2021 Sentence Trend Monitoring Results Report

"Lenient Penalties and a Drop in Recovering State Financial Losses"

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Indonesia Corruption Watch

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Introduction

A German legal expert, Gustav Radbruch, once stated that every legal product must adopt the values of justice, certainty, and expediency.[1] Likewise, in court decisions, the application of these values becomes important as the goal for justice seekers. However, recently, instead of meting out justice, court decisions seem to only focus on the interests of the perpetrators, rather than the victims of the crime.

It is well known that a chronic problem in Indonesia is the crime of corruption. In many scientific literatures, even laws, the crime is mentioned through many terms, ranging from extraordinary crime, white collar crime, to transnational crime. This is solid evidence that corruption has a highly significant impact on a country, including its people, because, in addition to harming state finances, corruption also targets people's daily life, such as social, human rights, and even the environmental aspects. Therefore, people in various places always demand firm action from the state in dealing with corruption.

Professor of Criminal Law, Prof. Eddy OS Hiariej, stated that there are at least seven parameters to consider corruption as an extraordinary crime.[2] First, corruption results in a very broad and multidimensional range of victims. Second, it is transnational, organized, and supported by modern technology in the fields of communication and informatics. Third, it is classified as a predicate crime in anti-money laundering regulations. Fourth, corruption is in violation of general criminal procedure law. Fifth, it requires particular supporting institutions with broad authorities. Sixth, corruption is pointed out on a number of international conventions. Seventh, corruption is a crime classified as *super mala per se*[3] and is strongly condemned by the people at large.

On the basis of the increasingly massive impact of corruption in destroying people's lives as described above, then there is the hope to be able to severely punish the perpetrators. However, this can only be realized if there is a combination and synergy between stakeholders, starting from the community, law enforcement officials, the government and the DPR, as well as the judiciary. For this reason, monitoring every law enforcement process becomes a crucial issue, especially in the context of trials, because it becomes the end point in the processing of a case.

Unfortunately, the hope of creating a judicial system who is on the side of the people in the eradication of corruption seems to be a far-fetched dream. Based on monitoring by Indonesia Corruption Watch (ICW), practically since the institution was formed, many decisions that favor actors of corruption have been found. Starting from lenient sentences, in terms of imprisonment, imposition of fines, imposition of additional penalties in the form of recovery money, to polemics about the revocation of political rights; these have always been visible to the public. As a result, public confidence in the performance of the courts has dropped, and now even lower than public confidence of the Police.[4] Not only that, the majority of people also think that judges are often unfair in punishing perpetrators of corruption.[5]

Fundamentally, the problem of court decisions in corruption cases is not only focused on the length imprisonment. Moreover, modern criminal law no longer adheres to the retributive concept, but has

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[1] Satjipto Rahardjo, Legal Studies, 2012, p. 45

[2] Media Indonesia, "Percobaan dan Pembantuan dalam Delik Korupsi", https://mediaindonesia.com/opini/254394/percobaan-dan-pembantuan-dalam-delik-korupsi.

[3] An extraordinarily evil and despicable act.

[4] Kompas, "Survei Indikator: Kepercayaan Publik Terhadap KPK Terus Turun Sejak 2019," https://nasional.kompas.com/read/2022/04/03/21100821/survei-indikator-kepercayaan-publik-terhadap-kpk-terus-turun-sejak-2019?page=all.

[5] Indikator, "Rilis Survei Nasional 28 April 2022," https://indikator.co.id/rilis-survei-nasional-28-april-2022/.

moved to the restorative aspect. For this reason, the formula for providing a deterrent effect to perpetrators must run in parallel, namely a combination of imprisonment and recovery of state financial losses. While imprisonment focuses on the offenses of corruption, regarding the recovery of state financial losses, it is highly dependent on the imposition of additional criminal penalties accompanied by the execution process of decisions that have permanent legal force. This concept is clearly stated in the preamble to the Anti-Corruption Law, which states that corruption is highly detrimental to the state's finances or economy and hinders national development.

In the current context, referring to the Corruption Perception Index (CPI), efforts to eradicate corruption are perceived as being far from adequate, in the category of "worrisome". Indeed, compared to a significant increase between 2018 and 2019, the last two years were marked by a decline in Indonesia's score, from 40 to 38.[6] Interestingly, one of the indicators causing the decline of the CPI is the stagnation of the World Justice Project – Rule of Law Index (23). Examined further, the stagnation of the WJP-RLI was also contributed by the decline in Indonesia's law enforcement indicators in 2021, from 49 to 54.[7]

Not only that, there seems to be a lack of commitment in the field of anti-corruption legislation by the Government and the DPR. For example, the Bill on Confiscation of Assets, the Bill on Currency Transactions Limitations, and amendments to the Anti-Corruption Law, have not been seriously discussed. In fact, it is believed that the existence of such regulation will assist law enforcement officers in taking action against perpetrators of corruption by prioritizing a modern approach in the form of recovering state financial losses. This is because the current Anti-Corruption Law is proven not to be effective enough in giving a deterrent effect to the perpetrators. In the end, all of these imply the direction of Indonesia's legal politics, which ignores the agenda of eradicating corruption.

So far, by looking at the phenomenon of the lenient punishment imposed by judges against perpetrators of corruption, the existence of Article 5 of the Law on Judicial Powers seems to have been ignored. In fact, the regulation discusses the obligation of judges to explore, follow, and understand legal values and the community's sense of justice before making decisions. Simply put, seeing the impact of corruption on all aspects of people's lives, the decisions in corruption cases should have a deterrent effect and send a message to the public and officials to stay away from this dirty practice.

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[6] TI, "Indeks Persepsi Korupsi 2021: Korupsi, Hak Asasi Manusia, dan Demokrasi," https://ti.or.id/index-persepsi-korupsi-2021-korupsi-hak-asasi-manusia-dan-demokrasi/
[7] Siaran Pers World Justice Project, "Indonesia Ranked 68 Out of 139 Countries on Rule of Law, Dropping Two Positions"
https://worldjusticeproject.org/sites/default/files/documents/Indonesia_2021%20WJP%20Rule%20of%20Law%20Index%20Country%20Press%20Release_1.pdf

Objectives and Methodology

Community participation in efforts to eradicate corruption has been guaranteed by international conventions and laws and regulations in Indonesia. Meanwhile, this is reflected in Article 13 point 1 of the United Nations Convention Against Corruption and Article 41 of the Corruption Eradication Law (Anti-Corruption Law). The two legal foundations emphasize that Indonesia must open up the widest possible space for the public to participate and contribute directly to the agenda of eradicating corruption.

As is known, the practice of corruption is becoming increasingly massive in recent times. As a result, the social gap in the society is getting wider. However, at the same time there is a paradox, because, in fact, perpetrators of corruption are often given lenient sentences during trials. On this basis, Indonesia Corruption Watch (ICW) for the last 20 years has initiated the monitoring of verdicts, whose results are published regularly.

This verdict monitoring report takes the data search period starting from January 1 - December 31, 2021. Meanwhile, the data used come from two sources, namely primary data from the Case Investigation Information System (SIPP) for Corruption Courts throughout Indonesia and the Directory of Decisions of the Supreme Court, and secondary data from online news. It is difficult to avoid searching for data using secondary sources, because the main problem that often arises in the writing of verdict monitoring reports is the limited information given by the primary source itself.

Specifically, through the monitoring report, ICW assessed the performance of three institutions directly involved in the corruption trial process, among others, the Attorney General's Office and the Corruption Eradication Commission (KPK) as public prosecutors, and the Supreme Court for the cluster of judges. On the aspect of the Attorney General's Office and the KPK, the assessment includes two things, namely the indictment and prosecution. Meanwhile, on the aspect of the panel of judges, it is related to sentencing, both principal and additional punishments, within the scope of decisions at the *judex factie* and *judex jurist* levels.

In the prosecution and sentencing aspect, ICW assesses prison sentences based on charges and sentences using three indicators, namely lenient (under 4 years in prison), moderate (under 10 years in prison), and harsh (above 10 years in prison) sentences. This indicator emerges as a benchmark to examine the perspective of the public prosecutor and the panel of judges when applying it into charges or verdicts.

The data presented in this document is also complemented by legal analysis to enrich the substance of the findings. At the end, there are conclusions and recommendations that are expected to be used as evaluation materials for performance improvement, for the Attorney General's Office, the KPK, and the Supreme Court. Later, after this report is published to the public, ICW will submit the court monitoring documents to the three institutions.

Monitoring and Analysis Results

1. General Notes

This section will review a number of aspects, including administrative enforcement within the courts in presenting SIPP information, mapping the number of cases and the number of corruption defendants throughout 2021, gender, age, and work background of the accused. Further on, the public will note general statistics in the monitoring documents released by ICW.

a. Court Administration Function

Ensuring the availability of trial information is an absolute must for every court agency. Moreover, currently the channel already exists in the form of SIPP. Through the system, the public should be able to know the ins and outs of a trial process, ranging from general information such as the identity of the accused and their legal counsel, to documents on charges, demands, and verdicts at every level. However, in the monitoring process, it was found that the courts often neglected to enforce the administration of information.

During the monitoring process, the barriers to finding data using the SIPP basis were quite diverse. First, the court's websites were often inaccessible. This was found with the Manado District Court and the Palangkaraya District Court. Second, in the general data column, there was no information on the defendant's legal counsel. Third, the identity of the accused was incomplete on most court SIPP websites. Fourth, the writing of the case summary and the articles of indictment, especially the General Data column, was often incomplete. Fifth, the charges made by the public prosecutor in some cases were also incomplete.

At the same time, the Supreme Court's directory of decisions website is much better than in previous years. This is because the majority of decisions on corruption cases have been uploaded to make it easier to search for data. However, the website is often difficult to access, even offline for several days.

For this reason, to summarize the information, the following table shows the completeness of data for each court's SIPP that hear cases of the criminal acts of corruption.

No.	Court Name	SIPP Administration
1	Banjarmasin District Court	Complete
2	Samarinda District Court	Complete
3	Makassar District Court	Complete
4	Jambi District Court	Complete
5	Banda Aceh District Court	Complete
6	Jayapura District Court	Complete
7	Pangkal Pinang District Court	Complete
8	Surabaya District Court	Complete
9	Mamuju District Court	Complete
10	Medan District Court	Complete

No.	Court Name	SIPP Administration
11	Jakarta District Court	Complete
12	Manokwari District Court	Complete
13	Pekanbaru District Court	Complete
14	Kupang District Court	Incomplete
15	Tanjung Pinang District Court	Incomplete
16	Tanjung Karang District Court	Incomplete
17	Pontianak District Court	Incomplete
18	Semarang District Court	Incomplete
19	Manado District Court	Incomplete
20	Bengkulu District Court	Incomplete
21	Palangkaraya District Court	Incomplete
22	Palu District Court	Incomplete
23	Kendari District Court	Incomplete
24	Gorontalo District Court	Incomplete
25	Denpasar District Court	Incomplete
26	Ambon District Court	Incomplete
27	Ternate District Court	Incomplete
28	Bandung District Court	Incomplete
29	Mataram District Court	Incomplete
30	Padang District Court	Incomplete
31	Palembang District Court	Incomplete
32	Banten District Court	Incomplete
33	Yogyakarta District Court	Incomplete

The data above show that most of the courts that hear corruption cases have not paid much attention to the completeness of SIPP information. In the table, ICW determines categories based on a number of indicators, ranging from the availability of information on the identity of the accused, a brief description of the case, and the articles indicted. So, if the majority of these indicators are not met, then it is categorized as Incomplete.

In fact, based on the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number 1-144/KMA/SK/I/2011, it has been emphasized that the function of the court is not only to adjudicate, but also to ensure that the administration, especially public information as contained in

the SIPP, is fulfilled. In addition to this, this shows that the judiciary has not taken advantage of technological developments as a means of information for the public. This condition contradicts the statement of the Chief Justice of the Supreme Court in his speech on the 74th anniversary of the Supreme Court of the Republic of Indonesia in 2019.[8] In addition, Article 24 paragraph (2) of Law Number 46 of 2009 concerning the Corruption Court states that the Corruption Court provides information that is open and accessible to the public regarding the administration of the Corruption Court.

Therefore, to overcome this recurring problem, a number of corrective steps are needed by the Supreme Court. First, the Chief Justice of the Supreme Court must order all Heads of the District Courts to fix the SIPP of the relevant courts. In fact, the order can also impose sanctions, for example in the form of postponing promotions, if such problems remain in the future. Second, in the implementation process, the Chief Justice of the Supreme Court can form a special team to provide assistance and supervision so that SIPP improvements can run optimally. The team will be able to report the results periodically, at least for the next one year.

b. Number of Cases and Defendants

Monitoring the trial of corruption cases at all levels of the court, including reviews (PK), conducted by ICW, managed to collect 1,282 cases with a total of 1,403 defendants. Interestingly, the number of cases being heard during this period increased significantly compared to previous years. For more details, the following is a graph of the growth in the number of cases and defendants from 2018 to 2021.


Growth in Numbers of Cases and Defendants

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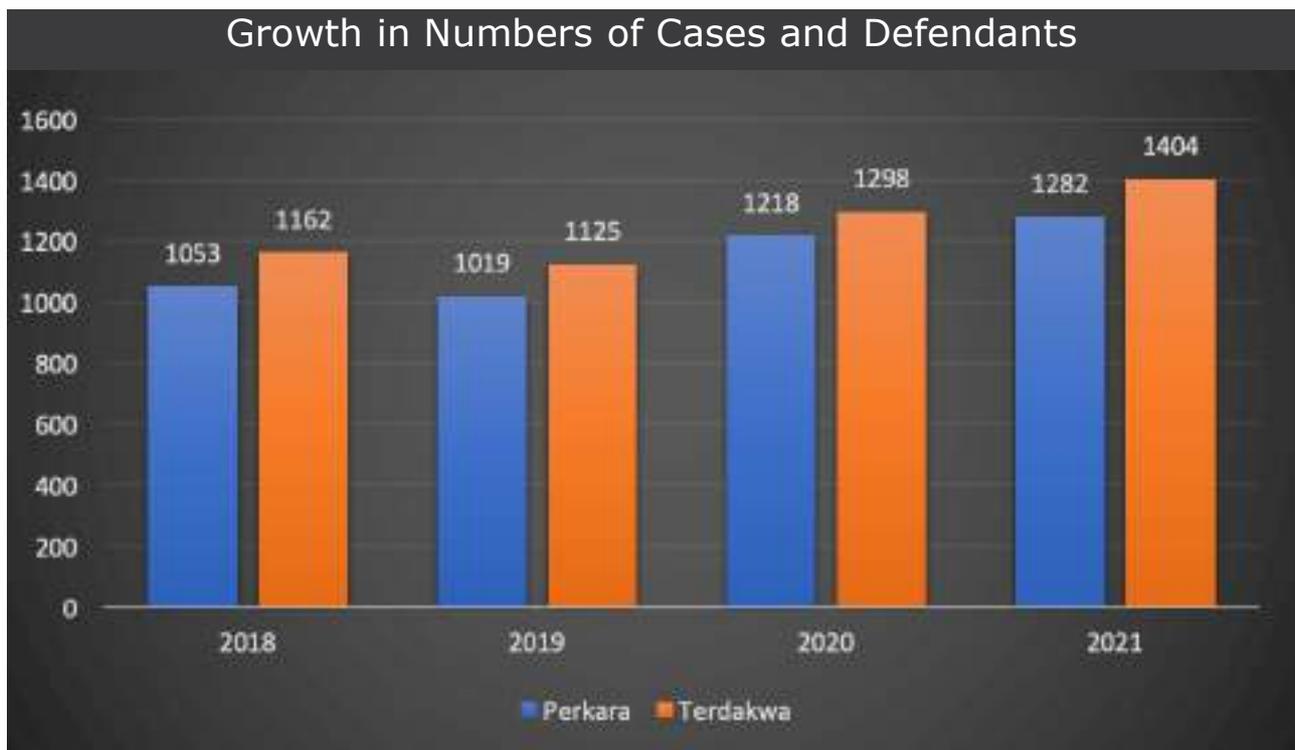
[8] Mahkamah Agung – "Amanat Ketua Mahkamah Agung RI pada Hari Jadi Mahkamah Agung RI ke 74 Tahun" https://www.mahkamahagung.go.id/id/pengumuman/3726/amanat-ketua-mahkamah-agung-ri-pada-hari-jadi-mahkamah-agung-ri-ke-74-tahun

Looking at the data above, the judiciary has proven successful in adapting to the concept of online trial. Thus, the case examination process did not experience significant obstacles.

c. Age of Defendants

The 2021 case trend monitoring also collected information about the identity of the defendants, one of which relates to age. However, as described at the outset of this monitoring report, the primary source in the form of court SIPP often does not include the full identity of the accused. Therefore, ICW uses searches through online news and other primary sources, namely the directory of Supreme Court decisions. As a result, from a total of 1,403 defendants, the monitoring team was able to collect the ages of 695 people. The average age of defendants of corruption cases in 2021 was 47 years old.

Article 1 point 1 of Law Number 40 of 2009 stated that the youth are Indonesian citizens aged 16 to 30 years. By using the Youth Law approach, of the perpetrators of corruption, 24 can be identified as youths. The rest are over 30 years old. The youngest perpetrator was 24 years old in a corruption case that cost the state a financial loss of around IDR 2.1 billion and was tried at the Semarang Corruption Court. Meanwhile, the oldest perpetrator at 79 years was found in North Sumatra, representing from the work cluster of members of the provincial DPRD. The persons was legally and convincingly proven to have given a bribe of IDR 477 million.

Mapping of Defendants by Age

24

671

■ < 30 tahun   ■ > 30 tahun
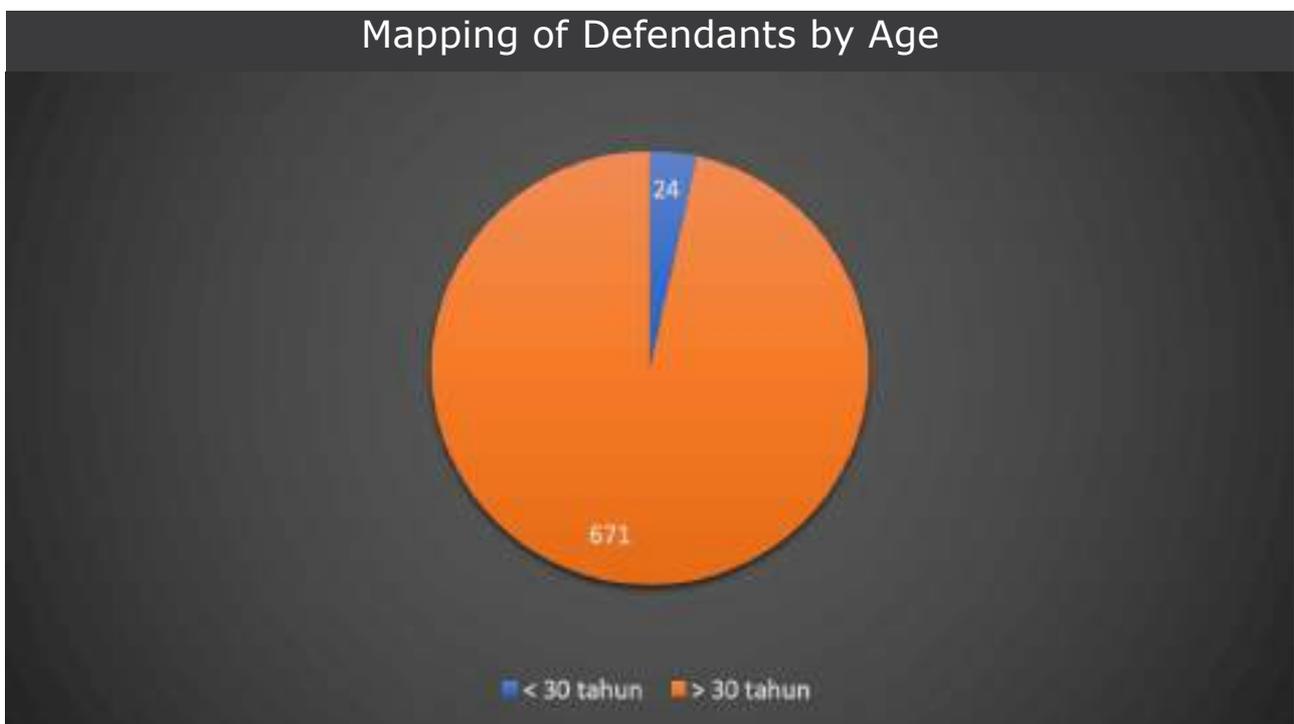
d. Occupation of Defendants

In the 2021 period, the occupational background of defendants was dominated by Village Apparatus (360 persons), Regional Government (343 persons), and the private sector (274 persons). This is not surprising anymore, having the same pattern as in the previous year. However, the number of defendants having the occupation of Village Apparatus and Regional Government has increased when compared to 2020. When observed further, since 2018, the number of defendants working as Village Apparatus and Regional Government have always been the highest. Meanwhile, the number of

Regional Heads who became defendants experienced a significant increase compared to 2021. The same is true for the occupational clusters of legislature members, at the national, provincial, city, and district levels. The distribution of occupation of defendants can be seen in the following table.

No.	Occupation	Number
1	Village Apparatus	363
2	Local Government	346
3	Private Sector	275
4	SOE/ROE	80
5	Others	69
6	Ministries/Agencies	52
7	Banking	39
8	Legislature	35
9	Education	34
10	Hospital	19
11	Regional Head	17
12	Corporate	13
13	Law Enforcement	8
14	Elections	5
15	Advocate	4
16	Court Registrar	1

Year	Village Apparatus	Civil Servant	Private Sector	Legislature	Regional Head
2016		217	150	39	32
2017		456	224	33	94
2018	158	319	242	53	28
2019	188	263	138	43	3
2020	330	321	286	33	10
2021	363	346	275	35	17

Year	Village Apparatus	Civil Servant	Private Sector	Legislature	Regional Head
Total	1039	1922	1315	236	184

As discussed in the previous section, corruption is also known as *white collar crime.* This means that these impudent practices are usually carried out by parties who hold positions of authority, both in the government sector and the private sector. Therefore, without dismissing the crime of corruption resulting in a small scale of loss, law enforcement officers must also investigate the involvement of public officials at the elite level, especially if the corruption has a large impact dimension on people's lives.

