An Economic Analysis of Indonesian Anti-Corruption Policies: Can the Government's Allocation of Resources and Collection of Monetary Sanctions be More Efficient?

Choky Risda Ramadhan

A dissertation

submitted in partial fulfillment of the

requirements for the degree of

Doctor of Philosophy

University of Washington

2024

Reading Committee:

Anna B. Bosch, Chair

Elizabeth Richardson Vigdor

Veronica Taylor

C. Leigh Anderson

Program Authorized to Offer Degree:

School of Law

University of Washington

Abstract

An Economic Analysis of the Indonesian Anti-Corruption Policies: Can the Government's Allocation of Resources and Collection of Monetary Sanctions be More Efficient?

Choky Risda Ramadhan

Chair of the Supervisory Committee:

Anna B. Bosch

School of Law

International Development Organizations (IDOs) have promoted a global anti-corruption agenda, leading countries like Indonesia to create new agencies and adopt anti-corruption measures. However, these IDOs have often overlooked the enduring financial commitments of such policies and institutions, as well as how to ensure their sustainability amidst other pressing governmental priorities in developing nations. In Indonesia, the anti-corruption efforts suffered frequent setbacks during the Joko Widodo (Jokowi) administration (2014-2024) and faced persistent inadequate resources problems. This dissertation is a systematic inquiry of the efficiency of legal policy implementation, using the Indonesian anti-corruption policies as a case study.

First, this dissertation identifies a perceived lack of political commitment during the Joko Widodo administration by focusing on the adequacy of budget allocations for implementing anti-corruption measures. Then, this dissertation applies a benefit-cost analysis

(BCA) by gathering financial reports from 14 agencies tasked with anti-corruption efforts from 2014-2021 and conducting a contingent valuation survey of 2,114 Indonesian adults from every province (34 provinces) in Indonesia. Based on the BCA results, implementing the Indonesian anti-corruption policies was efficient, resulting in great net social benefit from the social benefit-cost analysis; thus, the Indonesian government needs to sustain the policies. However, from the fiscal perspective, the Indonesian government collected low monetary sanctions compared to the cost to enforce and prevent corruption. The cost to implement anti-corruption enforcement and prevention strategies was 18 times higher than the revenues collected from the monetary sanctions. Therefore, enforcing and preventing the crime of corruption had substantially adverse fiscal effects, as the government spent 18 times more than what enforcement yielded from defendants convicted of crimes of corruption.

Second, this dissertation provides a more nuanced, comprehensive, and meaningful explanation of the practice and factors that contributed to the suboptimal collection of monetary sanctions, i.e., fines, restitutions, and asset forfeiture, to finance the implementation of Indonesian anti-corruption policies. Interview data from 33 criminal justice actors from various ranks and triangulation from documents revealed that three factors contributed to the low collection of monetary sanctions: (1) imprisonment preference among judges, prosecutors, and the public; (2) unpaid fines and restitution from defendants convicted of crimes of corruption who rationally choose additional imprisonment, and low socio-economic background; and (3) the lack of institutional resources and administrative/legal hurdles hindering the prosecutors' efforts to collect more government revenue from asset forfeiture. All these factors are related to the economic rationality of individuals and institutions involved in the enforcement of crimes of corruption to act in their best interest.

Although benefit-cost analysis (BCA) is rarely employed to evaluate legal policies, its application here, alongside qualitative interviews, has provided valuable insights for

Indonesian policymakers and anti-corruption practitioners in the law and development arena. Specifically, this study addresses an empirical and methodological gap by combining economic assessments with insights from criminal justice actors, offering a clearer understanding of the "lack of resources" argument in implementing Indonesia's anti-corruption policies. These resourcing challenges suggest a lack of sustained political will to maintain the Indonesian government's anti-corruption efforts, which were initially supported by the multilateral push, and insufficiency of revenue from the collection of monetary sanctions due to legal loopholes and misaligned incentives. These insights provide further support for moderate or "good enough governance" reforms that are not too big, much, and fast, by considering to the recipient country's political will, capacity, and resources. Moreover, the government can be more efficient in allocating resources and optimal in collecting monetary sanctions by paying more attention to the incentive and resource structures surrounding the implementation of anti-corruption policies.

Keyword: Benefit-cost analysis; anti-corruption; law and development; international development; monetary sanctions; Indonesia.

Acknowledgement

Completing this dissertation has been a marathon, and I could not have reached the finish line without the support and encouragement of many remarkable people.

First and foremost, I would like to express my deepest gratitude to the members of my dissertation committee for their invaluable guidance and support throughout this dissertation project: Professor Anna B. Bosch (Chair), Professor Elizabeth R. Vigdor (Member), Professor Veronica Taylor (Member/Australia National University), and C. Leigh Anderson (Graduate Student Representative). Your reviews, insights, suggestions, and feedback were instrumental in shaping the direction and quality of this work. I am indebted to your significant impact on my academic journey and growth.

In addition, I acknowledge the support from the University of Washington School of Law professors and staff for their assistance. Special acknowledgment goes to Professor Jonathan Eddy, who served as a chair for the first two years of my dissertation project. Also, I extend my sincere gratitude to Professor Michael Townsend (Ph.D. Program Director), Terry J. Price (Graduate Program Director), La Sheena Taft, and Devon Pimentelli (Graduate Program Coordinator) for their assistance in navigating the law school program and its administrative process.

I have completed the Ph.D. program and written this dissertation with generous financial support from the Indonesia Endowment Fund for Education Agency (*Lembaga Pengelola Dana Pendidikan* (LPDP)). Moreover, I would like to thank the AICEF (Travel Fund), Southeast Asia Center at the University of Washington (Gething Award and Grorud Fellowship), University of Washington Graduate School (International Research Fellowship), and University of Washington School of Law (Professional Development Fund) for supporting me to conduct research and attend conferences during my study.

I am also profoundly thankful to scholars, mentors, and colleagues for sharing your time, experience, and expertise, which were influential in writing this dissertation. These include Professor Mark A. Cohen (Vanderbilt University) for sharing your insight and questionnaire for conducting a contingent valuation survey and Alfindra Primaldi (Demographic Institution Universitas Indonesia) for leading the survey. Moreover, I would like to extend my gratitude to Professor Topo Santoso, Hasril Hertanto, Junaidi (Universitas Indonesia), Arsil (LeIP), Rimawan Pradiptyo, Richo A. Wibowo (Gadjah Mada University), Diani Sadiawati, Hesti Pandanwangi, Tanti Dian (Bappenas), Dio Ashar, Andreas N. Marbun, Adery Ardhan, Arsa Ilmi, Muhammad Rizaldi (IJRS/MaPPI FHUI), M. Doddy

Kusadrianto (The Asia Foundation), Meissy Sabardiah (Partnership), Wawan Suyatmiko (Transparency International Indonesia), Adnan Husodo (Indonesia Corruption Watch), Yusuf Gumilang (Executive Office of the Indonesian president), Muhammad Isro (Secretariat of Corruption Prevention Strategy). Also, thank you to all judges, prosecutors, and defense lawyers who participated in my dissertation as respondents.

To my friends, your encouragement and support have been my fuel during the long stretches of this marathon. I could not imagine finishing this marathon without our joyful moments together, such as eating delicious food, laughing at my dad jokes, playing games (including the FIFA video game), and visiting amazing places around the Pacific Northwest. Thank you, Dimas Romadhon, Lisa Lestari, Aldila Zaki, Aldila Aidan, Agnes Suyanto, Clarrisa Lana, *Cangka Cingko* squad (Daniel Hutabarat, Lysandra Melo, and Raya Hutabarat), Damian Oyong, Lydia M., Yoshua Gombo, Bernard Loesi, Aristo Pangaribuan, Yudha Damara, Hanna Putri, Ello, Rizki Sjarif, and Ichsan Zikri. Also, thanks to my son's Nintendo party friends, Om Bimo, Rani, and Om Ajay (Ramy).

I want to extend my heartfelt thanks to my family for their endless love, prayers, and support: my parents, Eko Heri, Esti Pudiastuti, Aris Wahyudi (in law), and Lili Puspita (in law); and my sisters and brother, Chika Rimira, Niken Lativani (in law), Mayang Azhara (in law), Grendilaxrama (in law). Your patience and encouragement have been my foundation throughout this journey. You all now have a doctor in the family, even though this is not the type of doctor most Asian families wish for.

Finally, completing this dissertation and reaching the finish line was possible by the unwavering support from the Ramadhan family. As Oli Sykes of *Bring Me the Horizon* screamed in one of their songs: "cause you know that I can't do this on my own!". I have written and completed the dissertation because of the love, prayers, understanding, and encouragement from my wife, Larasati Wahyudi, and my kids, Eidlan Arsyanedra Ramadhan and Elora Rainiera Ramadhan. You all helped me push through the challenging moments and celebrate the milestones.

I dedicate this dissertation to advancing Indonesian legal research by fostering a more evidence-based, empirical, and interdisciplinary approach.

". . . for the rational study of the law, the black-letter man may be the man of the present, but the man of the future is the man of statistics and the master of economics."
(Oliver W. Holmes Jr., 1897)

Table of Contents

Chapter 1: Introduction

I. Background and Overview

The Indonesian government enacted reformed anti-corruption policies and created many institutions to prevent corruption and enforce such laws with the support of International Development Organizations (IDOs) or donors after the Asian Financial Crisis and the collapse of the Soeharto regime (1998).[1] This included support for such Indonesian development of institutions as the Corruption Eradication Commission (Anti-Corruption Agency or the *Komisi Pemberantasan Korupsi* or KPK), the Financial Intelligence Unit (*Pusat Pelaporan dan Analisis Transaksi Keuangan* or PPATK), and the Anti-Corruption Court. Moreover, the Indonesian government created several agencies to prevent corruption by promoting transparency and accountability, such as the Information Commission and the Ombudsman.[2]

The globalization of anti-corruption policies emerged in the late 1990s and early 2000s with the influence of IDOs such as the World Bank, the International Monetary Fund (IMF), and the Organisation for Economic Co-operation and Development (OECD). [3] One of these IDOs' rationales to curb corruption was economic because "[c]orruption distorts markets and the allocation of resources … and is therefore likely to reduce economic efficiency and growth."[4] To fight against corruption and foster economic growth, IDOs support the recipient country to reform its governance so it can then prevent corruption and punish the wrongdoer.[5] Another reason for supporting the globalization of anti-corruption policies is pragmatic: to purposes. Thus, IDOs put conditions on their loans so the recipient country is able to repay the

[1] Indonesian Government, "Indonesia Letter of Intent and Memorandum of Economic and Financial Policies, March 16, 1999," *International Monetary Fund*, 1999, https://www.imf.org/external/np/loi/1999/031699.htm; Vishnu Juwono, "The Partner in Prosecuting Crime: The Role of International Organization in Setting Up Corruption Eradication Commission in Indonesia," *Global: Jurnal Politik Internasional* 16, no. 1 (2014): 1–18, https://doi.org/10.7454/global.v16i1.6; Budi Setiyono and Ross H McLeod, "Civil Society Organisations' Contribution to the Anti-Corruption Movement in Indonesia," *Bulletin of Indonesian Economic Studies* 46, no. 3 (2010): 347–70, https://doi.org/10.1080/00074918.2010.522504.

