harmed society and the state. Currently, the KPK only has a detention center that is in the same complex as the KPK's Red and White Building with a capacity of 37 people for 29 male prisoners and 8 female prisoners. Given the increasingly rampant corruption, Law Number 46 of 2009 concerning the Corruption Court must be refined again. The KPK in prosecuting cases that occur in the regions so far must hold trials at the Corruption Court in the regions in accordance with the locus delicti of TPK. This actually complicates the legal efforts that are carried out, in 2018 the KPK has proposed to establish representative offices in Sumatra, Sulawesi, Kalimantan, Papua and Java with the hope that the KPK together with the community will be able to carry out efforts to prevent and supervise corruption. Given the urgency of eradicating corruption that needs to be done as soon as possible, improvements to laws that support this are very necessary.

3) Law enforcement factors

This happens to those who form and implement the law itself. Law enforcement is an important element, because a regulation will not function properly

if law enforcers are unable to implement the wishes of the law in society. Consistency, Commitment and Integrity of law enforcers are greatly needed considering that it is now easier for law enforcement officers to commit deviations. This inconsistency can be seen from the process of investigation, inquiry, prosecution to the verdict of a case. Law enforcers seem to forget that the initial commitment they instilled when they became officers was justice in law enforcement, but over time all that changed because of material, efficiency and laziness. No less important is the loss of integrity of law enforcement officers so that the handling of gratification cases is actually growing. On this side, the quality of insight and human resources in handling gratification cases must really be improved considering the changes and new modes of gratification that require broad insight among law enforcers. Finally, there has been an increase in the quantity of law enforcement officers, considering the vast territory of Indonesia which is not comparable to the number of law enforcement officers carrying out their duties. The KPK as the front guard in the law enforcement process has not been optimal in carrying out its duties, considering that the number of KPK personnel until 2017 still reached 1500 people. This number is still far from ideal when compared to the duties carried out by the Corruption Eradication Commission (KPK).

#### 4) Community factors

This obstacle occurs in an environment where the law applies or is implemented where many members of society still do not know about their rights and obligations in legal efforts to protect, fulfill and develop their needs with existing regulations. The active role of society is very important in eradicating corruption, but in general the community does not know the procedure for reporting gratification. They also cannot distinguish between positive gratification and negative gratification. Positive gratification is the giving of gifts with sincere intentions from one person to another without expecting anything in return, meaning giving in the form of "signs of love" without expecting anything in return, while Negative Gratification is the giving of gifts that are done with the aim of selfishness, this type of giving has become a culture among bureaucrats and businessmen because of the interaction of interests, for example in handling taxes, someone gives a tip to one of the officers so that tax handling can be handled immediately where this is very detrimental to other parties and a fair perspective. values. For this reason, the Government must play an active role in socializing to the community as an effort to optimize corruption.

#### 5) Cultural factors

Culture as a result of human initiative, creation and feeling in social interaction has been deeply rooted in society. In terms of law enforcement against gratification, our culture is indeed a very influential inhibiting factor. In fact, the culture of gratification has started since the kingdom era. People were forced to pay tribute to the king as tax. Because this has been going on for so long, it has become part of the mindset of our society, so that it continues to develop, making it a culture that is difficult to eradicate even with socialization or campaigns. Therefore, to improve such a mindset, hard and systematic efforts are needed to improve the mindset or culture, such as changing the concept of thinking in viewing public officials, changing the paradigm that public officials serve not be served, and leadership is also needed by the role models of officials so that the mindset of society that has become part of the culture can be reduced.

These five factors inhibit efforts to enforce the law against gratification and corruption in general. However, the last factor that is felt is a factor that requires extra performance because it is related to changing a culture that has become part of society is not easy. Extra

hard work is needed which of course is accompanied by a commitment so that this habit does not continue to be part of the culture from generation to generation.

### **Criminal Acts of Gratification of State Civil Apparatus According to Positive Law and Islamic Law in Jambi Province.**

The provision of money to the school in the form of accepting new students to graduate the students and the provision of money before and after receiving a scholarship to the State Civil Apparatus is an act of gratification as mentioned in Article 12B and 12C of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption. While in Islamic Law, the provision of money by the community in the form of gratification to the State Civil Apparatus in Islamic law, which is given without any hidden intention and purely as a sign of gratitude or to strengthen ties is not included in this kind of gratification, so the law is halal. While gratification, behind it there is a hidden intention from the giver, which is related to the position or authority of a State Civil Apparatus, the law is haram.

### **Procedures for Settlement of Perpetrators of Criminal Acts of Gratification of State Civil Apparatus in Courts in Jambi Province**

The procedure for resolving cases of criminal acts of gratification committed by ASN consists of several stages, namely: first, the investigation process. The investigation process is carried out by law enforcement officers, such as the police. Second, the investigation process. This process seeks and collects evidence. Third, the prosecution process. Prosecution is carried out to obtain material truth, prove the suspect's guilt, and achieve justice. Fourth, the trial process. In the trial process, the Panel of Judges will examine, try, and decide the case. Sixth, the process of executing the sentence. The process of executing the sentence is the implementation of a court decision that has permanent legal force.