It is important to emphasize that even though the KPK is equipped with Article 11 paragraph (1) letter a of the KPK Law, which underlines the authority of the anti-corruption agency to take action against state officials and law enforcement officers, this does not mean that other institutions, such as the Attorney General's Office, cannot investigate them. Based on material law, both the KPK and the public prosecution service use the same regulation, namely the Anti-Corruption Law. For this reason, this monitoring also looks at the background of the defendants being prosecuted by the two agencies. From this, it can be further seen whether law enforcement officers have used the Anti-Corruption Law as a legal instrument to ensnare actors from the scope of public officials.
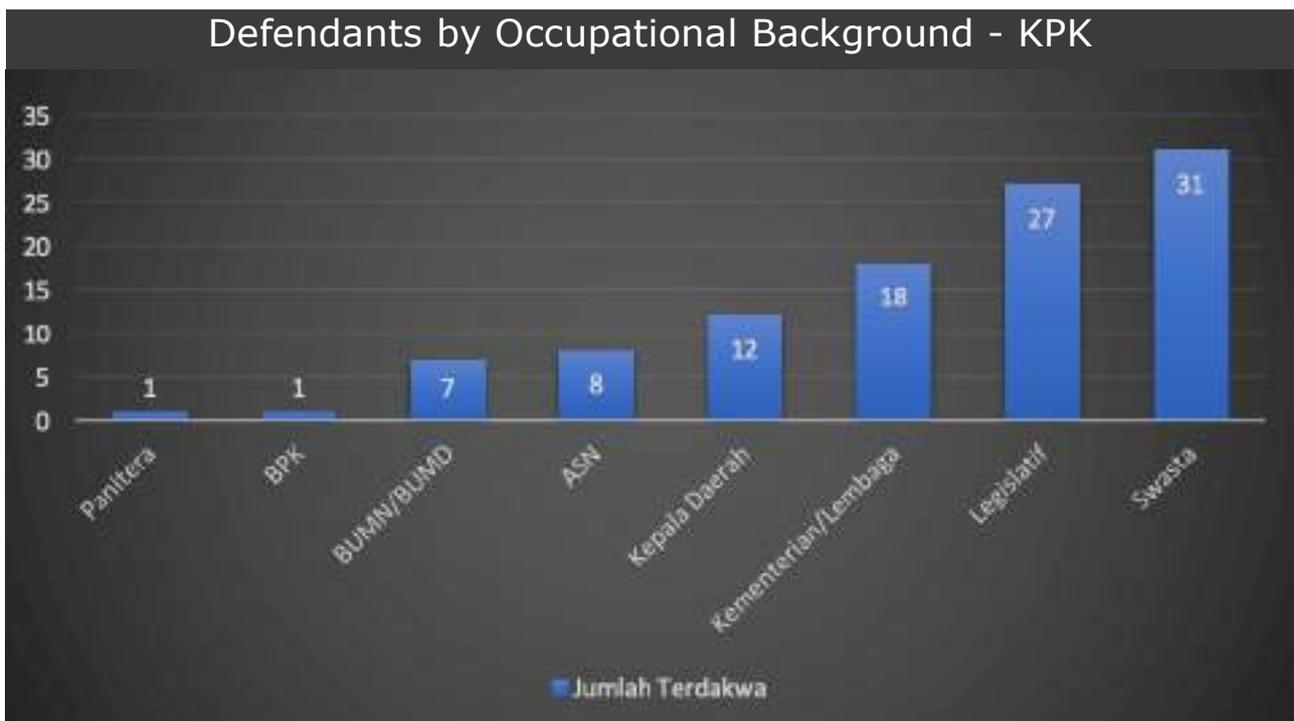
Looking closely, the trend of KPK's prosecution, especially during the leadership of the new commissioners, has decreased drastically. Based on ICW data, defendants who have political backgrounds, such as members of the legislature, are less likely to be prosecuted by the KPK. In 2018 and 2019, the KPK succeeded in prosecuting 96 members of the legislature, both at the level of the DPR RI and DPRD at the provincial, city, and district levels. However, in the last two years, the anti-corruption agency has only been able to prosecute 89 persons from the legislative cluster. This year, the KPK has legally processed 27 persons, the majority of whom are members of the regional legislatures, and only 1 from the DPR RI. This further strengthens the signs that the KPK is not going in depth into dismantling corruption in the political sector. In addition, the tendency of the

commissioners' views and the direction of legal politics in corruption eradication also urges the KPK to shift its focus from prosecution to prevention. Thus, it follows that the number of cases that are being prosecuted has decreased recently.

It is also interesting that throughout 2021 the KPK did not legally process, particularly prosecuted, law enforcement officers who were caught in corrupt practices. Yet, the main mandate of the establishment of the anti-corruption agency contained in the consideration section of the KPK Law is *to clean up law enforcement officers*. Of course, this is a paradox and justifies the public's negative perception of the KPK's performance. The opportunity to deal with law enforcement officers is actually open if the KPK takes over the irregular legal process at the Attorney General's Office, namely the involvement of Attorney Pinangki Sirna Malasari. Unfortunately, the opportunity to take over the case was simply disregarded by the KPK.
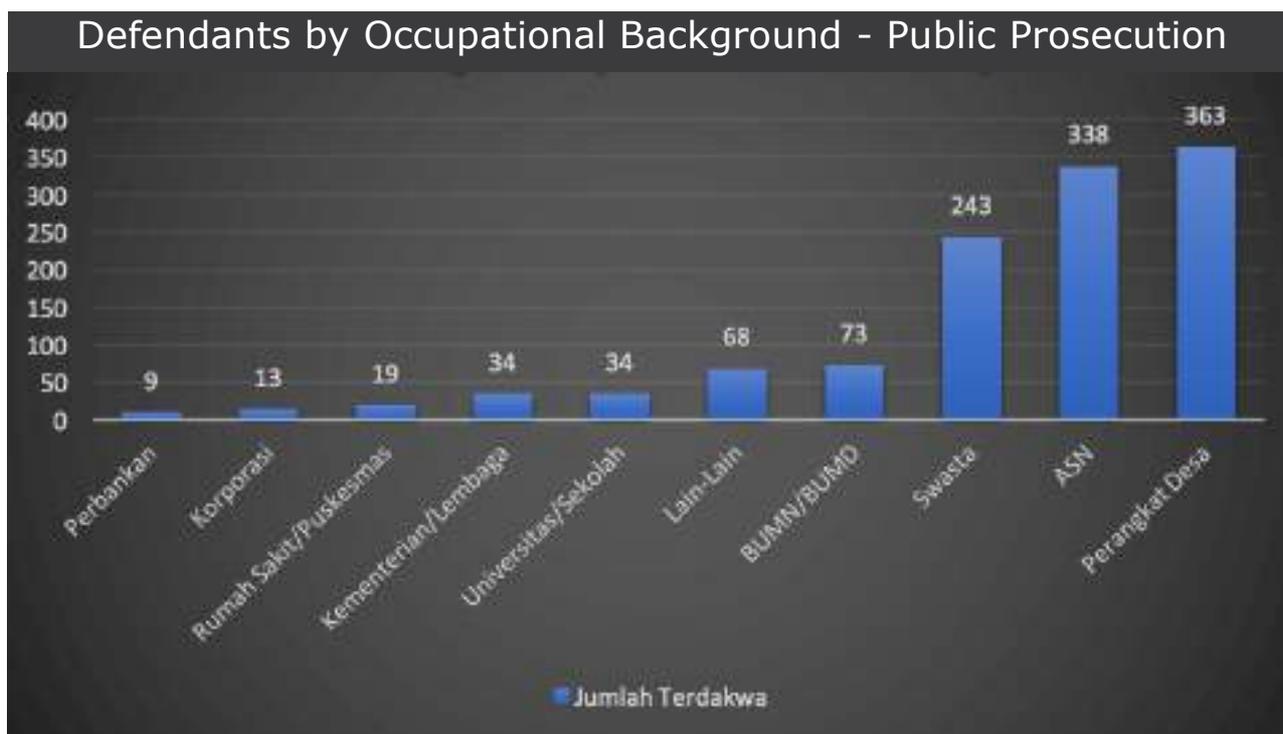
Throughout 2021, the Public Prosecution Service, at the level of the Attorney General's Office, the Provincial Prosecutors Office, and the District Prosecutors Office, dominantly investigated the involvement of village officials and state civil servants. From this, it can be seen that the PPS has not yet begun to investigate the involvement of parties who have ties with the political area. In fact, the PPS' authority is the same as the KPK's, which underlies its legal actions with the Anti-Corruption Law as the instrument. Thus, it is still possible to investigate the perpetrators of corruption in the high profile category.

However, beyond that, the performance of the Attorney General's Office is far superior to the KPK in dealing with corruption related to corporate entities. During 2021 the PPS succeeded in indicting 13 corporations in the Jiwasraya corruption case. As long as there is involvement, in this case the corporation benefits from a crime, law enforcement officers must process it using the legal basis of Supreme Court Regulation Number 13 of 2016.

2. Types of Corruption based on the Articles Indicted

Referring to the Anti-Corruption Law, acts of corruption are classified into 7 types with a total of 30 articles that can ensnare the perpetrators, including state financial losses, bribery, embezzlement in office, extortion, fraudulent acts, conflicts of interest in procurement, and gratification. Apart from

that, acts of corruption are also classified in other forms, not only related to economic gain as stated in Article 21, Article 22, and Article 24 of the Anti-Corruption Law. Of all these, the maximum punishment that can be imposed on the perpetrator is imprisonment (for life/Article 2, Article 3, Article 12, and Article 12 B/Loss of State Finances, Bribery, and Gratification). Meanwhile, other basic punishments, such as fines, are practically the same as the articles of maximum imprisonment. The rest are quite varied, ranging from a maximum of 5 years (Article 5, Article 9, and Article 11/Bribery and Embezzlement in Position), 3 years (Article 13/Bribery), and 12 years (Article 21 and Article 22 Acts of Corruption in Other Forms).

The investigation process in handling cases, especially corruption, is highly crucial, because at that phase the investigators will identify what actions have been committed by the perpetrators. By basing on the concept of creating a deterrent effect, law enforcement officers are urged to participate in tracing the flow of crime funds. If it is later found that there was an attempt to divert or hide the flow of proceeds from the crime, the perpetrator may be additionally subject to the Anti-Money Laundering Law (UU TPPU) in the indictment. There are a number of advantages if law enforcement officers use this regulation, including using the new *follow the money* approach, adhering to the principle of reversing the burden of proof, and perpetrators can be subjected to large fines (IDR 10 billion). Simply put, with these advantages, the concept of impoverishing the perpetrators of corruption is not impossible.

Therefore, this monitoring also looks at what corruption crimes are the most dominant throughout 2021. In addition, it also measures the perspective of law enforcement in relation to asset recovery through the anti-money laundering law instrument.

Based on monitoring, the most widespread type of corruption that occurred throughout 2021 was *state financial loss*. This can be seen from the frequency of use of Article 2 and/or Article 3 of the Anti-Corruption Law in the indictment of the public prosecutor. This finding is similar to those in previous years, namely that corruption with the type of state financial loss most often dominated in the trials of corruption cases. Therefore, a reformulation of the article concerning state financial losses is needed. For example, the imposition of punishment for someone who has a position or position, or commonly called a public official as stated in Article 3 of the Anti-Corruption Law. The regulation

entails a minimum sentence of 1 year for any violator. When the perpetrator has a position or authority, the sentence should be increased, not more lenient than the criminal sanctions for the common person (Article 2 of the Anti-Corruption Law, a minimum sentence of 4 years in prison). This concept can also be seen implicitly through Article 52 of the Criminal Code regarding the increase in severity of punishment for someone who commits a crime in position.

As for the crime of bribery, the punishment for imprisonment must also be changed. The giver of bribe, as regulated through Article 5 paragraph (1) letters a and b and Article 13 of the Anti-Corruption Law, is given a very lenient punishment, namely a maximum of 5 years in prison and 3 years in prison. Yet, it is possible, and often happens, that the giver of bribe is a public official, or maybe the gift is intended for law enforcement officials. Supposedly, the punishment can follow the bribe recipient, who is threatened with life imprisonment.

Case Number	Name of Defendant	Occupation	Prosecutor	Article of TPPU Law Imposed
25/Pid.Sus-TPK/2021/PN Kpg	Veronika Syukur	Private	PPS	Article 3
21/Pid.Sus-TPK/2021/PN Bna	Teuku Juswin	Private	PPS	Article 3
19/Pid.Sus-TPK/2021/PN Bgl	Bambang Rudiansyah	Treasurer of Lebong Police	PPS	Article 3
17/Pid.Sus-TPK/2020/PN Amb	Tata Ibrahim	Banking	PPS	Article 3
38/Pid.Sus-TPK/2020/PN Jkt.Pst	Pinangki Sirna Malasari	Prosecutor	PPS	Article 3
60/Pid.Sus-TPK/2020/PN Jkt.Pst	Rennier Abdul Rahman	Commissioner of PT Aditya Tirta Renata	PPS	Article 3
18/Pid.Sus-TPK/2021/PN Jkt.Pst	Ichsan Hassan	President Commissioner of PT Titanium Property	PPS	Article 3
1/Pid.Sus-TPK/2021/PN Jkt.Pst	Maria Pauline Lumowa	Owner of PT Gramaindo Mega Indonesia	PPS	Article 3

Case Number	Name of Defendant	Occupation	Prosecutor	Article of TPPU Law Imposed
19/Pid.Sus-TPK/2021/PN Jkt.Pst	Piter Rasiman	Management of stock investment instruments and Mutual Funds from PT Jiwasraya Insurance	PPS	Article 3
4/Pid.Sus-TPK/2021/PN Jkt.Pst	Rohadi	Court Registrar	KPK	Article 3
69/Pid.Sus-TPK/2020/PN Bdg	Dadang Suganda	Private	KPK	Article 3
3/Pid.Sus-TPK/2021/PN Jkt.Pst	Hadinoto Soedigno	Technical Director of PT Garuda Indonesia	KPK	Article 3

From the table above, it is clear that law enforcement officials have not used the approach of confiscating the assets resulting from crime, because out of a total of 1,403 defendants, only 12 were charged with the Anti-Money Laundering Law. In addition, the dominant article indicted was the one against active actors, without any passive actors (Article 5 of the Anti-Money Laundering Law). In fact, in 2021 there was a drastic reduction in the number of cases using the TPPU Law compared to previous years. Supposedly, the approach to taking action against corruption cases is no longer focused on imprisoning the perpetrators, but also asset recovery, one of which is through using the Anti-Money Laundering Law.

Number of Money Laundering Indictments by PPS and KPK

In addition, the application of the Anti-Money Laundering Law in the indictments throughout 2021 was dominated by the PPS. Here, the public can see that the PPS has a better grasp of the perspective on recovering assets resulting from crimes than the KPK. Yet, with the great authority as stated in the KPK Law, the anti-corruption agency should have been able to equal, even surpass the PPS in taking action against money laundering perpetrators of corruption.

Imposition of Anti-Money Laundering Law in Indictments by Year

Year	Jumlah Terdakwa	Dakwaan TPPU
2017	1381	4
2018	1162	3
2019	1125	8
2020	1298	20
2021	1404	12

To overcome the problem of the low utilization of anti-money laundering articles, there are two things that must be done. First, when the case handling has entered the investigation process, the heads of the relevant agencies, both the PPS and the KPK, must order their staff to participate in investigating the flow of funds resulting from the crime. As stated earlier, the motives of the perpetrators of conducting corrupt practices are obviously related to economic ones. Therefore, usually perpetrators will always try to avoid law enforcement officers from seizing their assets by hiding or transferring them to other parties. Second, this recurring problem should be looked at more comprehensively to formulate the right solution, for example, opening up the possibility of increasing the competence of investigators in tracing assets.

3. Types of Corruption based on Amount of Loss and Other Revenue

The consideration section of the Anti-Corruption Law clearly states that the crime of corruption is directly related to the state's finances and economy. Therefore, the impact of corruption that is easily seen is the disruption of the distribution of people's welfare. Therefore, law enforcement officials should not only focus on imprisoning perpetrators, but also ensure that maximum recovery of state financial losses can be obtained.

The development of criminal law has indeed transformed towards restorative justice, which goes beyond the concept of retributive justice. This has also sparked ICW to take part in seeing how the implementation of the reform of the criminal law approach in handling corruption cases throughout 2021. The benchmark used was to compare state financial losses with their recovery through additional criminal punishment of compensation as regulated in Article 18 paragraph (1) letter b Corruption Law.

The findings show that the state's financial losses have significantly increased compared to previous years. It is conceivable, due to the reckless practices of corruption during 2021, the resulting state financial losses amounted to IDR 62,931,124,623,511 (sixty-two trillion nine hundred thirty-one billion one hundred twenty-four million six hundred twenty-three thousand five hundred and eleven

Case Number	Name of Defendant	Occupation	Case	State Loss	Prosecutor
7/Pid.Sus-TPK/2020/PN Jkt.Pst	Raden Priyono	Head of BP Migas	Sale of condensate by PT TPPI	IDR 36 trillion	PPS
5/Pid.Sus-TPK/2021/PN Jkt.Pst	Fakhri Hilmi	Head of OJK Supervision Department	Jiwasraya case	IDR 16.8 trillion	PPS
55/Pid.Sus-TPK/2020/PN Jkt.Pst	Drs Irianto	Commissioner of PT Flemings Indo Batam	Textile Import Corruption	IDR 1.6 trillion	PPS
17/Pid.Sus-TPK/2021/PN Kpg	Caitano Soares	Head of Section for Land Law, West Manggarai Land Office	Corruption in Transfer of Land Assets from West Manggarai District Government	IDR 1.3 trillion	PPS
1/Pid.Sus-TPK/2021/P	Maria Pauline	Private	Kebayoran Baru BNI cash	IDR 1.2 trillion	PPS

rupiahs). There was an increase of about five percent compared to the previous year which was also large (IDR 56.7 trillion). For more details, the following graph shows state financial losses for the last five years.

Amount of State Losses in Billions

Year	Jumlah Kerugian Keuangan Negara
2017	29419
2018	9290
2019	12000
2020	56739
2021	62931

The large amount of state financial losses was contributed by several cases, including the corruption of oil and gas condensate by PT Trans Pacific Petrochemical Indonesia, causing a loss of IDR 36 trillion, and the Jiwasraya corruption case amounting to IDR 16 trillion. The following table shows cases that have caused state financial losses of trillions of rupiah.

This monitoring also calculates corruption cases with the type of state financial losses charged by the Public Prosecutor Service and the KPK. This is important to see the extent to which these two law enforcement agencies deal with corruption cases that have the dimension of large state financial losses. The use of Articles 2 and 3 usually requires a higher competence of investigators, examiners, and public prosecutors due to the complexity of the cases, compared to proving the crime of bribery. In addition, the main points that are often overlooked are not only revealing the perpetrators, but also tracing of assets from the criminal act of corruption. This is because the method is believed to be a surefire strategy to create a deterrent effect.

Amount of State Losses - KPK and PPS
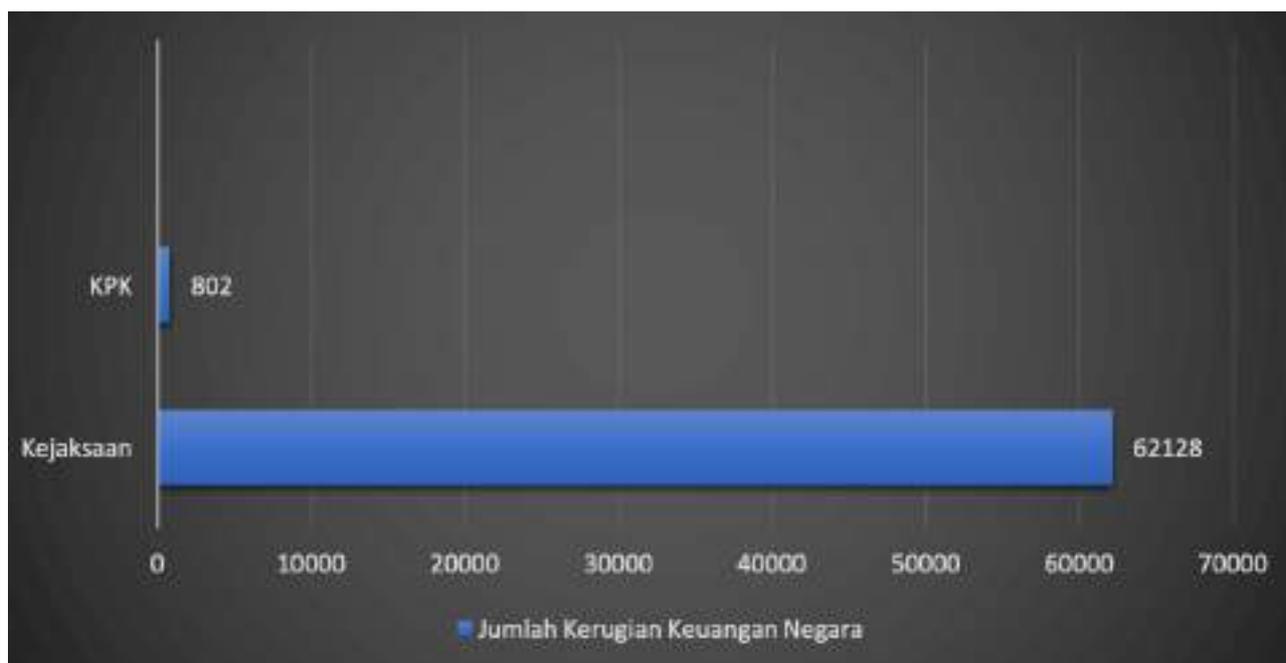
This section will also explain further the amount of state financial losses based on the background of the perpetrator's occupation. First, the practice of corruption of those with political backgrounds (legislative and regional heads), which has cost the state financial losses of IDR 1.3 trillion. This figure is a dramatic increase compared to the previous year's (IDR 115.5 billion). Of course, this indicates that the practice of political corruption remained massive in 2021. Second, defendants who have the occupational background of SOE/ROE had harmed the state finances amounting to IDR 262 billion. This number is quite significant, and also indicates that the internal prevention system for SOE and ROE has not worked optimally. The concept of good corporate governance should have been applied and directly supervised by the Ministry of SOEs. This condition is especially unfortunate, because, SOEs that are intended to make profit are actually used as a source of corruption by the perpetrators.

Third, for village apparatus, due to the corrupt practices that have been carried out, state financial losses of IDR 140 billion were the result. When compared to the previous year's (IDR 111.2 billion), the increase reached 25 percent. Therefore, more attention is needed from the government, especially the relevant ministries, to fix this problem.

For the crime of bribery and gratification, from a total of 77 defendants, the total receipts from the perpetrators reached IDR 369,470,701,672 (three hundred sixty-nine billion four hundred seventy million seven hundred one thousand six hundred and seventy-two rupiah). This monitoring also looks at the six biggest bribe recipients who take advantage of their positions to profit illegally.

Case Number	Name of Defendant	Occupation	Case	Amount of Bribe
26/Pid.Sus-TPK/2021/PN Jkt.Pst	Eddy Prabowo	Minister of Maritime Affairs and Fisheries	Lobster seed export bribe	IDR 25.6 billion

Case Number	Name of Defendant	Occupation	Case	Amount of Bribe
83/Pid.Sus-TPK/2020/PN Sby	Taufiqurrahman	Nganjuk District Head	Bribery of a number of projects in Nganjuk District	IDR 25.6 billion
37/Pid.Sus-TPK/2020/PN Smr	Ismunandar	East Kutai District Head	Bribes for infrastructure development projects	IDR 27.4 billion
29/Pid.Sus-TPK/2021/PN Jkt.Pst	Juliari P Batubara	Minister of Social Affairs	Bribery for the procurement of Covid-19 social assistance	IDR 32.4 billion
45/Pid.Sus-TPK/2020/PN Jkt.Pst	Nurhadi	Secretary of the Supreme Court	Bribery in court cases	IDR 49.4 billion
3/Pid.Sus-TPK/2021/PN Jkt.Pst	Hadinoto Soedigno	Technical Director of PT Garuda Indonesia	Bribery for procurement of aircraft and aircraft engines	IDR 70 billion

Meanwhile, the criminal act of corruption in the form of extortion or illegal levies as stipulated in Article 12 letter e of the Anti-Corruption Law amounted to IDR 4,272,825,400 (four billion two hundred seventy-two million eight hundred twenty-five thousand and four hundred rupiah). From the total of 41 defendants who were sentenced to the extortion article, their occupational backgrounds include civil servants (29 persons), private sector (1 person), ministries or institutions (1 person), law enforcement officers (3 persons), SOE or ROE (3 persons), village officials (3 persons), and 1 unidentified person.

