

## Legal Analysis: The Weak Role of the Authority of the Corruption Eradication Commission as a Factor in the Widespread Corruption in Indonesia

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### ABSTRACT

Since the time of the Vereenigde Oost-Indische Compagnie during the Dutch colonial era, corruption has existed in Indonesia and grown to be pervasive, especially among government officials. In addition to the ongoing COVID-19 pandemic that is nearing its end in 2021, Indonesia is also dealing with a number of corruption charges from that year. In Indonesia, illegal acts of corruption are governed under Law Number 31 of 1999, which was later amended by Law Number 20 of 2001. Among other things, persistent infractions of anti-corruption legislation are the root reason of Indonesia's high rate of corruption. According to Chapter 1 of Law No. 30 of 2002 about the Corruption Eradication Commission, the Corruption Eradication Commission (KPK) is a state entity created with the goal of enhancing the efficacy and efficiency of efforts to remove illegal activities. The KPK Bill, which makes it more difficult for KPK to operate, makes it seem weaker

## **INTRODUCTION**

Indonesia is battling more than just the Covid-19 outbreak, which continues to take countless lives. As a result of Indonesia's ongoing struggles to eliminate historical and ongoing corruption, corruption can be found at all governmental levels, including the national and local ones. Law Number 20 of 2001 on Amendments to Law Number 31 of 1999 on the Eradication of Criminal Acts of Corruption regulates anti-corruption legislation, which corruptors break.

For instance, the state and several parties are harmed by corruption proceedings involving the Minister of Social Affairs during the current COVID-19 pandemic. The frequency of state-sponsored corruption demonstrates how little state officials know about Indonesia's anti-corruption legislation. The fact that corruption has grown ingrained in Indonesian society since the Dutch colonial era is another factor contributing to the high number of corruption cases there. Law No. 31 of 1999 on the Eradication of Corruption Crimes, which was later amended by Law No. 20 of 1999, primarily forbids corruption in Indonesia, including bribery, embezzlement of positions, extortion, procurement conflicts of interest, gratification, and public financial losses.

Based on Law No. 30 of 2002, which governs the Corruption Eradication Commission, Indonesia established the Corruption Eradication Commission (KPK) in 2002 as an autonomous organization to carry out its functions. But for ten years, the KPK has been in a state of paralysis, especially in the Law KPK No. 19 of 2019 revision, which addresses the second modification of Law No. 30 of 2002, which is thought to hinder the KPK's effectiveness.

## **LITERATURE REVIEW**

The Latin word for corruption, "Corruptio," means "bad behavior," "evil," "crime," "dishonesty," and "theft." Corruption also describes actions taken by those who abuse their position of power, which is typically held by parliamentarians, high officials, or other law enforcement personnel, in order to profit themselves.

Financial losses to the state are one of the many ways corruption manifests itself in Indonesia. Law Number 17 of 2003 concerning state finances defines financial losses to the state as any of the state's monetary-assessable rights and obligations, as well as any money or goods that can be used as state property in connection with the exercise of those rights and obligations. Real and certain losses to the state or region, such as a lack of cash, securities, financial instruments, and goods as a result of criminal activity, whether deliberate or careless, are also considered financial losses to the state.

According to Article 2 paragraph (1) of the Law on Corruption Eradication and Constitutional Court Decision Number 25/PUU-XIV/2016, "Anyone who unlawfully enriches themselves or others or a corporation to the detriment of state finances or the state economy shall be punished with life imprisonment and a minimum of 4 (four) years and a maximum of 20 (twenty) years in prison." These provisions regulate criminal acts of corruption that result in financial losses for the state.

Additionally, Article 3 of the Anti-Corruption Law says "Every person who, with the intention of benefiting himself or others or corporations, abuses

the authority, opportunity, or means available to him due to his position or status, or facilities available to him due to his position or status, that can harm the state's finances or the economy of the state, shall be punished with life imprisonment or imprisonment for not less than one year and not more than ten years."

Furthermore, under Article 5 of Law No. 20/2001, bribery and other corruption are forbidden: "(1) punished with a prison sentence 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 fifty million rupiah) for anyone who gives or offers something to a state official." (2) The same penalties mentioned in paragraph (1) will be applied to civil servants or state organizers who accept gifts or promises mentioned in letters a and b of that paragraph.

Additionally, Article 11 of the Anti-Corruption Act, Article 12 letters a and b, Article 6 paragraph (1) letters a and b, Article 6 paragraph (2), Article 12 letter c, and Article 12 letter d all forbid bribery.

