Monitoring Report of Corruption Cases Sentenced by Courts during 2018
Corruptors Have Not Been Maximally Punished
The average sentence for corruption cases in 2018 were 2 years and 5 months

A. Foreword

From 2005 to the present day, Indonesia Corruption Watch (ICW) routinely monitors and collects corruption sentences, from the Corruption Courts (previously the General Courts), the High Courts, Military Courts, to the Supreme Court, including appeals and reviews to the Supreme Court. Through this monitoring, we can identify the frequent actors, the most severe court ruling for corruptors, the average court ruling for corruptors, and the potential state losses of corruption cases that have been successfully monitored.

The results of this monitoring will later be conveyed to related parties as input from civil society, which in the future can be followed up at the internal level of related institutions, as well as among related institutions. The institutions that become the focus in monitoring this trend of sentences are the Attorney General Office (AGO), the KPK and the Supreme Court. These three institutions are the focus because monitoring is carried out on court sentences on corruption cases, in which the prosecutor's office and the KPK act as public prosecutors who formulate indictments, then the court will sentence the corruption cases.

It is expected that the law enforcement process carried out by the police, the prosecutor's office, the Corruption Eradication Commission (KPK), and the court can provide a greater deterrent effect on corruption perpetrators. As it known, every year law enforcement officers process hundreds of cases with thousands of defendants, but no optimal efforts that have been formulated to deter corruptors. As one of the spearheads of corruption eradication, the law enforcement process should be a strategic means of deterring corruptors, but this has not been reflected in this trend of court sentences toward corruption cases in 2018.

B. Monitoring Methodology

In conducting monitoring, ICW uses court sentences as the basis for data processing on trends in corruption case sentences. We obtained the corruption case sentences from the official website of the Directory of Supreme Court Sentences (https://putusan.mahkamahagung.go.id/), the Case Tracking Information System (SIPP) of each district court, and several case tracking information systems for appeal levels such as SIPERKA Medan High Court, SIPUT Yogyakarta High Court, and Data Cases of Bandung High Court. We complete the information on sentences obtained through the official information system of the Supreme Court and the courts under them. We equip the data with secondary information that we obtain through media monitoring, both in local and national level. Data collecting processes were carried out based on the corruption case sentences issued by courts from January 1, 2018 to December 31, 2018.

The calculation of the average sentence is made in 2 (two) forms. The first form is comprehensively, which is by combining sentences in the District Court, High Court and the Supreme Court. The second form is by calculating the average sentences at each court level separately: District Court, High Court, and Supreme Court. There may be a smaller number of sentences – particularly sentences on appeal and cassation, as well as reviews – uploaded to the Directory of Supreme Court Sentences page – than the number of cases actually sentenced by the High Court and the Supreme Court.

In this monitoring, ICW divides the level of decision into 3 categories. First, a lenient sentence, ranging from less than 1 year to 4 years. Second, a moderate sentence between 4 years and 10 years. And third, a severe sentence with more than 10 years imprisonment. The lenient category is based on the consideration that the minimum imprisonment according to Article 3 of the Anti-Corruption Law is 4 years in prison, including a life sentence of imprisonment.

C. Result of Monitoring and The Analysis of Corruption Case Sentences

Throughout 2018, ICW monitored 1053 corruption cases with 1162 defendants, with a total fine of Rp. 119,884,000,000, with a total additional fine of Rp. 838,547,394,511.34; US $ 5,512,431; and RM27,400. Based on the overall monitoring result, the average jail sentence imposed for corruption defendants during 2018 was 2 years and 5 months of imprisonment. This average increased from the average sentence in 2017: 2 years and 2 s of imprisonment.

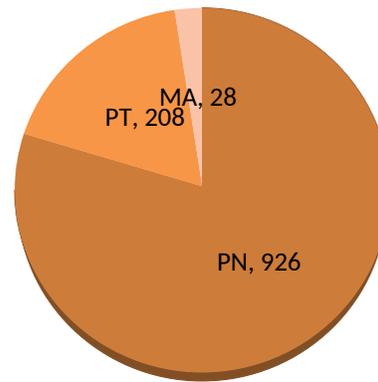The average sentences at each court level are as follows:

Table I. Average length of prison sentence in each court level

No	Court Level	Average Length of Prison Sentence
1.	Corruption Court at the District Court	2 years and 3 months
2.	High Court	2 years and 8 months
3.	Supreme Court	5 years and 9 months
Total average length of prison sentence		**2 years and five months**

From the total of 1053 corruption cases with 1162 defendants monitored in 2018, the District Court tried 926 defendants (79.69%), the High Court tried 208 defendants (17.90%), and the Supreme Court tried 28 defendants (2.41%). The total state financial losses resulting from the corruption cases amounted to IDR 9,290,790,689,756.73, with a total bribe of IDR 776,895,013,114; US $ 8,211,480; RM27,400; and SGD218,000, and an extortion of Rp110,842,000.
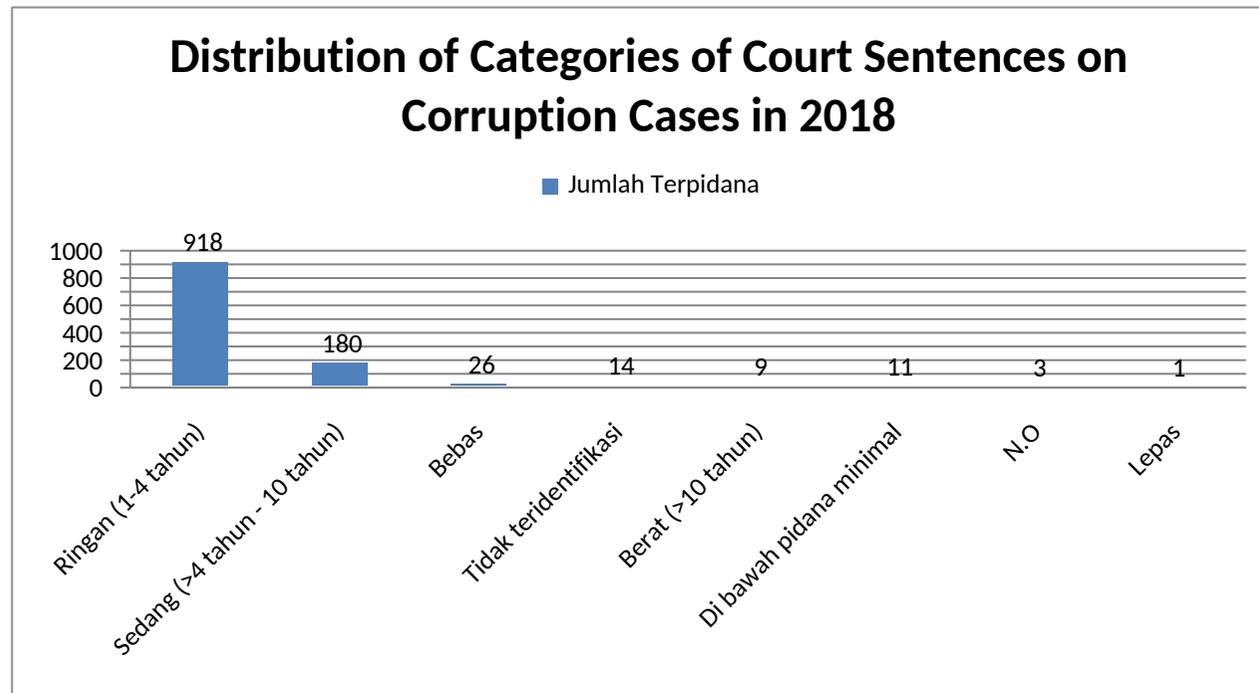
Diagram I. Locus Distribution of 2018 Corruption Sentences (Number of Defendants)

Locus Distribution of 2018 Corruption Sentences

MA, 28
PT, 208
PN, 926

Overall, the sentences in corruption cases at each court level (District Court, High Court and Supreme Court) can be divided into 8 (eight) categories. The following are the details, Lenient Category (1-4 years), 918 defendants or 79%, Moderate Category (> 4 years - 10 years) 180 defendants or 15.49%, Severe Category (> 10 years) 9 defendants or 0 , 77%, acquitted decisions were 26 defendants or 2.24%, released decisions were 1 defendant or 0.09%, decisions that unidentified were 14 defendants or 1.20%, verdicts under criminal sanctions were at least for extortion as many as 11 defendants or 0.95%, and The Niet Ontvankelijke Verklaard (N.O.) decision as many as 3 defendants or 0.26%.