[2] See Chapter 4 for a more detailed discussion about donor supports in creating these anti-corruption institutions.

[3] Kevin E Davis, "Does the Globalization of Anticorruption Law Help Developing Countries?," *International Economic Law, Globalization and Developing Countries*, 2010, 283–306, https://doi.org/10.4337/9781849806671.00018; Luís de Sousa, "Anti-Corruption Agencies: Between Empowerment and Irrelevance," *Crime, Law and Social Change* 53, no. 1 (2010): 5–22, https://doi.org/10.1007/S10611-009-9211-3/METRICS.

[4] Vito Tanzi, "Corruption Around the World Causes, Consequences, Scope, and Cures," IMF Staff Papers 45, no. 4 (1998), 583. Tanzi (at 574-575) also used Gary S. Becker's economic theory of crime and punishment (1968 & 1974) to explain the economic rationales in committing crimes of corruption and the economic approach to prevent and deter the offender.

[5] Tanzi, 588. "Thus, the fight against corruption is not distinct and independent from the reform of the state, because some of the measures to reduce corruption are at the same time measures that change the character of the state."

loan.[6] These IDOs, however, give less attention to the long-term operating costs of anticorruption policies and institutions and how to make them self-sustaining within a landscape of competing policy priorities for the governments of developing or middle-income countries.[7]

Not surprisingly, some of the newly created anti-corruption institutions now face inadequate resources, as Pereenboom, Zürn and Nollkaemper claimed that "[e]stablishing a functional legal system is a costly business."[8] After implementing and enforcing anti-corruption policies for nearly two decades, a problem has emerged in Indonesia. The lack of resources, such as financial and human resources, has always been referred to as one of the challenges in implementing anti-corruption policies in Indonesia.[9] Some newly created institutions that curb corruption also experienced this inadequate resources problem, such as the Ombudsman, the Anti-Corruption Court, and the Anti-Corruption Agency (KPK).[10] For instance, the Indonesian Anti-Corruption Court Law 2009 mandated the Indonesian Supreme Court or *Mahkamah Agung* (M.A.) to establish more than 500 anti-corruption courts (covering every city in Indonesia). However, the Supreme Court could only establish anti-corruption courts in 34 provinces due to a lack of resources.[11]

What this suggests is that the ostensible policy commitment to anti-corruption efforts has not been matched by budget allocations by the national government. Alternatively, we could view this as a problem of symbolic gesturing toward a policy ideal, without the resources or capacity necessary to fully implement that policy. In the context of international

[6] Ko-Yung Tung, "THE WORLD BANK'S INSTITUTIONAL FRAMEWORK FOR COMBATING FRAUD AND CORRUPTION: Remarks Delivered at Seminar on Monetary and Financial Law" (International Monetary Fund, 2002), https://www.imf.org/external/np/leg/sem/2002/cdmfl/eng/tung.pdf; "IMF Conditionality," accessed July 23, 2024, https://www.imf.org/en/About/Factsheets/Sheets/2023/IMF-Conditionality.

[7] Linn A Hammergren, Justice Reform and Development : Rethinking Donor Assistance to Developing and Transition Countries (Abingdon, Oxon ; Routledge, 2014), .

[8] Randall Peerenboom, Michael Zürn, and André Nollkaemper, "Conclusion," in Rule of Law Dynamics: In an Era of International and Transnational Governance, ed. Michael Zürn, André Nollkaemper, and Randall Peerenboom (Cambridge: Cambridge University Press, 2012), 305–24, 320, https://doi.org/10.1017/CBO9781139175937.017.

[9] I will elaborate this lack of resources challenge to implement Indonesian Anti-Corruption policies in Chapter 4, a chapter that describing the evolution of Indonesian anti-corruption policies and lack of resources problem to fully implement them.

[10] Choky Risda Ramadhan, "Reviewing the Indonesian Anticorruption Court: A Cost-Effective Analysis," *Law and Development Review* 15, no. 1 (2022): 121–46, https://doi.org/doi:10.1515/ldr-2021-0107; Susi Dwi Harijanti, "The Evolution of the Indonesian Ombudsman System," *International Journal of Public Law and Policy* 4, no. 1 (December 2, 2013): 37–52, https://doi.org/10.1504/IJPLAP.2014.057885; "ICW Catat 11 Upaya Pelemahan KPK - ANTARA News," accessed July 23, 2024, https://www.antaranews.com/berita/471414/icw-catat-11-upaya-pelemahan-kpk.

[11] Arsil et al., "Pengadilan Tindak Pidana Korupsi Di Indonesia Pasca-2009: Antara Harapan Dan Kenyataan" (Jakarta, 2021), https://leip.or.id/wp-content/uploads/2021/10/Ebook-Pengadilan-Tindak-Pidana-Korupsi-di-Indonesia-Pasca-2009-Antara-Harapan-dan-Kenyataan-1.pdf; Ramadhan, "Reviewing the Indonesian Anticorruption Court: A Cost-Effective Analysis."

development, Andrews et al have called this "isomorphic mimicry," that is, "the adoption of the forms of other functional states and organizations which camouflages a persistent lack of function."[12] When these newly adopted or created institutions were frequently asked by the government, local NGOs, and IDOs to perform too many tasks, with too few resources and short periods of time, Andrews et al argued this "premature load bearing" created pressure that could weaken the institutions' capability.[13]

In addition, the anti-corruption efforts suffered frequent setbacks in Indonesia, with the weakened KPK, set of laws favoring oligarchs (Oil and Gas Law, and Omnibus Law), and dual appointments for police and military personals in civil positions.[14] Under the Joko Widodo (Jokowi) administration (2014 to 2024), the main focus is developing infrastructure and relaxing regulations to foster economic growth; however, Warburton claimed Jokowi has "no anti-corruption agenda."[15] Baker also observed that the current administration used anti-corruption law and its law enforcement agencies to prosecute political opponents to consolidate power and bring "the end of the campaign against corruption."[16]

In the comparative anti-corruption literature, some scholars have highlighted the political will to allocate adequate resources as one of the "success factors" of anti-corruption reforms. Quah reviewed five anti-corruption agencies (ACAs) in Asia and argued that a lack of resources caused ACAs in China, India, and Philippines to fail to curb corruption.[17]

---

[12] Lant Pritchett, Michael Woolcock, and Matt Andrews, "Capability Traps? The Mechanisms of Persistent Implementation Failure" (Washington, DC, December 2010), 1, http://www.cgdev.org/content/publications/detail/1424651www.cgdev.org; Matt Andrews, Lant Pritchett, and Michael Woolcock, Building State Capability: Evidence, Analysis, Action, Building State Capability (Oxford: Oxford University Press, 2017), https://doi.org/10.1093/ACPROF:OSO/9780198747482.001.0001.

[13] Andrews, Pritchett, and Woolcock, *Building State Capability: Evidence, Analysis, Action*.

[14] Natalie Sambhi, "Generals Gaining Ground: Civil-Military Relations and Democracy in Indonesia | Brookings," Brookings, 2021, https://www.brookings.edu/articles/generals-gaining-ground-civil-military-relations-and-democracy-in-indonesia/; Indonesia Corruption Watch, "Catatan Akhir Tahun Pemberantasan Korupsi Indonesia Corruption Watch: Pandemi, Kemunduran Demokrasi, Dan Redupnya Spirit Pemberantasan Korupsi" (Jakarta, December 16, 2015), https://www.antikorupsi.org/sites/default/files/dokumen/Catatan%20Akhir%20Tahun%20Pemberantasan%20Korupsi%20ICW_2020.pdf; Transparency International Indonesia, "Pelemahan Jadi Nyata: Evaluation of the Corruption Eradication Commission 2019-2023" (Jakarta, 2023), https://ti.or.id/wp-content/uploads/2024/01/ENG-TII-ACA-Assessment-KPK-2023.pdf.

[15] Eve Warburton, "Jokowi and the New Developmentalism," Bulletin of Indonesian Economic Studies 52, no. 3 (2016): 297–320, 310, https://doi.org/10.1080/00074918.2016.1249262.

[16] Jacqui Baker, "Reformasi Reversal: Structural Drivers of Democratic Decline In Jokowi's Middle-Income Indonesia," Bulletin of Indonesian Economic Studies 59, no. 3 (September 2, 2023): 341–64, 341, https://doi.org/10.1080/00074918.2023.2286020.

[17] Jon S.T. Quah, "Combating Corruption in Asian Countries: Learning from Success & Failure," *Daedalus* 147, no. 3 (July 1, 2018): 202–15, https://doi.org/10.1162/DAED_A_00511.

Allocating sufficient resources to sustain anti-corruption efforts is one of the indicators, "continuity of effort," to assess the government's political will.[18]

The Indonesian government continues to rely on international development organizations (IDOs) to support its anti-corruption policies. However, the Indonesian government and the rule of law practitioners should not always rely on the IDOs' or donors' support to implement the anti-corruption policies.[19] When donors eventually shift their resources to other sectors and countries, the question is whether a recipient country's government will be willing to elevate anti-corruption measures as a policy priority (among many others); if so, it is necessary to assess whether the government is willing to impose that cost on taxpayers—in what way and whether taxpayers will be willing or able to take up the cost.[20]

To answer those questions, this dissertation seeks to explore policy options by utilizing benefit-cost analysis (BCA) as the method for calculating the benefits and costs of Indonesian anti-corruption policies in monetary terms to help decision-makers choose efficient allocations of resources that could increase social values and achieve the policies' goals.[21] As Grindle proposed in the "good enough governance" framework, the appropriate question is: "given limited resources of money, time, knowledge, and human and organizational capacity, what are the best ways to move towards better governance in a particular country context?"[22] BCA takes into account the scarcity of government resources, assesses the existing allocation of resources, and determines whether their allocation is efficient and meets public valuation given a crowded reform agenda in Indonesia.[23] BCA helps policymakers in the recipient countries to deliberately review their policies, including the allocation of resources. To achieve the Indonesian Golden Vision 2045, the goal to escape the middle-income trap by being a more sovereign, advanced, fair and prosperous country, the Indonesian government also needs to

[18] Brinkerhoff posed a bigger question to assess the "continuity of effort" in anti-corruption reform: "[d]oes the reformer treat the anti-corruption effort as a one-shot endeavor and/or symbolic gesture, or are efforts clearly undertaken for the long term?". See Derick W. Brinkerhoff, "Assessing Political Will for Anti-corruption Efforts: An Analytic Framework," Public Administration and Development 20, no. 3 (September 5, 2000): 239–52, 243.

