

ICTHM 2023**International Conference in technology, Humanities and Management****CORRUPTION CASES IN RELATION TO STATE-OWNED
ENTERPRISE IN INDONESIA**

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Abstract

This concept paper explores the multifaceted impact of corruption on various aspects of Indonesian society, encompassing permit and license allocation as well as the justice administration process. It delves into the intricate landscape of corruption cases in Indonesia, highlighting the involvement of three pivotal law enforcement bodies: the police, the attorney general's office, and the Corruption Eradication Commission (CEC), a specialised agency focused on combating corruption. The CEC wields the authority to conduct thorough investigations and prosecute cases within the judicial realm. By analysing corruption data reported by CEC spanning 2005 to 2019, the paper underscores the CEC's engagement in twenty-one corruption cases, implicating a total of thirty individuals. Notably, 2020 witnessed the CEC's handing of six corruption cases pertaining to State-Owned Enterprises (SOEs). The paper elucidates that bribery and procurement emerge as the primary conduits for corruption allegations. Based on CEC statistics in 2018, it positions SOEs-related corruption as ranking fifth in prevalence across institutions, subtly implying a connection between this issue and a compromised moral climate supported by counter-norm conducive to unethical conduct. Within the Indonesian context, the fight against corruption operates under the purview of the Anti-Corruption Law, the Criminal Code and an array of regulations promulgated by governmental bodies. These legislative measures collectively endeavour to pre-empt corruption and hold wrongdoers accountable. Nonetheless, the paper contends that the application of these laws in Indonesia remain deficient and inefficacious, necessitating substantial reforms within the governance framework.

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1. Introduction

Corruption is a significant problem in Indonesia and has been the subject of widespread public concern in recent years. Corruption affects many areas of life in Indonesia, including government procurement, the allocation of licenses and permits and the administration of justice. Corruption is also considered a significant barrier to economic growth and development in Indonesia. It undermines the public's trust in the government and the rule of law and discourages foreign investments.

State-Owned Enterprise, established as vehicles for economic growth and public service, were no sanctuary from this pervasive ill (Anda et al., 2020). Instead, they became fertile ground for corrupt practices to take root. The manifestations of corruption within Indonesian SOEs are varied and intricate. One prominent avenue is the misallocation of funds intended for investment and development. Funds that should be directed toward infrastructure enhancement or technological innovation often find themselves diverted into the pockets of unscrupulous individuals, perpetuating a cycle of underinvestment and stagnation. This not only weakens the economic prowess of these enterprises but also thwarts national progress. Bribery and nepotism also rear their heads within SOEs, influencing the awarding of contracts, permits, and licenses. These practices undermine the principles of fair competition and transparency, distorting market dynamics and stifling the growth of small businesses that lack the resources for such unethical manoeuvring.

Transparency International (TI) has conducted several studies on corruption in state-owned enterprises. These studies have found that corruption in SOEs can lead to inefficiencies and misallocation of resources, resulting in lower economic growth and development. SOEs in which the government has a controlling stake are particularly vulnerable to corruption. To combat corruption in state-owned enterprises, TI recommends strengthening oversight mechanisms, increasing transparency and accountability, and implementing anti-corruption measures. The oversight mechanisms include whistleblower protection and anti-bribery policies (Transparency International, 2005; Wilkinson, 2018).

The repercussions of corruption within Indonesian SOEs ripple across the economy and society. Economically, mismanaged funds and resources lead to inefficiency and reduced productivity. SOEs that should serve as engines of growth become burdened with bureaucratic bottlenecks and financial irregularities, undermining their potential contributions to national development. On a societal level, corruption erodes public trust in institutions and the government. It amplifies a sense of disenfranchisement among citizens who witness resources intended for their welfare being squandered or siphoned away. The corrosive effects of corruption on the social fabric extend to the normalisation of unethical behaviour, perpetuating a cycle that normalises dishonesty and undermines the nation's moral foundation.

This paper examines Indonesia's corruption instances as well as anti-corruption legislation. The paper is organised as follows. The second section discusses corruption cases in Indonesia that involved SOEs from 2005 to 2020. The third section presents the Indonesian anti-corruption legal framework. In the fourth section, conclusions and a brief explanation of the practical and social implications are made.