Diagram II. Distribution of Categories of Court Sentences on Corruption Cases in 2018

Distribution of Categories of Court Sentences on Corruption Cases in 2018

■ Jumlah Terpidana

918 | 180 | 26 | 14 | 9 | 11 | 3 | 1

Ringan (1-4 tahun) | Sedang (>4 tahun - 10 tahun) | Bebas | Tidak teridentifikasi | Berat (>10 tahun) | Di bawah pidana minimal | N.O | Lepas

Since 2017, a trend has emerged for the imposition of imprisonment under the minimum sentence stated in the Anti-Corruption Law. This trend emerged as a result of the prosecution of illegal levies (extortion), in which the imprisonment imposed were range from 3 months - 1 year, with the amount of extortion ranging from hundreds of thousands of rupiah (Rp.270,000) to tens of millions of rupiah (Rp.15,000,000). As for what is meant by N.O. (Niet Ontvankelijke Verklaard) is a decision issued by the court due to a defect in the indictment.

In more detail, the features of the decisions of each court are as follows:

Table II. Distribution of Categories of Court Sentences on Corruption Cases in 2018

Category	Total number of Defendants	District Court		High Court		Supreme Court	
		Number of Defendants	Percentage	Number of Defendants	Percentage	Number of Defendants	Percentage
Lenient	918	749	81,59	159	17,32	10	1,09
Moderate	180	131	72,78	35	19,44	14	7,78

Severe	9	3	33,33	3	33,33	3	33,33
Acquitted/Released	26	21	80,77	4	15,38	1	3,85
No charges	1	0	0,00	1	100,00	0	0,00
Unidentified	14	9	64,29	5	35,71	0	0,00
Under minimum penalty	11	10	90,91	1	9,09	0	0,00
N.O	3	3	100,00	0	0,00	0	0,00

From the table above, it can be seen that the majority of decisions at the first level and appeals are still in the lenient category or range from 1 year - 4 years sentence of imprisonment, while for the cassation and reviews at the Supreme Court, the majority of decisions are in the moderate category or > 4 years - 10 years sentence of imprisonment.

In general, the trend of decisions at the respective court levels since 2016 has indeed increased, although not significantly. The average decision in 2016 and 2017 is not even different, the difference lies in the average decision at each court level, and the tendency of each court is still the same, Distric Court and High Court still tend to decide in the lenient category, and Supreme Court decisions are in in the moderate category. In 2017 and 2018 there was even a significant increase in the average decision at the MA level which is 4 years and 1 month in 2016, increasing by almost 1 (one) year to 5 years, and in 2018 it increased again by 9 (nine) s to become 5 years 9 months.

Table III. Trend of the Average Sentences of the Corruption Cases in 2015-2018

Year	Average Sentence	District Court	High Court	Supreme Court
2016	2 years and 2 months	1 year and 11 months	2 years and 6 months	4 years and 1 month
2017	2 years and 2 months	2 years and 1 month	2 years and 2 months	5 years
2018	2 years and five months	2 years and 3 months	2 years and 8 months	5 years and 9 months

Corruption verdicts at the Corruption Court at the District Court

The distribution of the 2018 decision categories is not much different from the distribution of decision categories in 2017, where the District Court imposed the majority of lenient sentences for 924 defendants (84.46%);114 defendants (10.42%) were decided in the moderate category; 2 (two) defendants (0.18%) were found to be categorized as severe; 29 defendants (2.65%) were acquitted/released; 24 defendants (2.19%) whose verdicts could not be identified; and 1 (one) defendant (0.09%) was N.O.

Corruption verdicts in the Corruption Court at the High Court

In the Court of Appeal, the trend in verdicts tends to be similar. In 2017, out of 255 defendants who were sentenced, 190 defendants (74.51%) received lenient entences; 36 defendants (14.12%) were convicted in the moderate category; 1 (one) defendant (0.39%) was convicted in the severe category; 7 (seven) defendants (2.75%) were acquitted/released; 21 defendants (8.24%) could not have the verdict identified; and none of the defendants were convicted N.O.
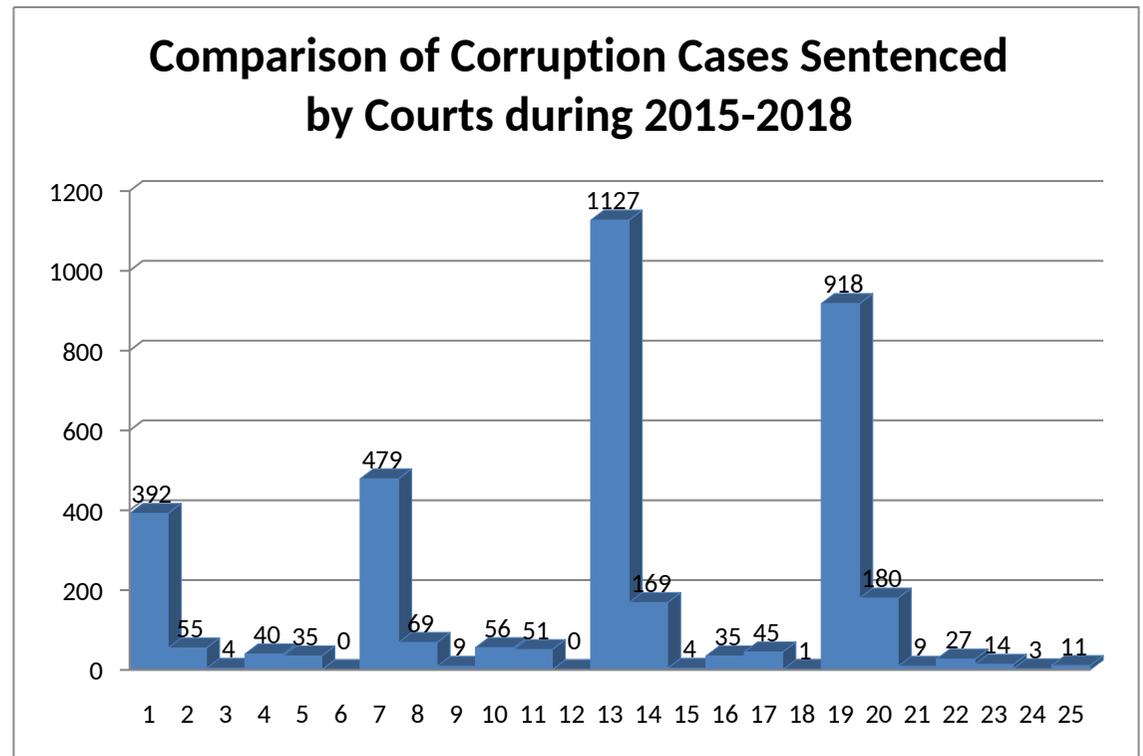
🎬 **Corruption verdicts in the Supreme Court**

Still with a similar trend in 2018, in 2017 the majority of the Supreme Court decisions were also in the moderate category with the following details, 13 defendants were sentenced to lenient (38.24%); 20 defendants were sentenced to moderate (58.82%); 1 (one) defendant (2.94%) was severely sentenced, and none of them was sentenced to acquittal nor N.O. The difference between the 2017 and 2018 decisions is the acquittal. In 2017, the Supreme Court did not issue an acquittal at all, while in 2018 there were 1 (one) defendant who was acquitted.