[19] Anna B. Bosch, "Local Actors in Donor-Funded Rule of Law Assistance in Indonesia: Owners, Partners, Agents?," *Dissertation* (University of Washington, 2016), http://hdl.handle.net/1773/36734.

[20] Katherine Erbeznik, "Money Can't Buy You Law: The Effects of Foreign Aid on the Rule of Law in Developing Countries," *Indiana Journal of Global Legal Studies* 18, no. 2 (2011): 873–900.

[21] Anthony E. Boardman et al., Cost-Benefit Analysis: Concepts and Practice, 5th ed. (Cambridge: Cambridge University Press, 2018), 2, https://assets.cambridge.org/97811084/15996/frontmatter/9781108415996_frontmatter.pdf.

[22] Merilee S Grindle, "Good Enough Governance Revisited," Development Policy Review 25, no. 5 (2007): 553–74, 554. In Chapter 3, I will discuss the "Good Enough Governance" framework that asks for more realistic and achievable good governance reforms.

[23] Boardman et al., *Cost-Benefit Analysis: Concepts and Practice*.

commit to allocating resources in implementing strategies and programs to achieve the target. These include strengthening rule of law and transforming good governance.[24]

This BCA of implementing the Indonesian anti-corruption policies is an *in-media res* analysis, because I measured the ongoing anti-corruption policies.[25] I take two perspectives to measure the benefits and costs of enforcing anti-corruption policies: 1) governmental and 2) societal. The government or fiscal perspective measures all government expenditures and revenues from implementing the anti-corruption policies.[26] This analysis is valuable and vital for budgeting and resource allocation purposes. Second, the BCA from the societal perspective is referred to as the social BCA. This analysis "… measures the societal effects of the investment beyond the budget."[27] This measurement captures the social cost and benefit of enforcing the Indonesian anti-corruption policies. BCA is a valuable technique for reviewing these policies because it provides a baseline for assessing the resources needed to enforce them.

One of the hypotheses explored in this dissertation is that adequate funding for anti-corruption efforts in Indonesia can be allocated by maximizing the monetary sanctions available to law enforcement through existing laws. This would require a commitment from the government to allocate the resources necessary to strengthen anti-corruption institutions and aid their ability to enforce their policies. Thus, this research also aims to provide a more nuanced, comprehensive, and meaningful explanation of the practices and factors that contribute to the collection of such government revenue monetary sanctions (fines, restitutions, and assets forfeiture), that are a benefit from a fiscal or government perspective, collected from those convicted of crimes of corruption (hereinafter also referred to as "the defendant").

Accessing that revenue stream assumes that the monetary sanctions are applied in practice. Accordingly, this dissertation asks whether monetary sanctions for anti-corruption are applied, and if so by whom and in what context—and, if not, why not? The second part of this research derived its analysis from interviews with 33 Indonesian criminal justice actors (12 prosecutors, 10 lawyers, and 11 anti-corruption judges) from various ranks and regions and triangulating the interview data with documents such as court decisions, agencies' regulations, government reports, and non-government organizations' (NGOs) reports. This qualitative

[24] Kementerian Perencanaan Pembangunan Nasional/ Badan Perencanaan Pembangunan Nasional, "Indonesia Emas 2045: Negara Nusantara Berdaulat, Maju, Dan Berkelanjutan" (Jakarta, January 2024), 277, https://drive.google.com/file/d/1JSZp1Oz37KWktxi-hi0okVXxEsKuaU-I/view.
[25] Boardman et al., *Cost-Benefit Analysis: Concepts and Practice*.
[26] Christian Henrichson and Joshua Rinaldi, "Cost-Benefit Analysis and Justice Policy Toolkit," VERA-Institute of Justice, no. December (2014), 6, https://www.bja.gov/Publications/Vera-cba-justice-policy-toolkit.pdf.
[27] Henrichson and Rinaldi.

inquiry investigates (1) factors the prosecutor and judge use to determine the monetary sanctions sentenced to defendants convicted of crimes of corruption; and (2) factors that contribute to the payment and collection of monetary sanctions. This case study combines Benefit-Cost Analysis (BCA) with qualitative research to better understand the BCA result.[28]

II. Definition of Key Terms

For purposes of this dissertation, "corruption" is broadly defined as criminal acts committed by either public officials by misusing their authority for private gain, or private parties (individual or company) that result in the loss of a government's assets.[29] Other scholars categorize corruption based on magnitude, e.g., whether it is a petty or grand corruption.[30] Petty corruption is a low-level and small-scale corruption over basic service delivery or when a public official interacts with an ordinary citizen, such as a policeperson asking for money to not issue a traffic ticket or a "grease" payment paid by a businessperson to speed up a licensing process.[31] In contrast, grand corruption is committed by high-level public officials who receive personal benefits.[32] For instance, the former Indonesian House Speaker abused his power to approve the Ministry of Interior's budget for developing an electronic identity card for his private gain, for which he received a kickback of USD 7.3 million.[33] Although grand corruption sometimes has some petty corruption features—for instance public officials receiving bribes or marking up procurement costs—grand corruption

---

[28] William M Trochim and James P Donnelly, *Research Methods: The Essential Knowledge Base*, *Research Methods: The Essential Knowledge Base*, 2nd ed. (Boston: Cengage Learning, 2016); Lisa A. Robinson et al., "Conducting Benefit-Cost Analysis in Low- and Middle-Income Countries: Introduction to the Special Issue," *Journal of Benefit-Cost Analysis* 10, no. S1 (February 27, 2019): 1–14, https://doi.org/10.1017/BCA.2019.4.

[29] J. S. Nye, "Corruption and Political Development: A Cost-Benefit Analysis," *American Political Science Review* 61, no. 2 (1967): 417–27, https://EconPapers.repec.org/RePEc:cup:apsrev:v:61:y:1967:i:02:p:417-427_13; Jacob van Klaveren, *Corruption as a Historical Phenomenon*, ed. Arnold J. Heidenheimer and Michael Johnston, *Political Corruption: Concepts and Contexts: Third Edition* (New York: Taylor and Francis, 2017), https://doi.org/10.4324/9781315126647-8/CORRUPTION-HISTORICAL-PHENOMENON-JACOB-VAN-KLAVEREN.

[30] Susan Rose-Ackerman, *International Handbook on the Economics of Corruption* (Cheltenham, UNITED KINGDOM: Edward Elgar Publishing Limited, 2006), http://ebookcentral.proquest.com/lib/washington/detail.action?docID=274918; Adam Graycar, "Corruption: Classification and Analysis," *Policy and Society* 34, no. 2 (June 1, 2015): 87–96, https://doi.org/10.1016/J.POLSOC.2015.04.001; Eric M. Uslaner, *Corruption, Inequality, and the Rule of Law: The Bulging Pocket Makes the Easy Life*, *Corruption, Inequality, and the Rule of Law: The Bulging Pocket Makes the Easy Life* (Cambridge: Cambridge University Press, 2008), https://doi.org/10.1017/CBO9780511510410; Jorum Duri, "Definitions of Grand Corruption," U4 Helpdesk Answer, October 14, 2020, https://www.u4.no/publications/definitions-of-grand-corruption.pdf.

[31] Duri, "Definitions of Grand Corruption."

[32] Graycar, "Corruption: Classification and Analysis."

[33] Faiq Hidayat and Haris Fadhil, "Terbukti Korupsi E-KTP, Setya Novanto Divonis 15 Tahun Penjara," April 24, 2018, https://news.detik.com/berita/d-3987879/terbukti-korupsi-e-ktp-setya-novanto-divonis-15-tahun-penjara.

"can be more deeply destructive of state functioning."[34] Transparency International (TI) has further argued that grand corruption is "causing widespread harm and violations of fundamental human rights;" thus, TI recommended every country that ratified the United Nations Convention Against Corruption (UNCAC) should prioritize prosecuting grand corruption.[35]

Specifically, there are two types of corruption that were prosecuted most frequently by the prosecutor from the Indonesian Attorney General Office (AGO) and KPK: (1) offering, giving, or receiving money or goods to influence public officials; and (2) unlawful enrichment by public officials, resulting in a government financial loss.[36] The KPK most often prosecuted the first type of corruption because the agency has authority to lawfully intercept a suspect's communication.[37] With this authority, KPK could gather evidence to prove the offering of money or goods to the public official and the "quid pro quo" intent.[38] Whereas the AGO tends to prosecute the second type of corruption, the offence when a public official unlawfully enriches themselves or private entities, which results in government financial loss.[39] For instance, the former Minister of Social Welfare abused his power by appointing a company without an appropriate procurement process. This company sold sewing machines for more than 100% of the market price. The company then gave the extra revenue to the Minister's staff and his foundation.[40]

Under the anti-corruption laws (1999 and 2001), the first type of corruption, where public officials receive money or goods, can be categorized into three legal definitions of corruption: (1) bribery; (2) extortion; and (3) illegal gratuity.[41] There are some differences

---

[34] Rose-Ackerman, *International Handbook on the Economics of Corruption*.
[35] Transparency International, "Making Grand Corruption a Priority: Transparency International Submission to the 7th UNCAC COSP in Vienna," 2017, http://www.fcpablog.com/blog/2012/8/22/should-grand-corruption-be-a-crime-against-humanity.html;
[36] Diky Anandya and Kurnia Ramdhana, "Laporan Hasil Pemantauan Tren Korupsi Tahun 2023" (Jakarta, May 2024), https://antikorupsi.org/sites/default/files/dokumen/Narasi%20Laporan%20Hasil%20Pemantauan%20Tren%20Korupsi%20Tahun%202023.pdf.
[37] Dadang Kurnia, "Penyadapan KPK Dinilai Sudah Terbukti Memuaskan | Republika Online," February 19, 2016, https://news.republika.co.id/berita/o2s8j0361/penyadapan-kpk-dinilai-sudah-terbukti-memuaskan; Cindy Mutia Annur, "KPK Tangani 1.500 Kasus Korupsi Dalam Dua Dekade," March 6, 2024, https://databoks.katadata.co.id/datapublish/2024/03/06/kpk-tangani-1500-kasus-korupsi-dalam-dua-dekade.
[38] Indonesia Corruption Watch, "Guru Besar Menolak Revisi UU KPK Yang Lemahkan KPK," 2016, https://antikorupsi.org/id/article/guru-besar-menolak-revisi-uu-kpk-yang-lemahkan-kpk.
[39] Anandya and Ramdhana, "Laporan Hasil Pemantauan Tren Korupsi Tahun 2023."
[40] Jakarta High Court, 22/Pid.B/TPK/2011/PT.DKI (July 2011).
[41] To give detailed and legal context, the Indonesia's Anti-Corruption Laws (1999 and 2001) criminalize eight types of corruption, that are (1) unlawful enrichment resulting the government financial loss (Articles 2 and 3); (2) bribery of public officials (Article 5); (3) illegal gratuities of public official (Article 11); (4) embezzlement by a public official (Article 8); (5) extortion by a public official (Article 12 e, f, and h); (6) fraud (Article 7); (7) conflict of interest in procurement (Article 12B (1)); (8) destruction of public records.