2. Corruption Cases in Indonesia

Corruption cases in Indonesia are handled by three law enforcement agencies, namely the police (Indonesia, 2002), the attorney general's office (Indonesia, 2004) and the corruption eradication commission (Indonesia, 2019). The prosecution of corruption cases whose investigations are handled by the police is carried out by the attorney general's office. The corruption eradication commission (CEC) is a special agency that handles corruption cases. CEC has the authority to conduct investigations and prosecutions of corruption cases.

The Indonesian government formed CEC based on the idea that corruption is an extraordinary crime that must be handled extraordinarily (Government of the Republic of Indonesia, 2019). Throughout the history of CEC, the courts have acquitted very few corruption cases. Based on CEC's achievements, this paper uses data on corruption cases from CEC. As a complementary illustration, this research also lists the latest corruption cases whose legal process is handled by the attorney general's office (Table 1 and Table 2).

The Indonesia Court of Corruption Crime or Tipikor court was established in 2002 as part of general court system and began operating in 2004. The court has handled corruption cases more than a decade. With appeals moving to specialised Tipikor panels at the Jakarta High Court and ultimately the Supreme Court, the Tipikor Court of first instance was housed at the Central Jakarta District Court until 2010. Each of these tiers included five judges: two career judges and three ad hoc judges. Ad hoc judges were chosen (and are still chosen) by the Supreme Court in a multi-step procedure from outside the current judicial system, with a tenure of five years (Rusmiati et al., 2018).

In 2021 and 2022, the court of corruption crime handled two cases of SOE corruption. Both cases concern two insurance SOEs, namely, Jiwasraya (Wareza, 2021) and Asabri (Chopdar et al., 2022). State losses based on the attorney general's report were worth 16.8 trillion and 22.8 trillion Indonesian rupiah or equivalent to US\$ 1,166,003 and US\$ 1,582,000, respectively, at the exchange rate on February 4, 2022 (kurs dollar.org, 2022). Both cases are still in the process of appeal, yet to have permanent legal force.

Between 2005 and 2019, CEC handled twenty-one corruption cases with a total of thirty suspects (refer to Table 1). In 2020, the CEC took six cases of SOE corruption (Table 2). Data is manually collected from the CEC's annual report and the secretariat general of CEC.

Table 1. State-Owned Corruption Cases Handled by CEC from 2005-2019 and have permanent legal force

No	Year	Company	Case	Mode
1	2005	PT Industri Sandang Nusantara	Corruption case in asset sales of PT. Industry Sandang Nusantara (Persero) unit Patal Cipadung - Bandung, in the form of land area of 25.9 ha and buildings 24,100 m ² by selling at prices below the actual NJOP	Embezzlement
2	2008	PT.Rajawali Nusantara Indonesia	Suspected of engaging in corruption behaviour when carrying out operational cooperation activities	Corruption

			involving procurement, storage, and distribution of white crystal sugar between PT Rajawali Nusantara Indonesia with Perum BULOG in 2001 – 2004	
3	2008	PT State Gas Company (Persero) TBK	Corruption case in the form of state organisers receiving something, gifts or promises that occurred at strategic business unit (SBU) II east Java region pt. State Gas Company (Persero) TBK	Bribe
4	2009	PT Kimia Farma	Corruption case in connection with the procurement of medical devices for The Eastern Region Hospital of Indonesia (KTI) and the Indonesian Red Cross (PMI) by the Directorate General of Medical Services of the Ministry of Health. Health Ri used additional budget funds for The Project Fill List (ABT-DIP) in Fiscal Year 2003.	Procurement
5	2009	PT Perusahaan Listrik Negara	Corruption case in procurement outsourcing of Customer Management System based on Information Technology at PT. PLN (Persero) East Java Distribution Year 2004 – 2008.	Procurement
6	2009	West Java Bank	Corruption case in connection with the use of West Java Bank Office funds for personal and/or other parties that occurred in 2003 - 2005.	Embezzlement
7	2009	West Java Bank	Corruption case in connection with the use of West Java Bank Office funds for personal and/or other parties that occurred in 2003 - 2005.	Embezzlement
No	Year	Company	Case	Mode
8	2009	PT Kimia Farma	Allegedly conducted corruption case in the procurement of portable x-ray equipment for Health Center Services in disadvantaged, remote, border, and small islands in the planning and budget Bureau of the Directorate General of The Ministry of Health RI.	Procurement
9	2009	PT INKA	Corruption case in connection with the procurement of Electric Railway Transportation Services (KRL) ex grant. Japan at the Directorate General of Railways Department. Relationships from 2006 to 2007.	Procurement
10	2010	PT PLN	Corruption case related to procurement of Roll Out Customer	Procurement