Table IV. Comparison of Corruption Cases Sentenced by Courts during 2015-2018   **Diagram III. Comparison of Corruption Cases Sentenced by Courts during 2015-2018**

Year	Category	Number of Defendant	Percentage
2015	Lenient	392	74,5%
	Moderate	55	10,5%
	Severe	4	0,8%
	Acquitted/Released	40	7,6%
	Unidentified	35	6,7%
	N.O.	0	0%
2016	Lenient	479	72,1%
	Moderate	69	10,4%
	Severe	9	1,4%
	Acquitted/Released	56	8,4%
	Unidentified	51	7,7%
	N.O.	0	0%
2017	Lenient	1127	81,61%
	Moderate	169	12,24%
	Severe	4	0,29%
	Acquitted/Released	35	2,53%
	Unidentified	45	3,26%
	N.O.	1	0,07%
2018	Lenient	918	79%
	Moderate	180	15,49%

Comparison of Corruption Cases Sentenced by Courts during 2015-2018

Severe	9	0,77%
Acquitted/Released	27	2,32%
Unidentified	14	1,20%
N.O.	3	0,26%
Under minimum penalty	11	0,95%

From the trend above, it can be seen that there has been no significant change in the distribution pattern of decision categories from 2015 to 2018. The majority of decisions are still in the light category, although for free or released decisions there has been a downward trend from 2016 to 2018. Another difference from the trend in above can also be caused by data processing sources, where since 2017 ICW has started to utilize data in the SIPP of each District Court.

However, it is still difficult to obtain information disclosure for decisions at the High Court and Court levels, because the SIPP for the High Court and the Supreme Court is still limited to internal only. Several High Courts have taken good initiatives by developing official websites similar to the SIPP, but this has not been followed by all High Courts, thus there are disparities in information that affect the processing of data monitoring on this decision.

Picture I. Screenshot of the Website Page of the Directory of Supreme Court Sentences

The directory of the Supreme Court, which should have been the main source of information, is actually a source of problems. This is because not all decisions have been uploaded to the Directory of Supreme Court Sentences. Even if there is a link to download the verdict,

the link does not work, and this is exacerbated by the difficulty of access to open the link of the verdict. As with the disparities in information on High Court decisions, this has an impact on data processing.

Overall, there is tendency that courts have not imposed maximum sentences in corruption cases. There is no definitive analysis as to why the judges did not give the maximum possible sentence for many cases that potentially deserve such a harsh sentence (e.g., based on the amount of state financial loss, the background of the perpetrator, or the amount of bribery). This can also occur because the prosecutor's charges are also not maximized, worsened with the lack of evidence during the trial; so that inevitably the judges must "compromise" by not giving severe sentences.

However, this article does not want to highlight in depth such possibilities. This document acts as complementary data to the phenomenon that needs to be studied further, including through the mechanism of decision examination, or even investigations by the law enforcement against the judges making the lenient decisions

Sentence under Minimum Penalty

The trend of sentence under minimum penalty began to emerge since 2017, or to be more certain after the Tim Saber Pungli (Counter Illegal Levy Team) was formed by the Jokowi-JK Government in 2016. This team is intended to eradicate extortion or illegal levies which are often referred to as petty corruption. This trend is prevalent in the public service sector, which allows citizens to have face-to-face contact with public employees who provide public services. The amount of this extortion varies, ranging from those worth hundreds of thousands of rupiah to tens of millions of rupiah.

According to legal norms, extortion fulfills the elements of several articles in the Corruption Crime Law, ranging from gratuities, bribery, to extortion, depending on the criminal act committed in each case. One of the criteria that can identify a case is a case of extortion, although it is not clearly stated in the formulation of the indictment or decision, through the "presence" of Article 12A paragraph (1) and / or paragraph (2) of the Corruption Crime Law. In the trend of verdicts in 2017 and 2018, imprisonment for extortionists is usually only a matter of months, starting from 3 (three) months, to 1 (one) year, with a fine that does not exceed IDR 20,000,000.

The norms that are promulgated are clearly binding on all parties who are the subject of the legal regulation, including the perpetrators of extortion, although the amount is insignificant. What we want to prevent from this practice of extortion is justice for all public service recipients, conflicts of interest and favoritism by civil servants who provide public services, and illegal income for public employees who have received remuneration from people's taxes. Quoting directly from the official Saber Pungli website, the eradication of extortion does not lie in the amount of losses it causes, but rather in the cultural roots that it wants to eliminate.

Extortion is clearly a serious problem in the government bureaucracy in Indonesia, and there must be strict sanctions against extortionists, which must also be accompanied by structural improvements and legal regulations. However, it is also necessary to think about a mechanism to not immediately bring up the problem of extortion with a criminal law approach, because the sentence of extortionists does

not necessarily lead to deterrence either. In the long term, it is not impossible that concerns will arise that this will in fact add unnecessary burdens to law enforcement officials, not to mention the costs that must be borne by the state for the legal process.

Acquittals/Releases

In 2018, acquittals or acquittals issued by courts tended to decrease compared to the previous 2 (two) years (see: Table III. Trend of the Average Sentences of the Corruption Cases in 2015-2018). In 2016, there were 56 of the 664 defendants who were acquitted and released, or around 8.4%, while in 2017 there were 35 of the 1,381 defendants who were released and released, or around 2.54%. In monitoring decisions on corruption cases conducted by ICW in 2018, 27 out of 1162 defendants, or around 2.32%, were found acquitted and released by the court.

An acquittal or release is not something that is taboo, including for corruption cases. As with decisions issued by a court in other categories, there are things that affect a decision handed down by a judge in court, including and not limited to the strength of the prosecutor's indictment and evidence at trial, both of which are also influenced by the strength of the evidence obtained during the process. investigation. Thus, the imposition the release and acquittal can also be an evaluation for the Public Prosecutor who compiled the indictment and prepared evidence at trial, so that in the future it can improve the quality of the indictment.

Apart from evaluating the indictments, further research should also be carried out if there is a tendency for courts and judges in certain courts to issue many acquittals and acquittals against defendants in corruption cases. Further research through the examination of decisions can be carried out to identify clearer reasons for this. The same method can also detect the possibility that the prosecution's indictment is not maximal. However, in general the decrease in the number of acquittal and release decisions in 2018 should be appreciated.

Table V. Courts that Sentenced Acquittals/Releases

No	Name of Court	Number of Defendants
1	Supreme Court	1
2	Makassar District Court	1
3	Bandung District Court	1
4	Mamuju District Court	2
5	Ternate District Court	1
6	Manado District Court	1
7	Semarang District Court	5
8	Jayapura District Court	1
9	Pontianak District Court	3
10	Medan High Court	3
11	Kupang High Court	2

12	Makassar High Court	1
13	Manokwari District Court	1
14	Kendari District Court	2
15	Tanjung Karang District Court	1
16	Banjarmasin District Court (Acquittal)	1
	Total	27

Severe Sanctions for the Crime of Corruption

Based on the Table III. Trend of the Average Sentences of the Corruption Cases in 2015-2018, it can be seen that there is an increase in the imposition of sentence imprisonment in severe category. In 2015, for example, only 4 (four) of the 526 defendants (0.8%) were convicted in the heavy category. In 2016 there was an increase in the trend of heavy decisions against defendants in corruption cases, namely as many as 9 (nine) out of 664 defendants (1.4%), however this trend declined again in 2017 only as many as 4 (four) people were sentenced to severe category imprisonment. out of 1381 defendants (0.29%). There was a significant increase in 2018, where 9 out of 1162 defendants were severely convicted by the court, or around 0.77%.