among these terms. In bribery and extortion offenses, the person who gives money or goods to the public official expects a return (*quid pro quo*) from the public official to misuse their duty for the benefit of the giver. For example, an individual gives money to the policeperson at the Traffic Unit with the aim of passing a driving test to get a driver's license. In this case the giver does not expect an exchange of money when they give an illegal gratuity to the public official. Common examples are giving a "thank you gift" to the public official after winning public procurement tender.[42] In addition to the difference of intent, these three offenses differ whether the offence is initiated by the public official and involves a threat (extortion) or by the private party and without involving a threat (bribery and illegal gratuity).

The primary topic explored in this dissertation is the Indonesian anti-corruption policies, i.e., a set of institutions, systems, regulations, and programs that the government undertakes to combat and curb any of the types of corruption mentioned above.[43] The Indonesian government employs the three-pronged approach, namely law enforcement, prevention, and education strategies, to implement the anti-corruption policies.[44] To enforce anti-corruption laws (1999 and 2001), the government created the KPK and the Anti-Corruption Court. The government also enacted the Procurement Law, Freedom of Information Law, and Public Service Law to develop transparency and accountability in the system to prevent corruption. Several institutions, such as the Information Commission, Ombudsman, and National Procurement Agency were created by the government to implement prevention strategies.

---

[42] The Hague Academy for Local Governance, "Tackling Illegal Gratuity in Indonesia ," accessed July 27, 2024, https://thehagueacademy.com/story/alumni-story-tackling-illegal-gratuity-in-indonesia/.

[43] There are three definitions of policy that I found useful to frame this definition. First, Subarsono defined public policy as a policy made by the government or elected official in a specific sector, such as health, transportation, and other sectors. Second, Peters defined policy as "the set of activities that the governments engage in for the purposes of changing society and economy." Third, the U.S. Center for Disease Control and Prevention provides a more practical definition of policy that is "a law, regulation, procedure, administrative action, incentive, or voluntary practice of governments and other institutions. Policy decisions are frequently reflected in resource allocations." see B. Guy. Peters, Advanced Introduction to Public Policy, 2nd ed. (Cheltenham: Edward Elgar Publishing, 2021), 1; Centers for Disease Control and Prevention (CDC), "Definition of Policy," Retrieved February (from University Press, May 29, 2015), http://www.cdc.gov/od/ocphp/nphpsp/EssentialPHServices.htm; AG. Subarsono, Analisis Kebijakan Publik (Yogyakarta: Pustaka Pelajar, 2012), 2.

[44] This approach was inspired by the success and experience of Hong Kong ICAC in combating corruption, see United Nations Office on Drugs and Crime (UNODC), "Petter Langseth," United Nations Office on Drugs and Crime (UNODC), 2003, 4, https://www.unodc.org/pdf/crime/corruption/UN_Guide.pdf; Rob Mccusker, "Review of Anti-Corruption Strategies: Technical and Background Paper" (Canberra, 2006); D G Jeaffreson, "The Importance of a Three-Pronged Attack on Corruption and an Assessment of Its Effectiveness," Police Studies: The International Review of Police Development 12, no. 4 (1989): 150–53, https://heinonline.org/HOL/P?h=hein.journals/polic12&i=163; Michael Johnston, "It Takes a Whole Society: Why Hong Kong's ICAC Cannot Succeed Alone," Public Administration and Policy 25, no. 2 (August 16, 2022): 109–23, https://doi.org/10.1108/PAP-05-2022-0042/FULL/PDF.

These institutions also conduct anti-corruption training and education programs to increase public awareness.[45]

Anti-corruption policies and organizations were set up and implemented during the *Reformasi*—or reform—period after the collapse of authoritarian military Soeharto regime in 1998.[46] Some scholars have observed and commented that Indonesia's reform efforts have gone off track.[47] For instance, Lindsey claimed that *"Reformasi* is history" with the weakened KPK and more repressive government.[48] In addition, Baker argued that the *Reformasi* has reversed because of the elite's effort to set back some key *Reformasi* agendas on anti-corruption, human rights, and rules of law.[49] Therefore, I use the term "Post-*Reformasi,*" coined by Lindsey, to define the anti-corruption policies under the Joko-Widodo administration.[50]

An adequate budget allocation has been referred to as one of key factors for a government to implement strategies, policies, and programs.[51] However, governments have diverse policies with different goals, and they have the task of allocating resources to implement such diverse polices.[52] One of the indicators to assess this allocation is efficiency,[53] that is when the adopted policies result in positive net benefits.[54] Thus, efficiency occurs when resources allocated for implementing policies reach a socially optimal point that maximizes overall social welfare.[55] The benefit-cost analysis is a method to assess the efficiency of a policy (or policy alternatives).[56]

---

[45] Pusat Edukasi Anti Korupsi, "Trisula Strategi Pemberantasan Korupsi KPK Untuk Visi Indonesia Bebas Dari Korupsi - ACLC KPK," Pusat Edukasi Anti Korupsi Komisi Pemberantasan Korupsi, May 11, 2022, https://aclc.kpk.go.id/aksi-informasi/Eksplorasi/20220511-trisula-strategi-pemberantasan-korupsi-kpk-untuk-visi-indonesia-bebas-dari-korupsi.

[46] Geoffrey Hainsworth, Sarah Turner, and David Webster, "Introduction: Indonesia's Democratic Struggle: Reformasi, Otonomi and Participasi," *Asia Pacific Viewpoint* 48, no. 1 (April 1, 2007): 41–46, https://doi.org/10.1111/J.1467-8373.2007.00328.X.

[47] Rachael Diprose, Dave McRae, and Vedi R. Hadiz, "Two Decades of Reformasi in Indonesia: Its Illiberal Turn," *Journal of Contemporary Asia* 49, no. 5 (October 20, 2019): 691–712, https://doi.org/10.1080/00472336.2019.1637922.

[48] Tim Lindsey, "Post-Reformasi Indonesia: The Age of Uncertainty," Indonesia at Melbourne, 2018, https://indonesiaatmelbourne.unimelb.edu.au/post-reformasi-indonesia-the-age-of-uncertainty/.

[49] Jacqui Baker, "Reversing Reformasi," New Mandala, December 13, 2023, https://www.newmandala.org/reversing-reformasi/.

[50] Lindsey, "Post-Reformasi Indonesia: The Age of Uncertainty."

[51] Kevin B. Smith and Christopher W. Larimer, The Public Policy Theory Primer, The Public Policy Theory Primer, Third Edition, 3rd ed. (New York: Taylor and Francis, 2017), 174.

[52] John Peter, Analyzing Public Policy, Analyzing Public Policy, 2nd ed. (London: Taylor and Francis, 2012), 1.

[53] Another indicator is equity. See Chapter 3 on the literature review of benefit-cost analysis and some criticism regarding the utilitarian value underpinning it.

[54] Boardman et al., Cost-Benefit Analysis: Concepts and Practice, 33.

[55] I. Papanicolas and P. C. Smith, "Theory of System Level Efficiency in Health Care," in *Encyclopedia of Health Economics*, ed. AJ Culyer (Elsevier, January 1, 2014), https://doi.org/10.1016/B978-0-12-375678-7.00203-0.

[56] Boardman et al., Cost-Benefit Analysis: Concepts and Practice, 28.

III. Literature Review

The literature relevant to this study can be broken down into three categories, which I will briefly explain in this section. The first is the economic analysis of law as the underpinning framework that will be used in this dissertation. This is a vast and multidisciplinary body of literature, but I will limit the discussion to criminal enforcement. The second reviews the literature on comparative legal research in the law and development field, which also covers a broad range; thus, I will divide and discuss these two topics in more detail in Chapter 3. The third highlights the existing literature and the gap related to the benefit-cost analysis, especially as it pertains to anti-corruption policies. A more detailed discussion of the function and limitations of BCA will be presented in Chapter 3.

A. Economic Analysis of Law

The economic analysis of law assumes actors are rational agents who pursue to maximize net benefit with every given opportunity.[57] Punishment as a tool to deter someone from committing a crime, rather than to seek retribution for their wrongdoing, should be severe and yet proportional to the crime.[58] Becarria asserted that promptness and certainty are important for the effectiveness of punishment, and that this would have a deterrent effect.[59] Becker then developed the argument by stating that offenders are rational individuals who deliberately assess the benefit of committing a crime as larger than the probability of apprehension and the severity of punishment.[60] This rational choice theory is useful for analyzing corporate crime and corruption, particularly bribery and extortion[61].