No	Year	Company	Case	Mode
			Information System – Information System Master Plan (CIS - RISI) at PT PLN (Persero) Distribution Jakarta Raya and Tangerang.	
11	2010	PT Bank Jabar	Corruption case is jointly or participated by giving money to the tax examiner Karikpa Bandung One in 2004 for the reduction of the amount of underpayment tax pt. West Java Bank Tax Year 2001 and 2002.	Bribe
12	2010	PT PLN	Corruption case against the law to enrich themselves or others or a corporation abuses the authority, opportunity or means that exist with him because of his relationship or position that can harm the country's finances.	Corruption
13	2011	PT Adhy Karya	Corruption case development of sports facilities / infrastructure in Hambalang.	Bribe
14	2013	PT Nindya Karya	Corruption case in the implementation of the Unloading Pier Development Project in free trade areas and free ports financed by the State Budget (APBN) FY 2006 to 2010.	Procurement
15	2015	PT Hutama Karya	Corruption case in development of Sorong shipping training stage III Ministry of Transportation RI Th 2011.	Procurement
16	2016	PT Berdikari	Corruption case receives restrictions related to the procurement or purchase of fertilizer at PT. Independent (Persero).	Bribe
17	2016	PT Brantas Abipraya	Corruption case gives or tries to give gifts or promises to civil servants or state organisers with the intention of civil servants or state organisers doing or not doing something in their position, which is contrary to their obligations, related to the termination of the handling of corruption crimes in the PT.BA at the Jakarta High Prosecutor's Office.	Bribe
18	2016	PT Brantas Abipraya	Corruption case gives or tries to give gifts or promises to civil servants or state organisers with the intention of civil servants or state organisers doing or not doing something in their position, which is contrary to their	Bribe

			obligations, related to the termination of the handling of corruption crimes in the PT.BA at the Jakarta High Prosecutor's Office.	
19	2016	Perum Perhutani	Corruption case Urea Tablet Fertilizer Procurement Activities in Perum Perhutani unit 1 central Java year 2010-2011.	Procurement
20	2016	Perum Perhutani	Corruption case Urea Tablet Fertilizer Procurement Activities in Perum Perhutani unit 1 central Java year 2010-2011.	Procurement
21	2016	PT Berdikari	Corruption case Urea Tablet Fertilizer Procurement Activities in Perum Perhutani unit 1 central Java year 2010-2011.	Procurement
22	2016	Perum Perhutani	Corruption case Urea Tablet Fertilizer Procurement Activities in Perum Perhutani unit 1 central Java year 2010-2011.	Procurement
23	2016	Perum Perhutani	Corruption case Urea Tablet Fertilizer Procurement Activities in Perum Perhutani unit 1 central Java year 2010-2011.	Procurement
24	2017	PT PAL Indonesia	Corruption case receives gifts or appointments related to AS. Inc. designations as the exclusive agent of PT PAL Indonesia in the procurement of Strategic Sealift Vessel (SSV) vessels for the government of the Philippines from 2014 to 2017. The contract value for the sale of 2 SSV warships to the Philippine Government Defense Agency amounted to USD86.96 million.	Bribe
No	Year	Company	Case	Mode
25	2017	PT PAL Indonesia	Corruption case receives gifts or appointments related to AS. Inc. designations as the exclusive agent of PT PAL Indonesia in the procurement of Strategic Sealift Vessel (SSV) vessels for the government of the Philippines from 2014 to 2017. The contract value for the sale of 2 SSV warships to the Philippine Government Defense Agency amounted to USD86.96 million.	Bribe
26	2017	PT PAL Indonesia	Corruption case receives gifts or appointments related to AS. Inc.	Bribe