Table VI. Corruption Cases and Defendants Given Severe Sentences in 2017

No	Case Number	Name of Defendant	Indictment	Sentence	Court	Judges	Prosecutor
1	130/Pid.Sus-TPK/2017/PN Jkt.Pst	Setya Novanto	16 Years	15 Years	Central Jakarta District Court	Yanto, Frangki Tambuwun, Emilia Djajasubagia, Anwar,SH., and Ansyori Syarifudin	Corruption Eradication Commission
2	35/Pid.Sus-TPK/2018/PN Bgl	Lie Eng Jun bin Lie Sing Kiat	12 Years	12 Years	Bengkulu District Court	Jonner Manik SH MM, Gabriel Siallagan SH MH and Rahmat SH MH	Bengkulu High Prosecutor's Office
3	6/Pid.Sus-TPK/2018/PN Plg	Rendi Defriza, ST	15 Years	15 Years	Palembang District Court	Adi Prasetya, Abu Hanifah, H. Arizona Megajaya	Lubuk Linggau District Attorney
4					DKI Jakarta High Court	Elang Prakoso Wibowo, SH.,MH, M. Zubaidi	

	16/Pid.Sus-TPK/2018/PT.DKI	Nur Alam	18 Years	15 Years		Rahmat, SH, I Nyoman Adi Juliasa, SH., MH, Dr. Hj. Reny Halida Ilham Malik, SH., MH, and Lafat Akbar, SH	Corruption Eradication Commission
5	10/Pid.Sus-TPK/2018/PT Pbr	Drs Mohammad Nashihan SH MH	12 Years	10 Years and 6 months	Pekanbaru High Court	Mulyanto SH MH, KA Syukri SH MH and Yusdirman Yusuf SH MH	Kepulauan Riau High Prosecutor's Office
6	34/Pid.Sus-TPK/2018/PT Jap	Aris Liem	15 Years	15 Years	Jaya Pura High Court	Supriyono SH Mhum, Sukadi SH MH and Josner Simanjuntak SH MH	Papua High Prosecutor's Office
7	430 K/Pid.Sus/2018	Irman	7 Years	15 Years	Supreme Court	Dr. Artidjo Alkostar, S.H., LL.M., Prof. Dr. H. Adul Latif, S.H., M.Hum., and M. S. Lumme, S.H.	Corruption Eradication Commission
8		Sugiharto	5 Years	15 Years			
9	1429 K/Pid.Sus/2018	Andi Agustinus Narogong	8 Years	13 Years	Supreme Court	Dr. Artidjo Alkostar, S.H., LL.M., Prof. Dr. H. Adul Latif, S.H., M.Hum., and M. S. Lumme, S.H.	Corruption Eradication Commission

Comparison of Corruption Court Decisions Handled by the Law Enforcement)
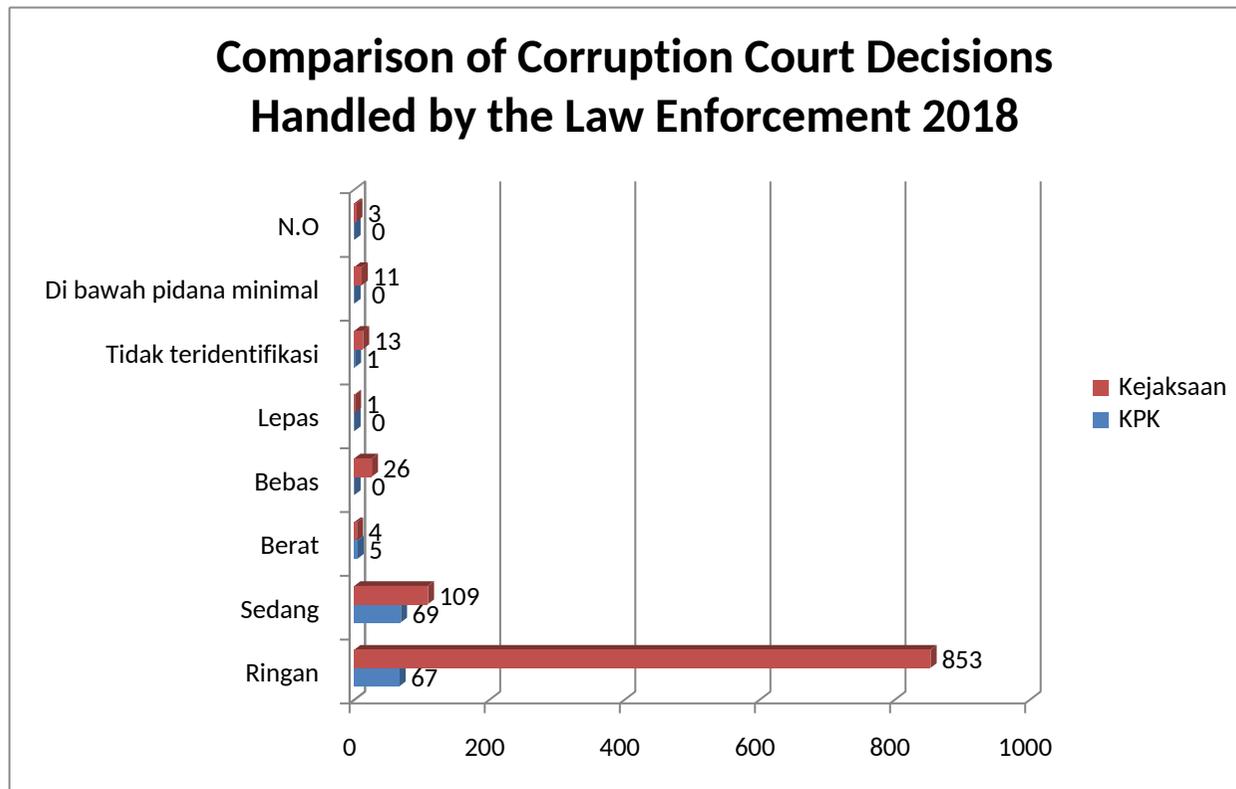
In this section, ICW tries to capture the tendency of court decisions on cases prosecuted by the prosecutor's office and the KPK. In 2018, the court ruled against 142 defendants (12.22%) whose prosecutions were carried out by the KPK and against 1020 (87.78%) defendants whose prosecutions were carried out by the public prosecutor's office. Meanwhile, the average verdict given by the court against a defendant

charged by the KPK is 4 years and 7 months, while the average sentence handed down by the court for a defendant whose prosecution has been carried out by the public prosecutor's office is 2 years and 2 months.

Of the 1062 defendants in corruption cases decided in 2018, 918 were convicted in the lenient category. Of the 918 defendants who were lightly sentenced, the KPK "contributed" 7.28% or as much as 67 defendants, while the prosecutor's office "contributed" 853 defendants or around 92.72%. In the moderate category, of the 180 defendants who were sentenced by the court, 69 defendants (38.76%) who were judged moderate, were prosecuted by the KPK while 109 defendants (61.24%) who were sentenced to moderate by the court were prosecuted by the prosecutor's office. For verdicts in the severe category, namely, 9 (nine) defendants, 5 (five) defendants (55.56%) who were severely convicted were defendants whose prosecution was carried out by the KPK, and 4 (four) other defendants (44.44%) were charged by the prosecutor's office.