Enforcing criminal law is costly; therefore, policymakers should consider other cost-effective options that could prevent harm but incur fewer costs for society.[62] A criminal

---

[57] Hal R. Varian, Intermediate Microeconomics: A Modern Approach, ed. Jack Repcheck, 8th ed. (New York: W.W. Norton & Company, 2010); Kenneth G Dau-Schmidt, "An Economic Analysis of the Criminal Law as a Preference-Shaping Policy," Duke Law Journal 1990, no. 1 (February 1990): 1–38, 4.
[58] Cesare Beccaria, *On Crimes and Punishments.*, Library of Liberal Arts (Bobbs-Merrill) 107 (Indianapolis: Bobbs-Merrill, 1963).
[59] Beccaria, On Crimes.
[60] Gary S Becker, "Crime and Punishment: An Economic Approach," *Journal of Political Economy* 76, no. 2 (March 1968): 169–217, https://about.jstor.org/terms.
[61] Raymond Paternoster and Sally Simpson, "A Rational Choice Theory of Corporate Crime.," in Routine Activity and Rational Choice., Advances in Criminological Theory, Vol. 5. (Piscataway, NJ, US: Transaction Publishers, 1993), 37–58; Lindsey D Carson, "Deterring Corruption: Beyond Rational Choice Theory," SSRN Electronic Journal, no. December 2014 (2014), https://doi.org/10.2139/ssrn.2520280; Susan Rose-Ackerman, "The Law and Economics of Bribery and Extortion," Annual Review of Law and Social Science 6 (2010): 217–38, https://doi.org/10.1146/annurev-lawsocsci-102209-152942.
[62] Roger Bowles, Michael Faure, and Nuno Garoupa, "The Scope of Criminal Law and Criminal Sanctions: An Economic View and Policy Implications," Journal of Law and Society 35, no. 3 (2008): 389–416.

justice policy viewed through an economic lens addresses problems about allocating public resources to capture and prosecute defendants.[63] The fundamental element of the economic analysis is to allocate scarce resources such as budget, staff, and infrastructure to achieve a more reasonable target. Because of these limited resources, the allocation of resources is considered efficient "if it creates more benefit than costs overall."[64]

From the economic analysis point of view, imposing monetary sanctions is arguably less costly compared to imprisonment.[65] Such sanctions are low in cost to enforce and transfer resources from the offender to the government.[66] Therefore, one of the research questions and the chapters below discuss the collection of monetary sanctions from defendants convicted of crimes of corruption (the defendant).[67]

There is a need for benefit-cost analysis in the lawmaking process because, according to public choice theory scholars, it can scrutinize law enforcement agencies' gains and then discover more efficient policies.[68] These agencies consist of workers who are not always benevolent and are sometimes interested in rationally maximizing their own benefit.[69] Law enforcement agencies also play a part in shaping criminal justice policy.[70] In any democratic country, lawmakers invite law enforcement agencies to express their recommendations on a particular policy. Their opinion is not only expressed in the formal hearing but also in the news as a way to influence public opinion. In other words, law enforcement agencies as bureaucracies have a vested interest in promoting the social importance of their work and minimizing the risks that flow from failing as a way of growing their own institutional budget, workforce, and prestige.The economic analysis is a useful framework to assess law

---

[63] A. Mitchell Polinsky and Steven Shavell, "The Economic Theory of Public Enforcement of Law," *Journal of Economic Literature* 38, no. 1 (2000): 45–76, https://doi.org/10.1257/jel.38.1.45.
[64] Ward Farnsworth, The Legal Analyst: A Toolkit for Thinking about the Law (Chicago: University of Chicago Press, 2007).
[65] Becker, "Crime and Punishment: An Economic Approach"; A Mitchell Polinsky and Steven Shavell, "The Optimal Use of Fines and Imprisonment," *Journal of Public Economics* 24, no. 1 (June 1, 1984): 89–99.
[66] Polinsky and Shavell, "The Optimal Use of Fines and Imprisonment"; Becker, "Crime and Punishment: An Economic Approach"; Careful attention should be paid on how to measure social benefit or welfare because it could be more than just economic factors. A society might value equity more than efficiency. In today's society, a reduction of efficiency is justifiable as long as it promotes equity to great number of people, see Jeffrey M. Perloff, Microeconomics, 8th ed. (New York: Pearson, 2018).
[67] See Chapter 6 for the discussion about monetary sanctions, factors that prosecutors and judges use to determine the sanctions, and factors contributing to payment (or non-payment).
[68] Francesco Parisi, "The Perspective of Law," in *Readings in Public Choice and Constitutional Political Economy*, ed. Charles K. Rowley and Friedrich G. Schneider (Boston MA: Springer, 2008), 227–63, https://doi.org/10.1007/978-0-387-75870-1_15.
[69] Charles K. Rowley, "Public Choice and Constitutional Political Economy," in *Readings in Public Choice and Constitutional Political Economy*, ed. Charles K. Rowley and Friedrich G. Schneider (Boston, MA: Springer, 2008), 3–29, https://doi.org/10.1007/978-0-387-75870-1_1.
[70] Michael C Campbell, "Politics, Prisons , and Law Enforcement : An Examination of the Emergence of 'Law and Order''' Politics in Texas,'" Law & Society Review 45, no. 3 (2011): 631–65.

enforcement agencies' work, especially by providing information about how they use their constrained resources and what incentives might be influencing their work.[71]

B. Comparative Legal Research in Law and Development

In the law and development field, scholars and practitioners frequently apply functionalist comparative legal research to analyze foreign legal institutions and rules appropriate to address the societal problems in developing countries.[72] This functionalist approach assumes different societies might face similar problems (*praesumptio similitudinis*), and one must have a legal system that addresses the problems.[73] For instance, the creation of anti-corruption agencies in many countries, including Indonesia, was influenced by the success of the Hong Kong Anti-Corruption Agencies (ICAC).[74]

Nevertheless, most comparative law and law and development scholars argue that successful legal transplants will require a law-in-context method to assess and ensure the adherence of proposed legal reforms to the existing legal system and culture.[75] One of the techniques that they could utilize is BCA, which helps to contextualize such economic factors as the cost to implement the legal reforms and the benefit from implementing such reforms.[76] They could also use BCA to assess the efficiency of legal transplant projects.[77] According to Mattei, the law and economics can supplement the technique by examining what laws from other countries would be efficient to adopt.[78] This technique could potentially result in more significant cost savings of the government's resources from unnecessary legal reform that would likely fail. BCA potentially helps comparative law scholars and law and development

---

[71] Nuno Garoupa, "An Economic Viewpoint of Criminal Systems in Civil Law Countries," in *Law and Economics in Civil Law Countries*, ed. Bruno Deffains and Thierry Kirat (Amsterdam: JAI Press, 2001), 199–215, https://doi.org/10.4324/9780203505656.

[72] Mathias Siems, "Comparative Law," in Comparative Law, 3rd ed. (Cambridge: Cambridge University Press, 2022), 401.

[73] Ralf Michaels, "The Functional Method of Comparative Law," in The Oxford Handbook of Comparative Law, ed. Mathias Reimann and Reinhard Zimmermann, 2nd ed., 2019, 345–89, https://doi.org/10.1093/oxfordhb/9780198810230.001.0001; Konrad Zweigert and Hein Kötz, Introduction to Comparative Law (Clarendon Press ; Oxford University Press, 1998).

[74] Sofie Arjon Schütte, "Against the Odds: Anti-Corruption Reform in Indonesia," *Public Administration and Development* 32, no. 1 (February 2012): 38–48, https://doi.org/10.1002/pad.623.

[75] Cynthia Alkon, "Lost in Translation: Can Exporting ADR Harm Rule of Law Development," Journal of Dispute Resolution 165, no. 1 (2011): 165–87; Mark Van Hoecke, "Methodology of Comparative Legal Research," Law and Method, December 1, 2015, https://doi.org/10.5553/REM/.000010; Daniel Berkowitz, Katharina Pistor, and Jean Francois Richard, "The Transplant Effect," The American Journal of Comparative Law 51, no. 1 (January 1, 2003): 163–204.

[76] Peerenboom, Zürn, and Nollkaemper, "Conclusion", 359.

[77] Ugo Mattei, "Efficiency in Legal Transplants: An Essay in Comparative Law and Economics," *International Review of Law and Economics* 14, no. 1 (March 1, 1994): 3–19, https://doi.org/10.1016/0144-8188(94)90032-9.

[78] Ugo Mattei, *Comparative Law and Economics*, *Comparative Law and Economics* (Michigan: University of Michigan Press, 1998), https://doi.org/10.3998/MPUB.11209.

practitioners identify needed resources by estimating the cost to implement the legal transplant project and evaluate the efficiency of such projects.

The economic analysis of law is also an appealing perspective used by such comparative law scholars as Garoupa & Ginsburg, Michaels, and Mattei,[79] and it has also been applied to review Indonesian anti-corruption laws.[80] However, to this date there appears to be no scholarly writing on the economic analysis that applies the BCA technique to review anti-corruption laws in Asian countries, particularly Indonesia.[81]

C. Benefit-Cost Analysis (BCA)

Benefit-cost analysis (BCA) is one of the techniques used to evaluate policy efficiency.[82] BCA is a method to compare the benefits and costs of a policy in monetary terms to help decision-makers choose the efficient allocation of resources to increase social net benefits and achieve social goals. Using BCA could provide valuable insight in identifying and estimating the costs, and assessing the efficiency of a policy project in an international development assistance setting. For instance, the World Bank published a benefit-cost analysis of legal aid to promote access to a justice program.[83] The World Bank's report concluded that the benefit of legal aid outweighs the cost, which justifies the investment.[84] BCA could also capture the population's aggregate preference in a particular country and provide an evidence basis that can help the target country bargain with development assistance donors when the economic cost of the proposed project apparently exceeds the benefit.

BCA has been mentioned for the policymaking process in Indonesia. As a relatively new tool in this country, the BCA method is typically embedded within regulatory impact

---

[79] Nuno Garoupa and Tom Ginsburg, "Economic Analysis and Comparative Law," in *The Cambridge Companion to Comparative Law*, ed. Mauro Bussani and Ugo Mattei (Cambridge: Cambridge University Press, 2012), 57–72, https://doi.org/10.1017/CBO9781139017206.005; Mattei, *Comparative Law and Economics*; Ralf Michaels, "The Second Wave of Comparative Law and Economics?," *Law Journal , Spring* 59, no. 2 (2009): 197–213, https://doi.org/10.3138/utlj.59.2.197.

[80] Rimawan Pradiptyo, "Does Corruption Pay in Indonesia? If So, Who Are Benefited the Most?," MPRA PAper (Munich, September 17, 2012); Andri Gunawan Wibisana and Andreas Nathaniel Marbun, "Corporate Criminal Liability in Indonesia Anti-Corruption Law: Does It Work Properly?," *Asian Journal of Law and Economics*, Asian Journal of Law and Economics, 9, no. 1 (2018), https://doi.org/doi:10.1515/ajle-2017-0029; Rimawan Pradiptyo, " A Certain Uncertainty; Assessment of Court Decisions in Tackling Corruption in Indonesia A Certain Uncertainty; Assessment of Court Decisions in Tackling Corruption in Indonesia 1," MPRA Paper (Munich, 2011).

[81] I will discuss more on the existing literature on the BCA of anti-corruption law, and their limitations, in the next section.

[82] Boardman et al., Cost-Benefit Analysis: Concepts and Practice, 2.

[83] Georgia Harley et al., "A Tool for Justice: The Cost Benefit Analysis of Legal Aid" (Washington D. C., September 23, 2019).