			designations as the exclusive agent of PT PAL Indonesia in the procurement of Strategic Sealift Vessel (SSV) vessels for the government of the Philippines from 2014 to 2017. The contract value for the sale of 2 SSV warships to the Philippine Government Defense Agency amounted to USD86.96 million.	
27	2019	PT Krakatau Steel	Corruption case, bribery related to procurement of goods and services at PT Krakatau Steel (Persero) in 2019.	Bribe
28	2019	PT. Angkasa Pura II	Corruption case is related to the procurement of Baggage Handling System (BHS) work at PT. Angkasa Pura Propertindo is carried out by PT. Indonesian Telecommunications Industry (Persero) in 2019.	Bribe
29	2019	PTPN III	Corruption case, bribery related to sugar distribution in PTPN III in 2019.	Bribe
30	2019	PTPN III	Corruption case, bribery related to sugar distribution in PTPN III in 2019.	

Source: Komisi Pemberantasan Korupsi, 2022

Table 2. State-Owned Enterprise Corruption Cases Handled by CEC since 2020 and have Permanent Legal Force

No	Year	Company	Case
1	Perum Perindo	A present or promise relating to the import of fisheries goods.	Bribe
2	PT. Angkasa Pura II (Persero) PT. Indonesian Telecommunications Industry (Persero)	Receipt of gifts or money as an intermediary for giving related to the procurement of Baggage Handling System work.	Bribe Procurement
3	PT. Hutama Karya (Persero)	Corruption case involving the planning, execution, and purchase of the Phase II Regency campus building for the Institute of Internal Government (IPDN) of Riau Province in Rokan Hilir.	Bribe
4	PTPN III	The case of state organizers who accept gifts or promises collectively arises when it is known or believed that the gift or promise is given to do or not to do something in his position that is contrary to his obligations related to the sugar distribution in 2019.	Bribe

5	PT.Garuda Indonesia (Persero) Tbk.	Corruption case article of receiving a gift or promise.	Bribe
	PT. Garuda Indonesia (Persero) Tbk.	The act of placing, transferring, changing the form, exchanging money for a property that is known or suspected to be the result of criminal acts of corruption to conceal or disguise the origin of the property and the source, location, purposes, diversion, rights, or actual possession of property that he knows or should be suspected of are the result of a criminal act is known as money laundering.	Money laundering
6	PT.Garuda Indonesia (Persero) Tbk.	The case of giving a gift or promise together and continuing related to the procurement of aircraft and aircraft engines from Airbus S.A.S and Rolls-Royce P.L.C. at PT. Garuda Indonesia (Persero) Tbk.	Bribe

Source: Komisi Pemberantasan Korupsi, 2021

Table 3 presents the types of corruption cases. It showed that bribery ranks first, followed by procurement. Bribery and procurement (Mironov & Zhuravskaya, 2016) ranked first and second in the same period. The pattern of SOE corruption is the same from 2012 to 2018, and the number of cases is increasing, indicating that corruption is common in Indonesia. Case number 2 in Table 2, PT Angkasa Pura II and PT Industri Telekomunikasi Indonesia, is a bribery case between two SOEs. Strict governance regulations should minimise the occurrence of bribes in SOEs (Shaheer et al., 2019).

Table 3. Number of Corruptions Based on Cases

Case	2012	2013	2014	2015	2016	2017	2018	Total
Bribery	34	50	20	38	79	93	168	482
Procurement of Goods/Services	8	9	15	14	14	15	17	92
Misuse of Budget	3	0	4	2	1	1	0	11
Money Laundering	2	7	5	1	3	8	6	32
Illegal Charges	0	1	6	1	1	0	4	13
Permit	0	3	5	1	1	2	1	13
Blocking the	2	0	3	0	0	2	3	10
KPK Process	-	-	-	-	-	-	-	-
Total	48	70	58	57	99	121	199	653

Source: Komisi Pemberantasan Korupsi, 2018b

Consuming benefits is seen as unethical since, according to the cost view, doing so wastes corporate resources for managers' personal gain and undermines the value of the company (Musacchio et

al., 2015). Table 4 shows SOE's corruption cases are ranked fifth by the institution. According to Huang and Snell (2003), corruption in SOEs results from a poor moral environment (moral climate, moral ethos), counter-norms that permit immoral action, and a failure of governance and leadership.