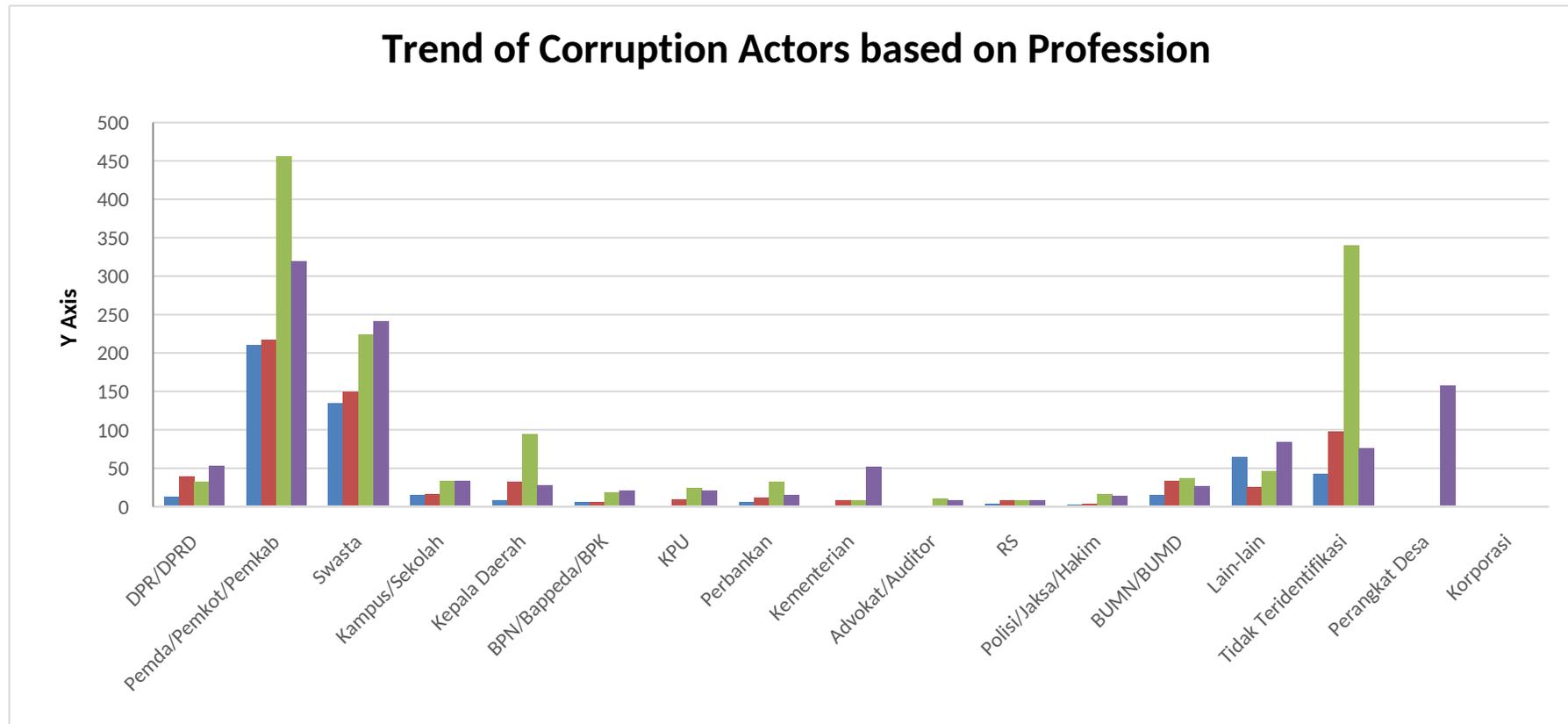A more detailed comparison can be seen in the following diagram:

Diagram IV. Comparison of Corruption Court Decisions Handled by the Law Enforcement 2018

From this data, it can be seen that the majority of decisions against defendants whose cases were prosecuted by the KPK were in the moderate category (> 4 years - 10 years), while many of the sentences in corruption cases prosecuted by the public prosecutor's office were still in the lenient category (1 year - 4 years). Even so, the lenient entences for defendants whose prosecutions were carried out by the KPK also differed only by 2 (two) defendants from those sentenced to moderate.

Professional Backgrounds of Corruption Defendants

Diagram V. Trend of Corruption Actors based on Profession 2015 – 2018

Trend of Corruption Actors based on Profession

From the diagram above, it can be seen that there is no significant difference from the professional background of corruption perpetrators, which are handled by law enforcement officials every year. Most of the perpetrators of corruption still come from the background of local government employees at the provincial, district and city levels, and followed by private parties as the second largest perpetrator. In 2018 alone, Regional Government and Private Employees returned to the first and second positions for the most corruption perpetrators, where corruption defendants came from the Regional Government were up to 319 people or around 27.48%, perpetrators from private parties were as much as 242 defendants or 20.84%. The third rank is occupied by new actor which is village officials with 158 defendants or 13.61%, this is a part of the consequences of the implementation of the Village Law which gives flexibility to villages to manage their finances through the Village Fund Program.

It can happen that many village officials are involved in the corruption of the Village Fund Program because the program is not accompanied by capacity building for budget planning, budget utilization, and reporting of budget use of Village Fund, for village officials. This analysis needs to be further explored, because the emergence of the trend of village officials committing corruption cannot be separated from the overall implementation of the village fund program itself, meaning that there is an inadequate system that causes village officials 'massively' corrupt.

Analysis of similar phenomenon can also be carried out on the high tendency of local government and private employees to become corruptors. For years the discourse on bureaucratic reform and a government free from corruption has been rolled out, but it has not yet been able to answer this challenge, and with the high number of actors with a professional background, it shows that there are structural errors that have not been successfully answered, although this hypothesis also remains to be tested through more in-depth research.

Another assumption that needs to be tested from the findings of the trend of corruption sentences is that corruption involving local government officials and the private sector is corruption in the goods and services procurement sector, as well as in the context of issuing business licenses, etc. Because it is only in this context that there is direct contact between local government officials and the private sector. This means that it is likely that these two sectors need serious attention in terms of improving their governance.

Return of State Losses

Various parties have initiated various efforts to eradicate corruption. One of the deterrence efforts that can be taken by law enforcement officials is through the imposition of financial sanctions, either through the imposition of additional compensation money (penalty) or the application of the Anti-Money Laundering Law. However, this seriousness has not been seen in the decisions of corruption cases in 2018. As mentioned in the previous section, the total state losses suffered based on the 1053 judgments issued by the court against 1162 defendants was IDR 9,290,790,689,756.73.

With a state loss of Rp 9,290,790,689,756.73, efforts to recover these losses (asset recovery mechanism) have not been maximized. When compared with the additional penalties for additional compensation amounting to Rp805,064,989,132.28 and $ 3,012,431, only about 8.7% of state losses were "reimbursed" through additional compensation. On the other hand, in 2018 only 3 (three) defendants were charged and decided by the Anti-Money Laundering Law, which strengthens the allegation about the lack of efforts to detain perpetrators of corruption through impoverishment mechanisms. This is not much different from the conditions in 2017, where only 4 (four) defendants were charged and decided with the Anti-Money Laundering articles.

Table VII. Number of Defendants who were Indicted and Sentenced with Anti-Money Laundering Law

No	No Putusan	Terdakwa	Penuntut Umum
1	8/Pid.Sus-TPK/2018/PN Smr	EDNAND APRIA DANTHUS Bin	Kejaksaan Negeri Samarinda

		EDWARD NALA Alm.	
2	6/Pid.Sus-TPK/2018/PN Jkt.Pst	AGOENG PARAMODA	Kejaksaan Agung
3	113/Pid.Sus-TPK/2017/PN Jkt.Pst	ALI SADLI	KPK

However, efforts to recover state losses (asset recovery) can also be done through other mechanisms such as the application of gratuities, namely, Article 12 B paragraph (1) of the Corruption Crime Law. This article is expected to be an alternative to the asset recovery mechanism for corruption cases, in which one approach, namely the reversal of the limited burden of proof, can be used to seize assets whose legality of acquisition cannot be accounted for by the owner. In 2018, the KPK used the gratification article, both as a stand-alone indictment article and one that was accumulated with the bribery article.

Disparities in Criminalization

An issue that always arises in each year's Verdict Trends is disparities in the verdicts. Disparity of verdicts becomes a serious problem because it nvolves the value of justice to be achieved from a punishment. Unfortunately, it is precisely the existence of criminal disparity that implies the existence of injustice in the judgment of the judges handed down to the defendants. Although disparitiesare not possible to be eliminated, the gap that comes from punishment can be reduced or minimized.

Any difference in imposition of sanctions or disparity of criminalization is commonplace. This is because every case has its own characteristics, or differences between one another. Problems arise when conspicuous gaps occur between similar cases, for example cases with similar amounts of state loss, or when the actors involved have the same position, and so on. Eliminating the disparity of punishment is impossible, but suppressing the disparity is also important to achieve a sense of justice for the perpetrators and victims of corruption itself.