Forms of corruption such as embezzlement in office cause losses of IDR 7,635,595,048 (seven billion six hundred thirty-five million five hundred ninety-five thousand and forty-eight rupiah).

4. Additional Criminal Sanction of Compensation Money

To overcome the problem of state financial losses, the imposition of additional compensation money must be maximized by law enforcement officers through Article 18 paragraph (1) letter b of the Anti-Corruption Law. In addition, by including this regulation in the indictment, the public prosecutor must also include it in each charge so that the orientation of the punishment also touches on the aspect of recovering state financial losses. If this has been done, then the panel of judges who ultimately decides the case is expected to also demand compensation from the defendant.

Unfortunately, the ideal concept above was not reflected throughout 2021. The gap between the amount of state financial losses, compared to the criminal charges of compensation money is huge, and in fact the condition is even worse than in 2020. While the state financial loss reached IDR 62.1

trillion, the amount of compensation money demanded was only IDR 1.4 trillion, more precisely IDR 1,441,329,479,066 (one trillion four hundred forty-one billion three hundred twenty-nine million four hundred seventy-nine thousand and sixty-six rupiah). This indicates that neither the prosecutor nor the panel of judges have the perspective of providing a deterrent effect from the economic aspect.

Comparison of State Financial Loss and Compensation Money (in Billions)

The problem of the significant gap between state financial loss and compensation money, apart from the absence of an economic punishment perspective, also concerns the classic debate between the public prosecutor and the panel of judges. What has always been a problem is the charge for compensation money when the defendant's actions are not included under the realm of corruption resulting in state financial loss. An example is the bribery and gratification case of the former Secretary of the Supreme Court, Nurhadi. The judges refused to demand additional criminal compensation money, for the reason that the bribe comes from personal funds.[9]

The judges' argument against the imposition of additional compensation as mentioned above should be easy to refute, as it is clearly stated in Article 17 of the Anti-Corruption Law that every corruption offense can be subject to an additional penalty of compensation money. In fact, this provision has been reaffirmed through Article 3 of the Supreme Court Regulation Number 5 of 2014 concerning the Criminal Code of Additional Compensation in the Crime of Corruption, which states that additional criminal penalties can be imposed on all cases of corruption regulated in the Anti-Corruption Law.

The refusal to impose additional criminal penalty in the form of compensation did not only occur in the Nurhadi case. The following table contains ten charges for compensation money in large amounts throughout 2021 that were rejected by the panels of judges.

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[9] Medcom, "Hakim Bebaskan Nurhadi Membayar Uang Pengganti Korupsi" https://www.medcom.id/nasional/hukum/4KZzdaWK-hakim-bebaskan-nurhadi-membayar-uang-pengganti-korupsi

Case Number	Name of Defendant	Compensation Demanded	Compensation Decided	Prosecutor	District Court
21/Pid.Sus-TPK/2021/ PN Kpg	Massimiliano De Reviziis	IDR 7 billion	-	PPS	Kupang
33/Pid.Sus-TPK/2021/ PN Mks	Gunawan Subyantoro	IDR 7.1 billion	-	PPS	Makassar
2/Pid.Sus-TPK/2021/ PN Pgp	Agustino	IDR 8.4 billion	-	PPS	Pangkal Pinang
6/Pid.Sus-TPK/2021/ PN Amb	Izzac Balthazar	IDR 9 billion	-	PPS	Ambon
2/Pid.Sus-TPK/2021/ PN Mks	M. Riandi	IDR 9.6 billion	-	PPS	Makassar
17/Pid.Sus-TPK/2021/ PN Jkt.Pst	Yunan Anwar	IDR 16.7 billion	-	PPS	Jakarta
20/Pid.Sus-TPK/2020/ PN Jmb	Ali Arifin	IDR 17.3 billion	-	PPS	Jambi
42/Pid.Sus-TPK/2021/ PN Mdn	Memet Soilangon S	IDR 32.5 billion	-	PPS	Medan
45/Pid.Sus-TPK/2020/ PN Jkt.Pst	Nurhadi	IDR 83 billion	-	KPK	Jakarta
5/Pid.Sus-TPK/2021/ PN Amb	Idris Rolobessy	IDR 229.4 billion	-	PPS	Ambon

However, the construction of the article demanding additional criminal punishment in the form of compensation in the Anti-Corruption Law is also not without problems. In this clause, it is stated that compensation money is a payment with a maximum amount equal to the property obtained from a criminal act of corruption. Based on the concept of the regulation, what if the money from the crime of corruption is deposited with a bank, for example? Would the interest from the deposit be confiscated as part of the compensation? Therefore, the regulation should be amended as follows: the maximum amount of payment should be equal to the property obtained from a criminal act of corruption *as well as all the profits obtained from the act*.

However, throughout 2021, a number of decisions were also found that illustrate the perspective of recovering state financial losses due to the imposition of additional penalty in the form of relatively large amounts of compensation money. For more details, see the following table.

| Case Number	Name of Defendant	Occupation	Compensation Decided	District Court
49/Pid.Sus-TPK/2021/ PN Bdg	Lissa Rukmi Utari	President Commissioner of PT Ametis Indogeo Prakarsa	IDR 45.7 billion	Bandung
25/Pid.Sus-TPK/2021/ PN Smr	Iwan Ratman	Director of PT Mahakam Gerbang Raja Migas	IDR 49.4 billion	Samarinda
38/Pid.Sus-TPK/2021/ PN Jkt.Pst	Jasmine J Fatima	President Director of PT Jazmina Asri Kreasi	IDR 57.3 billion	Jakarta
60/Pid.Sus-TPK/2020/ PN Jkt.Pst	Rennier Abdul Rahman	Commissioner of PT Aditya Tirta Renata	IDR 115.2 billion	Jakarta
1/Pid.Sus-TPK/2021/ PN Jkt.Pst	Maria Pauliene Lumowa	PT Gramarindo Mega Indonesia	IDR 185.8 billion	Jakarta

Based on this problem, ICW offers a change to the concept of confiscation in handling corruption cases. This refers to the the imposition of collateral confiscation as known in civil law, so that it can be applied to seize the assets of the perpetrators. Thus, if this concept is accepted, in the future law enforcement officers are allowed to confiscate assets, even if they are not directly related to the crime. This is important as a guarantee for law enforcement officers that the defendant can pay off the compensation money. However, to implement it, changes to the Anti-Corruption Law and harmonization of other regulations are needed, such as the Criminal Procedure Code.

5. Fines

In the material law regarding the crime of corruption, the application of sanctions can be cumulative, namely a combination of imprisonment and fines. However, these two aspects still have quite serious problems. As a financial sanction, the imposition of fines in the Anti-Corruption Law is too lenient. Even in the midst of the transformation of the crime of corruption that is increasingly damaging the country's economy, the regulation on sanctions has not changed since 2001. The maximum fine that can be imposed on the perpetrators of corruption is only IDR 1 billion. In addition, the maximum sanctions are only regulated in three types of corruption, including, state financial losses (Article 2 and Article 3), bribery (Article 12), and gratification (Article 12B). In addition, to impose the minimum fine, there are problems in the articles in the Anti-Corruption Law. Imagine that for the practice of corruption with the type of state financial loss committed by the public, the imposed fine is actually more lenient than that for public officials (Article 2 paragraph (1) of the Anti-Corruption Law/a minimum fine of IDR 200 million and Article 3 of the Anti-Corruption Law/a minimum fine of IDR 50 million).

The above conditions are different from the regulation of other special crime offenses, such as narcotics or money laundering. This is because the fines for these two crimes are far greater than those for corruption. For example, Article 113, Article 114, Article 116, Article 133, and Article 137 of the Anti-Narcotics Law mentions a fine of up to IDR 10 billion. The same thing is also stated in Article 3 of the Anti-Money Laundering Law with a nominal fine of IDR 10 billion.

Based on ICW's monitoring, throughout 2021, the total fines imposed on the defendants amounted to IDR 202,360,000,000 (two hundred two billion three hundred and sixty million rupiah). On average, each defendant is only imposed a fine of IDR 162.4 million. However, even if it does not seem significant, the average fine in 2021 was higher than in 2020 (IDR 156.3 billion). For more details, the following chart shows the fines imposed during the last five years.

Amount of Fines (in Billions)
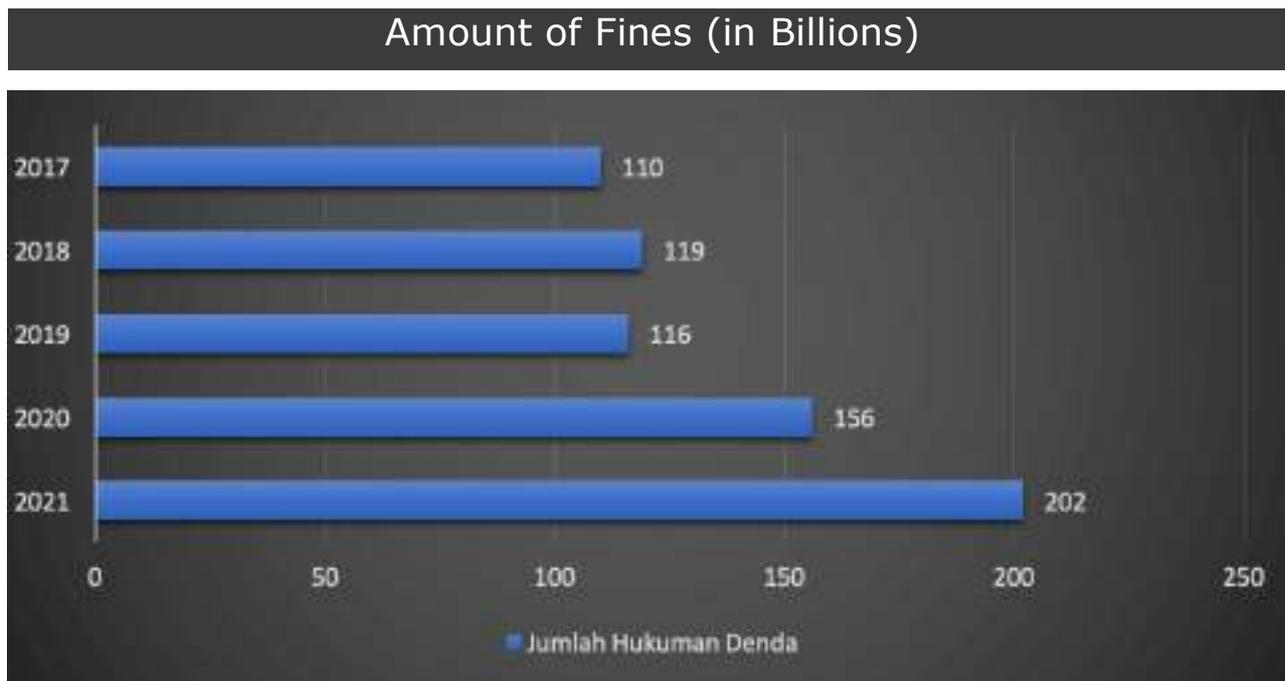
The imposition of a fine with the maximum amount was only imposed on 14 defendants. In fact, throughout 2021, there are a number of defendants who deserve to be sentenced to the maximum extent possible, such as Edhy Prabowo, Juliari P. Batubara, Pinangki Sirna Malasari, and other political corruption actors.

Another problem is targeting the disparity in the imposition of fines. This is assessed based on the background of the defendant's occupation and the amount of state financial losses arising from corruption. Further details can be seen in the following table.

Case Number	Name of Defendant	Occupation	State Loss	Article Charged	Amount of Fine
57/Pid.Sus-TPK/2020/PN Bdg	Budi Pirmansyah	Head of Bojongsari Village	IDR 300 million	Article 2 paragraph (1)	IDR 300 million
15/PID.SUS-TPK/2021/PN MND	Vonnnie A Panambunan	North Minahasa District Head	IDR 8.8 billion	Article 2 paragraph (1)	IDR 200 million

Case Number	Name of Defendant	Occupation	State Loss	Article Charged	Amount of Fine
8/Pid.Sus-TPK/2021/PN Sby	Fariantono	Head of Prambangan Village	IDR 871 million	Article 2 paragraph (1)	IDR 300 million
5/Pid.Sus-TPK/2021/PN Tpg	Indra Santo	Director of PDAM Tirta Karimun	IDR 4.9 billion	Article 2 paragraph (1)	IDR 200 million

6. Mapping of Indictments

The indictment is an important element in the case handling process. Even if this does not have a direct impact on the defendant, based on it the public can see the extent of the perspective of law enforcement officials in viewing a crime. Moreover, law enforcement officers have been considered as representatives of the state, as well as victims, who should be oriented towards deterring perpetrators and recovering from the effects of crime.

Especially for the trial of corruption cases, in fact, the seriousness of the public prosecutor can be seen from the use of articles in the indictment. Not infrequently the public prosecutor chooses articles with a low standard of punishment. In addition, the problem of prosecution is also reflected in the low commitment of the structural leadership of the law enforcement officers. This is because the prosecutor on duty at the trial is certainly not the party formulating the indictment, because they must coordinate with the head of their agency.

Therefore, in this section, the findings in monitoring related to indictments will be reviewed. As for the things that will be seen, among others, the use of articles in the indictment, the most common primary and additional criminal charges, the severity of the sentence, and the disparity of prosecution.

a. Use of Articles of the Anti-Corruption and Anti-Money Laundering Laws

The inclusion of articles in the public prosecutor's indictment normatively does depend on the evidentiary process based on the charges. However, there are a number of articles whose elements are almost the same, but the type of punishment is different. For example, Article 2 and Article 3 of the Anti-Corruption Law as described in the previous section.

For this reason, the following is the mapping of articles utilization in the context of corruption in state financial losses.
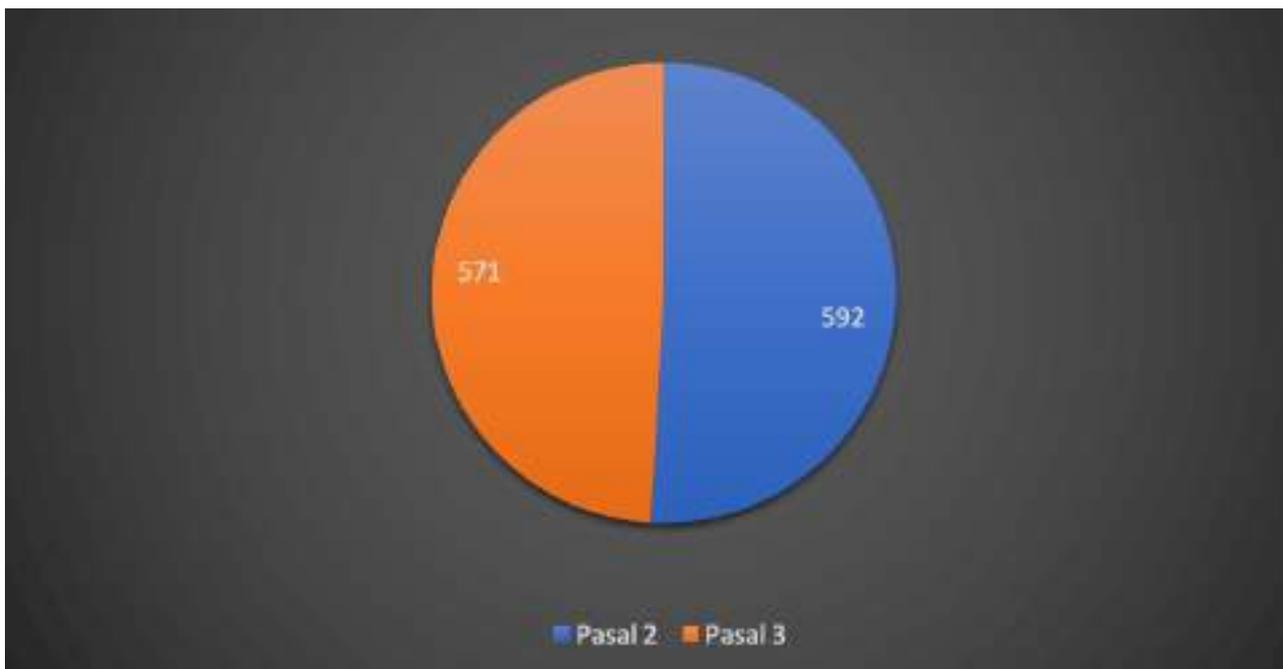
Based on the data above, on the one hand, there is indeed an improvement because the public prosecutor more frequently uses Article 2 instead of Article 3. This has not been seen in previous years. This dominance of Article 2 utilization must be maintained in the future to show the perspective of providing a deterrent effect to the perpetrators and to emphasize the attitude of the public prosecutor as a representation of the interests of the victim.

Another problem also followed, namely, the minimal utilization of anti-money laundering article. Of the total number of defendants (1,404) only *eleven* were charged with the Anti-Money Laundering Law.

b. Average Sentences in the Indictments

As one of the primary forms of punishment in Article 10 of the Criminal Code, corporal punishment in the form of imprisonment is still needed as a strategy to build a deterrent effect for perpetrators of corruption. For this reason, if it is related to the indictment of the public prosecutor, through this monitoring the effectiveness of the deterrent effect that has been carried out by the public prosecutor can be measured through the length of prison sentence demanded.

From a total of 1,404 defendants who were tried, ICW noted that the average indictment only demanded 54 months or 4.5 years in prison. For a measure of deterrent effect, especially for corruption cases, of course that is not ideal. Therefore, in the future, if the evidence has accommodated the indictment, is accompanied by a significant impact on the crime, and the background of the accused is public officialdom, the public prosecutor should not hesitate to prosecute them with the maximum sentence. However, this monitoring data shows a significant increase, compared to the average demand in the previous years, as can be seen from the graph below.

Length of Sentence Indicted - By Year
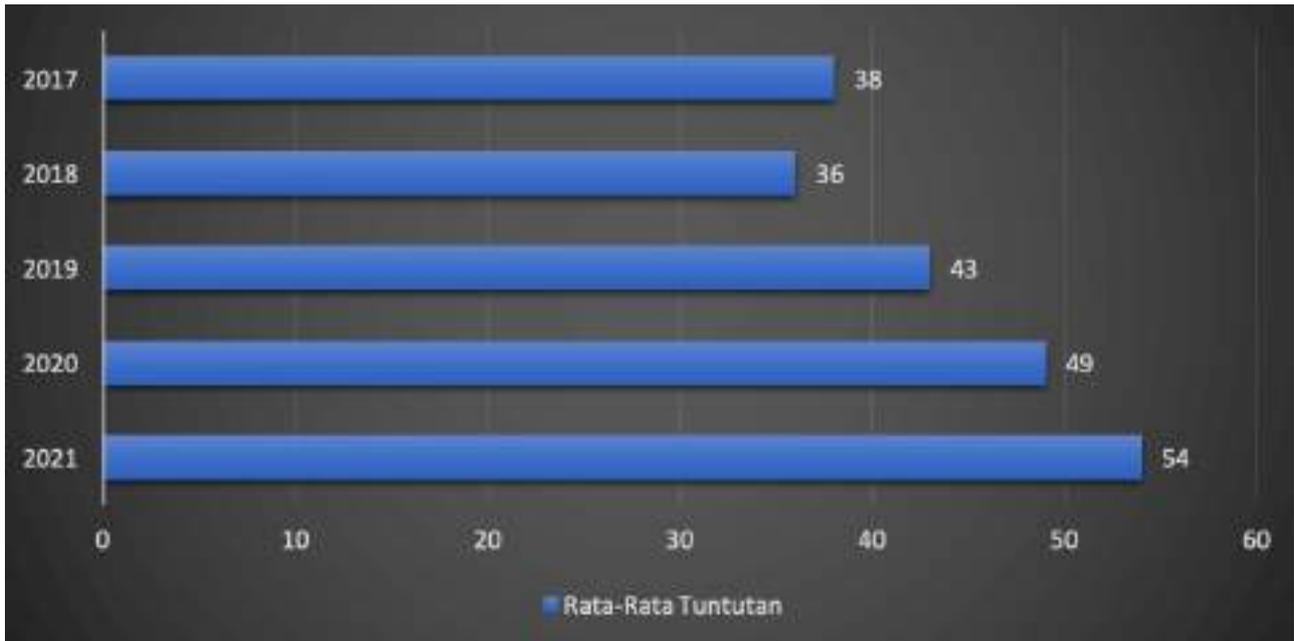
This monitoring also looks at the trend of indictments based on the background of the public prosecutor, namely the PPS and the KPK. From there, the public can be more specific in measuring the deterrent effect between law enforcers and compare it with previous years'.

Length of Sentence Indicted - KPK and PPS
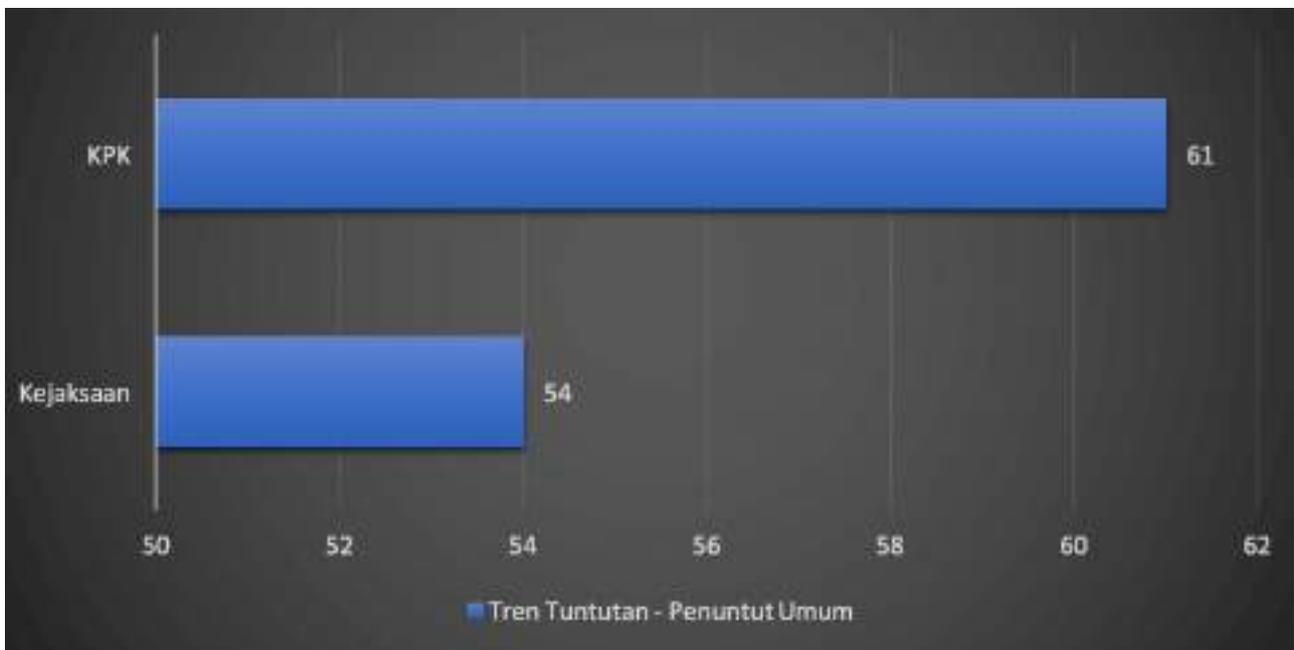
From the data above, the KPK is indeed outperforming the PPS. However, the average 5 years and 1 month is still not considered commensurate with the crimes committed by the perpetrators. It should be noted that with the impact of corruption directly targeting people's lives, the demands for imprisonment should be maximized, while at the same time also increasing legal efforts to recover losses.