According to Pellegrini and Gerlagh (2008), corruption in developing countries is common. In developing countries, corruption has become a culture (Pellegrini & Gerlagh, 2008). Institutions influence how elites compete and develop by acting as a check on their behaviour. Alternatively, in the midst of institutional gaps, institutions can be invented, circumvented, and corrupted (Nakpodia & Adegbite, 2018).

Table 4. Number of Corruptions Based on Institutions

Agency	2012	2013	2014	2015	2016	2017	2018	Total
1. Ministry/Non-Ministry Institution	18	46	26	21	39	31	47	228
2. Regency/City	10	18	19	10	21	53	114	245
3. Provincial Government	13	4	11	18	13	15	29	103
4. Parliament and Local Parliament	6	2	2	3	15	9	4	41
5. SOE/ Local Government-Owned Enterprise	1	0	0	5	11	13	5	35
6. Commission (Special Agency)	0	0	0	0	0	0	0	0
Total	48	70	58	57	99	121	199	652

Source: Komisi Pemberantasan Korupsi, 2018a

3. Law on Corruption in Indonesia

(Law No. 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, n.d.)

The law on corruption in Indonesia is governed by several legal instruments, including the Anti-Corruption Law, the Criminal Code, and various regulations issued by government agencies. These laws aim to combat corruption and hold those who corrupt practices accountable for their actions.

The Anti-Corruption Law, also known as Law Number 31 of 1999, is Indonesia's primary legal instrument regulating corruption. The Anti-Corruption Law sets out a range of corruption-related offences, including bribery, embezzlement, and abuse of power. It provides a range of sanctions for those who engage in corrupt practices. The Anti-Corruption Law also establishes the Corruption Eradication Commission (KPK), an independent agency responsible for investigating and prosecuting corruption cases.

The Criminal Code, also known as Law Number 1 of 1946, provides for various criminal offences related to corruption, including bribery, embezzlement, and abuse of power. The Criminal Code provides a range of sanctions for those who engage in corrupt practices, including imprisonment, fines, and forfeiture of assets.

In addition to the Anti-Corruption Law and the Criminal Code, various government agencies have issued rules setting out the requirements for preventing and combating corruption. For example, the Ministry of State-Owned Enterprises has issued regulations on preventing corruption in state-owned enterprises. In contrast, the Financial Services Authority has issued rules on preventing corruption in

financial institutions. These regulations often set out the obligations of public and private entities to prevent and detect corruption and provide for the imposition of sanctions for those who engage in corrupt practices.

The enforcement of the laws on corruption in Indonesia is the responsibility of various government agencies, depending on the type of corruption involved. The KPK is responsible for investigating and prosecuting corruption cases. At the same time, other agencies, such as the police and the Attorney General's Office, are responsible for investigating and prosecuting other criminal offences related to corruption. Practically, the enforcement of the laws on corruption has been criticised as being weak and inconsistent in many cases.

4. Conclusion

In conclusion, the law on corruption in Indonesia is governed by several legal instruments, including the Anti-Corruption Law, the Criminal Code, and various regulations issued by government agencies. These laws aim to combat corruption and hold those who engage in corrupt practices accountable for their actions. Indeed, corruption is a significant problem in Indonesia, and the enforcement of the laws on corruption has been criticised as being weak and inconsistent in many cases. There is a need for ongoing efforts to improve the enforcement of these laws to combat corruption and effectively promote transparency and accountability in Indonesia.

Corruption within Indonesian SOEs carries practical and social implications that reverberate throughout society and the economy. Corruption leads to practical inefficiencies, economic losses, and distorted competition and has far-reaching social consequences. It undermines trust in institutions, exacerbates inequality, reinforces negative values, weakens the rule of law, and deters potential investors. Addressing corruption in SOEs is crucial for fostering a just, transparent, and economically viable society.

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