Table VIII. Disparity of Criminalization

No	Case Number	Defendant	Occupation	State Loss/Ampunt of Bribes	Indictment	Imprisonment	Proven Article
1	11/Pid.Sus-TPK/2018/PN Pal	ABUBAKAR A. MOH AMIN, M.Si	Director of PT Ampana Mandiri Property	Rp405.134.845	5 Years	4 Years 6 Months	Article 2 Paragraph (1) Corruption Crime Law
2	10/Pid.Sus-TPK/2018/PN Kpg	JOHAN SAHERTIAN	Director of PT Pedro Jaya Abadi	Rp1.328.335.683	7 Years 6 Months	4 Years	Article 2 Paragraph (1) Corruption Crime Law
	14/Pid.Sus-	ASTARI TAPUN	Employee of the	Rp787.900.000	1 Year 6	1 Years	

No	Case Number	Name	Position	Amount	Verdict	Demand	Article
3	TPK/2018/PN Mtr		Education, Culture, Youth and Sports office of Lombok Utara		Months		Article 3 Corruption Crime Law
4	10/Pid.Sus-TPK/2018/PN Pdg	Ir.RITA SUNELVIA DEWI,MT,IAL	Headmaster of MTsN Koto Nan Tuo Barulak	Rp39.241.006	1 Year 6 Months	1 Years	Article 3 Corruption Crime Law
5	21/Pid.Sus-TPK/2018/PN Bjm	ABDUL MANAN S.Sos Bin (ALM) SURYANI	Employee of the One Stop Integrated Service and Investment Service of Banjar District	Rp49.000.000	1 Years 6 Months	1 Years	Article 11 Corruption Crime Law
6	61/Pid.Sus-TPK/2018/PN Mks	Dra HUSNAWATY Binti SALENG	Head of the Development of Teachers and Education Workforce at the Education Office Pangkep District	Rp7.900.000	1 Year	1 Years	Article 11 Corruption Crime Law
7	25/Pid.Sus-TPK/2018/PT.DKI	DELFI DWIAN ISKANDARSYAH SE bin LAHMUDDINSYAH	Expenditure Treasurer at the North Aceh District Health Office of North Aceh District	Rp1.038.819.523	5 Years	5 Years	Article 2 Paragraph (1) Corruption Crime Law
8	22/Pid.Sus-TPK/2018/PN Mks	SYARIFUDDIN,SE	Head of Prima Danatama Savings and Loans Cooperative	Rp1.175.000.000	1 Year 6 Months	2 Years	Article 2 Paragraph (1) Corruption Crime Law

From the table above, it can be seen that there are some similarities and differences in parameters that should be one of the characteristics in making indictments and imposing verdicts. However, even with some of these characteristics in common, courts still impose significant imprisonment. As mentioned above, the difference between the verdict and the basis for imposing a criminal offense can of course be understood, because indeed the disparity in punishment itself cannot completely disappear, however there needs to be consistency in the judgment of a judge in imposing a crime on a corruption defendant, so that the public can also know the basis for the imposition of a verdict by judges.
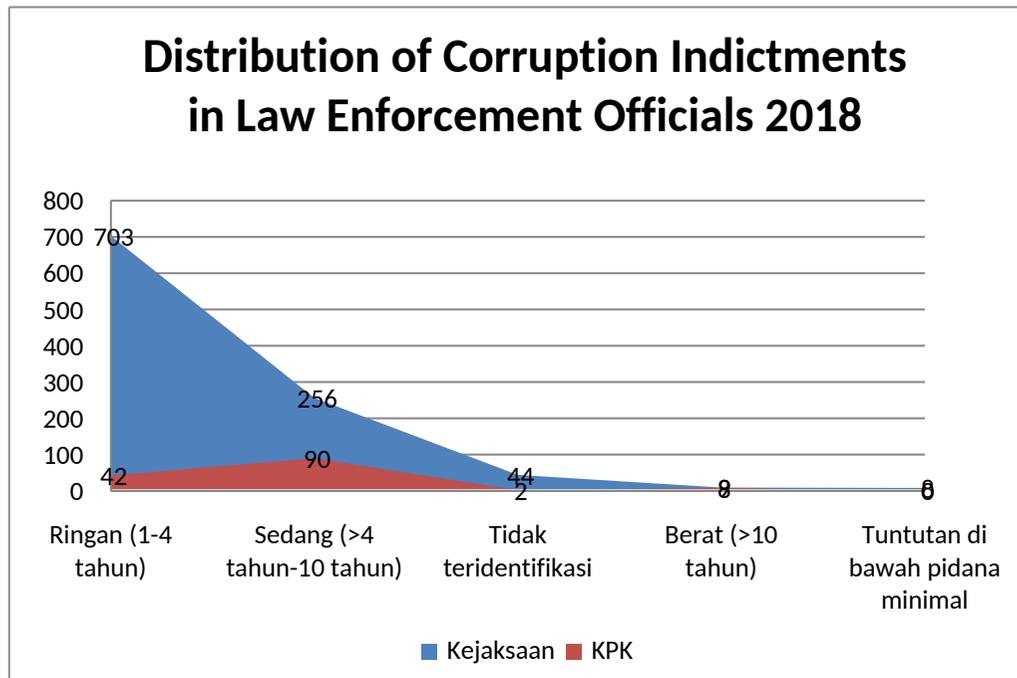
Corruption Case Indictments

As mentioned above, court decisions are influenced by various things. Normatively, the Criminal Procedure Code implicitly regulates that the judge's consideration in issuing a decision needs to consider several things such as the public prosecutor's indictment, witness testimony at trial, as well as evidence presented for evidence at trial. These three things will and can affect the confidence of judges in deciding criminal cases. In contrast to the indictment of prosecution, the prosecutor's indictment does not formally bind the judge in considering the verdict. However, the indictment can be read as a "request" from the public prosecutor to the judge, to be handed down to the accused.

Thus, this section is intended to capture how the public prosecutor views the corruption case which he handled through the request for the imposition of sanctions, through a letter of demand submitted before the court. The categories of charges are divided into 5 (five), namely, minor (1 year - 4 years), moderate (> 4 years - 10 years), serious (> 10 years), unidentified, and charges under minimum punishment.

In 2018, of the 1162 corruption defendants sentenced by the court, around 12.22% of the decisions were handed down to 142 corruption defendants prosecuted by the KPK, while 87.78% of the other decisions were handed down to 1020 corruption defendants who were prosecuted. From the number of defendants prosecuted by each institution, there is a trend of prosecution as follows:

Diagram VI. Distribution of Corruption Indictments in Law Enforcement Officials

From the distribution chart above, it can be seen that there are differences in the tendency of prosecutions between the KPK and the prosecutor's office. The KPK tends to prosecute cases in the medium category (4 years - 10 years), while the prosecutor's office still tends to prosecute cases in the lenient category (1 year - 4 years). However, the tendency of the two institutions to prosecute cases in the heavy category (> 10 years) is not too different. The average prosecution rate at the two institutions is also quite different, where the average prosecution filed is 3 years, while the average KPK prosecution is 5 years 6 months, with the average demands of all institutions in 2018 being 3 years and 4 months.

However, in 2018 the prosecutor's office successfully charged 1 (one) corporation that was found guilty by the Bengkulu High Court, namely, PT VIKRI ABADI GROUP through decision number 10 / Pid.Sus-TPK / 2018 / PT.BGL, and this should be appreciated. Another thing that should be appreciated is that the prosecutor's office sued 2 (two) corruption defendants under the money laundering article, while the KPK only charged 1 (one) defendant with the Anti-Money Laundering Law. This achievement is not yet significant, and must be improved in the future, so that the hope of trapping corruption perpetrators through the legal process can be achieved.