[84] Harley et al.

assessment (RIA).[85] It has attracted attention as part of efforts to reduce the volume and complexity of regulatory rulemaking in Indonesia. Since 2011, the Indonesian Planning and Development Agency (*Bappenas*) has mentioned the need for BCA to synergize the development and budgeting plan.[86] *Bappenas* re-emphasized that BCA was one of the methods that could be used to review the problem of over-regulations in 2013.[87] In 2018, the agency conducted its first BCA to review 47 regulations related to small-micro businesses.[88] However, this analysis overlooked a critical aspect in the BCA textbook, specifically, the sensitivity analysis.[89] In the latest National Medium Term Development Plan 2020-2024, BCA is considered a technique to evaluate the quality and number of regulations needed to support the President's 2020-2024 policies. Still, there is a lack of rigorous steps to conduct a BCA in the regulatory-reform guidance published by the Indonesian National Law Development Agency (*BPHN*).[90]

There have been some attempts to measure the cost and benefit of enforcing Indonesian anti-corruption laws. Pradiptyo estimated the IDR 67.77 trillion (USD 7.28 billion) gap between the total cost of corruption and the total monetary sanctions the judges levied.[91] However, he did not estimate the law enforcement cost. He limited the cost component to the government's embezzled budget and the money paid to public officials as bribes.[92] Moreover, the KPK has also estimated the social cost of a corruption case by calculating the prevention cost, law enforcement cost, and the amount of money defendants received. This cost was then compared to its monetary punishment from nine cases.[93] The results showed that the state finance loss was 543 times more than the court verdicts' conventional calculation. However, this calculation focused only on the law enforcement and prevention cost that the KPK bore and did not estimate other agencies' law enforcement

[85] Ida Bagus Rahmadi Supanca, *Sebuah Gagasan Tentang Grand Design Reformasi Regulasi Indonesia*, (Jakarta: Penerbit Universitas Katolik Indonesia Atma Jaya, 2017).
[86] Biro Hukum Kementerian PPN/Bappenas, "Sinergitas Perencanaan Pembangunan Dan Penganggaran," September 2011, https://jdihn.go.id/files/479/sinergitas_perencanaan_pembangunan.pdf.
[87] Direktorat Analisa Peraturan Perundang-undangan, "Background Study: Pengintegrasian Kerangka Regulasi Dalam RPJMN 2015 – 2019" (Jakarta, 2013).
[88] Staf Ahli Menteri bidang Hubungan Kelembagaan Bappenas, "Laporan Kegiatan Reformasi Regulasi: Analisis Dampak Kebijakan UMKM Untuk Pembangunan Ekonomi" (Jakarta, 2018).
[89] Boardman et al., *Cost-Benefit Analysis: Concepts and Practice*.
[90] Kementerian Hukum dan HAM RI Kepala Badan Pembinaan Hukum Nasional, "PEDOMAN EVALUASI PERATURAN PERUNDANG-UNDANGAN NOMOR PHN-HN.01.03-07" (Jakarta, December 31, 2019), https://bphn.go.id/data/documents/bphn_pedoman_evaluasi_puu_2020.pdf.pdf.
[91] Pradiptyo, "Does Corruption Pay in Indonesia? If So, Who Are Benefited the Most?"
[92] Pradiptyo.
[93] Aida Ratna Zulaiha and Sari Angraeni, "Menerapkan Biaya Sosial Korupsi Sebagai Hukuman Finansial Dalam Kasus Korupsi Kehutanan," *Integritas : Jurnal Antikorupsi* 2, no. 1 (April 23, 2016): 1–24, https://doi.org/10.32697/integritas.v2i1.136.

costs. A comparison between the cost and the monetary sanction was only for a particular case—bribery in the forestry sector—with only nine samples.

Olken undertook a BCA of specific anti-corruption interventions to review different types of programs' efficiency in reducing corruption. He examined more than 600 Indonesian village road projects and found that increasing top-down government audits reduced corruption significantly compared to increasing grassroots participation.[94] He estimated that the net social benefit from the government audit was approximately $250 per village. Although this analysis is valuable to compare the most beneficial anti-corruption program (top-down audit vs grassroots participation), it does not estimate the overall benefits and costs of the Indonesian anti-corruption policies.

BCA studies of anti-corruption policies are also limited outside Indonesia. Most of the publications have calculated the costs that are attributable to crimes of passion, such as murder, rape, and assault.[95] Two studies that may be related are the cost and benefit measurements of white-collar crime conducted in the U.S. and Norway.[96] In one of these studies, Cohen used a contingent valuation (CV) survey to measure the willingness to pay to reduce white-collar crime in the U.S.; the result is that respondents are willing to pay more to reduce a white-collar crime than the actual cost they bear.[97] This CV or stated preference survey is one of the methods used to measure non-market value.[98] This approach "ask[s] questions that help to reveal the monetary tradeoff each person would make concerning the value of goods or services."[99] Contingent valuation is a useful method to measure things that are not traded in the market, and it has been widely used in the environmental area. For instance, this approach had been

[94] Benjamin A Olken, "Monitoring Corruption: Evidence from a Field Experiment in Indonesia," *Journal of Political Economy* 115, no. 2 (2007): 200–249.
[95] Mark A. Cohen, The Costs of Crime and Justice, The Costs of Crime and Justice, 2nd ed. (Routledge, 2020).
[96] Cohen.
[97] Mark A. Cohen, "Willingness to Pay to Reduce White-Collar and Corporate Crime," Journal of Benefit-Cost Analysis 6, no. 2 (2015): 305–24.
[98] Zerbe answered critics of BCA, the lack of moral considerations, by expanding the standard of BCA to include "moral sentiments." Society may prefer to advocate for specific values that are principal for their life, for instance, integrity, transparency, and accountability in the Indonesian anti-corruption context. These values certainly would not be overshadowed by monetary values if the public's preferences toward these values were high. Thus, these values should be considered and measured in the BCA practice to determine the number of resources that the public would like to allocate. Richard O. Zerbe, "Introduction: Economic Welfare Applied to Law with Costly Markets," in Efficiency in Law and Economics, ed. Richard O. Zerbe (Cheltenham: Edward Elgar Publishing, 2014), ix–xxx, https://papers.ssrn.com/abstract=4028023; Richard O Zerbe., "The Legal Foundation of Cost-Benefit Analysis," Charleston Law Review 2 (2007): 93–171.
[99] Richard T. Carson, "Contingent Valuation: A Practical Alternative When Prices Aren't Available," Journal of Economic Perspectives 26, no. 4 (2012): 27–42, 28, https://doi.org/10.1257/jep.26.4.27.

applied to measure the willingness to pay to conserve a wetland in Malaysia.[100] This stated preference method could measure people's willingness to pay for values other than efficiency, such as equity.[101] In Indonesia, no CV has been done to measure any criminal justice policy, including anti-corruption policies.

D. Significance and Contribution: Filling an Empirical and Methodological Gap

i. Intellectual Merit

This dissertation bridges the literature gaps in the economic analysis of law, particularly the BCA of criminal justice policy, using the Indonesian anti-corruption policy as a case study. My goal here is to understand the lack of funding claim as a hindrance to implement Indonesian anti-corruption policies. This dissertation has three parts: (1) assessing the efficiency of budget allocation in implementing the Indonesian anti-corruption policies, (2) understanding the roles of the collection of monetary sanctions from defendants convicted of crimes of corruption play in financing the implementation of Indonesian anti-corruption policies, (3) mapping out future research and policy proposals to improve efficiency of implementing the anti-corruption policies to maximize social welfare and help Indonesia achieve the Indonesia Golden Vision 2045. The findings in this first part provide policymakers and scholars with an economic assessment to better understand the "lack of resources" scapegoat in implementing legal reform projects; in this case, the Indonesian anti-corruption policies. Second, the qualitative findings in the second part suggest that the economic analysis helps us understand the practice and factors regarding the collection of monetary sanctions from the defendants convicted of crimes of corruption. Third, the discussion lays the groundwork for future scholarly contributions focusing on cost-benefit analysis of law and development project, impact evaluation of anti-corruption measures, and the cost-effectiveness of monetary sanctions as forms of punishment.

This dissertation also contributes to a methodological gap in applying BCA for development assistance projects that focus on legal reform. It presents a case study in conducting a BCA of the anti-corruption policy, particularly in Asian countries, where many international development programs on anti-corruption have been adopted and implemented.

---

[100] Mei Kuang Siew et al., "Estimating Willingness to Pay for Wetland Conservation: A Contingent Valuation Study of Paya Indah Wetland, Selangor Malaysia," *Procedia Environmental Sciences* 30 (January 1, 2015): 268–72, https://doi.org/10.1016/J.PROENV.2015.10.048.

[101] Aidan Vining and David L Weimer, "An Assessment of Important Issues Concerning the Application of Benefit-Cost Analysis to Social Policy," *Journal of Benefit-Cost Analysis* 1, no. 1 (2010): 1–40, https://doi.org/10.2202/2152-2812.1013.

The use of BCA in the anti-corruption sector is still in its infancy compared to such other sectors as health and education.[102] In the international development community, anti-corruption demands more BCAs to guide donors, policymakers, grassroots organizations, and experts to "… show when and where fighting corruption is the smart thing to do—and how best to do it."[103] This lack of BCA application in the law and development project, especially anti-corruption, lends this research the opportunity to fill in and add to the literature as well as providing an analytic tool for host governments, such as Indonesia's , to craft better-budgeted solutions to longstanding policy challenges.

In addition, this dissertation combines the BCA with the qualitative inquiry to ". . . enrich the economic evaluations with detailed, context-specific information" by providing a meaningful explanation of the benefit-cost analysis result.[104] This inquiry serves as a case study that combines BCA with qualitative research methodology to contextualize the BCA results better, particularly the practice and factors that contributed to the low collection of monetary sanctions.

ii. Broader Impact

This dissertation could provide a framework to conduct a BCA of a criminal justice policy that would benefit Indonesian policymakers. Benefit-cost analysis has been regularly considered for the policymaking process in Indonesia. However, BCA publications in Indonesia have limitations, as discussed in the previous section. These limitations offer this research the opportunity to provide a case study to conduct a BCA of criminal justice policy, from designing the study, collecting data, and administering a contingent valuation survey to analyze the results. Finally, this dissertation could support the Indonesian parliament and stakeholders in revising the anti-corruption law. After ratifying the United Nations Convention Against Corruption (UNCAC) in 2006, Indonesia has not updated its anti-corruption law accordingly. The benefit-cost and the qualitative findings regarding the collection of monetary sanctions could enrich the legislation process in reformulating the sanctions for the crime of corruption defendants.