Next, corruption through positional embezzlement Furthermore, under Article 5 of Law No. 20/2001, bribery and other corruption are forbidden: "(1) punished with a prison sentence 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 fifty million rupiah) for anyone who gives or offers something to a state official." (2) The same penalties mentioned in paragraph (1) will be applied to civil servants or state organizers who accept gifts or promises mentioned in letters a and b of that paragraph.

Article 13 of the Anti-Corruption Act, Article 12 letters a and b, Article 11: Article 6 paragraph (1) letters a and b, Article 6 paragraph (2), Article 12 letter c, and Article 12 letter d regulate bribery. According to Article 8 of Law 20/2001, "The penalty is imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years, as well as a fine of at least Rp. 150,000,000.00 (one hundred and fifty million rupiah) and a maximum fine of Rp. 750,000,000.00 (seven hundred and fifty million rupiah), for civil servants." According to the Anti-Corruption Law or its revisions, embezzlement in the office refers to severe embezzlement, which is when someone steals something because they are paid or because they are holding it in connection with their job or position (beroep). This type of corruption is forbidden by Articles 9, 10, Letters A, B, and C.

Extortion is prohibited by Article 12 Letters e, f, and g. A state organizer or public servant who plans to illegally benefit themselves or others, abuses their position of authority, or coerces someone into giving something, paying something, or receiving a discount, or doing something for oneself; a state organizer or civil servant who, while doing their duties, requests or accepts work or transfers products as though they were a debt owed to them, despite knowing that they owe money; A state organizer or civil servant who, while performing their duty, or a state organizer or civil worker who, while carrying out their duties, has used state land on which someone is entitled to the products, as though doing so has hurt the legitimate owner, although being aware that such activities are illegal, malicious collusion

Fraud is prohibited by Article 7 paragraph (1) letter a, Article 7 paragraph (1) letter b, Article 7 paragraph (1) letter c, Article 7 paragraph (2), Article 12 paragraph h, and Article 7 paragraph (1) letter d. Acts of fraud are defined by the Anti-Corruption Law and its amendments as follows: contractors, builders, or vendors of building materials who commit fraud during the construction of structures or during the delivery of building materials that could jeopardize the safety of individuals or goods, or national security during times of war; anyone in charge of supervising the construction or delivery of building materials who willfully permits the aforementioned frauds; Anyone tasked with supervising the delivery of supplies required by the Indonesian National Army and/or the Indonesian National Police, or anyone who engages in fraudulent activities during the delivery of those supplies that could jeopardize the state's security during times of conflict.

## **METHODOLOGY**

This scientific work was written using the Normative Juridical method, which looks at and evaluates how well law enforcement fights corruption by strengthening the Corruption Eradication Commission of the Republic of Indonesia (KPK RI) staff from the standpoint of the institutions, culture, infrastructure, and the content of anti-corruption regulations. The first strategy employed in this scientific work is the legislation approach, also known as the statute approach, which is a legal writing strategy that involves examining the laws pertaining to legal matters in the area of law enforcement's fight against corruption. This study employs qualitative data collection techniques that are relevant to earlier studies and laws pertaining to Indonesia's corruption problems.

## RESEARCH RESULT

Conflict of Interest in Procurement: Article 12 Letter I regulates this illegal act of corruption. When a civil servant or state organizer engages in contracting, procurement, or leasing, either directly or indirectly, and is tasked with managing or supervising the act at the time it is completed, in whole or in part, this is known as a conflict of interest in government procurement of goods or services.

Article 12 B and Article 12 C regulate gratification, an act of corruption. Under these provisions, any gratification given to state officials or organizers that is related to their positions and goes against their duties or obligations is deemed a bribe, provided that the value of the gratification is less than or equal to IDR 10,000,000.00, and the recipient must demonstrate that the gratification is not a bribe. If it is worth less than IDR 10,000,000.00, the Public Prosecutor must decide that the gratification is a bribe. Penalties for government employees or state organizers who obtain gratification include life in prison or at least 4 (four) years and up to 20 (twenty) years in prison, as well as a minimum fine of IDR 200 million and a maximum fine of IDR 1 billion. The Anti-Corruption Law in Indonesia is not the only factor that determines how corruptors are punished; established societal norms also play a role. This is all due to the fact that Indonesia is among the nations that follow the "Customary Law System" (unwritten law), which implies that the law evolved from Indonesian customs and is currently applied in other Asian countries.

Seldom are officials who have been shown to have committed corruption crimes silenced. They will try to find and remove traces in order to stop the Corruption Eradication Commission's operations (KPK). In order to escape accountability for their crimes, they are frequently sent to other nations. Extradition accords, which permit a person to be returned to their home country from the country of crime, are the means by which international law must be applied.