Revocation of Political Rights

Revocation of political rights is one of the additional types of punishment regulated in several laws and regulations, such as in the Article 18 paragraph (1) letter d of the Corruption Crime Law jo. Article 10 jo. Article 35 of the Criminal Code. These two regulations serve as legitimacy for prosecutors and judges to revoke the political rights of a defendant from a political dimension.

In fact, the revocation of political rights will limit the rights of a prisoner to hold a certain position for a specified period of time. This is done solely on the pretext that corruption is an extraordinary crime, so it is only natural that the punishment model should be carried out based on the maximum deterrent effect.

In ICW's monitoring from 2016-2018 the KPK has prosecuted at least 88 defendants from a political dimension. However, what was quite disappointing was that the KPK only asked 42 defendants to have their political rights deprived.

Another thing that is regrettable is when the KPK did not demand the revocation of political rights for the defendant Sri Hartini, the Regent of Klaten. The reason stated by the prosecutor at that time was that the demands for imprisonment were high enough that there was no need for revocation of political rights. Even though the objectives of the two are clearly different. Imprisonment is intended so that the person concerned can feel the punishment for the crime they have committed. Meanwhile, the revocation of political rights is intended so that the person concerned cannot occupy a certain position after serving a sentence because they have betrayed their previous position.

Judicial Review Efforts

In May 2018, Supreme Court Justice Artidjo Alkostar was officially retired. Practically throughout 2018 the group of convicted corruption cases took turns filing a case review (Judicial Review) to the Supreme Court. ICW noted that at least 24 convicted corruption cases (DATA ATTACHED) handled by the KPK filed extraordinary legal remedies.

Judicial Review is actually the right of prisoners guaranteed by law. However, it is not uncommon for the Judicial Review to be used by corruption actors as a "shortcut" to get freedom from legal traps. ICW data states that from 2007 to 2018 there were 101 prisoners released, 5 acquittals, and 14 sentencing lighter than the previous court level in the review phase.

Article 263 paragraph (2) of the Criminal Procedure Code has explicitly regulated the conditions if someone wants to apply for a Judicial Review, including: 1) If there is a new condition/novum; 2) wrong decision; 3) mistake of the judge when passing the verdict. However, on several occasions this requirement has often been ignored, so that the the decisions were made considered far from a sense of justice.

Another thing that is quite important is the election of Suhadi to be the Chairperson of the Supreme Court's Criminal Chamber. Which is known that he has a bad track record when trying corruption perpetrators. In 2013, he released Sudjiono Timan, a convict of corruption in Bank Indonesia Liquidity Assistance. Whereas when he filed for PK Sudjiono Timan was a fugitive after being sentenced to 15 years in prison and was obliged to pay compensation amounting to Rp. 369 billion at the cassation level.

D. Conclusions

First, the average verdict at all court levels is relatively light, namely, 2 years 5 s. There was a slight increase from the average sentence of corruption cases in 2017, only 2 years and 2 months, 2016 also for 2 years and 2 months. ICW understands that verdicts are influenced by various things, but considering the seriousness of the problem of corruption in Indonesia, the law enforcement sector is expected to become one of the spearheads of efforts to eradicate corruption, one of which is through sentences that detain the accused. Even if corporal punishment (imprisonment) is not seen as a powerful way to deter corruption perpetrators, other mechanisms that can be taken, such as financial penalties (additional punishment for compensation and a combination of charges with the Anti-Money Laundering Law) are also not maximally implemented.

The things above will be exacerbated by the correctional process for corruption convicts. Corrupt practices in prisons are also still common, so that the OTT carried out by the KPK against the Head of Sukamiskin for example, is not too surprising. This means that the overall punishment in Indonesia (Criminal Justice System) is still problematic, where one legal process will affect another legal process. The serious punishment that the public prosecutor charges and handed down by the court will be in vain if the process of granting remissions and parole is still loose which is exacerbated by rampant corruptive practices in prisons.

Second, the problem of asset recovery is still a challenge in itself. With a state loss of Rp 9,290,790,689,756.73, efforts to recover these losses have not been maximized. When compared with the additional penalties for additional compensation amounting to Rp805,064,989,132.28 and $ 3,012,431, only about 8.7% of state losses were "reimbursed" through additional compensation. On the other hand, in 2018 only 3 (three) defendants were charged and decided by the ANTI-MONEY LAUNDERING Law, which strengthens the allegation about the lack of efforts to detain perpetrators of corruption through impoverishment mechanisms. Even if the alternative to be pursued is

through the use of the gratification article (Article 12B of the Corruption Crime Law), this is still not reflected in the findings of the 2018 corruption case verdict trend, because of the 1162 defendants only 26 were prosecuted and convicted with the gratification article and / or the gratification article. and bribes.

Third, extortion is clearly a serious problem in the government bureaucracy in Indonesia, and there must be strict sanctions against extortionists, which need to be accompanied by structural improvements and legal regulations. However, it is also necessary to think about a mechanism to not immediately bring up the problem of extortion with a criminal law approach, because the sentence of extortionists does not necessarily lead to deterrence either. In the long term, it is not impossible that concerns will arise that this will in fact add unnecessary burdens to law enforcement officials, not to mention the costs that must be borne by the state for the legal process.

Fourth, disparity in decisions is still a serious problem. While efforts to punish serious crimes such as corruption continue, the judiciary still has issues regarding disparities in sentencing. Criminal disparities cannot be avoided, but can be minimized. There are at least two main reasons why disparities in decisions are important for serious attention. First, disparity in decisions will ultimately hurt people's sense of justice. Disparities make the court's decision public doubts. This is because cases with similar criteria can be decided with a much different punishment. Second, in extreme conditions, disparity in decisions can occur due to the sale and purchase of decisions. This is because a judge who has independence and independence can decide a corruption case at will without justifiable considerations.

Fifth, revocation of political rights as regulated in Article 18 paragraph (1) letter d of the Corruption Crime Law jo. Article 10 jo. Article 35 of the Criminal Code is an additional form of punishment that must be seriously considered to always be applied in the prosecutor's indictment and demands. Revocation of political rights, especially for defendants with political career backgrounds, is expected to be able to provide deterrence for convicts so that they do not easily return to public positions after betraying their previous duties.

Sixth, submissions for PK by many corruption convicts, especially those with cases handled by the KPK, must be watched out for. PK submission is indeed the right of prisoners, including corruption convicts. This is clearly regulated in Article 263 paragraph (2) of the Criminal Procedure Code, in which there are a number of conditions that must be met for a prisoner to apply for a PK, namely, 1) If there is a new condition / novum; 2) wrong decision; 3) mistake of the judge when passing the verdict. These conditions are regulated in a limited manner, but in several PK applications submitted by corruption convicts it can be seen that these conditions tend not to be strictly and strictly enforced, so that the resulting PK decisions are far from a sense of public justice.

Recommendations

As a future recommendation, ICW encourages:

1. Overall, the data processing of sentencing trends carried out by ICW every year is largely determined by the publication of decisions and information related to decisions on corruption cases uploaded by court institutions, starting from the District Court, High Court and

Supreme Court levels. Some decisions on the Supreme Court Decision Directory page are still accessible, but not without obstacles. Downloading the decision document is very difficult because it takes a very long time to open a page containing the decision document itself. Even if information regarding the details of a case or decision is sought in stages at the PN SIPP or the media coverage, this is still not a solution, because the format for filling in the information at the SIPP of District Courts are not the same. SIPPs in several District Courts have very detailed filling formats, but there are still many SIPPs filled with informations that minimum.