---

[102] Jesper Johnsøn, "Cost-Effectiveness and Cost-Benefit Analysis of Governance and Anti-Corruption Activities," U4 Issue (Bergen, December 2014), www.U4.no.
[103] Johnsøn, 28.
[104] Alex R. Dopp et al., "Mixed-Method Approaches to Strengthen Economic Evaluations in Implementation Research," Implementation Science 14, no. 2 (January 11, 2019): 1–9, 1, https://doi.org/10.1186/S13012-018-0850-6/TABLES/2.

IV. Structure of the Study

This study is a systematic inquiry to examine (1) the efficiency of budget allocation in implementing Indonesian anti-corruption policies; and (2) the roles the collection of monetary sanctions from defendants convicted of crimes of corruption play in financing the implementation of Indonesian anti-corruption policies. This dissertation uses the Indonesian anti-corruption policies as a case study to explore how the social BCA is conducted and utilized for legal transplant projects. Following the BCA results, this dissertation applies qualitative methods to provide nuances and understanding of the practice and factors contributing to the collection of monetary sanctions.

A. Choice of Indonesia

This dissertation uses Indonesia as a case study for two reasons. First, Indonesia is experienced in enacting new laws and creating new institutions with substantial support from International Development Agencies (IDOs or donors).[105] Designing and developing institutions to implement an anti-corruption agenda became one of the legal reform priorities during the *Reformasi* or after the Asian Financial Crisis and the collapse of the Soeharto regime in 1998.[106] Creating new institutions with the support of IDOs is a similar experience (or experiment) to other countries transitioning from authoritarian regimes or financial crises, such as countries in Eastern Europe, Afghanistan, and Uganda.[107] The research questions in this study elaborated below could be applied to other developing economies, because inadequate national resources and reliance on donor support (IDOs) do not only occur in Indonesia. These are also inadequate resources for countries where IDOs support the rule of law assistance programs, including anti-corruption. In Zambia, Malawi, Tanzania, and Uganda, for example, anti-corruption agencies did not receive sufficient budgets and

[105] Juwono, "The Partner in Prosecuting Crime: The Role of International Organization in Setting Up Corruption Eradication Commission in Indonesia."
[106] Hannah McGuire, "Indonesian Law Reform and the Promotion of Justice: An Analysis of Law Reform in the Post-Soeharto Period," Brawijaya Law Journal 3, no. 1 (June 6, 2016): 60–78, https://doi.org/10.21776/UB.BLJ.2016.00301.04.
[107] Roger Tangri and Andrew M. Mwenda, "Politics, Donors and the Ineffectiveness of Anti-Corruption Institutions in Uganda," *The Journal of Modern African Studies* 44, no. 1 (March 2006): 101–24, https://doi.org/10.1017/S0022278X05001436; Luís de Sousa, Barry Hindess, and Peter Larmour, eds., *Governments, Ngos and Anti-Corruption The New Integrity Warriors* (New York: Routledge, 2009); Jon Eddy, "Rule of Law in Afghanistan: The Intrusion of Reality," *Journal of International Cooperation Studies* 17, no. 2 (December 2009), https://www.research.kobe-u.ac.jp/gsics-publication/jics/eddy_17-2.pdf; Geoffrey Swenson, "Why U.S. Efforts to Promote the Rule of Law in Afghanistan Failed," *International Security* 42, no. 1 (July 1, 2017): 114–51, https://doi.org/10.1162/ISEC_A_00285.

competent staff. [108] A lack of resources is also a significant issue for the failure of anti-corruption courts in Uganda and Ukraine.[109]

Second, I am an Indonesian who has been researching and involved in such law and development projects as anti-corruption, judicial reform, and access to justice since 2011.[110] I have been playing the role of "participant-observer" in these sectors and hearing complaints about the "lack of budget" as the major obstacle in implementing any reform agenda, including anti-corruption. For instance, I spoke and attended the conference on "The (Prosecutor's) Challenges in Prosecuting Corruption Cases and the Existence of Anti-Corruption Court" held by the AGO in May 2019. The conference aimed to advocate an increased budget for corruption prosecution, beginning with a dramatic video illustrating the prosecutor's efforts. The prosecutors needed to take a boat or travel through a muddy roads to go to the anti-corruption court in the provincial capitals. These facts make me invested in contributing to this topic by providing findings related to the allocation of resources and efficiency by conducting a benefit-cost analysis of implementing the Indonesian anti-corruption policies. Moreover, with my background, Indonesia is a fruitful research site because I understand the language needed to elicit data from respondents by administering the survey and semi-structured interviews, and I have networks that can help me navigate the data-collection process.

B. Research Questions

There are three higher-order research questions in this dissertation that I will be answering with mixed-methods research by using different data collection methods (collecting official documents, surveying the public, and interviewing criminal justice actors) and analysis techniques (quantitative and qualitative). Chapter 2 will cover a more detailed discussion regarding the methodology and methods that I used in this dissertation. For this

[108] R. Alan Doig, David Watt, and Robert Williams, "Why Do Developing Country Anti-Corruption Commissions Fail to Deal with Corruption? Understanding the Three Dilemmas of Organisational Development, Performance Expectation, and Donor and Government Cycles," *Public Administration and Development* 27, no. 3 (August 1, 2007): 251–59, https://doi.org/10.1002/PAD.452.
[109] David Vaughn and Olha Nikolaieva, "Launching an Effective Anti-Corruption Court: Lessons from Ukraine," U4 Practice Insight (Bergen, 2021), https://www.u4.no/publications/launching-an-effective-anti-corruption-court; Lindsey Carson, "Institutional Specialisation in the Battle against Corruption: Uganda's Anti-Corruption Court," *The Public Sphere: Journal of Public Policy* 3, no. 1 (2015): 13–25, https://psj.lse.ac.uk/articles/24.
[110] In Chapter 2, there will be more discussion regarding my background and experience that motivated me to conduct this research.

research, I ask three higher-order questions and several lower-order questions, which are discussed and addressed in the study's chapters, as outlined below.

1. How efficient is the allocation of budgets in implementing the Indonesian anti-corruption policies?
   a. How suitable is BCA as a method to assess the efficiency of the enforcement of legal policy, including the implementation of Indonesian anti-corruption policies? What are the functions and limitations of the BCA method? (Chapter 3)
   b. What is the resourcing challenge created by the multilateral push for anti-corruption measures in Indonesia after 1997? (Chapter 4)
   c. How do we assess the current state of resourcing for Indonesian anti-corruption policies? (Chapter 4)
   d. What are the costs and benefits of enforcing Indonesian anti-corruption policies from a fiscal perspective? (Chapter 5)
   e. What are the costs and benefits of enforcing Indonesian anti-corruption policies from a societal perspective? (Chapter 5)

2. What role does the collection of monetary sanctions from corruption convictions play in financing the implementation of Indonesian anti-corruption policies?
   a. How much does the government collect in monetary sanctions from corruption convictions compared to the enforcement cost? (Chapter 5)
   b. How are the monetary sanctions determined by the prosecutor and judge? What factors influence prosecutors and judges in determining monetary sanctions? (Chapter 6)
   c. What factors contribute to the payment and collection of monetary sanctions from defendants convicted of crimes of corruption? (Chapter 6)
3. What does a cost-benefit analysis of corruption crime enforcement suggest about more efficient and effective ways to use anti-corruption efforts for economic and social gains in Indonesia? (Chapter 7)

C. Chapter Outline

i. Chapter 2: Research Methodology and Methods

This chapter explains the methodology and steps that I have taken to answer two research questions in this dissertation. I used pragmatism and economic analysis of law as my research methodology and paradigm. I answered these questions using a mixed-methods research design and different data collection methods and analysis techniques. I elaborate on the data collection method I used, such as collecting official documents, surveying the public, and interviewing criminal justice actors. In this chapter, I also explain the quantitative and qualitative analysis plans for the collected data. Furthermore, I discuss the ethical

consideration of two data collection methods, namely semi-structured interviews and contingent valuation surveys.

ii. *Chapter 3: Utilizing the Benefit-Cost Analysis for Comparative Legal Research in the Law and Development Arena*

This chapter discusses literature on law and development, comparative legal research, and benefit-cost analysis (BCA), aiming to explain the foundations and gaps in these three areas of scholarship to make a case for the application of BCA in assessing law and development projects. The law and development and comparative legal research literature have highlighted the importance of considering the efficiency of legal reform (or transplants) projects in developing countries. This chapter answers the questions: What method is available to assess the efficiency of legal policies, including the implementation of Indonesian anti-corruption policies? What are the functions and limitations of this method?

iii. *Chapter 4: Development of Indonesian Anti-Corruption Policies in the Reformasi and the Challenges in the Post-Reformasi Period.*

This chapter introduces the readers to the dissertation topics by describing institutions, systems, regulations, and efforts to prevent and curb corruption in Indonesia as mandated by the TAP MPR XIII/2001 above and supported by IDOs or donors. This chapter describes the Indonesian anti-corruption policies during the *Reformasi* period, including the newly created institutions that implemented these policies. The description justifies some of the institutions mentioned in this chapter in measuring the costs addressed in Chapter 5. This chapter will also highlight the IDOs' role and involvement in creating these institutions to illustrate that they are part of law and development/anti-corruption projects. This chapter answers the questions: What is the resourcing challenge created by the multilateral push for anti-corruption measures in Indonesia after 1997? How do we assess the current state of resourcing for Indonesian Anti-Corruption policies?

iv. *Chapter 5: Benefit-Cost Analysis of Enforcing Indonesian Anti-Corruption Laws*

In this chapter, I measure the cost and benefit of implementing Indonesian anti-corruption policies. This BCA of enforcing the Indonesian anti-corruption laws is an *in media res* analysis, because I measured the ongoing anti-corruption laws to evaluate the efficiency of their implementation to provide input for policymakers to reallocate the resources or

reformulate the laws.[111] There are two perspectives from which to measure the benefit and cost of enforcing anti-corruption policies: 1) governmental, and 2) societal. In analyzing the social BCA, I conduct a sensitivity analysis with Monte Carlo Simulation to address the uncertainties regarding the costs I collected and estimated. In this chapter, I also discuss the implications of the BCA results from both government and social perspectives. From the fiscal or governmental perspective, this chapter answers the questions: What are the costs and benefits of enforcing the Indonesian anti-corruption policies from the fiscal perspective? How much does the government collect in monetary sanctions from convictions compared to the enforcement cost?

From the societal perspective, this chapter answers the question: What are the costs and benefits of enforcing the Indonesian anti-corruption policies from the societal perspective?

v. Chapter 6: Factors Contributing to the Collection of Monetary Sanctions from Defendants Convicted of Crimes of Corruption.