When compared to the previous year, the two prosecution institutions had improved. However, this is more significantly seen in the PPS rather than the KPK. This is because the PPS has increased the average from 4 years to 4 years and 6 months, meanwhile, the KPK only increased by three months compared to 2020 (4 years and 10 months).

On average, this claim also elaborates on the background of the defendant's occupation, one of which is from the civil servants cluster. In the stipulations of criminal law, if a civil servant commits a crime, the punishment is increased by a third (Article 52 of the Criminal Code). As a result, from a total of 346 civil servants who were prosecuted, the average prison sentence was only 4 years and 1 month in prison. This indicates that law enforcement officers have not fully implemented criminal penalties based on the defendant's occupation background.

To conclude this section, the following part will display data on the average length of sentence indicted based on the articles of the Anti-Corruption Law. However, the category will be limited to two parts, namely, articles that have a maximum sentence of 20 years in prison (Article 2, Article 3, Article 12, and Article 12B of the Anti-Corruption Law) and 5 years in prison (Article 5, Article 11 of the Anti-Corruption Law).). This is because these types of articles are most often used by law enforcement officers.
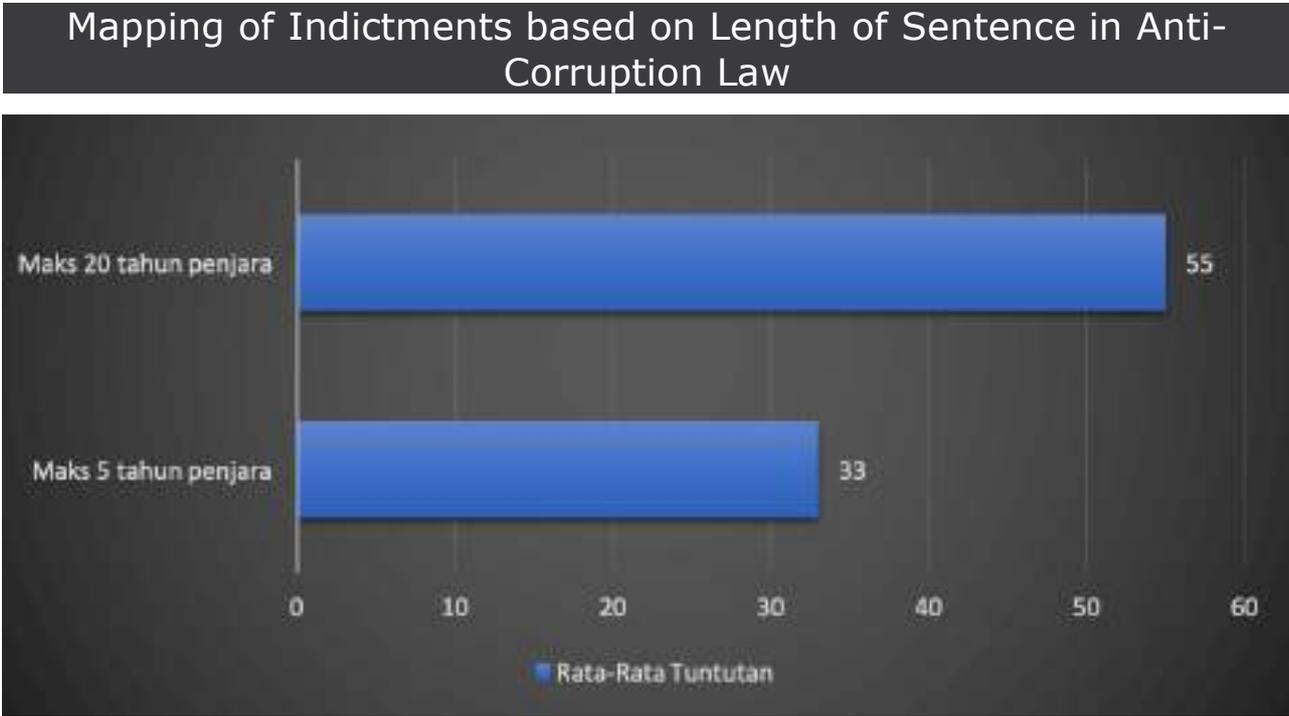
From the graph above, it can be seen that law enforcement officers still often prosecute corrupt perpetrators leniently. This is shown by the fact that even though they use articles that allow for a sentence of 20 years, or even life in prison, it turns out that the average indictment remains 4 years and 7 months in prison. Likewise for the crime of bribery which can be punished with a maximum sentence of 5 years in prison, the prosecution only demands on average 2 years and 9 months.

c. Lenience of the Indictments

As explained in the previous section, this chapter will review the main sentence of imprisonment as outlined by the prosecutor in their indictment. Later on, the chapter will discuss the proportion of defendants being prosecuted at lenient, moderate, and severe sentence categories, then a more detailed

description of the mapping of the indictments by the PPS and the KPK, as well as details of the background of the defendants' occupation related to the severity of the charges.

First, during 2021 it turns out that the majority of the prosecution's indictments were still lenient on the perpetrators of corruption. Of the total 1,359 charges recorded, 662 of them were leniently prosecuted. Meanwhile, the indictments in the moderate category were 649 persons, with only 48 persons being indicted for prison sentences of 10 years or longer. The dominance of lenient demands further strengthens the public perception that doubts that law enforcement officers were on their side in investigating corruption cases.

As a comparison, the following is a mapping of the severity of the charges over the last five years.
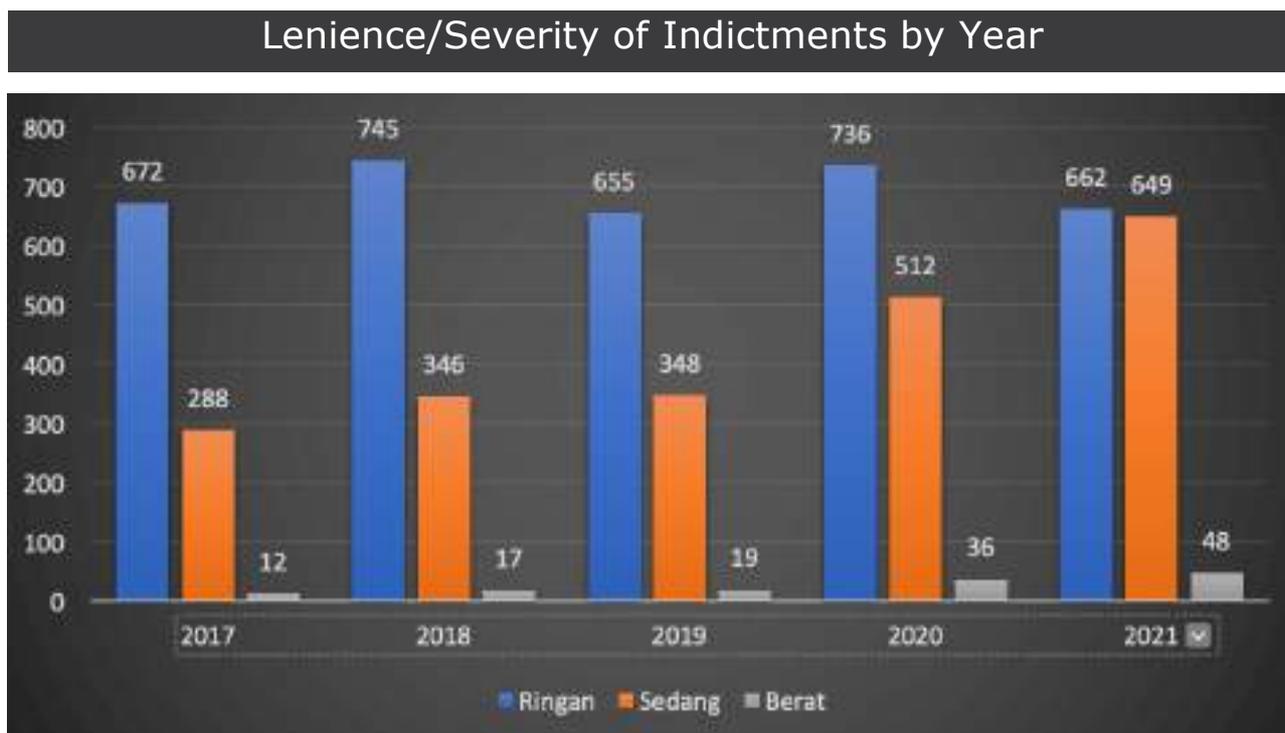
However, apart from the lenient charges in 2021, compared to the last four years, the performance of the PPS has been better. At least there has been an increase in the number of indictments in the moderate and severe categories in the past year. Therefore, in the following years, lenient demands must be minimized so that the aggrieved parties, such as the state and society, feel represented by the prosecutor in the trial process of corruption cases.

Further, the mapping will include the number of defendants charged with lenient, moderate, and severe charges based on the prosecution's home institution. For the PPS itself, lenient indictments still dominated, while the KPK remained stagnant in the area of moderate indictments as in the previous year. Therefore, the data refute statements by the PPS and the KPK, which always claim to support efforts to eradicate corruption.

Lenience/Severity of Indictments by Institution
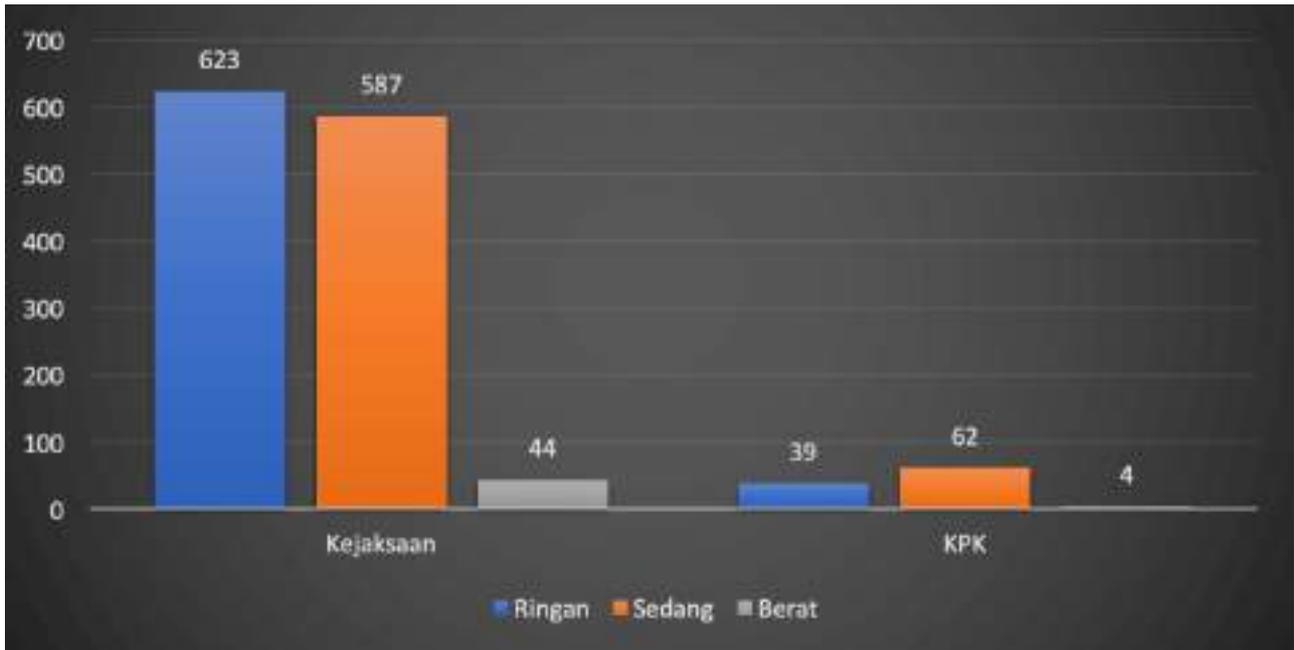
Of all the defendants who were leniently charged above, this section will present data regarding their occupational background. It is important to measure the considerations of the prosecutor when formulating the indictments, especially in terms of occupational background.

Lenient Indictments by Occupational Background
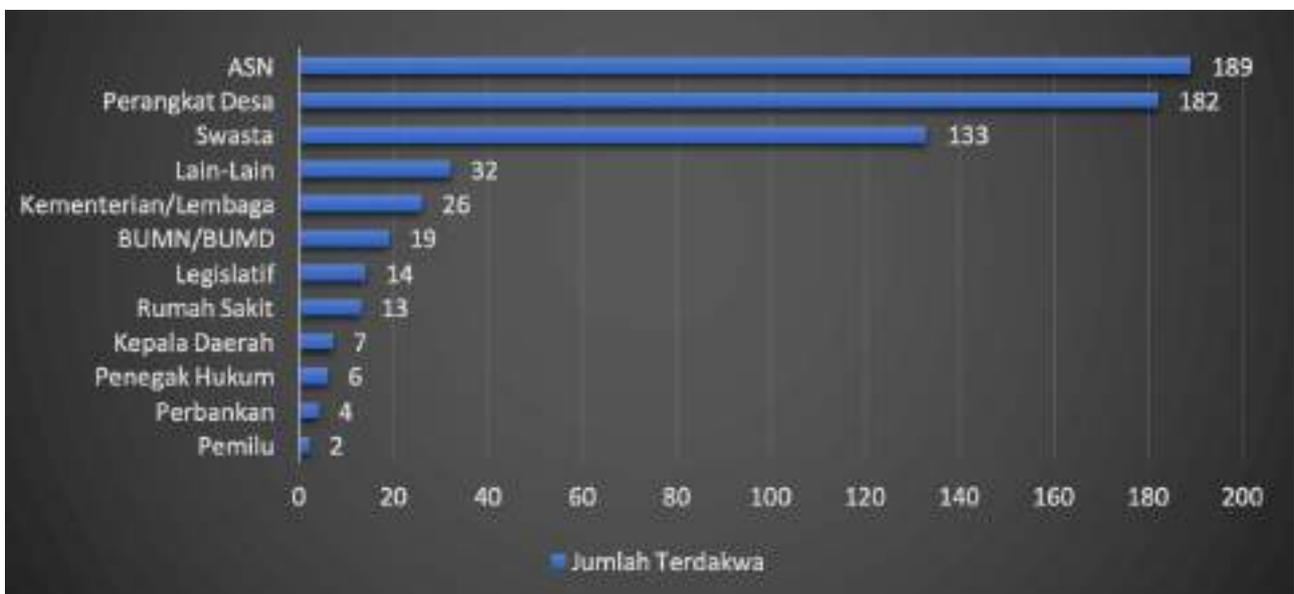
Based on the table above, there are some interesting things to review. First, out of a total of 346 civil servants who were accused of corruption, half of them were charged leniently. This indicates that the public prosecutor has not carefully considered the essence of Article 52 of the Criminal Code regarding the weight of the sentence. Second, almost half of all political actors (regional heads and

members of the legislature) who were tried were also only charged to less than 4 years in prison. With their occupational background, it can be ascertained that the perpetrators used the positions and authorities attached to them. Therefore, their punishments should have been intensified. Third, for the law enforcement cluster, practically almost all of them were leniently prosecuted. Of the total number of eight law enforcers who were tried for corruption during 2021, 6 of them were in fact given lenient sentences by the prosecutors. Such conditions do not rule out the possibility of a conflict of interest during the process of case handling, which leads to light prosecution.

d. Fines and Compensation

In terms of economic sanctions for perpetrators of corruption, it can be divided into two parts, namely, the imposition of fines and the imposition of the additional criminal penalty of compensation money. For this reason, this monitoring will measure the charges for fines and compensation from the prosecution during the trial process for corruption cases in 2021.

From a total of 1,357 defendants who were monitored, the total demands for fines amounted to IDR 281,890,000,000 (two hundred eighty one billion eight hundred and ninety million rupiah). On averaged, each defendant was only demanded to pay IDR 207,730,287 (two hundred seven million seven hundred thirty two hundred and eighty seven rupiah). Also, practically only 27 persons were charged with the maximum fine of IDR 1 billion, one of whom was required to pay a fine of IDR 10 billion due to indications money laundering. Based on the institution of origin of the prosecutor, it can be identified that of the 27 persons, 6 of them were prosecuted by the KPK, while the rest were by the PPS.

In addition, this monitoring also found demands of fines at amounts lower than the provisions of the law. Of the total of 587 defendants charged with Article 2 of the Anti-Corruption Law, 33 of them were only fined IDR 50 million or IDR 100 million, whereas the regulation requires law enforcement to comply with a fine of at least IDR 200 million and a maximum of IDR 1 billion.

The following table shows some of them.

Case Number	Name of Defendant	Occupation	Fine Demanded	Article Charged	Prosecution
20/Pid.Sus-TPK/2021/PN Smr	Rusdy Radjab	Commitment Making Officer of East Kutai District Public Works Office	IDR 100 million	Article 2 paragraph (1)	PPS
34/Pid.Sus-TPK/2021/PN Kpg	Soleman Tamo	Commitment Making Officer of Southwest Sumba Health Service	IDR 50 million	Article 2 paragraph (1)	PPS
11/Pid.Sus-TPK/2021/PN Jmb	Emmy	Private	IDR 50 million	Article 2 paragraph (1)	PPS
24/Pid.Sus-TPK/2021/PN SMG	Moh Hamdun	Commissioner of PT Gilang Pilar Nusantara	IDR 50 million	Article 2 paragraph (1)	PPS
10/Pid.Sus-TPK/2021/PN Bgl	Frentin Sabanon	Semalako Village Head	IDR 50 million	Article 2 paragraph (1)	PPS

As an effort to assess the perspective of law enforcement in terms of recovery, both aspects of state financial losses or the confiscation of assets resulting from crimes, it can be seen through additional criminal charges for compensation money. In general, the total compensation money demanded during the 2021 trial process was IDR 2,170,313,934,327 (two trillion one hundred seventy billion three hundred thirteen million nine hundred thirty-four thousand three hundred and twenty-seven rupiah). Of course, this amount is still far from the total state financial losses which reached IDR 62.9 trillion. Then, if viewed based on the institution of origin of the prosecutor, the KPK demanded compensation from 55 defendants amounting to IDR 535,142,523,465 (five hundred thirty-five billion one hundred forty-two million five hundred and twenty-three thousand four hundred and sixty-five rupiah). The remaining amount of IDR 1,635,171,410,862 (one trillion six hundred thirty-five billion one hundred seventy-one million four hundred ten thousand eight hundred and sixty-two rupiah) was demanded by the PPS from a total of 798 defendants.

Specifically regarding the recovery of state financial losses, this monitoring will try to see the demands for compensation money using Article 2 and Article 3 in the indictment. From there, the public will see the extent of the public prosecutor's efforts to recover state financial losses.

Perbandingan Kerugian Keuangan Negara dengan Tuntutan Uang Pengganti

Based on the graph above, both the KPK and the PPS have not shown maximum performance in efforts to recover state financial losses. Therefore, in the future, tracking assets obtained from the proceeds of crime, even along with the profits, must be included in the demand for compensation.

In addition, this monitoring also shows the defendants who were charged with additional criminal charges of compensation at large amounts by the prosecutor.

Name of Defendant	Occupation	State Losses	Compensation Demanded	Prosecution
Iwan Ratman	Director of PT Mahakam Gerbang	IDR 50 billion	IDR 50 billion	PPS
Jasmina Julie	President Director of PT Jazmina Asri Kreasi	IDR 95.4 billion	IDR 57.3 billion	PPS
Rennier A Latif	Commissioner of PT Aditya Tirta Renata	IDR 150.5 billion	IDR 155.2 billion	PPS
Maria Pauline L	Owner of PT Gramaindo Mega Indonesia	IDR 1.24 trillion	IDR 185.8 billion	PPS
Idris Rolobessy	General Director of Maluku Regional Development Bank	IDR 229.4 billion	IDR 229.4 billion	PPS

Name of Defendant	Occupation	State Losses	Compensation Demanded	Prosecution
Didi Laksamana	President Director of PT Abadi Sentosa Perkasa	IDR 20 billion	IDR 37.7 billion	KPK
Lissa Rukmi Utari	President Commissioner of PT Amestis Indogeo Perkarsa	IDR 179 billion	IDR 45.7 billion	KPK
Nurhadi	Secretary of the Supreme Court	IDR 49.4 billion	IDR 83 billion	KPK
Hadinoto Soedigno	Technical Director of PT Garuda Indonesia	IDR 70 billion	IDR 88 billion	KPK
Melia Boentaran	Director Commissioner of PT Arta Niaga Nusantara	IDR 156 billion	IDR 110.5 billion	KPK

e. Disparity of Indictments

Differences in indictments in a court process are normal, because each case has different characteristics from one another. However, if a case where the value of state losses is large is prosecuted lightly, while another case with a relatively low amount of losses is severely prosecuted, it shows that there is something wrong with the anti-corruption law enforcement system. The issue, apart from a sense of justice, is also about the benchmarks for the public prosecutor when compiling the indictments.

To overcome the chaotic disparity of indictments that always arises in every monitoring of ICW, the Attorney General's Office is much more progressive than the KPK. This is because they have already prepared guidelines for prosecution through the Attorney General's Circular Number: SE-003/A/JA/02010 concerning Guidelines for Criminal Prosecutions in Criminal Cases of Corruption. Meanwhile, the Corruption Eradication Commission (KPK) has only finished compiling prosecution guidelines in 2021.

However, even though the Prosecutor's Office has guidelines for prosecution, this does not immediately eliminate the problem. First, the PPS' version of the prosecution guidelines did not take into account the background of the defendant's occupation and the impact on the crime. Yet, as has been reviewed in the previous section, Article 52 of the Criminal Code has confirmed the existence of intensifying of penalties based on the background of the perpetrators' occupation. Supposedly, perpetrators who come from political areas, especially law enforcement officers, can be subject to heavier charges. In addition, corruption crimes that target people's lives directly and have a long-term impact must also be included in these guidelines, for example, corruption in social assistance or those related to the environment.

Second, the Attorney General's guidelines are still limited to corruption related to state financial losses (Article 2 and Article 3 of the Anti-Corruption Law). In reality, disparity does not only occur in the context of these articles, but also in other corruption crimes. Third, there has been no regulation

on the standard of imprisonment in lieu of compensation money for defendants who do not pay the additional penalty of compensation money. It is important to observe that the legal instruments contained in Article 18 paragraph (3) of the Anti-Corruption Law are an effort to force the convicted person to pay compensation if the decision has permanent legal force. As a result, there is an imbalance between demands for compensation money and substitute imprisonment in many trials of corruption cases.

Fourth, the section that regulates the guidelines for prosecution of fines (numbers VI and VII), does not specify the amount of losses incurred by the defendant. The guidelines for prosecution of fines for Article 2 and Article 3 of the Anti-Corruption Law only have categories of under IDR 5 billion and above IDR 5 billion. For the first category, the defendant is required to pay a fine of at least IDR 50 million and a maximum of IDR 500 million. Meanwhile, for the second category, the defendant is required to pay a fine of at least IDR 500 million and a maximum of IDR 1 billion. With this condition, it opens the gap for the occurrence of disparity in prosecution. Supposedly, the regulation of fines could be more detailed in order to minimize injustice due to the disparity of prosecution.