Apart from ICW's monitoring as an organization, disclosure of information related to case handling to decisions and even execution of court decisions is a public right, because such information is included in the category of public information as soon as it is read in front of a court open to the public. This means that court institutions under the Supreme Court must make serious improvements to information management, including the provision of information on decisions and updated case developments, online;

2. The average difference in decisions between the District Court and the High Court and the Supreme Court may indicate a more serious symptom, namely the difference in views or standards among the judges themselves in deciding corruption cases. This can be seen from the difference in the average prison sentence sentencing at each court level where the average imprisonment sentencing at the District Court level is only 2 years 3 months, High Court 2 years 8 months, while the Supreme Court gives an average -An average imprisonment of 5 years and 9 months. One of the ways to overcome this disparity (disparity) is through the establishment of a criminal guideline for judges in the form of a Perma or Sema, taking into account the results of the Senior Court's criminal chamber meeting as a reference for other judges;

3. The Attorney General's Office and the Corruption Eradication Commission (KPK) maximized the charges in the form of the imposition of additional compensation money. If indeed not all state financial losses or bribes or gratuities are enjoyed by the defendant, there must be a clear calculation of the flow of these funds. Thus, the formulation of charges using the ANTI-MONEY LAUNDERING Law is increasingly relevant, so that the asset recovery mechanism can be carried out optimally;

4. Seeing the seriousness of the problem of extortion and the imposition of crimes against extortionists, it is necessary to consider correcting / revising regulations related to anti-corruption, namely the Anti-Corruption Law and other related regulations, so that extortionists are not immediately convicted. However, it can be presumed that the budget and manpower expended to carry out the legal process against the extortionist is greater than the amount of illegal revenue he receives and can be returned to the state;

5. Revocation of political rights must be maximally implemented by the prosecutor by using it in criminal indictments and charges, especially for defendants who have a political career background and / or are currently holding public positions. The deprivation of political rights must be carried out as a legal punishment process through court mechanisms to deter criminals who have a political background, especially in the criminal act of corruption;

6. The Supreme Court must be more serious in anticipating the emergence of a tendency for PK filings by corruption convicts after the retirement of Supreme Court Justice Artidjo Alkostar. PK is the right of both the defendant and the convict, but do not let this extraordinary legal action be used as a way to "outsmart" the verdict that has already been passed.

Annex

List of Corruption Defendants who apply for Judicial Reviews

No	Name	Title	Case	Sentence	Time	Status
1	Rico Diansari	Swasta	Perantara Suap Guernur Bengkulu	6 years, denda Rp 200 juta	9 Maret 2018	Sedang proses
2	Suparman	Bupati Rokan Hulu	Menerima suap R-APBD Rokan Hulu	4,5 years, denda Rp 200 juta	19 Maret 2018	Sedang proses
3	Tafsir Nurchamid	Wakil Rektor UI	Pengadaan barang dan jasa proyek instalasi infrastruktur teknologi informasi gedung perpustakaan UI	5 years, denda Rp 200 juta	24 April 2018	Sedang proses
4	Anas Urbaningrum	Anggota DPR RI	Korupsi dan pencucian uang proyek Hambalang	14 years, denda Rp 5 milyar, uang pengganti Rp 57 milyar dan USD 5 juta	21 Mei 2018	Sedang proses
5	Suroso Atmomartoyo	Direktur Pengolahan PT Pertamina	Suap proyek pengadaan Tetraethl Lead (TEL) di Pertamina	7 years, denda Rp 200 juta, uang pengganti USD 190 ribu	22 Mei 2018	Dikabulkan, uang pengganti dihapus
6	Siti Fadilah Supari	Mantan Menteri Kesehatan	Pengadaan alat kesehatan	4 years, denda Rp 200 juta, uang pengganti Rp 1,9 milyar	24 Mei 2018	Sedang proses
7	Suryadharma Ali	Menteri Agama	Korupsi	10 years, denda	21 Juni 2018	Ditolak

			penyelenggaraan haji	Rp 300 juta, uang pengganti Rp 1,8 trilyun		
8	M Sanusi	Anggota DPRD	Suap raperda reklamasi	10 years, denda Rp 500 juta	25 Juni 2018	Sedang proses
9	Choel Mallarangeng	Swasta	Korupsi proyek pembangunan P3SON di Bukit Hambalang	3,5 years, denda Rp 250 juta	9 Juli 2018	Dikabulkan, hukuman menjadi 3 years penjara
10	Guntur Manurung	Anggota DPRD	Suap DPRD Sumut	4 years, denda Rp 200 juta, uang pengganti Rp 350 juta	16 Juli 2018	Sedang proses
11	Saiful Anwar	Direktur Keuangan PAL	Suap penjualan kapal perang Strategic Sealift Vessel (SSV) kepada instansi pertahanan Filipina	4 years, denda Rp 200 juta	16 Juli 2018	Sedang proses
12	Jero Wacik	Menteri Energi dan Sumber Daya Mineral	Korupsi Dana Operasional Menteri	8 years, denda Rp 300 juta, uang pengganti Rp 5 milyar	23 Juli 2018	Sedang proses
13	NG Feny	General Manager PT Imprexindo Pratama	Memberikan suap kepada Hakim MK, Patrialis Akbar	5 years, denda Rp 200 juta	7 Agustus 2018	Sedang proses
14	Basuki Hariman	Direktur CV Sumber Laut Perkasa	Memberikan suap kepada Hakim MK, Patrialis Akbar	7 years, denda 400 juta,	4 September 2018	Sedang proses
15	Budi Susanto	Direktur PT Citra Mandiri Metalindo Abadi	Kasus pengadaan driving simulator di Korlantas Polri	8 years, denda Rp 500 juta, uang pengganti Rp 17 milyar	4 September 2018	Sedang proses
16	Badaruddin Bachsin	Panitera Pengganti Pengadilan	Perantara suap Hakim Pengadilan Tipikor Bengkulu	4 years, denda Rp 400 juta	17 September 2018	Sedang proses

		Bengkulu				
17	Tarmizi	Panitera Pengganti Pengadilan Negeri Jakarta Selatan	Penanganan perkara PT Aquamarine Divindo Inspection (AMDI)	4 years, denda Rp 200 juta	25 September 2018	Sedang proses
18	Siti Marwa	Direktur Keuangan PT Berdikiri	Korupsi pupuk urea	4 years, denda Rp 500 juta	8 Oktober 2018	Sedang proses
19	Irman Gusman	Ketua DPD RI	Suap gula impor	4,5 years, denda Rp 200 juta	8 Oktober 2018	Sedang proses
20	Saipudin	Asisten Daerah III Provinsi Jambi	Uang ketok palu pengesahan RAPBD Provinsi Jambi	3 years 6 Month, Rp 100 juta	15 Oktober 2018	Sedang proses
21	Erwan Malik	Plt Sekda Provinsi Jambi	Suap uang ketok palu pengesahan APBD Provinsi Jambi	4 years, denda Rp 100 juta	15 Oktober 2018	Sedang proses
22	Maringan Situmorang	Swasta, kontraktor	Memberikan suap kepada Bupati Batubara	2 years, denda Rp 100 juta	18 Oktober 2018	Sedang proses
23	Patrialis Akbar	Hakim Mahkamah Konstitusi	Suap JR UU Peternakan dan Kesehatan Hewan	8 years, denda Rp 300 juta, uang pengganti USD 10 ribu dan Rp 4 juta	23 Oktober 2018	Sedang proses
24	Donny Witono	Direktur PT Menara Agung Pusaka	Memberikan suap kepada Bupati Hulu Sungai Tengah	2 years, denda Rp 50 juta	5 November 2018	Sedang proses
25	OK Arya Zulkarnain	Bupati Batubara	Menerima suap pekerjaan pembangunan infrastruktur di Kabupaten Batubara	5 years 6 Month, denda Rp 200 juta, uang pengganti Rp 5,9 miliar	13 Desember 2018	Sedang proses
26	Dewie Yasin	Anggota DPR RI	Suap pembahasan	8 years, denda	13 Desember	Sedang proses

			anggaran proyek pembangkit listrik mikrohidro di Kabupaten Deiyai	Rp 200 juta	2018	
	Limpo					
27	OC Kaligis	Pengacara	Suap Hakim dan Panitera PTUN Medan	7 years, denda Rp 300 juta	Maret 2019	Sedang proses