### **Supporting Factors for the Occurrence of Criminal Acts of Gratification of State Civil Apparatus According to Positive Law and Islamic Law in Jambi Province**

The supporting factors for the occurrence of criminal acts of ASN gratification are as follows: 1). Community Mindset Factor. The community mindset that justifies giving money in dealings. In the minds of the community, by giving money to ASN, their affairs can be resolved immediately and without complications for a long time. 2) Lack of ASN Moral Commitment Factor. With the lack of ASN moral commitment, they serve the community such as in the Acceptance of New Students and the provision of scholarships, there is a certain intention, namely that if the community gives money, an ASN approves the community's request. 3) Economic Factor. Where an ASN with a minimal salary received from the result of debt payments that are not enough to meet the daily needs of the family, then the ASN commits an act of gratification. 4) Weak Leadership Supervision Factor. Where weak leadership supervision causes an ASN to commit a criminal act of gratification in the form of receiving and requesting money from the community without the knowledge of their leader. 5) Weak Law Enforcement Factor. Where law enforcement is not serious about handling cases of gratification committed by ASN, so that many ASN dare to commit gratification in all government institutions or agencies. 6) Low Punishment for Perpetrators of Criminal Acts of Gratification. According to that the causal factor for the occurrence of criminal acts of gratification committed by ASN is the low punishment factor. The punishment given by the court decision is very light, such as in the case of accepting new students with a prison sentence of 1 year and 9 months. This causes ASN to commit many gratifications, they feel the punishment is very light.

### **Efforts made by the community and government to control the occurrence of criminal acts of gratification by state civil servants according to positive law and Islamic law in Jambi Province.**

The efforts made by the community and government to eliminate the occurrence of criminal acts of ASN gratification are 1) Instilling a Community Culture of Not Giving Gratuities. The efforts made by the community to prevent gratification are to instill a community culture of not giving gratuities. Whatever form of community affairs with ASN, both in schools and government institutions, do not give money to the ASN if the matter has been resolved. 2) Increasing Understanding of ASN Not Accepting Gratuities. In this case, the government invites ASN as an extension of its hand in public services, ASN are prohibited from accepting or rejecting gratuities from the community in any form. 3) Improving the Quality of Law Enforcers. In the quality of law enforcement, it is through education, training, coordination between institutions, recruitment, provision of facilities and infrastructure, welfare. With many law enforcers continuing higher education, the professionalism of law enforcers in working can increase. 4) Severe Punishment for Perpetrators of Gratuities. By imposing severe sanctions on ASN who commit criminal acts of gratification, it is one way to create a deterrent effect on the perpetrators and other ASN from committing gratification again.

### **CONCLUSION**

- a. The crime of gratification by State Civil Apparatus according to positive law and Islamic law in Jambi Province is the giving of gifts with sincere intentions from one person to another without any strings attached, meaning giving in the form of a "sign of love" without expecting anything in return. Negative gratification is the giving of gifts with ulterior motives, this type of giving has become a culture among bureaucrats and businessmen because of the interaction of interests. Thus, from a perspective, gratification does not always have a bad meaning, but must be seen from the interests of gratification. However, in practice, someone giving something cannot be avoided without any strings attached.
- b. The procedure for resolving perpetrators of criminal acts of gratification by State Civil Apparatus at the Court in Jambi Province is partly in accordance with Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the eradication of criminal acts of corruption in Article 5 where gratification is a prohibited gift in the form of tangible or intangible objects, in the form of facilities, tickets, and hotels or aspects related to the granting of rights including intellectual property rights (IPR).
- c. Supporting factors for the occurrence of criminal acts of gratification by State Civil Apparatus according to positive law and Islamic law in Jambi Province are low sentences. The sentences given by court decisions are very light, such as in the case of accepting new students with a prison sentence of 1 year and 9 months. This causes ASN to do a lot of gratification, they feel the punishment is very light.
- d. The community and government have made efforts to eliminate the occurrence of criminal acts of gratification by State Civil Apparatus to eradicate criminal acts of gratification by ASN are 1) Instilling a culture of society not giving gratification. Instilling a culture of society not giving gratification. 2) Increasing understanding of ASN not accepting gratification. The government invites ASN to accept or reject gratification from the community in any form. 3) Improving the quality of Law Enforcement. To improve the quality of law enforcement is through education, training, coordination between institutions, recruitment, provision of facilities and infrastructure, welfare. 4) Severe punishment for perpetrators of gratification. By imposing heavy sanctions on ASN who commit criminal acts of gratification, this is

one way to create a deterrent effect on the perpetrators and other ASN from committing gratification.

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