Therefore, this section will point out four issues related to disparity, including, imprisonment, fines, substitute imprisonment, and the application of the AGO guidelines for prosecution. The KPK's guidelines for prosecution will not be discussed, because until now the substance of the regulation has not been made available.

Case Number	Name of Defendant	Occupation	State Loss/Bribe	Prison Sentence Demanded	Article Charged
26/Pid.Sus-TPK/2020/PN Bjm	Mahyudiansyah	Head of the Kotabaru District Trade Office	IDR 2.2 billion	1 year 6 months	Article 3
25/Pid.Sus-TPK/2020/PN Bna	Amri Yanto	Treasurer of the Office of Islamic Shari'a and Education of Central Aceh District	IDR 398 million	3 years 6 months	Article 3
36/Pid.Sus-TPK/2021/PN Bdg	Junaedi	President Director of PD Sindangkasih Multi Usaha	IDR 1.4 billion	2 years	Article 3
16/Pid.Sus-TPK/2021/PN Mdn	Asran Siregar	Head of PDAM Tirtanadi Deli Serdang Branch	IDR 667 million	3 years	Article 3
5/Pid.Sus-TPK/2021/PN Smr	H Suwandi	Member of East Kalimantan DPRD	IDR 401 million	1 year 6 months	Article 11

Case Number	Name of Defendant	Occupation	State Loss/Bribe	Prison Sentence Demanded	Article Charged
14/Pid.Sus-TPK/2020/PN Mtr	Ahmad Muttakin	Head of Bukit Tinggi Village, West Lombok	IDR 53 million	1 year 6 months	Article 11

The table above has explained in full how the disparity in prosecution of imprisonment still often occurs in the trial process of corruption cases. For example, for the first and second cases, apart from the the lenient prison sentences, but the prosecutor did not carefully consider the state financial losses that arise. Even though both of them have almost the same jobs and positions, the defendant Mahyudiansyah, with a larger amount of state financial losses, was prosecuted more leniently than Amri Yanto.

Case Number	Name of Defendant	Occupation	State Loss/Bribe	Fine Demanded	Article Charged
51/Pid.Sus-TPK/2021/PN Mdn	Jamotan Silaen	Head of Tornagodang Village	IDR 145 million	IDR 100 million	Article 3
47/Pid.Sus-TPK/2020/PN Pbr	Husaepa	Sungai Upih Village Head	IDR 900 million	IDR 50 million	Article 3
10/Pid.Sus-TPK/2020/PN Tpg	Sutjahjo Hari Murti	Head of Sub Division of Legislation at the Legal Division of Batam City Government	IDR 685 million	IDR 50 million	Article 11
43/Pid.Sus-TPK/2021/PN Mks	Muhammad Said	Head of Technical Implementation Unit – Lorong Business Service Center (UPT-PLUL) Kanrerong	IDR 131 million	IDR 50 million	Article 11
23/Pid.Sus-TPK/2021/PN Ptk	Ahmad Khalil	Legislative candidate's success team	IDR 100 million	IDR 200 million	Article 5 paragraph (1) letter a
50/Pid.Sus-TPK/2020/PN Jkt.Pst	Joko S Tjandra	Businessperson	IDR 15 billion	IDR 100 million	Article 5 paragraph (1) letter a

The imposition of fines as a principal punishment based on Article 10 of the Criminal Code also raises the problem of disparity. As happened in the trial with the defendant Joko S Tjandra. After bribing a number of law enforcement officers, he was only charged with a fine of IDR 100 million. A comparison can be made to another bribery case with the defendant Ahmad Khalil. The practice of bribery of IDR 100 million was in fact subjected to a larger fine than Joko S Tjandra. In fact, the offense included in the indictment allowed for a fine of IDR 250 million to be demanded.

Case Number	Name of Defendant	Compensation Money	Imprisonment in Lieu of Compensation	Prosecution	Article Charged
19/Pid.Sus-TPK/2020/PN Plg	Aries HB	IDR 3 billion	1 year	KPK	Article 12 letter a
39/Pid.Sus-TPK/2020/PN Smr	Musyaffa	IDR 780 million	1 year	KPK	Article 12 letter a
60/Pid.Sus-TPK/2020/PN Bdg	Budi Santoso	IDR 2 billion	2 years	KPK	Article 2 paragraph (1)
25/Pid.Sus-TPK/2021/PN Pbr	Melia Boentaran	IDR 110 billion	2 years	KPK	Article 2 paragraph (1)
45/Pid.Sus-TPK/2021/PN Bna	Kasmin	IDR 1 billion	1 month	PPS	Article 2 paragraph (1)
15/Pid.Sus-TPK/2021/PN Tjk	Supratikno	IDR 190 million	2 years	PPS	Article 2 paragraph (1)
49/Pid.Sus-TPK/2021/PN Kpg	Fransiscus Nanga Roka	IDR 107 million	4 years	PPS	Article 3
47/Pid.Sus-TPK/2021/PN Mks	Ernawati	IDR 6.8 billion	1 year	PPS	Article 3

The table above shows the urgency of setting a standard for imposing substitute imprisonment. This is important as a punishment for convicted persons who do not pay the compensation money. It is important to note that Article 18 paragraph (3) of the Anti-Corruption Law basically does not limit the imposition of a substitute prison sentence, as long as it is in accordance with the contents of the indictment article. So, if the state's financial loss is large, the defendant should be prosecuted with a the maximum amount of substitute imprisonment.

Case Number	Name of Defendant	State Losses	Compensation Money Demanded	Substitute Imprisonment Demanded	Article Charged
12/Pid.Sus-TPK/2021/PN Mdn	Warsito	IDR 561 million	IDR 561 million	5 years 6 months	Article 2 paragraph (1)
51/Pid.Sus-TPK/2021/PN Ptk	Khairul Anwar	IDR 2.4 billion	IDR 2.4 billion	6 years	Article 2 paragraph (1)
10/Pid.Sus-TPK/2021/PN Tte	Muhammad A. Abubakar	IDR 600 million	IDR 600 million	1 year 4 months	Article 3
36/Pid.Sus-TPK/2021/PN Mks	Rinaldi Iksan Basong	IDR 838 million	IDR 838 million	1 year	Article 3

As explained in the previous section, the Attorney General's Office has guidelines for prosecuting corruption cases through an 2010 Attorney General's Circular. Unfortunately, the implementation of the circular is not yet optimal, as can be seen from the table above. For example, the defendant Warsito was only indicted for 5 years and 6 months in prison. Yet, referring to point 1.4 of the Attorney General's Circular, it is explained that cases with a maximum state loss of IDR 1 billion and the defendant does not compensate the state loss, they will be subject to a minimum sentence of 6 years and 6 months in prison, while the indictment was only for 5 years and 6 months in prison. Another case was Khairul Anam. Based on point 2.4 of the Attorney General's Circular, it is stated that cases with a value of loss between IDR 1 billion to IDR 5 billion and not compensated are required to be sentenced to a minimum of 7 years and 6 months in prison. However, the defendant was only indicted with a sentence of 6 years.

For the defendants Muhammad Abubakar and Rinaldi Iksan Basong, the problem is similar, only that it is specifically aimed at prosecution by using Article 3 of the Anti-Corruption Law. It is explained in the Attorney General's Circular that corruption cases with state loss of IDR 1 billion and the defendant does not compensate the state loss, they will be subject to a minimum sentence of 3 years and 6 months in prison. Meanwhile, the prosecutor only demanded 1 year 4 months and 1 year imprisonment respectively. Therefore, it is not wrong if the public hopes that the Attorney General will not only formally issue the circular guidelines for prosecuting corruption, but also must ensure the follow-up and use of it during the trial process. One way to do this is by ordering the ranks of the Junior Attorney General for Special Crimes to carry out a special examination as stipulated in Article 2 paragraph (2) of the Decree of the Attorney General of the Republic of Indonesia Number: Kep – 033/JA/3/1993 concerning Case Examination against prosecution that deviated from guidelines.

Case Number	Name of Defendant	Occupation	State Losses	Compensation Money Demanded	Article Charged
51/Pid.Sus-TPK/2021/PN Ptk	Khairul Anwar	BNI Bank Teller	IDR 2.4 billion	IDR 50 million	Article 2 paragraph (1)

Case Number	Name of Defendant	Occupation	State Losses	Compensation Money Demanded	Article Charged
24/Pid.Sus-TPK/2021/PN Dps	I Gede Agung Pasrisak	West Tianyar Village *Perbekel*	IDR 4.5 billion	IDR 100 million	Article 2 paragraph (1)
21/Pid.Sus-TPK/2020/PN Jmb	Deni Kriswardana	Director of PT Bunga Tanjung Raya	IDR 11.2 billion	IDR 300 million	Article 2 paragraph (1)
43/Pid.Sus-TPK/2021/PN Jkt.Pst	Santoso	Director of PT Sakti Mas Mulia	IDR 48.2 billion	IDR 200 million	Article 2 paragraph (1)
8/Pid.Sus-TPK/2021/PN Mnk	Marthen P Erari	Treasurer of the Mansinam Site Management Agency	IDR 5.5 billion	IDR 100 million	Article 3

The Attorney General's circular regarding guidelines for prosecuting corruption cases does not only regulate prison sentences, but includes the imposition of fines. However, in this monitoring, it is seen that the application of the Attorney General's circular was not carried out properly by the public prosecutor at trial. The table above explains the mistakes of the PPS in formulating the imposition of fines. For example, in the trial of the defendants Khairul Anwar and I Gede Agung Pasrisak, they were only indicted with fines of IDR 50 million and IDR 100 million. In fact, based on the Attorney General's circular, if a corruption case is found with a state financial loss of less than IDR 5 billion and Article 2 of the Anti-Corruption Law is used to prosecute, the fine should be a minimum of IDR 200 million. As for the other two defendants, Deni Kriswardana and Santoso, the fine imposed as stated in the Attorney General's circular should be a minimum of IDR 500 million. However, the public prosecutor instead only charged them with fines of IDR 300 million and IDR 200 million.

In fact, it is not only the imposition of fines for defendants who are charged with Article 2 paragraph (1) that faces problems, but also the application of Article 3. For example, defendant Marthen P. Erari was only sentenced with a fine of IDR 100 million, while the Attorney General's circular ordered that such defendants be fined a minimum of IDR 500 million for causing state losses of more than IDR 5 billion.

f. Revocation of Certain Rights

As one of the main issues that appear every year, revocation of certain rights is believed to be a solution for providing a deterrent effect. In this section, we will review two types of revocation of certain rights as set forth in the Criminal Code, namely, revocation of political rights and revocation of certain rights.

• Revocation of Political Rights

Legislation that deals with criminal law or the Criminal Code (KUHP) has divided the types of punishment for perpetrators of crimes, one of which is the revocation of certain rights. This is further emphasized in Article 18 paragraph (1) letter d of the Anti-Corruption Law and legal precedents with the revocation of political rights. This punishment model is important to continue to be applied to perpetrators of crimes, both through indictments and verdicts from the panel of judges. Although

based on the decision of the Constitutional Court, revocation of political rights is limited to a maximum of 5 years after the perpetrator has served their sentence.

There are two reasons behind the urgency of the revocation of political rights, especially against perpetrators of corruption with the dimensions of public officials. First, this additional form of punishment is a way to deter perpetrators. Second, efforts to protect the public from problematic candidates when participating in the general election. Therefore, this monitoring will observe a number of defendants who come from the political dimension associated with their prosecution. This is to assess the perspective of providing a deterrent effect from the public prosecutor when trying corruption cases.
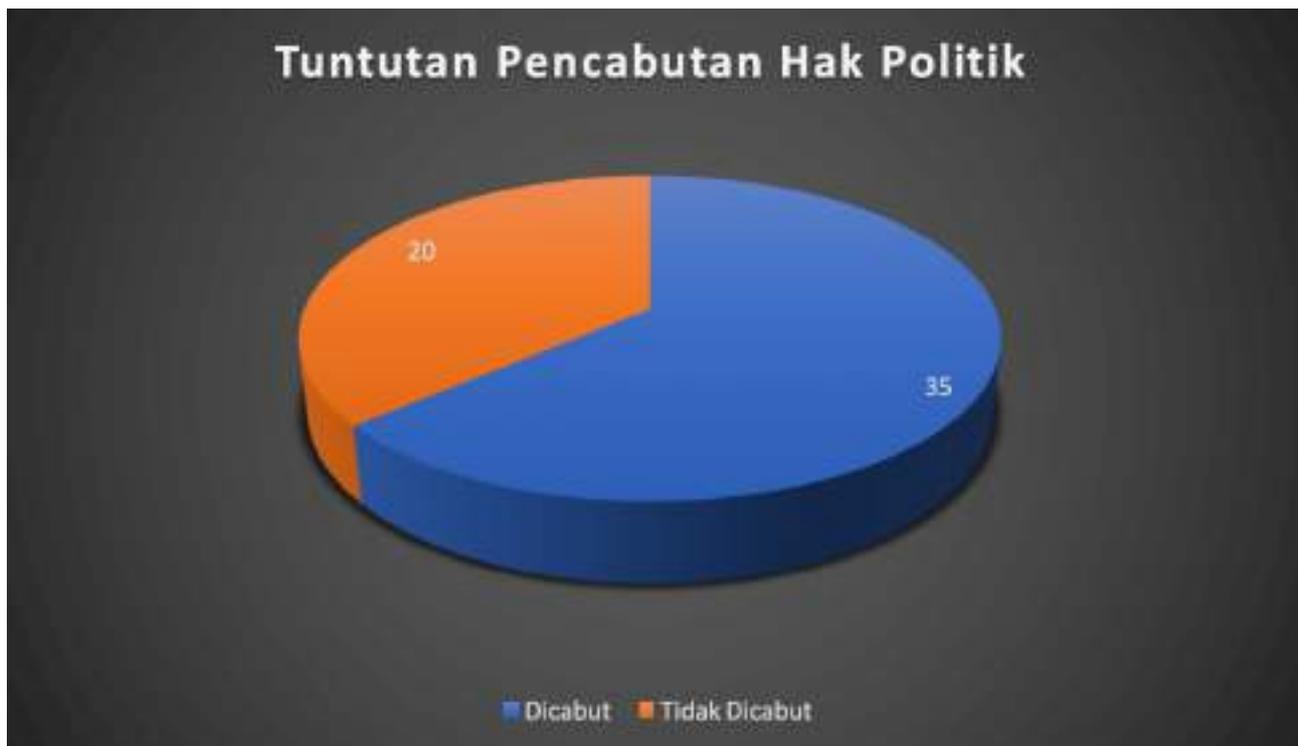
Based on the chart above, it can be seen that the prosecutor is quite good at implementing the revocation of political rights. Of the total 55 defendants who came from the sphere of politicians or public officials, more than half were charged with this additional criminal sanction. Meanwhile, if we look further, the 35 defendants have positions such as members of the BPK RI (1 person), ministers (2 people), regional heads (5 people), and the rest are members of the legislature. However, it is crucial to note that all the indictments for the revocation of political rights came from the KPK. From this it can be seen that the PPS does not yet have the perspective of providing a deterrent effect through the revocation of political rights.

For this reason, as a comparison, here are the names of the defendants who came from the sphere of politicians or public officials but were not charged with revocation of political rights.

Case Number	Name of Defendant	Occupation	State Losses	Prosecution
84/Pid.Sus-TPK/2020/PN Sby	Rendra Krishna	Malang District Head	IDR 6.3 billion	KPK

Case Number	Name of Defendant	Occupation	State Losses	Prosecution
83/Pid.Sus-TPK/2020/PN Sby	Taufiqurrahman	Nganjuk District Head	IDR 25.6 billion	KPK
5/Pid.Sus-TPK/2021/PN Mdn	Kharruddin Shah	North Labuhanbatu District Head	IDR 3 billion	KPK
46/Pid.Sus-TPK/2021/PN Mdn	M Syahrial	Mayor of Tanjungbalai	IDR 1.6 billion	KPK
74/Pid.Sus-TPK/2020/PN Bdg	Budi Budiman	Mayor of Tasikmalaya	IDR 700 million	KPK

• **Revocation of Rights as Civil Servants**

As in the data shown above, the number of perpetrators of corruption from the civil servants (ASN) cluster always ranks at the top every year. For this reason, in addition to the basic forms of punishment, such as imprisonment and fines, and additional penalties in the form of compensation money, in the future the public prosecutor must include the revocation of rights as an ASN to the indictment. This is important, considering the problem with corruption perpetrators who come from ASN but remained in their positions always arise every year. In fact, Article 87 paragraph (4) letter b of the ASN Law has explicitly stated that civil servants are dishonorably dismissed because they were sentenced to imprisonment based on a permanently binding decision for committing a crime of office. Of course, the interpretation of the regulation refers to criminal acts of corruption because it specifically mentions office crimes.

After all, this form of punishment is not impossible. If you look at the construction of Article 10 of the Criminal Code in conjunction with Article 35 paragraph (1) letter a of the Criminal Code, then the pressure to revoke the status of ASN is very possible.

g. Problematic Indictments

Throughout 2021, a series of unusual verdicts were pronounced by the judiciary. On the other hand, the role of public prosecutors, both the PPS and the KPK, has several times invited sharp criticism from the public. Perpetrators of corruption with occupational backgrounds as politicians or even law enforcement officers seem to be deliberately prosecuted leniently. For this reason, this monitoring will also sample these anomalies along with several brief analysis.

Case Number	Name of Defendant	Occupation	Case	Bribery	Indictment	Prosecution
38/Pid.Sus-TPK/2020/PN Jkt.Pst	Pinangki Sirna Malasari	Prosecutor	Case management bribe	IDR 6.3 billion	4 years	KPK

Case Number	Name of Defendant	Occupation	Case	Bribery	Indictment	Prosecution
50/Pid.Sus-TPK/2020/PN Jkt.Pst	Joko S Tjandra	Businessperson	Case management bribe	IDR 15 billion	4 years	KPK
5/Pid.Sus-TPK/2021/PN Mdn	Juliari P Batubara	Minister of Social Affairs	Bribery for procuring Covid-19 social assistance	IDR 32.4 billion	11 years	KPK
46/Pid.Sus-TPK/2021/PN Mdn	Eddy Prabowo	Minister of Maritime Affairs and Fisheries	Lobster seed export bribe	IDR 25.7 billion	5 years	KPK

The defendants Pinangki and Joko were both tried for committing bribery practices to administer an acquittal decision at the Supreme Court through the Attorney General's Office. However, instead of being charged with severe punishment, the prosecutor actually rewarded them with lenient sanctions. Beyond that, this cannot be separated from the indications of a conflict of interest in handling the case, particularly against Pinangki. It is difficult to cover up the phenomenon of *esprit de corps* in law enforcement agencies internally. Therefore, from the beginning ICW has urged the KPK to take over the case. Unfortunately, until the end of the investigation process, the KPK seemed reluctant to do that.

It is important to know, apart from being a law enforcement officer, Pinangki is known to have committed three crimes at once, including corruption in the form of bribery, money laundering, and conspiracy. From this reason alone, the prosecutor should have demanded a maximum sentence of at least 20 years in prison or life. This is possible to do, because, the article used to indict by the public prosecutor (Article 3 of the Anti-Money Laundering Law) accommodates the maximum imprisonment.

During the Pinangki trial, a number of important matters appeared, that should have been followed up by law enforcement officers. For example, the evidence obtained by the Public Prosecutor Services explained Pinangki's scenario to manipulate the formulation of the Supreme Court pronouncement by mentioning persons initialed BR and HA. The two names were suspected of having affiliations with top officials from the Attorney General's Office and the Supreme Court. However, until now it seems that the findings of the trial have not been followed through.

Meanwhile, the Joko S. Tjandra case also has almost the same problems as Pinangki's. Apart from being the other party in the same case, Joko is also known to have not only bribed Pinangki for USD 500 thousand, but also gave hundreds of thousands of US dollars to other law enforcement officers, namely Napoleon Bonaparte as the Head of the International Relations Division of the National Police and Prasetijo Utomo as the Head of the Bureau for Supervision of Employee Investigators. the Civil Service Police, to allow removal of his name from the Red Notice monitoring. Therefore, the 4-year sentence against him is in far too lenient in contrast to his crime. However, Joko's problem also concerns the Anti-Corruption Law, in which the bribe giver can only be sentenced to a maximum of 5 years in prison (Article 5 paragraph (1) letters a and b of the Anti-Corruption Law).

Then, two defendants investigated by the KPK, namely, former Minister of Social Affairs, Juliari P. Batubara and former Minister of Maritime Affairs and Fisheries, Edhy Prabowo, did not escape public criticism. This is because since the beginning of the investigation process, there have also been problems and have strengthened the public's suspicion that the KPK is not serious in exposing the corrupt practices of these public officials. Both Juliari and Edhy committed crimes when they were holding positions as public officials. In addition, their corrupt practices were carried out in the midst of public misery due to the Covid-19 pandemic. In fact, even during the reading of the memorandum of defense the two former ministers did not acknowledge their actions. Based on this explanation, the KPK should have charged both Juliari and Edhy with the maximum sentence of life imprisonment.

There is an interesting trend in 2021 to leniently punish the perpetrators of corruption. At least this happened in trial processes that attracted the attention of the public, including Pinangki and Edhy. It seemed as if the Public Prosecutor Services and the KPK were deliberately trying to indict the two defendants with lenient sentences so that when the panel of judges pronounced its decision, both the Attorney General's Office and the KPK would no longer need to take further legal efforts.

7. Mapping of Decisions

This section will review a number of matters regarding the decision of the panel of judges, including, the use of Articles of the Anti-Corruption and Anti-Money Laundering Laws, Average Sentences, Severity of Sentences, Acquittals and Dismissals, Revocation of Political Rights, Substitute Imprisonment, Disparities and Implementation of Supreme Court Sentencing Guidelines, unusual considerations of sentences, and the trend of seeking reduced sentences through reconsideration.

a. Use of Articles of the Anti-Corruption and Anti-Money Laundering Laws

The indictment has a function for every stakeholder in a trial. For example, for the defendant to make their defense, for the public prosecutor as the basis of evidencing, and the panel of judges to limit the scope of the examination. Therefore, based on Article 183 and Article 184 of the Criminal Procedure Code, the panel of judges is given the freedom, both subjectively and with objective benchmarks, to assess the wrongdoings of the defendant as limited by the articles in the indictment (Article 183 and Article 184 of the Criminal Procedure Code).

As has been discussed in the previous section, the panel of judges is required to explore the values that live in the community when making the decision in a trial. This is more so in relation to corruption, which has been understood as an extraordinary crime. Thus, the final product of the panel of judges is expected to provide a sense of justice for the community as well as a deterrent effect on the perpetrators themselves.

Unfortunately, unlike the charges of the public prosecutor, the panel of judges often chooses articles in indictments that actually favor the defendant. This is clearly seen in trials of corruption cases with the dimension of state financial losses. The two articles contained in the Anti-Corruption Law, although they look similar, are very different in the aspect of punishment. Corruption committed by the public is actually more severely punished than if the perpetrator comes from the officialdom.

Based on ICW's monitoring, throughout 2021 there were 1,078 defendants who were sentenced based on the article on corruption resulting in state financial losses. 709 were sentenced to Article 3 and the remaining 369 were sentenced to Article 2 of the Anti-Corruption Law. This condition is the same as in previous years, so it is not surprising that lenient sentences always dominate in the monitoring of corruption cases.