In Indonesia, corruption is currently considered a tradition that has been carried down from the past to the present. From the lowest to the highest levels, corruption exists in Indonesia. For their own benefit, officials misuse their positions of authority and power. Law No. 31 of 1999, which governs the fight against corruption, is broken by this. In Indonesia, corruption affects many aspects of life. The influence on areas like infrastructure and education is hampered because corruption causes the money that should be allotted to be lost, leading to large losses that have a direct negative impact on the nation's economy and state.

For instance, former Social Affairs Minister Juliari Peter Batubara was involved in a corruption case during the current COVID-19 pandemic that cost the state IDR 17 billion, which the KPK (Corruption Eradication Commission) claims was meant for personal use. Juliari is therefore charged with violating Article 12 letter an or b, or Article 11 of Law (UU) Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the

Eradication of Corruption, in addition to Article 55 paragraph 1 of the Criminal Code.

There are a number of variables, including internal causes, that contribute to the creation of corrupt practices, which explains Indonesia's high rate of corruption. In particular, there are still gaps in our understanding of some topics, such the effects of colonization. In addition, there are outside factors that fuel corruption, like the Indonesian judicial system's continued weakness and problematic legal reforms. A more thorough description of one of the internal and external factors influencing Indonesia's high level of corruption may be found below.

Corruption has become a culture in Indonesia. The Verenigde Oost-Indische Compagnie (VOC) made a lot of money during the Dutch colonial era thanks to the monopoly on spices, but bribery, frequent post purchases and sales, and other corrupt tactics caused the VOC's fame to wane. These are incidents that took place within Indonesian democracy and still have an effect on the country today. The corruption culture in Indonesia is caused by a number of causes, including (1) human greed, (2) a lack of morals, (3) low salaries, (4) consumerist lifestyles, (5) weak religion teachings, (6) a lack of leadership attitudes, and (7) a poor organizational structure. These depart greatly from the objectives. These elements still play a part in Indonesia's high levels of corruption. Counterattack of Corruptors against the Corruption Eradication Commission (KPK).

"Backlash of Corruptors" describes actions intended to impair or restrict the Corruption Eradication Commission's (KPK) capacity to fulfill its responsibilities as Indonesia's anti-corruption agency. This is the fault of corruptors or organizations deemed either non-corrupt by the Corruption Eradication Commission. For almost ten years, attempts have been made to weaken the KPK. The KPK has been undermined in certain instances, particularly when Law No. 19 of 2019 was passed, amending Law No. 30 of 2002.

Corruptors' counterattack against the Corruption Eradication Commission (KPK) did not happen overnight, but the problem has been there for a while. According to Article 11 of Law No. 30 of 2002, the KPK is tasked with fighting corruption in three domains: law enforcement, public officials, and parties associated with both. Therefore, instead of keeping quiet, corruptors launch counterattacks (corruptors' counterattacks or corruptors fighting back). Counterattacks against corruptors can take the following forms: (1). Testing the validity of Law No. 30 of 2002 by appearing before the KPK at the Constitutional Court is one of the first strikes in the judicial review of the KPK law, which aims to disarm the KPK.

The examination is conducted for a variety of reasons, from assessing specific articles pertaining to the KPK's jurisdiction to deciding whether the KPK's establishment is lawful. It is said that because access to the Constitutional Court has been cut off, the KPK is weak and unable to detect corruption, particularly in institutions that predate Law No. 30 of 2002. (2) KPK Law Amendment: Law No. 19 of 2019 about Amendments to Law No. 30 of 2002 on the KPK made changes to the KPK Law. (3) The DPR Questionnaire Is Appropriate for the KPK The DPR's right of inquiry for the KPK was revealed

soon after the KPK's investigation into electronic ID card corruption in which numerous DPR members were allegedly implicated, indicating that the right of inquiry is in part a tool for the counterattack strategies of corruptors.

### **Corruption in Indonesia During the Covid-19 Pandemic and Its Impact**

Corruption by state officials persists in spite of the 19 breakouts. Indonesia has also "shut down" due to COVID-19, which has spread to almost every nation on the earth. This has resulted in a weak economy, recession, the closing of numerous firms, and a lot of labor that needs to be done from home. Corruption has persisted throughout the epidemic in both the national and local governments. On November 25, 2020, the KPK detained Edhy Prabowo, the former minister of maritime affairs and fisheries, in connection with a bribery case involving lobster seeds. In addition, former social minister Juliari Batubara was arrested on December 5, 2020, following his involvement in a corruption case concerning social support for Jabodetabek inhabitants in 2020.

The fact that the KPK's investigation into the electronic ID card corruption, which allegedly involved numerous DPR members, was soon followed by the DPR's investigative rights for the KPK implies that the investigative rights are in some ways a counterattack tool for corruptors. 3. The Effects of Corruption in Indonesia During the COVID-19 Pandemic State officials continue to engage in corrupt practices in spite of the Covid-19 pandemic, which has spread to nearly every nation on the planet.