Vonis Pasal 2 dan Pasal 3 UU Tipikor

369 (Pasal 2), 709 (Pasal 3)
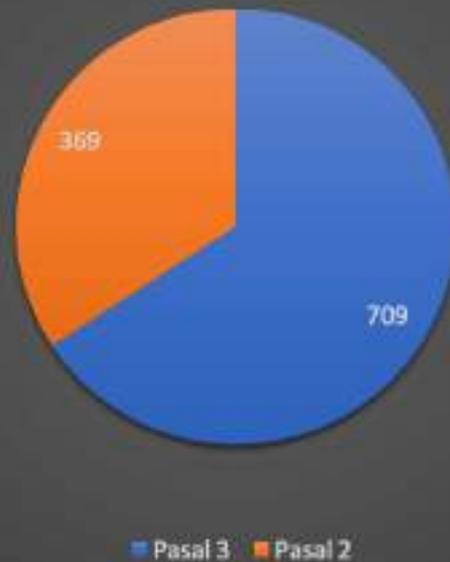
Another problem also emerged in this monitoring when the panel of judges rejected the charges of the prosecutor using Article 2 of the Anti-Corruption Law. There were 195 charges that were annulled by the panel of judges, and in the end the defendants were sentenced to Article 3 of the Anti-Corruption Law. Consequently, there is a possibility for the judges to give lenient sentences (under 4 years in prison) for the defendants. Therefore, the following are some of the judges' verdicts using Article 3 of the Anti-Corruption Law, where the prosecutor previously indicted under Article 2 of the Anti-Corruption Law.

Case Number	Name of Defendant	State Losses	Charged	Verdict
36/Pid.Sus-TPK/2021/PN Bna	Rais Nasution	IDR 537 million	5 years	1 year
18/Pid.Sus-TPK/2021/PN Jmb	Kumaidi	IDR 578 million	6 years	1 year 6 months
67/Pid.Sus-TPK/2020/PN Bdg	Subadri	IDR 17.2 billion	7 years	3 years
31/Pid.Sus-TPK/2021/PN Bna	Kariyadi	IDR 4.2 billion	9 years	1 year 6 months
25/Pid.Sus-TPK/2021/PN Pbr	Handoko Setiono	IDR 156 billion	8 years	2 years

As explained in the previous section, the change in the construction of Article 2 to Article 3 does not only involve length of imprisonment, but also includes the amount of fine. For this reason, here are a number of defendants who were initially charged with Article 2 with a high fine, but in the end were punished with Article 3 of the Anti-Corruption Law, resulting in smaller fines.

Case Number	Name of Defendant	State Losses	Fines Demanded	Fines in Verdict
23/Pid.Sus-TPK/2021/PN Amb	Jerry Tuhuleruw	IDR 4.3 billion	IDR 300 million	IDR 50 million
6/Pid.Sus-TPK/2021/PN Bna	Dedi Alkana	IDR 5.7 billion	IDR 500 million	IDR 50 million
22/Pid.Sus-TPK/2021/PN Bna	Ardiansyah	IDR 6.5 billion	IDR 500 million	IDR 50 million
10/Pid.Sus-TPK/2021/PN Bna	Ali Hasmi	IDR 5.7 billion	IDR 750 million	IDR 50 million
9/Pid.Sus-TPK/2021/PN Amb	Yoksan Batlayar	IDR 1.3 billion	IDR 350 million	IDR 50 million

It is important to note that the Supreme Court had tried to overcome the differences in the sentences provided by Article 2 and Article 3 of the Anti-Corruption Law through the issuance of Circular Letter of the Supreme Court Number 3 of 2018 concerning the Enforcement of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber of 2018 as Guidelines for the Implementation of Duties for the Court (SEMA 3/2018). Specifically, in part I Criminal Chamber Legal Formulation letter f numbers 1 and 2 page 5, it is stated that if a corruption case has a state financial loss of more than IDR 200 million, then the judge is to apply Article 2 of the Anti-Corruption Law, while if the state financial losses are below IDR 200 million, the provision used is Article 3 of the Anti-Corruption Law.

The following section shows several decisions that contradicted SEMA 3/2018.

Case Number	Name of Defendant	Occupation	State Losses	Article	Verdict
33/Pid.Sus-TPK/2021/PN Tjk	Muflihan	Head of Banjar Manis Village	IDR 1 billion	Article 3	3 years and 6 months
62/Pid.Sus-TPK/2020/PN Bdg	Novi Farida	Head of the Karawang PDAM's Finance Division	IDR 2.6 billion	Article 3	2 years and 3 months

Case Number	Name of Defendant	Occupation	State Losses	Article	Verdict
43/Pid.Sus-TPK/2021/PN Bdg	Ratih Nisya	Director of CV Turus	IDR 1 billion	Article 3	2 years and 10 months
2/Pid.Sus-TPK/2021/PN Mdn	Hotman Simanjuntak	Deputy Director III CV Dame Rumata	IDR 731 million	Article 3	1 years and 6 months
47/Pid.Sus-TPK/2020/PN Pbr	Husaepa	Head of Sungai Upih Village	IDR 900 million	Article 3	3 years

The table above only shows several of the many decisions that interpreted SEMA 3/2018 differently. Throughout 2021, there were at least 558 defendants who were convicted based on Article 3 of the Anti-Corruption Law, yet the financial losses to the state in each case were above IDR 200 million.

b. Average Sentences

Even though the criminal law regime has moved towards the concept of restorative justice, this does not mean that punishment in the form of imprisonment should be abandoned. So far, the logic of punishment using the retributive justice approach has not been optimally implemented anyway. Evidently, based on ICW's records from previous years, the sentence of imprisonment remains relatively lenient.

For this reason, this section will show the trend of prison sentences throughout 2021, both from the *judex factie, judex jurist,* and in general. This section also includes a mapping of the average sentence based on the articles in the Anti-Corruption Law. This is important, because, as has been discussed in the previous review, the punishment for corruption perpetrators is divided into two types, namely, a maximum of 20 years in prison or life and 5 years in prison.
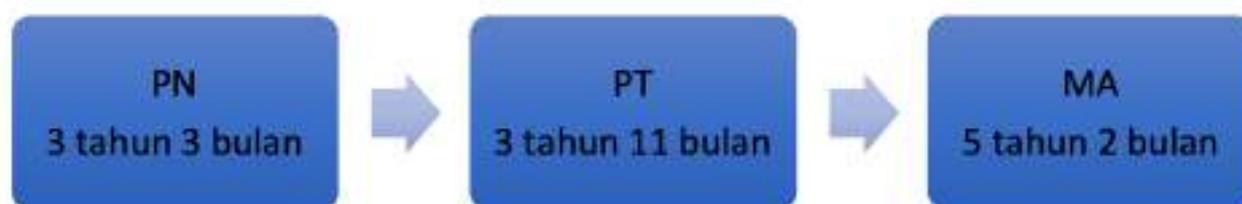
Verdicts at the *judex factie* level indeed showed an increase compared to the previous years', however, sentences of less than 4 years in prison would certainly not cause a deterrent effect for the perpetrators. While cassation seems to be significant, exceeding 5 years in prison, but this is due to the difficulty of obtaining decision data, either through SIPP or the Supreme Court Decision Directory. So, the few decisions may not necessarily represent the trend of punishment in the Supreme Court.

Tren Vonis Penjara

Year	Value
2017	26
2018	29
2019	31
2020	37
2021	41

Hukuman Penjara
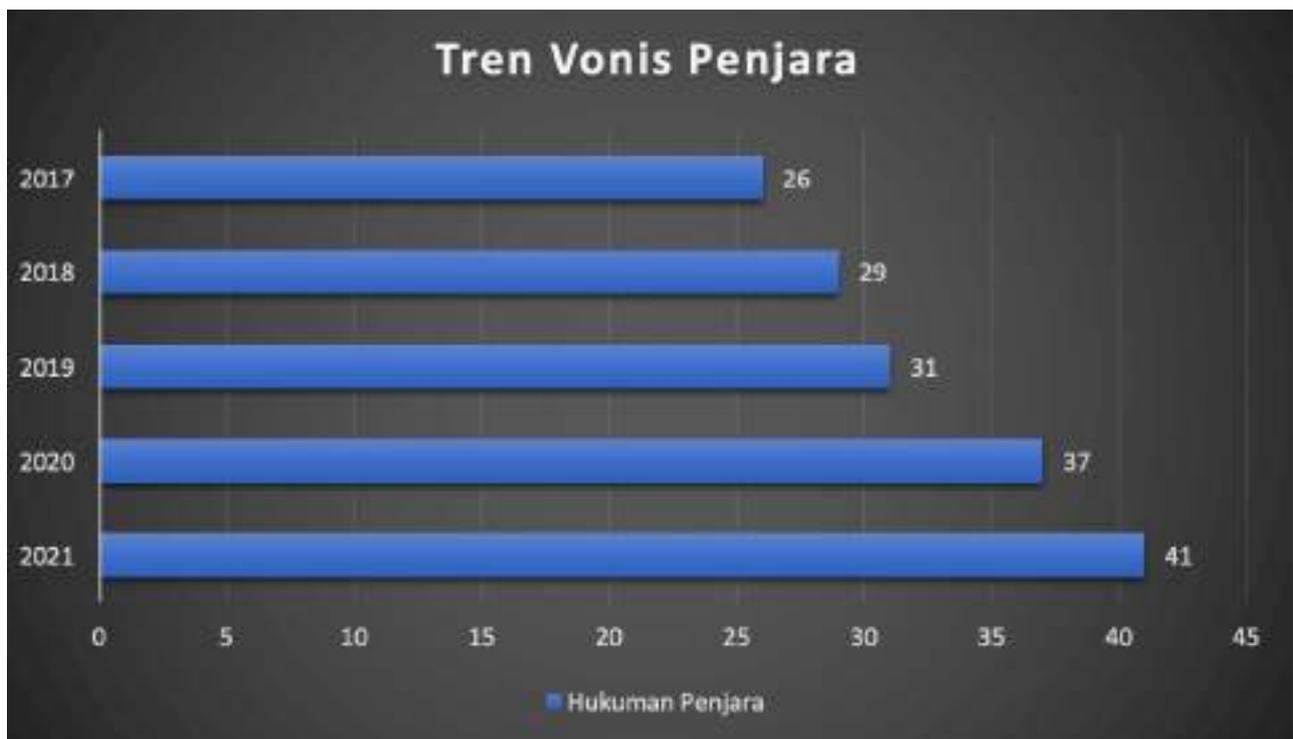
The graph above shows the increasingly worrying condition of the judiciary. The jargon of "siding with the eradication of corruption" is merely lip service. Indeed, the public is not surprised as the phenomenon of reducing sentences was highly visible throughout 2021. The economic impact due to corruption felt by the state and the community is not compensated adequately by the average sentence of 3 years and 5 months in prison.

On the one hand, the legal principle states that every judge's decision must be considered correct or commonly known as *Res Judicata Pro Veritate Habetur*. However, if the court seems to be more inclined towards the perpetrators and ignores justice, then there must be a radical improvement within the institution of the judicial power. Especially for handling corruption crimes, Indonesia has a special court through Law No. 46 of 2009 concerning the Corruption Court, which is filled by *ad hoc* judges with certain expertise specifications.

c. Severity of Sentences

As in the indictment section, in this monitoring ICW also assessed the judges' decisions throughout 2021. In general, this assessment used three indicators, namely lenient sentences (under 4 years in prison), moderate (4-10 years in prison), and severe (above 10 years in prison). As for this indicator, the benchmark article is the most dominant, namely Article 2 and/or Article 3 of the Anti-Corruption Law. The explanation is that the "lenient" category is taken from a minimum sentence of Article 2 in the Anti-Corruption Law, while "moderate" is based on the average of the minimum and maximum penalties, then "severe" when using the maximum sentence.

This sub-chapter on the severity of the sentence will be divided into four discussion points, namely, the quantity of punishment, the mapping of punishment based on the background of the defendant's occupation, the assessment of the sentence related to the amount of state financial losses, and which courts often give lenient sentences to the perpetrators of corruption. From here, the public will be able to understand better that the problem of corruption is not merely about regulations, but involves the alignment of the judiciary.

Berat Ringan Hukuman

The graph above shows that 2021 was still dominated by lenient sentences. In fact, the number of lenient sentences is the highest compared to the last four years. Likewise, severe sentences were only imposed on 13 defendants, a decrease when compared to 2020.

Vonis Ringan - Latar Belakang Pekerjaan

The graph above shows a discouraging situation for the future of eradication of corruption. 80 percent of village officials who were processed by law were actually given lenient sentences, and from the ASN cluster, lenient sentences were imposed on 70 percent of the total. For the legislature and regional heads, lenient punishments were given for more than half of the cluster. Here it can be seen

that judges do not have the same idea regarding the need to intensify sentences when the perpetrators are from the ranks of civil servants. This is important considering that they are bound by an oath of office and are required to comply with the laws and regulations.

The next is the mapping of lenient sentences based on the amount of state losses. This is intended to explain to the public that aspects of state financial losses in several cases have not been considered by the panel of judges. This should have been used as a basis for harsher punishment for the accused.

Case Number	Name of Defendant	Occupation	State Losses	Verdict
69/Pid.Sus-TPK/2020/PN Bdg	Dadang Suganda	Private	IDR 69 billion	4 years
25/Pid.Sus-TPK/2021/PN Pbr	Melia Boentaran	Director of PT Arta Niaga Nusantara	IDR 156 billion	4 years
48/Pid.Sus-TPK/2021/PN Mks	Andi Ade Ariadi	Civil servant	IDR 11.6 billion	2 years 4 months
37/Pid.Sus-TPK/2021/PN Mks	Albert Simon D	PPAT	IDR 900 million	1 year 8 months
47/Pid.Sus-TPK/2020/PN Pbr	Husaepa	Head of Sungai Upih Village	IDR 900 million	1 year 4 months

The missing consideration of state financial losses by the judges above shows a disorientation in the consideration of corruption case decisions. The root of the problem of corruption is increasing personal wealth at the expense of state finances, it is even mentioned in the Anti-Corruption Law that such a crime is an obstacle to national development. For this reason, if a case has the dimension of large state financial losses, it should automatically entail the harshest possible sentence.

Court Location	Total Lenient Verdicts
Bandung District Court	75
Makassar District Court	58
Medan District Court	58
Palembang District Court	45
Surabaya District Court	45
Banda Aceh District Court	43
Kupang District Court	41
Samarinda District Court	38

Court Location	Total Lenient Verdicts
Jakarta District Court	36
Banjarmasin District Court	35

This mapping also looks at which Corruption Courts most often give lenient sentences to perpetrators of corruption. In the future, the trend of lenient sentencing in these court should be a basis for evaluation and reflection for the Supreme Court to emphasizes its position regarding the eradication of corruption. At the same time, it can be used by the Head of the District Courts to stop assigning major cases, both in terms of state losses or the defendant's occupational background, to judges who are known to be lenient.

d. Acquittals and Dismissals

Normatively, the trial process to determine whether the accused is guilty or not is dependent on the objective and subjective points of view of the panel of judges. This is stated in Article 183 of the Criminal Procedure Code which reads "A judge may not impose a sentence on a person unless with at least two valid pieces of proof s/he obtains the belief that a criminal act has actually occurred and that the defendant is guilty of committing it." So, the aspect of evidence by the prosecutor plays an important role in convincing the judge that the defendant is guilty and deserves to be held criminally responsible.

However, considering the reality of the recent corruption case trials, which are often filled with unusual decisions, it is not wrong for the public to be suspicious when a series of acquittals and dismissals are found. For this reason, this section will show four points, namely, the number of acquittals and dismissals throughout 2021, the mapping of the courts that gave the most acquittals and dismissals, the occupational background of the defendants who were acquitted and dismissed, and the amount of state financial losses and bribes from cases where the perpetrators were acquitted and dismissed.

Tren Vonis Bebas dan Lepas
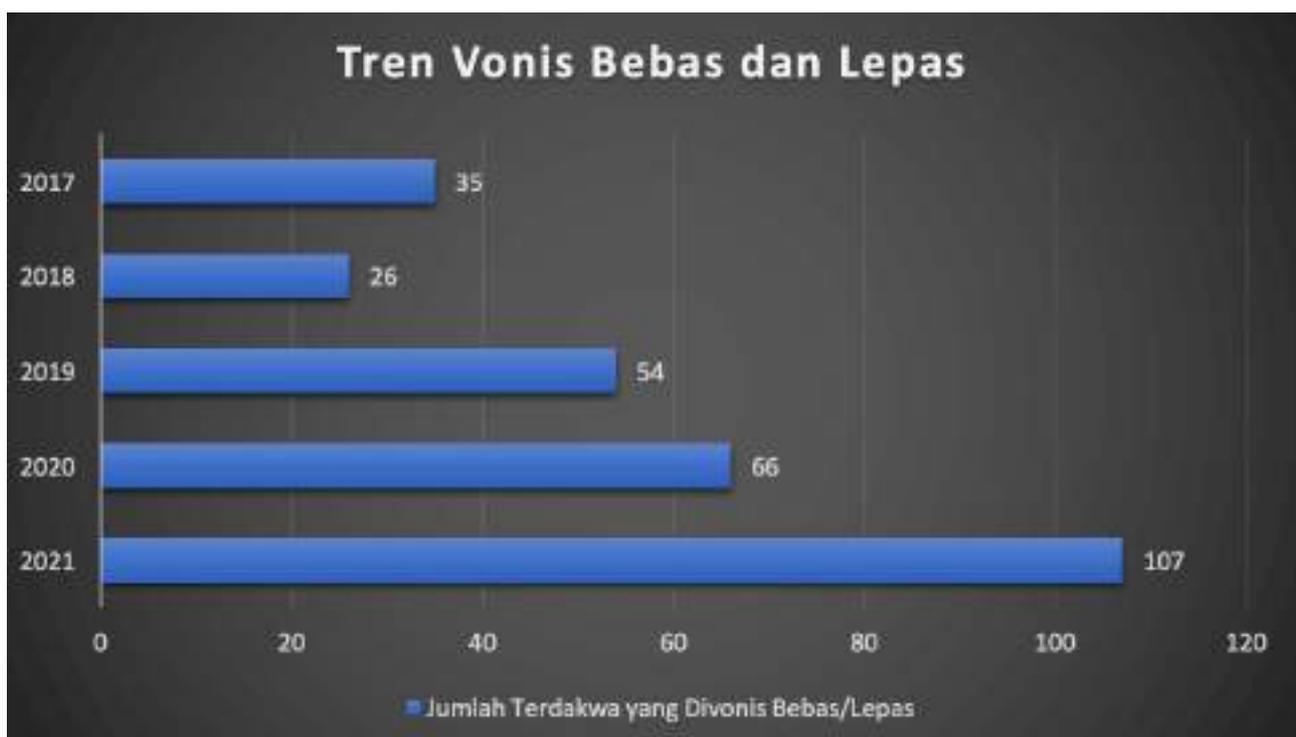
From the graph above, it can be seen that acquittals and dismissals in 2021 far exceeded the previous years. This should be a warning for law enforcement officers to ensure that the cases being tried can convince the panel of judges through the evidence mechanism. In addition, this sharp increase in acquittals and dismissals must also be a concern of stakeholders in the field of supervision, both the Supreme Court Supervisory Body and the Judicial Commission, to see if there are ethical or legal violations in these decisions. Then, another aspect that is no less important is the supervision of law enforcement officers to ensure that the trial process is not influenced by any party, especially in mitigating the practice of corruption.

Court Location	Number of Acquitted/Dismissed Defendants
Makassar District Court	12
Aceh District Court	12
Bandung District Court	9
Palu District Court	7
Kupang District Court	5
Pangkal Pinang District Court	5
Manado District Court	5
Medan District Court	5
Padang District Court	5
Banjarmasin District Court	4
Samarinda District Court	4
Bengkulu District Court	4
Jakarta District Court	4
Mataram District Court	4
Jayapura District Court	3
Kendari District Court	3
Ambon District Court	3
Semarang District Court	2
Mamuju District Court	2
Ternate District Court	2
Palangkaraya District Court	1
Gorontalo District Court	1

Court Location	Number of Acquitted/Dismissed Defendants
Denpasar District Court	1
Manokwari District Court	1
Pekanbaru District Court	1

The significant increase in acquittals in 2021 is dominated by verdicts from the Makassar and Aceh Corruption Courts. This is not really surprising as the two courts had also appeared in ICW's previous monitoring. Therefore, starting from the above conditions, the data indeed should be used as material for future evaluations for the head of the courts to be really selective when assigning judges to lead trials of corruption cases.

This monitoring also assessed the potential for restoring state financial losses that could have been obtained had the defendants not been acquitted or released. As a result of the actions of the defendants, the state has been harmed by IDR 256.3 billion. This value does not include the total bribes which reached IDR 6 billion.

e. Revocation of Political Rights

As discussed in the section on prosecution, revocation of political rights is a crucial issue, especially for defendants coming from the cluster of public officialdom. Therefore, this section is a continuation of the mapping of indictments for the revocation of political rights. Thus, by looking at the results of this monitoring, the public will assess the extent to which the panel of judges has carefully considered the background of the defendant's occupation.

Of the total of 35 defendants who were charged with revocation of political rights, it turned out that the judges sentenced about 31 of them. In terms of numbers, it is fairly large and illustrates the clear

partiality of the panel of judges, but if seen more closely, the verdicts were in fact more lenient than the indictments.

Therefore, in this section, two tables will be shown, namely, the indictments of the prosecutors which were not granted by the judges, and the reduction of the sanction of revocation of political rights.

Case Number	Name of Defendant	Occupation	Revocation of Political Rights in Indictment	Revocation of Political Rights in Verdict	District Court
30/Pid.Sus-TPK/2021/PN Bdg	Ajay M Priatna	Mayor of Cimahi	5 years	None	Bandung
55/Pid.Sus-TPK/2021/PN Bdg	AA Umbara	District Head of West Bandung	5 years	None	Bandung
66/Pid.Sus-TPK/2020/PN Jkt.Pst	Rizal Djalil	BPK member	3 years	None	Jakarta
19/Pid.Sus-TPK/2020/PN Plg	Aries HB	Chairperson of the Muara Enim DPRD	5 years	None	Palembang

Case Number	Name of Defendant	Occupation	Revocation of Political Rights in Indictment	Revocation of Political Rights in Verdict	District Court
45/Pid.Sus-TPK/2021/PN Mks	Nurdin Abdullah	Governor of South Sulawesi	5 years	3 years	Makassar
30/Pid.Sus-TPK/2021/PN Pal	Wenny Bukamo	District Head of Bangai Laut	3 years	2 years and 6 months	Palu
66/Pid.Sus-TPK/2020/PN Jkt.Pst	Rizal Djalil	BPK member	3 years	None	Jakarta
19/Pid.Sus-TPK/2020/PN Plg	Aries HB	Chairperson of the Muara Enim DPRD	5 years	None	Palembang
29/Pid.Sus-TPK/2021/PN Bdg	Abdul Rozaq Muslim	Member of West Java DPRD	3 years	2 years	Bandung

Case Number	Name of Defendant	Occupation	Revocation of Political Rights in Indictment	Revocation of Political Rights in Verdict	District Court
59/Pid.Sus-TPK/2021/PN Bdg	Siti Aisyah Tuti Handayani	Member of West Java DPRD	3 years	2 years	Bandung
58/Pid.Sus-TPK/2021/PN Bdg	Ade Barkah Surahman	Member of West Java DPRD	3 years	2 years	Bandung
26/Pid.Sus-TPK/2021/PN Jkt.Pst	Eddy Prabowo	Minister of Maritime Affairs and Fisheries	4 years	3 years	Jakarta
15/Pid.Sus-TPK/2021/PN Pbr	Zulkifli	Mayor of Dumai	5 years	2 years	Pekanbaru

Instead of aggravating the charges for the revocation of political rights for the perpetrators of corruption, the table above shows that the judges' decisions have actually reduced the additional sentence. Supposedly when the perpetrator commits a crime by taking advantage of their position as a public official, the additional penalty of revocation of political rights must be imposed to the highest extent possible as a form of providing a deterrent effect.

f. Substitute Imprisonment

Even though it is classified as an additional punishment, the existence of a substitute prison sentence in handling corruption cases remains crucial. This is because the punishment contained in Article 18 paragraph (3) of the Anti-Corruption Law is a method to force the convict to pay the compensation money. However, there are many decisions that ignore the existence of the substitute prison sentence. The pattern is almost the same, that is, there is a significant difference between compensation money and substitute imprisonment. There are many examples where the defendant is sentenced with the additional punishment of a large amount of compensation money, but only less than 1 year of substitute imprisonment. In fact, the Anti-Corruption Law has opened the possibility for the panel of judges to impose a lengthy substitute imprisonment as long as it is still within the corridor of the verdict article.

This monitoring also calculated the average substitute prison sentence in 2021, in association with the trend of sentences in 2020. This is to see the development of the judge's perspective in viewing the deterrence, especially economic punishment, of the perpetrators of corruption. Then, to clarify this issue, ICW will also show that there are still widespread disparities in imposing substitute prison sentences in 2021.

The fact is not very encouraging. Even though there was an increase of two months when compared to the previous year, the 1 year 2 month sentence was still not worth the amount of compensation money. Therefore, with the lenient substitute imprisonment imposed by the panel of judges, it is natural if the defendant then tries not to pay off the compensation money.

Case Number	Name of Defendant	Occupation	Compensation Money	Substitute Imprisonment
23/Pid.Sus-TPK/2020/PN Plg	Otong Iskandar	Director of CV Jaya Prima	IDR 20 million	3 months
11/Pid.Sus-TPK/2021/PN Jap	Yeffry Yemmy	Head of Cash Office of Bank Papua Suator District	IDR 702 million	3 months
59/Pid.Sus-TPK/2021/PN Kpg	Hubertus Ngondus	Principal of SMPN 1 Reok	IDR 25 million	6 months
8/Pid.Sus-TPK/2021/PN Amb	Pridayatnim Supriyatna	Implementing Customer Service PT. Bank Maluku	IDR 1 billion	6 months
34/Pid.Sus-TPK/2020/PN Smr	Teguh Sugiarto	Head of Development Section of Sari Nadi Village	IDR 84 million	9 months
8/Pid.Sus-TPK/2021/PN Jap	Leonard Paul	Receiving Treasurer of Abepura Hospital	IDR 1.5 billion	9 months
71/Pid.Sus-TPK/2020/PN Bdg	Paino	Assistant Manager of Land Expert for Pertamina Java Region	IDR 30 million	1 year
19/Pid.Sus-TPK/2020/PN Plg	Aries HB	Chairperson of the Muara Enim DPRD	IDR 8.4 billion	1 year

It can be seen that the table above proves that the disparity in decisions is not only related to imprisonment, but also to substitute imprisonment. For this reason, it is important for the Supreme Court to immediately formulate a guideline for the implementation of substitute imprisonment.

g. Disparity and Implementation of Sentencing Guidelines

The issue of differences in sentences between defendants has become a classic and long-standing issue in the process of monitoring the trend of sentencing carried out by ICW. On the one hand, each case has its own characteristics, whether based on the construction of the case, the role of the perpetrator, or even matters relating to the evidencing process by the public prosecutor to the perspective of the panel of judges. However, this issue of disparity should be minimized because it is directly related to the aspect of justice for the accused and the community itself.

This monitoring will show decisions where the construction of cases is almost the same, but the sentences are different. In the following table, the sentences will be divided based on the articles of judgment, namely, a maximum sentence of 20 years (Article 2 and Article 3) and a maximum sentence of 5 years (Article 5 and Article 11).

Case Number	Name of Defendant	Occupation	State Loss	Verdict	Article
6/Pid.Sus-TPK/2021/PN Plg	Askari	Head of Sukowarno Village	IDR 187 million	8 years	Article 2 paragraph (1)
89/Pid.Sus-TPK/2020/PN Sby	Danang P Asmoro	Head of Trucuk Village	IDR 780 million	4 years	Article 2 paragraph (1)
46/Pid.Sus-TPK/2020/PN Bdg	Eri Sutanto	Head of Bayongbong Village	IDR 365 million	6 years	Article 2 paragraph (1)
76/Pid.Sus-TPK/2020/PN Bdg	Jenal Asikin	Head of Munjul Village	IDR 881 million	4 years	Article 2 paragraph (1)
30/Pid.Sus-TPK/2020/PN Kdi	Mudiyanto	Head of the Konawe Marine and Fisheries Service	IDR 210 million	5 years	Article 2 paragraph (1)
26/Pid.Sus-TPK/2021/PN Pbr	Jumadiyono	Head of Kandis Sub-District Office of Finance and Personnel	IDR 1.1 billion	4 years	Article 2 paragraph (1)

Case Number	Name of Defendant	Occupation	State Loss	Verdict	Article
21/Pid.Sus-TPK/2021/PN Bdg	Yaya Suryadi	Head of Rajadatu Village	IDR 256 million	4 years	Article 3
30/Pid.Sus-TPK/2021/PN Bjm	Rooswandi Salem	Regional Secretary of Tanah Bumbu	IDR 1.8 billion	1 year	Article 3
47/Pid.Sus-TPK/2020/PN Bdg	Slamet Sribono	Satria Jaya Village Attendant	IDR 195 million	4 years	Article 3
37/Pid.Sus-TPK/2021/PN Mks	Albert Simon Dumanauw	PPAT	IDR 900 million	1 year 6 months	Article 3
59/Pid.Sus-TPK/2020/PN Sby	Imron Amirudin	Singosari Community Group Leader	IDR 161 million	4 years	Article 3

Case Number	Name of Defendant	Occupation	State Loss	Verdict	Article
36/Pid.Sus-TPK/2021/PN Bdg	Junaedi	President Director of PD Sindangkasih Multi Usaha	IDR 1.4 billion	1 year 4 months	Article 3

The table above shows that the problem of disparity remains unresolved. In some cases, state financial losses reaching billions of rupiah were leniently punished, yet, in other cases with losses of 'only' hundreds of millions of rupiah, the punishment is more severe. The value of state financial losses should be made into a consideration for the severity of the sentence for the defendant.

Case Number	Name of Defendant	Occupation	Bribe	Verdict	Article
74/Pid.Sus-TPK/2020/PN Bdg	Budi Budiman	Mayor of Tasikmalaya	IDR 700 million	1 year	Article 5 paragraph (1) letter b
23/Pid.Sus-TPK/2021/PN Ptk	Ahmad Khalil	Campaign team	IDR 100 million	2 years	Article 5 paragraph (1) letter a
5/Pid.Sus-TPK/2021/PN Mdn	Kharruddin Shah	District Head of North Labuhan Batu	IDR 3 billion	1 year 6 months	Article 5 paragraph (1) letter a
25/Pid.Sus-TPK/2021/PN Jkt.Pst	Fandry Gunawan	Sales of PT Cherng Tay Indonesia	IDR 83 million	1 year 6 months	Article 5 paragraph (1) letter b
10/Pid.Sus-TPK/2020/PN Tpg	Sutjahjo H Murti	Head of Sub-Division of Legislation at the Legal Department of Batam City Government	IDR 685 million	1 year 6 months	Article 11
38/Pid.Sus-TPK/2020/PN Pbr	Pitaya	Head of Sari Galuh Village	IDR 40 million	1 year 6 months	Article 11
5/Pid.Sus-TPK/2021/PN Smr	Suwandi	Member of East Kalimantan Provincial Legislature (2010-2014)	IDR 410 million	1 year	Article 11
38/Pid.Sus-TPK/2020/PN Pbr	Lasdi	Head of Batang Batindih Village	IDR 30 million	1 year 6 months	Article 11

Likewise for the crime of bribery, the disparity is still often seen. Similar to state financial losses, the amount of bribes received and the occupational background of the accused should be carefully

considered to serve as the basis for the weight of the sentence. As a result of the decisions above, the public is reluctant to place high trust in the judicial institutions.

In 2020 the Supreme Court issued a legal breakthrough regarding the disparity of decisions by issuing Supreme Court Regulation Number 1 of 2020 concerning Guidelines for Sentencing Based on Article 2 and Article 3 of the Anti-Corruption Law. In the preamble to the regulation, it is stated that there are at least three goals that are expected to be achieved with the presence of Supreme Court Regulation (Perma) 1/2020, namely, the creation of legal certainty, proportionality of sentencing, and avoiding disparity in decisions. On the one hand, this step by the Supreme Court deserves appreciation, because problems related to a sense of justice are trying to be resolved immediately. However, there are several comments on the regulation initiated by the MA. First, the new sentencing guidelines are limited to criminal acts of corruption with the type of state financial loss. The Supreme Court should have formulated a guideline for criminalizing corruption cases in other forms, such as bribery. This is because this monitoring often finds disparities in the trials of bribery cases as described in the table above.

Second, the sentencing guidelines do not consider the defendant's occupational background. This is important considering that the panel of judges often ignores this point, even though it has been confirmed in Article 52 of the Criminal Code as the basis for the weight of the sentence. Third, MA does not explain the form of concrete sanctions if later the judges deviate from these guidelines. Practically the only thing that is regulated is the revocation of the decision at the next level.

For this reason, this monitoring will see the effectiveness of the implementation of Perma 1/2020 throughout 2021. The indicator used is the amount of state financial losses based on the Matrix of Imposition of Sanctions in Perma 1/2020. In detail, this matrix lists five categories, ranging from the most severe (state losses above IDR 100 billion, with a threat of imprisonment for a minimum of 10 years), severe (state losses above IDR 25 billion, for a minimum of 8 years), moderate (state losses above IDR 1 billion, at least 6 years), lenient (state losses above IDR 200 million, for a minimum of 4 years), and most lenient (state losses under IDR 200 million, at least 1 year imprisonment).

Lenient Category

Case Number	Name of Defendant	Occupation	State Losses	Verdict
37/Pid.Sus-TPK/2021/PN Mks	Albert Simon D	PPAT	IDR 900 million	1 year 6 months
12/Pid.Sus-TPK/2021/PN Sby	Bambang Sugeng	Head of Kemantren Village	IDR 541 million	1 year 3 months
12/Pid.Sus-TPK/2021/PN Jkt.Pst	Mark Sungkar	Chairman of the Central Executive of the Indonesian Triathlon Federation	IDR 694 million	1 year 6 months

Moderate Category

Case Number	Name of Defendant	Occupation	State Losses	Verdict
30/Pid.Sus-TPK/2021/PN Bjm	Rooswandi Salem	Regional Secretary of Tanah Bumbu District	IDR 1.8 billion	1 year
65/Pid.Sus-TPK/2020/PN Sby	Tjipto B Wibowo	Director of CV Makmur Abadi	IDR 4 billion	1 year 6 months
25/Pid.Sus-TPK/2020/PN Mnk	Pieter Thie	Director of PT. Selatan Indah	IDR 1.7 billion	1 year

Severe Category

Case Number	Name of Defendant	Occupation	State Losses	Verdict
43/Pid.Sus-TPK/2021/PN Jkt.Pst	Santoso	Director of PT. Sakti Mas Mulia	IDR 48 billion	6 years
69/Pid.Sus-TPK/2020/PN Bdg	Dadang Suganda	Realtor	IDR 69 billion	4 years

Most Severe Category

Case Number	Name of Defendant	Occupation	State Losses	Verdict
25/Pid.Sus-TPK/2021/PN Pbr	Melia Boentaran	Director of PT Arta Niaga Nusantara	IDR 114 billion	4 years

The numerous disparities as shown in the tables above show that there are still many judges who do not comply with Perma 1/2020. Therefore, apart from intensifying socialization at the *judex factie* and *judex jurist* levels, the Supreme Court needs to emphasize sanctions for judges who still deviate from these guidelines.

h. Unusual Considerations in Sentencing

During the last two years, the public has been shown various unusual decisions that have given lenient sentences to perpetrators of corruption accompanied by odd arguments. Issues outside the substance of the case are used as reasons not to severely punish the perpetrators of corruption. As a result, people are increasingly reluctant to put their trust in judicial institutions.

This monitoring also collected a number of baseless arguments that were taken into consideration by the judges when punishing corruption leniently. This is important to convey, because the cases being tried have attracted public attention because they involved elements of public officials and law enforcement officers.

Case Number	Name of Defendant	Occupation	Reason for Leniency	Verdict	Court
38/Pid.Sus-TPK/2020/PN Jkt.Pst	Pinangki Sirna Malasari	Prosecutor	• Belief that the defendant will behave as a good citizen • Defendant's status as a mother with a four-year-old child deserves the opportunity to care for and give love during the child's growth period • As a woman, the defendant must receive attention, protection, and be treated fairly	4 years	Jakarta High Court
29/Pid.Sus-TPK/2021/PN Jkt.Pst	Juliari P Batubara	Minister of Social Affairs	The defendant has suffered enough of being reviled, cursed, humiliated, by the community. The defendant has been convicted by the community, even though legally the defendant is not necessarily guilty before a court decision has permanent legal force	12 years	Jakarta District Court
26/Pid.Sus-TPK/2021/PN Jkt.Pst	Eddy Prabowo	Minister of Maritime Affairs and Fisheries	• As Minister of Maritime Affairs and Fisheries of the Republic of Indonesia defendant has worked properly • Defendant has given great hope to the community, especially for fishermen, in this case revoking Minister of Maritime Affairs and Fisheries Regulation No. 56 of 2016 and replaced it with the spirit of making use of lobster seeds for the welfare of the community	5 years	Supreme Court
45/Pid.Sus-TPK/2020/PN Jkt.Pst	Nurhadi	Secretary of the Supreme Court	The defendant has contributed to the development of the MA	6 years	Jakarta District Court

The root of the problem mentioned above is the lack of a clear standard for the judges in compiling reasons for mitigating the sentence when deciding a case in the trial process. In the case of Pinangki, for example, on the one hand, it is good that the panel of judges also considers gender reasons when deciding the case. However, the question is whether every female defendant has their gender taken into account? In fact, no. Therefore, there is an impression of bias in terms of being lenient, conveyed by the judges of the Jakarta Corruption Court to Pinangki. Meanwhile, in the case of Juliari, the judge should understand the construction and interpretation of Article 5 of the Law on Judicial Power regarding the obligation to explore the values that live in the community related to the case. Thus, all the criticisms submitted by the public to Juliari should in fact be an aggravating reason because the impact of the crime is directly felt by the victim.

In Edhy's cassation decision, it can be seen that the judges had exceeded their authority. How could the Supreme Court act as if it were a branch of executive power, by judging the performance of a minister? In addition, the consideration that Edhy was a well-performing minister is very vague because it is not based on clear indicators, or only based on subjective assessment. For Nurhadi, mitigating considerations are also difficult to understand. As mentioned in the previous section, the background of the defendant's occupation should be used as a reason to increase the sentence. After all, it is difficult to understand how it is possible for someone who works in a judicial authority takes personal gains from cases be considered to have rendered a service to the Supreme Court?

i. Problems with Reconsideration (PK) Decisions

Laws and regulations, as well as a Constitutional Court decision, guarantee extraordinary legal remedies that can be taken by a convicted person if they feel they do not agree with the previous final and binding (*in kracht*) decision. This is commonly known as a Reconsideration (PK). The guarantee for this legal action is provided in Article 263 of the Criminal Procedure Code. However, a person or their heir(s) can submit a request for reconsideration under particular requirements, both objective (substance of the decision) and future projection (new evidence). If it does not meet the specified requirements, then based on Article 266 paragraph (1) of the Criminal Procedure Code, the Supreme Court is justified in rejecting the PK application of the convicted person.

However, at least in the last three years there has been a fairly massive wave of corruption convicts applying for PKs. Unfortunately, not a few of the requests were granted by the judges by reducing the main punishment in the form of imprisonment or additional penalties such as compensation money. It should be suspected that this condition occurred due to the internal situation of the Supreme Court, especially the judge in the criminal chamber, who lacked the perspective of providing a deterrent effect. Thus, it is used as an opportunity for corruption convicts to 'try their luck' when applying for a PK. In ICW's records throughout 2021 there were at least 15 corruption convicts whose sentences were reduced through this extraordinary legal remedy method.

Name of Convict	Occupation	Sentence at District Court level	Sentence at High Court level	Sentence at Cassation	Sentence at PK
Lucas	Lawyer	7 years	5 years	4 years	Acquitted
Tendrisyah	Private	6 years	-	-	4 years
Basuki Hariman	Private	7 years	-	-	5 years 6 months
Ng Fenny	Private	7 years	-	-	5 years 6 months

Name of Convict	Occupation	Sentence at District Court level	Sentence at High Court level	Sentence at Cassation	Sentence at PK
Djoko Susilo	Police	10 years	18 years	18 years	Returning confiscated goods
Rahudman Harahap	Mayor of Medan	Acquitted	-	10 years	Acquitted
Sri W Maria	Regent of Talaud Islands	4 years 6 months	-	-	2 years
Dolly Paragutan	Director of PTPN III	5 years	-	-	4 years
Sulaeman Husen	Chairman of the Banggai Regency DPRD	Free	-	4 years	Free
Agung Mangkunegara	District Head of North Lampung	7 years	-	-	5 years
Aszwar	Private	2 years 6 months	6 years	6 years	3 years 6 months
Johan A Muba	Private	5 years 10 months	-	-	4 years
Suroto	Head of Hamlet	1 year 6 months	1 year 6 months	1 year 6 months	Free
Remigo Y Berutu	District Head of West Pakpak	7 years	-	-	4 years
Mikael Kambuaya	Head of Regional Office (*Dinas*)	5 years 6 months	6 years	-	3 years

The large number of reconsideration requests for corruption is not new. In fact, this phenomenon has also been publicly disclosed by the Chief Justice of the Supreme Court, Hatta Ali, in early 2019. At that time, Hatta stated that the wave of PK applications by corruption perpetrators was partly caused by the retirement of Supreme Justice Artidjo Alkostar.[10] Based on this fact, it is important for stakeholders to produce candidates for Supreme Court justices, especially the criminal chamber, who

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[10] Hukum Online, "Ketua MA: Penasihat Hukum/Terdakwa Paling Banyak Ajukan PK Perkara Korupsi," https://www.hukumonline.com/berita/a/ketua-ma--penasihat-hukum-terdakwa-paling-banyak-ajukan-pk-perkara-korupsi-lt5c6ad2895d3e4.

can restore the image of the Supreme Court. On that basis, considering that the selection of Supreme Court justices is currently underway,[11] competency and integrity must be evaluated carefully.

An alternative solution that can be taken by the Supreme Court is to conduct an internal examination to see the substance of the panel of judges' considerations when reducing the sentences for corruption at the PK level.

8. Corruption in the midst of the Covid-19 Pandemic

Beginning in March 2020, Indonesia entered a gloomy period, in terms of public health and the economy, due to the Covid-19 pandemic. As a result of this situation, as of the end of 2021, at least 4.2 million Indonesians have tested positive for Covid-19 and 144,000 of them have died. Likewise in terms of the economy, since the 1998 crisis, for the first time Indonesia experienced a recession because economic growth was recorded as negative for two consecutive quarters towards the end of 2020.

With these worrying conditions, the government then issued Presidential Decree No. 12 of 2020 concerning the Designation of the Non-Natural Disaster of the Spread of Coronavirus Disease 2019 as a National Disaster. As an effort of restoring the economy, at the end of March 2020, a budget of IDR 405.1 trillion was disbursed through a Government Regulation in Lieu of Law concerning Economic Stability during the Coronavirus pandemic. The budget worth trillions of rupiahs was allocated for a number of things, ranging from the procurement of medical equipment, provision of logistics and basic necessities, to a national-scale economic recovery program.

However, the Covid-19 pandemic was in fact utilized by a number of parties to facilitate their corruption. One of the many cases that have emerged is the corruption of bribery in the provision of social assistance at the Ministry of Social Affairs. At that time, the KPK arrested a number of officials, one of which was the Minister of Social Affairs, Juliari P Batubara, along with private parties. As a result, when this case was being tried, Juliari's crime was revealed, shocking the public because he was proven to have accepted a bribe of IDR 32 billion when rolling out a social assistance program for people affected by the Covid-19 pandemic in Jakarta, Bogor, Depok, Tangerang, and Bekasi (Jabodetabek) region. Unfortunately, Juliari was only sentenced to 12 years imprisonment by the panel of judges at the Jakarta Corruption Court.

It is important to emphasize that corruption in the midst of the Covid-19 pandemic situation should have been punished with the maximum sanctions. There are a number of arguments that underlie this statement. First, the practice of corruption was carried out when Indonesia was facing the Covid-19 outbreak. Thus, the mechanism of intensifying the sanctions should be applied to the perpetrators of corruption. Second, when the perpetrators are public officials, they must be subjected to the maximum sentence as stated in Article 52 of the Criminal Code. Third, corruption committed by a number of parties is certain to have a direct impact on the victims, namely the community at large. For example, the corruption practice carried out by Juliari directly targeted the lives of people affected by Covid-19 in the Greater Jakarta area.

This trial monitoring also looks at further corruption cases related to the Covid-19 budget. A number of issues will be further described, starting from the types of corruption that most often occurred throughout 2021, indictments from public prosecutors, and the trend of punishment for perpetrators of corruption in the Covid-19 pandemic budget. These are expected to be used as a basis for evaluation for the government to pay more attention to the supervision of the Covid-19 budget so that

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[11] Tempo, "Komisi Yudisial Sodorkan 8 Calon Hakim Agung ke DPR"
https://nasional.tempo.co/read/1590228/komisi-yudisial-sodorkan-8-calon-hakim-agung-ke-dpr/full&view=ok.

it is no longer misused by a number of parties. In addition, law enforcement officers and judicial authorities themselves can use this monitoring as a material for reflection to unify the perspective of providing a deterrent effect when compiling indictments and convicting perpetrators of corruption.