Indonesia has "stopped" due to the epidemic, which has resulted in a fragile economy, a recession, the closure of numerous firms, and a large number of jobs that need to be done from home. Corruption endures throughout the epidemic in both the national and local governments. On November 25, 2020, the KPK detained Edhy Prabowo, the former minister of maritime affairs and fisheries, in connection with a bribery case involving lobster seeds. Following his involvement in a corruption case regarding social assistance for the people of Jabodetabek in 2020, former social minister Juliari Batubara was arrested on December 5, 2020.

According to Article 10 of the Criminal Code, there are two kinds of infractions. The most frequent punishments are as follows: (1) death, (2) life in jail, (3) incarceration, (4) fines, and (5) sentenced punishment. Then there are further criminal actions, such as (1) the denial of certain rights, (2) the seizure of particular objects, and (3) the announcement of the judge's decision. Following Social Minister Juliari Batubara's arrest by the Corruption Eradication Commission (KPK) in connection with a corruption case involving social assistance payments for Covid-19-affected Indonesians. This outbreak has had a serious effect on Indonesian society and the nation's economic development because of the influence of corruption. Other scenarios for rearranging his ministers are being prepared by President Joko Widodo.

The Corruption Eradication Commission (KPK) and the general public are both concerned about the misuse of social assistance monies that ought to be distributed to Indonesians. The government's significant expenditures of trillions of rupiah for the prevention and treatment of COVID-19 victims are the reason for this. This is concerning because there is no doubt that potential corruptors

will commit corruption against social assistance monies in order to benefit themselves from the current challenging circumstances.

The Corruption Eradication Commission has received at least 118 complaints from Indonesian people alleging abuse of authority in relation to social assistance payments that ought to have been distributed to Covid-19-affected districts. This suggests that Indonesia needs to put in a lot of effort to confront and fight COVID-19 corruption, which has threatened the nation in the past and still does.

Corruption has the following detrimental effects on Indonesia's legal system and economy:

1. Slow economic growth and investment. Because anti-corruption concerns and economic growth will undoubtedly be hampered by existing state corruption issues, both domestic and foreign investors will be reluctant to invest in a country with a corrupt administration. because corruption will contaminate monies meant for capital projects or the building of public amenities.
2. A decline in output. Businesses and manufacturers will be significantly impacted by corruption. Investors will cancel or withdraw their investments in Indonesia due to a shortage of funds as a result of the overwhelming impact of corruption.
3. A rise in the national debt. Because of corruption, the nation is on the verge of inflation and a recession. A nation is forced to borrow money in order to prevent both of these consequences.
4. The public's confidence in government agencies is starting to decline. A criminal act of corruption by a state official erodes public trust and may even lead to the dissolution of state institutions.
5. The government doesn't work. The administration is seen as weak and unable to enforce the law in this country because of the widespread corruption. Recurring incidents show that Indonesia's Corruption Eradication Law is still not being applied properly.

The economic impact of corruption is a problem that can impede economic development in both developed and developing countries. By creating departments or organizations tasked with controlling and combating corruption, numerous governments have started to closely consider the financial risks associated with corruption. This is particularly relevant while the Covid-19 epidemic is still going strong.

## CONCLUSIONS AND RECOMMENDATIONS

The aforementioned discussion leads to the conclusion that the legal effectiveness indicators – which include, in this case, regulations that provide opportunities for the use of independent investigators and prosecutors of the KPK – the structure of the law enforcement apparatus, which in this case represents the police and prosecutor's office's weakness in the effort to eradicate corruption, the legal culture, which reflects the grim practices of the legal mafia in Indonesia, and the availability of supporting facilities and infrastructure to support effective corruption eradication in Indonesia – are the foundation for the urgency of legal political reconstruction. Three pillars form the basis of the legal architecture of the model for bolstering independent investigators and prosecutors of the KPK RI: bolstering the KPK in terms of legality, bolstering the KPK in terms of number, and bolstering the KPK in terms of quality.

In Indonesia, corruption is not a recent problem. Since the Dutch colonial era, corruption has persisted in Indonesia and is currently regarded as a widespread crime or culture. Corruption has an impact on various facets of the state in addition to Indonesian residents. Like the economic sector, it is one of the most crucial aspects since it shows how affluent a nation is. Corruption violations have increased in Indonesia as a result of the Corruption Eradication Commission's (KPK) deterioration. The administration, and the President in particular, must be able to evaluate the KPK's weakened state. Because one of Indonesia's finest chances to eradicate corruption is the KPK.

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