Case Number	Name of Convict	Occupation	Case	State Loss/ Bribe	Indictment	Verdict
55/Pid.Sus-TPK/2021/PN Bdg	AA Umbara	District Head of West Bandung	Procurement of emergency response items for the Covid-19 pandemic at the West Bandung District Social Service Office	IDR 2.3 billion	7 years	5 years
56/Pid.Sus-TPK/2021/PN Bdg	Andri Wibawa	Director of private company	Procurement of emergency response items for the Covid-19 pandemic at the West Bandung District Social Service Office	IDR 2.6 billion	5 years	Acquitted
57/Pid.Sus-TPK/2021/PN Bdg	M Totoh Gunawan	Director of private company	Procurement of emergency response items for the Covid-19 pandemic at the West Bandung District Social Service Office	IDR 1.1 billion	6 years	Acquitted
31/Pid.Sus-TPK/2021/PN Jkt.Pst	Adi Wahyono	PPK Ministry of Social Affairs	Bribery for the procurement of COVID-19 social assistance for the Jabodetabek area	IDR 32.4 billion	7 years	7 years
30/Pid.Sus-TPK/2021/PN Jkt.Pst	Matheus J Santoso	PPK Ministry of Social Affairs	Bribery for the procurement of COVID-19 social assistance for the Jabodetabek area	--	8 years	9 years
29/Pid.Sus-TPK/2021/PN Jkt.Pst	Juliari P Batubara	Minister of Social Affairs	Bribery for the procurement of COVID-19 social assistance for the Jabodetabek area	--	11 years old	12 years
9/Pid.Sus-TPK/2021/PN Jkt.Pst	Ardian Iskandar	Director of private company	Bribery for the procurement of COVID-19 social assistance for the Jabodetabek area	--	4 years	4 years

Case Number	Name of Convict	Occupation	Case	State Loss/ Bribe	Indictment	Verdict
8/Pid.Sus-TPK/2021/PN Jkt.Pst	Harry V Sidabukke	Private sector employee	Bribery for the procurement of COVID-19 social assistance for the Jabodetabek area	--	4 years	4 years
6/Pid.Sus-TPK/2021/PN Mtr	Zuhri	Head of Banjarsari Village	Corruption of Covid-19 aid funds	IDR 216 million	5 years	2 years
6/Pid.Sus-TPK/2021/PN Plg	Askari	Head of Sukowarno Village	Corruption of Covid-19 aid funds	IDR 187 million	7 years	8 years
15/Pid.Sus-TPK/2021/PN Dps	Putu Sudarsana	Civil servant at Buleleng District Government	Tourism PEN fund corruption 2020	IDR 738 million	3 years	1 year
16/Pid.Sus-TPK/2021/PN Dps	Kadek Widiastra	Civil servant at Buleleng District Government	Tourism PEN fund corruption 2020	--	3 years	1 year
17/Pid.Sus-TPK/2021/PN Dps	I Nyoman Jinarka	Civil servant at Buleleng District Government	Tourism PEN fund corruption 2020	--	1 year 6 months	1 year 2 months
12/Pid.Sus-TPK/2021/PN Dps	I Nyoman Gede Gunawan	Civil servant at Buleleng District Government	Tourism PEN fund corruption 2020	--	2 years	1 year
12/Pid.Sus-TPK/2021/PN Dps	I Gusti Ayu Maheri Agung	Civil servant at Buleleng District Government	Tourism PEN fund corruption 2020	--	3 years	1 year
11/Pid.Sus-TPK/2021/PN Dps	Putu Budiani	Civil servant at Buleleng District Government	Tourism PEN fund corruption 2020	--	3 years	1 year

Case Number	Name of Convict	Occupation	Case	State Loss/ Bribe	Indictment	Verdict
13/Pid.Sus -TPK/2021/ PN Dps	I Nyoman Sempiden	Civil servant at Buleleng District Government	Tourism PEN fund corruption 2020	--	3 years	1 year
14/Pid.Sus -TPK/2021/ PN Dps	Made Sudama Diana	Head of Buleleng Tourism Office	Tourism PEN fund corruption 2020	--	4 years	2 years 8 months
14/Pid.Sus -TPK/2021/ PN Dps	Ni Nyoman Ayu Wiratini	Civil servant at Buleleng District Government	Tourism PEN fund corruption 2020	--	2 years	1 year
64/Pid.Sus -TPK/2021/ PN Mdn	Indra Wirawan	Doctor at Tanjung Gusta Detention Center Medan	Bribery in transaction of Covid 19 vaccine	IDR 130 million	4 years	2 years 8 months
65/Pid.Sus -TPK/2021/ PN Mdn	Selviwaty	Private	Bribery in transaction of Covid 19 vaccine	IDR 11 million	2 years 6 months	1 year 8 months
66/Pid.Sus -TPK/2021/ PN Mdn	Kristinus Saragih	Civil servant at the North Sumatra Provincial Health Office	Bribery in transaction of Covid 19 vaccine	IDR 90 million	3 years	2 years
35/Pid.Sus -TPK/2021/ PN SMG	M Toha	Villager at Sokawera Village	Corruption of Ministry of Manpower Covid social safety net funds	IDR 2 billion	5 years	4 years
34/Pid.Sus -TPK/2021/ PN SMG	Agus Mubarok	Villager at Sokawera Village	Corruption of Ministry of Manpower Covid social safety net funds		4 years	4 years

Based on the table above, the total state losses arising from corrupt practices reached IDR 2.4 billion. While the total bribes that occurred throughout 2021 amounted to IDR 39.5 billion. If we look further based on the type of corruption crime, the data obtained are as follows: 1) extortion (8 defendants);

2) state financial losses (5 defendants); 3) bribes (5 defendants); 4) conflict of interest in the procurement of goods and services (1 defendant); 5) gratification (1 defendant).


However, instead of getting punished severely, the perpetrators of corruption related to the Covid-19 funds were leniently punished. Even the average indictment was 4 years 5 months of imprisonment. 15 defendants were leniently charged, 8 defendants were charged with moderate sentences, and only 1 was charged with a severe sentence. In fact, interestingly, three verdicts handed down by the panel of judges turned out to be more severe than the charges of the public prosecutor, including Matheus J Santoso (from 8 years to 9 years in prison), Juliari P Batubara (from 11 years to 12 years in prison), and Askari (from 7 years to 8 years in prison). It can be seen that even though defendants have

misused Covid-19 funds, it did not move the public prosecutor to prosecute the cases to the maximum extent possible.

In terms of sentencing, the conditions are almost the same as the indictments, and even worse, because the average sentence is only 3 years and 6 months in prison. Moreover, 2 defendants were instead given acquittal, namely, Andri Wibawa and M Totoh Gunawan. Both of them are known to have been charged together with the District Head of West Bandung of corruption in the procurement of emergency goods for the Covid-19 pandemic at the West Bandung District Social Service.
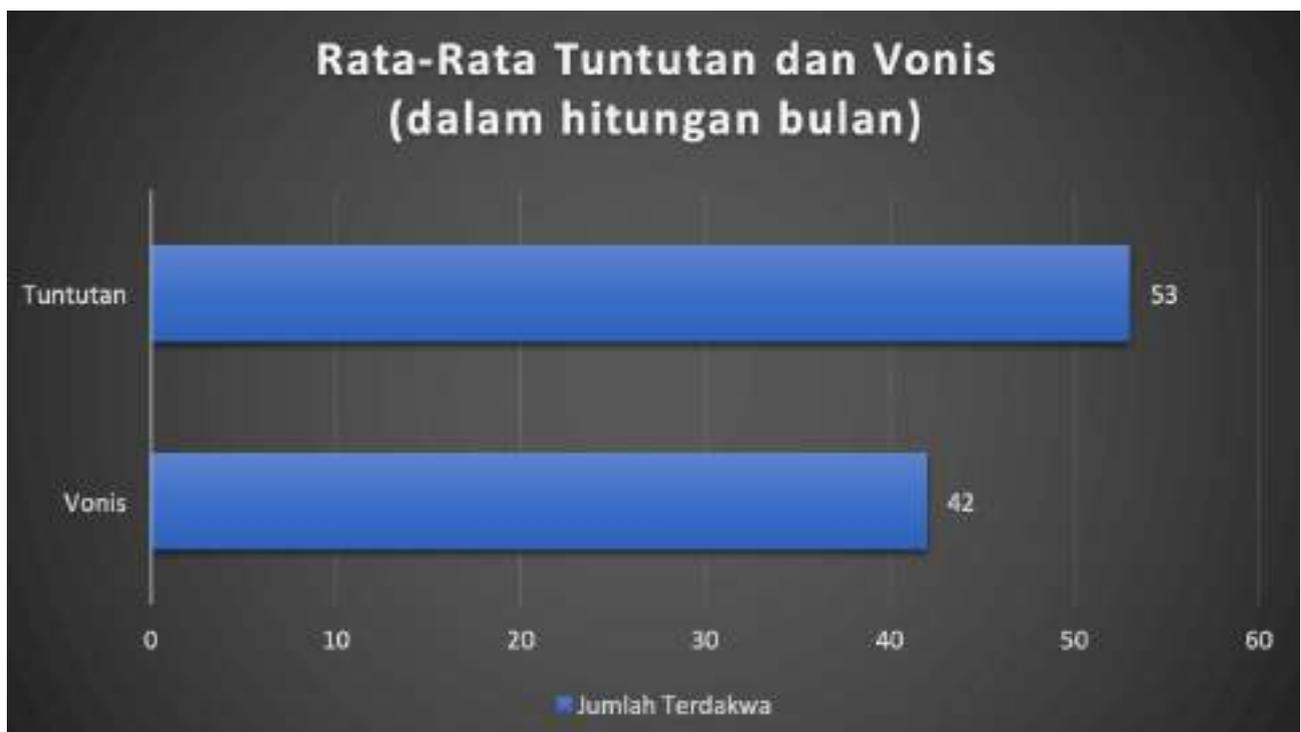
Regarding the severity of verdicts, lenient sentences were handed to 17 defendants, followed by moderate sentences for 4 defendants, and a heavy sentence for only 1 defendant. The panel of judges should understand that the Covid-19 affecting Indonesia should be used as a basis to increase the sentences of the defendants.

Berat-Ringan Putusan

Conclusion

1. General Notes

- ICW uses two primary sources in data collection, namely, the Case Tracing Information System (SIPP) and the Directory of Decisions of the Supreme Court. Unfortunately, these two information channels are still considered inadequate, because, apart from incomplete content, the websites are also difficult to access.

- In 2021, ICW collected at least 1,282 cases that were tried with a total of 1,403 defendants.

- Based on gender, male defendants dominated by 1,269 persons, while only 121 persons were female.

- Using the definition in the Youth Law, as many as 24 defendants were categorized as youth, while the rest were aged over 30 years old.

- Village officials made up the single largest group of defendants in 2021, with 363 persons, followed by the regional government with 346 defendants and the private sector with a total of 275.

- Throughout 2021, the KPK prosecuted perpetrators with occupational backgrounds from the private cluster (31 persons), then members of the legislature (24 persons), and from ministries/institutions (18 persons).

- Defendants from political clusters, such as members of the legislature, make up the smallest group prosecuted by the KPK when compared to 2018 and 2019. This monitoring only recorded 86 of them being prosecuted by the KPK, while in the previous two years it was 96 persons.

- This monitoring did not find any prosecution by the KPK against law enforcement officers involved in corrupt practices.

- The Public Prosecutor Services in 2021 prosecuted defendants from the village apparatus cluster (363 persons), local government (338 persons) and the private sector (243 persons).

- The Attorney General's Office is far superior to the KPK in dealing with corruption related to corporate entities. Evidently, during that one year, the PPS succeeded in indicting 13 corporations in the Jiwasraya corruption case.

2. Types of Corruption Crimes based on the Indictment

Based on the articles contained in the indictment, the practice of corruption most often came from the cluster of state financial losses (1,188 defendants), followed by bribery (116 defendants), and embezzlement in office (17 defendants). For articles related to money laundering, out of a total of 1,403 defendants, law enforcement officers only exercised the article on 12 defendants. Compared to the 2020 monitoring, this number shows a decline and illustrates how prosecutors lack perspective on recovering assets resulting from crimes , either from the PPS or the KPK.

3. Corruption Crimes based on Amount of State Financial Losses and Other Lost Revenues

- State financial losses that have arisen and have been successfully monitored in the trial process for corruption cases throughout 2021 reached IDR 62.9 trillion. In fact, this number surpassed 2020 with a total state financial loss of IDR 56.7 trillion. Of this amount, the KPK handled cases that caused state financial losses of IDR 802 billion, the rest were investigated by the PPS.

- Based on the background of the defendant's occupation, it can be seen that the political cluster (members of the legislature and regional heads) involved in corrupt practices caused state financial losses of IDR 1.3 trillion. The rest is from the scope of BUMN/BUMD amounting to IDR 262 billion and the village apparatus amounting to IDR 140 billion.

- Total proceeds from bribery and gratification throughout 2021 reached IDR 369 billion. Meanwhile, corruption in the form of extortion or illegal levies amounted to IDR 4.2 billion. Embezzlement in office caused a loss of IDR 7.6 billion.

4. Additional Punishment of Substitution Imprisonment and Fines

- The value of the additional penalty for compensation money contained in the decision throughout 2021 only amounted to IDR 1.4 trillion, while the primary criminal sentences such as fines amounted to IDR 202.3 billion.

- The largest sentence for compensation money was found in the case of Marie P Lumowa, amounting to IDR 158.5 billion. The maximum fine was imposed on only 14 defendants.

5. Mapping of Indictments

- For corruption in the form of state financial losses, the prosecutor predominantly used Article 2 rather than Article 3 of the Anti-Corruption Law.

- The Anti-Money Laundering Law is only imposed by the prosecutor on 11 defendants.

- From a total of 1,403 defendants who went on trial, the average charge of the prosecutor was only 54 months or 4.5 years in prison. Based on the origin of the prosecutor, KPK's charges outperformed the Public Prosecution Services', which was 5 years and 1 month in prison compared to 4 years and 6 months in prison.

- The average charge when articles with a maximum sentence of 20 years in prison were used in the indictment was 4 years and 7 months. When the article which has a maximum sentence of 5 years was used, the average was only 2 years and 9 months in prison.

- In 2021, the prosecutor's indictments were still lenient on the perpetrators of corruption. Of the total 1,359 indictments recorded, 662 were leniently indicted, 649 moderately and only 48 were indicted for over 10 years of imprisonment.

- The Public Prosecution Services dominated in prosecuting the perpetrators of corruption leniently. It was proven that in 2021 the PPS prosecuted 623 defendants leniently, while in the moderate category there were 587 defendants and only 44 defendants in severe category. For the KPK, the charges were dominated by the moderate category with a total of 62 defendants. Those charged lightly were 39 defendants and 4 defendants severely.

- Defendants with an occupational background as State Civil Apparatus dominated the group receiving lenient charges from the prosecutor. Out of a total of 662 persons, 189 of them worked as civil servants. Interestingly, in the cluster of law enforcement officers, out of a total of 8 people who were tried, 6 of them were charged with lenient sentences.

- Throughout 2021 the fines charged reached IDR 281 billion. If averaged, the amount was only IDR 207 million per case. Only 27 defendants were charged with the maximum fines by prosecutor, 6 by the KPK and the rest by the PPS.

- Of the total of 587 defendants charged under Article 2 of the Anti-Corruption Law, 33 of them were only fined IDR 50 million and IDR 100 million.

- The total compensation money demanded during the trial process in 2021 was IDR 2.1 trillion. Based on the institution of the prosecutor, the KPK demanded a compensation of IDR 535 billion, while the remaining IDR 1.6 trillion was demanded by the PPS.

- Even though law enforcement officers such as the PPS and the KPK already have prosecution guidelines, this monitoring also captures the phenomenon of disparity in indictments, either imprisonment, fines, or substitute imprisonment.

- Out of a total of 55 defendants who came from the sphere of politicians or public officials, more than half (35) were charged with the additional penalty of revocation of political rights. Meanwhile, such defendants held positions such as a member of the BPK RI (1 person), ministers (2 persons), regional heads (5 persons), and the rest are members of the legislature. However, a crucial note is that all demands for the revocation of political rights came from the KPK. From this it can be seen that the PPS did not yet have a perspective of providing a deterrent effect through the revocation of political rights.

- This monitoring also saw a number of prosecutions that were classified as problematic, because the charges contradict the substance of the case and the background of the defendant's occupation. Among these are the cases of Pinangki Sirna Malasari, Joko S Tjandra, Edhy Prabowo, and Juliari P Batubara.

6. Verdict Mapping

- Throughout 2021, there were 1,078 defendants who were sentenced to the article on corruption causing state financial losses. In the distribution, 709 were sentenced to Article 3 and the remaining 369 were sentenced to Article 2 of the Anti-Corruption Law.

- The Supreme Court had attempted to overcome the differences in the sentences of Article 2 and Article 3 of the Anti-Corruption Law through the issuance of Circular Letter of the Supreme Court Number 3 of 2018 concerning the Enforcement of the Formulation of the Results of the Plenary Meeting of the Supreme Court Criminal Chamber of 2018 as Guidelines for the Implementation of Duties for the Court (SEMA 3/2018). However, this monitoring found a number of decisions that violated the rule.

- The average sentence throughout 2021 was only 3 years and 5 months in prison. Although there was an increase compared to the previous year, the sentence certainly did not have a deterrent effect on the perpetrators.

- Of the total of 35 defendants who were charged with revocation of political rights, only about 31 were granted by the panel of judges. Worse, even a number of decisions were found to actually reduce the charges for revocation of political rights demanded by the prosecutor.

- Of the 656 defendants who were sentenced to substitute imprisonment, the average sentence was only 1 year and 2 months in prison.

- The category of lenient sentences dominated trials throughout 2021. In detail, 929 defendants were given lenient sentences, 319 defendants were given moderate sentences, and 13 defendants were sentenced to more than 10 years in prison or categorized as severe.

- Defendants with an occupational background as village officials make up the majority of those given lenient sentences (291 persons). In percentage terms, 80 percent of the village apparatus cluster were sentenced to under 4 years in prison. For civil servants, as many as 243 persons or 70 percent were similarly leniently punished. For the legislature and regional heads, lenient punishments were obtained for more than half of the perpetrators in the cluster.

- This monitoring found a number of imprisonment decisions that contradicted the amount of state financial losses. Simply, a number of decisions had case constructions mentioning large state financial losses, however were given lenient sentences.

- The Bandung Corruption Court pronounced the largest proportion of lenient sentences to perpetrators of corruption (75 defendants), followed by the Makassar and Medan Corruption Courts (58 defendant).

- The decisions of acquittal and dismissals in 2021 are the highest compared to previous years. The monitoring found at least 107 defendants were acquitted or released. In comparison, in 2020 ICW noted that acquittals and dismissals were only handed down to 66 defendants.

- The Makassar and Aceh Corruption Courts are found to most often acquit perpetrators of corruption with a total of 12 defendants.

- The occupational clusters that received mostly lenient sentences were the private sector (35 persons), civil servants (33), and village officials (10). In total, the acquitted or released defendants had caused state financial losses of IDR 256.3 billion, and bribes of IDR 6 billion.

- Disparity in the punishment of corruption crimes, such as those causing state financial losses and bribery, was still rampant in 2021, even though the Supreme Court already had a Code on Punishment in Supreme Court Regulation Number 1 of 2020.

- In 2021 there were at least 15 corruption convicts whose sentences were reduced through the extraordinary reconsideration method.

- This monitoring also saw a number of decisions that attracted public attention because of their controversial content, including those of Pinangki Sirna Malasari, Edhy Prabowo, Juliari P Batubara, and Nurhadi.

7. Corruption in the Midst of the Covid-19 Pandemic

- In 2021, there were at least 24 defendants in corruption cases whose substance was related to the Covid-19 budget.

- Total state losses arising from corrupt practices reached IDR 2.4 billion, while the total bribes that occurred throughout 2021 amounted to IDR 39.5 billion.

- Based on the type of corruption, the data obtained are as follows: 1) extortion (8 defendants); 2) state financial losses (5 defendants); 3) bribes (5 defendants); 4) conflict of interest in the procurement of goods and services (1 defendant); 5) gratification (1 defendant).

- The average charge in the indictment was only 4 years and 5 months in prison. Lenient charges still dominated with 15 defendants, while 8 defendants are charged with moderate sentences, and only 1 defendant was charged with a severe sentence.

- All of the defendants were sentenced to an average of only 3 years and 6 months in prison. Sadly, 2 of the defendants were instead acquitted, namely, Andri Wibawa and M Totoh Gunawan. The sentences were still dominated by lenient sentences of 17 defendants, followed by moderate sentences of 4 defendants, and severe sentence of only 1 defendant.

Recommendations

1. Attorney General's Office and KPK

- Law enforcement officers must use the perspective of recovering state financial losses when prosecuting perpetrators of corruption by including an anti-money laundering article in the indictment.

- Law enforcement officers must consider Article 52 of the Criminal Code as a reason to intensify demands if the perpetrators are civil servants or public officials.

- Law enforcement officers must demand for additional punishment in the form of revocation of certain rights, such as political rights, if the defendant comes from a political cluster, starting from members of the legislature, regional head, or other public officials and rights as a civil servant if the defendant was working as a civil servant.

- Law enforcement officers should revise the prosecution guidelines to further regulate the impact of corruption and the defendant's occupational background as reasons for

increasing sentences. In addition, the prosecution guidelines must also target all corruption crimes so that disparity does not become a recurring issue. The substance of the prosecution guidelines is also expected to cover all aspects, both basic and additional crimes, including imprisonment, imposition of fines, and substitute imprisonment.

- Law enforcement officers must choose articles of prosecution with a maximum spectrum of punishment, starting from Article 2 of the Anti-Corruption Law if the corruption is related to state financial losses and Article 12 of the Anti-Corruption Law if the corruption is related to the crime of bribery.

- Law enforcement officers must ensure that the execution of decisions related to recovery of state financial losses can be implemented optimally and be published to the public.

- Law enforcement officers must evaluate problematic indictments that cause unrest in the community.

2. Supreme Court

- The Supreme Court must evaluate the case information system, both at the court level through the Case Tracing Information System (SIPP) and the Supreme Court Decision Directory. In fact, if needed, the application of administrative sanctions against related officials is important to be stipulated and enforced as an effort to accelerate reforms within the Supreme Court.

- The Supreme Court must pay close attention to the trend of lenient sentences of perpetrators of corruption, one of which is by identifying judges who often do this. If mistakes are found, the Supreme Court must evaluate the performance with objective benchmarks.

- The Supreme Court must develop guidelines as a benchmark for the panel of judges when describing the reasons for mitigating and increasing the sentences for the accused.

- The Supreme Court must be more aggressive in socializing Supreme Court Regulation Number 1 of 2020 concerning Guidelines for Criminal Punishment Based on Article 2 and Article 3 of the Anti-Corruption Law. At the same time, it should periodically evaluate judges who deviate from these rules when deciding a case.

- The Supreme Court must begin to develop guidelines for criminalizing acts of corruption outside of state financial losses, such as bribery, gratuities, extortion, conflicts of interest in the procurement process, and so on. This is because the phenomenon of disparity also often occurs in other types of corruption.

- The Supervisory Body of the Supreme Court must act actively to observe and monitor judges who often give lenient sentences to corruption defendants with odd considerations.

- The Supreme Court must develop punishment guidelines for imposing additional sentences of substitute imprisonment so that disparities can be minimized.

- The Supreme Court must call for the urgency of revocation of political rights for defendants who come from the political cluster, starting from members of the legislature, regional heads, or other public officials.

- The Supreme Court must pay attention to the phenomenon of reducing sentences through reconsideration. If the conditions stipulated in the legislation are not met, then the extraordinary legal process must be rejected.

3. Judicial Commission

The Judicial Commission must actively observe and investigate corruption trials that attract public attention.

4. Government and DPR

- The government and the DPR must immediately discuss, ratify, and enact regulations that encourage the acceleration of corruption eradication, starting from the revision of the Anti-Corruption Law, the Bill on Asset Confiscation, and the Bill on Limiting Currency Transactions.

- The government as the administrative superior of law enforcement officers and the DPR must periodically evaluate the leadership of law enforcement agencies based on their performance in the law enforcement process.