This chapter provides a more nuanced, comprehensive, and actionable explanation of the practice and factors contributing to the (lack of) collection of monetary sanctions. This chapter answers the question: What factors contribute to payment and collection of monetary sanctions from defendants convicted of crimes of corruption?

The first section addresses the factors the prosecutor and judge use to determine the monetary sanctions sentenced to defendants convicted of crimes of corruption. These factors influence how low or high monetary sanctions are sentenced and decided upon. This section is divided into three subsections to discuss factors for each type of monetary sanction: fines, restitutions, and assets forfeiture. The second section answers the main question to understand the BCA result on monetary sanctions: What factors contribute to the payment and collection of monetary sanctions? Previous literature referred to the defendant's inability to pay as a factor for the low rate of fines and restitution payment, and the prosecutor faced many challenges in tracing and seizing assets as a factor for the low collection of asset forfeiture. The chapter concludes with policy implications, including raising three possible avenues for reforming Indonesian anti-corruption policies that could lead to a higher collection of monetary sanctions from defendants convicted of crimes of corruption.

[111] Boardman et al., *Cost-Benefit Analysis: Concepts and Practice*.

vi. Chapter 7: Conclusion

This chapter summarizes the entire dissertation and highlights the key findings from the BCA results and qualitative inquiry. This chapter answers the question: What does a cost-benefit analysis of corruption crime enforcement suggest about more efficient and effective ways to use anti-corruption efforts for economic and social gains in Indonesia? In addition, it discusses the contribution this dissertation makes to the existing literature and policy-making process. Moreover, this chapter explores topic suggestions for future research and policy. Finally, this chapter explains the limitations of this research related to the applicability of its findings.

Chapter 2: Research Methodology and Methods

I. Introduction

This chapter starts by explaining the research philosophy and design for answering the research problem and questions. In Section II of this chapter, I described pragmatism and economic analysis of law as my research methodology and paradigm. As mentioned in Chapter 1, this dissertation asks three higher-order questions, with several lower-order questions, which are discussed and addressed in the study's chapters, as outlined below.

1. How efficient is the allocation of budgets in implementing the Indonesian anti-corruption policies?
    a. What method is available to assess the efficiency of law and development project, including the implementation of Indonesian anti-corruption policies? What are the functions and limitations of this method? (Chapter 3)
    b. What is the resourcing challenge created by the multilateral push for anti-corruption measures in Indonesia after 1997? How do we assess the current state of resourcing for Indonesian Anti-Corruption policies? (Chapter 4)
    c. What are the costs and benefits of enforcing the Indonesian anti-corruption policies from the fiscal perspective? (Chapter 5)
    d. What are the costs and benefits of enforcing the Indonesian anti-corruption policies from the societal perspective? (Chapter 5)

2. What role does collection of monetary sanctions from corruption convictions play in financing the implementation of Indonesian anti-corruption policies?
    a. How much does the government collect in monetary sanctions from corruption convictions compared to the enforcement cost? (Chapter 5)
    b. How are the monetary sanctions determined by the prosecutor and judge? What factors influence prosecutors and judges in determining monetary sanctions? (Chapter 6)
    c. What factors contribute to payment and collection of monetary sanctions from defendants convicted of crimes of corruption? (Chapter 6)

3. What does a cost-benefit analysis of corruption crime enforcement suggest about more efficient and effective ways to use anti-corruption efforts for economic and social gains in Indonesia? (Chapter 7)

I answer the three higher-order questions mentioned above using mixed-methods research using different data collection methods (collecting official documents, surveying the public, and interviewing criminal justice actors) and analysis techniques (quantitative and

qualitative).[112] In section III of this chapter, I will first discuss the data collection and analysis that I have taken to answer the first research question. To estimate the costs and benefits from the government perspective, I gathered dozens of government documents, such as Financial Audits, Government Working Plans, Supreme Court Action Plans, and Financial Reports through public information requests and the internet, where the data is publicly accessible. I also analyzed these data to answer question 2.a. To estimate the social benefit, I conducted a contingent valuation survey of 2,114 adults from every province (34 provinces) in Indonesia.**[113]** This survey asked people's willingness to pay to implement and enforce anti-corruption laws, measuring the societal benefit of enforcing the Indonesian anti-corruption policies. This survey has a cross-sectional design with the interviewer administering the questions. This survey employed a stratified random sampling method between August and September 2021 in all 34 provinces in Indonesia. The study was conducted at the national level to generalize results to the Indonesian adult population.

After answering the first question, I developed the second research question to better understand one of the benefit-cost analysis findings: the collection of monetary sanctions. The second research question is: What role the collection of monetary sanctions from the crimes of corruption defendant plays in financing the implementation of Indonesian anti-corruption policies? The initial second research question asked about potential criminal justice reforms to increase the collection of monetary sanctions and reduce the cost of enforcement. However, I was more prepared to answer this normative research question after having a better understanding of the result of the benefit-cost analysis. To answer the second research question, I interviewed 33 Indonesian criminal justice actors during the fall quarter of 2023, from September to December. I employed mixed approaches in coding (closed and open) and analyzing the interview data (content and thematic analysis) by using Atlas.TI24. This second research question and data collection process came later in my dissertation research, so I did not have the opportunity and resources to conduct field research in Indonesia. Thus, I interviewed all my respondents from Seattle virtually via Zoom. I triangulated the interview data with document analysis to improve the validity. I examined such documents as the Attorney General Office and KPK reports and the Attorney General and Supreme Court Guidelines in handling the crimes of corruption cases and laws. For

[112] R. Burke Johnson, Anthony J. Onwuegbuzie, and Lisa A. Turner, "Toward a Definition of Mixed Methods Research," *Journal of Mixed Methods Research* 1, no. 2 (April 1, 2007): 112–33, https://doi.org/10.1177/1558689806298224.
[113] I adapted Cohen's questionnaire on willingness to pay to reduce white collar crime in the U.S., See Cohen, "Willingness to Pay to Reduce White-Collar and Corporate Crime."

example, most respondents said the defendants convicted of crimes of corruption tend not to pay the imposed fines and restitutions. To verify their answers, I reviewed the Attorney General Office and KPK reports that show unpaid fines and restitution data. I will discuss the data collection and analysis strategy in the section IV of this chapter.

After answering the two higher-order questions above, this study asks the third question regarding the contribution and policy recommendation at the end of this dissertation. The question is: What does a cost-benefit analysis of corruption crime enforcement suggest about more efficient and effective ways to use anti-corruption efforts for economic and social gains in Indonesia? I answer the third research question by reviewing literature and documents on the related topics. These topics are: (1) benefit and cost analysis of the law and development or rule of law agenda, especially the Indonesian anti-corruption reforms, and (2) comparative criminal justice studies, particularly regarding sentencing and imposing the monetary sanctions to the convicted defendants.

II. Research Methodology and Design

A. Pragmatism and Economics Analysis of Law

I used pragmatism as my research paradigm to answer the two high-order research questions mentioned above. Pragmatism emerged in the second half of the 19th century with prominent figures from legal scholars such as Oliver W. Holmes Jr. to philosophers such as William James and John Dewey.[114] It emerged as a philosophy and method to settle disputes between empiricism (guided by objective facts), and rationalism (guided by principles and logic).[115] Pragmatism objected to empiricism, which coincides with logical positivism's heavy emphasis on the verifiable and objective empirical facts as "real" knowledge.[116] By citing Charles S. Pierce, Grey explained that it is impossible for empiricists to observe all the facts in the world without setting out the logic and principles to conduct the inquiry.[117] However, the pragmatist also demands rationalists to verify their logic because "reality

[114] R. Ormerod, "The History and Ideas of Pragmatism," *Journal of the Operational Research Society* 57, no. 8 (August 31, 2006): 892–909, https://doi.org/10.1057/PALGRAVE.JORS.2602065.
[115] William James, Pragmatism: A New Name for Some Old Ways of Thinking (Auckland, NEW ZEALAND: Floating Press, The, 2008), 28.
[116] Richard A. Posner, *Law, Pragmatism, and Democracy*, *Law, Pragmatism, and Democracy* (Cambridge, Massachusetts: Harvard University Press, 2003), https://doi.org/10.4159/9780674042292/HTML; J Laird, "Positivism, Empiricism, and Metaphysics," *Roceedings of the Aristotelian Society* 39 (1938): 207–24; John Dewey, *Logic: The Theory of Inquiry* (New York: Henry Holt and Company, 1941).
[117] Thomas C. Grey, "What Good Is Legal Pragmatism?," in Pragmatism in Law and Society, ed. Michael Brint and William Weaver, New Perspectives on Law, Culture, and Society (Boulder: Westview Press, 1991), 13.

should not resist its own realization."[118] In pragmatism, Dewey asserted "the principle of the continuum of inquiry" that "enables a coherent account of the different propositional forms to be given" to answer and understand the problem and question under inquiry.[119]

As a research paradigm, pragmatism focuses on answering ". . . the research problem and question and use[s] all approaches available to understand the problem," that is, the lack of funding claim to not fully implement the Indonesian anti-corruption policies. To answer the research questions and help to better understand the problem under examination, the pragmatic approach allows the researcher to utilize either or both positivistic and constructivist research methodologies.[120] I will discuss below how this dissertation applied both paradigms to answer two different research problems and understand the problem (lack of funding). Thus, pragmatism provides a framework for mixed-methods in social research that acknowledges the utility and contribution of quantitative and qualitative methods to better understand the research problem and questions.[121]

In addition to pragmatism, I applied an economic analysis of law to understand the research problem and question. Economic analyses of law and pragmatism "are thoroughly. . . compatible."[122] Krecké argued that the economic analysis of law ". . . is an intrinsically pragmatic approach" with the goal to understand a problem, question, or phenomena under investigation.[123] In the law and economics literature, this type of analysis is considered to be a positive or descriptive analysis that describes the law and its effect on actors (individuals, firms, and institutions).[124] Economics provides useful theories and methods to predict or evaluate how the law influences these actors' behavior.

The answer to both research questions is a positive analysis by describing the problem under investigation within the economic framework. First, answering how efficient the budget allocation in implementing the Indonesian anti-corruption policies is a positive question that can be answered scientifically by using the technique or method developed by

---

[118] John R. Shook, Pragmatism (Cambridge, Massachusetts: The MIT Press, 2023), 13.
[119] Dewey, Logic: The Theory of Inquiry, iii.
[120] Steve J. Hothersall, "Epistemology and Social Work: Enhancing the Integration of Theory, Practice and Research through Philosophical Pragmatism," *European Journal of Social Work* 22, no. 5 (September 3, 2019): 860–70, https://doi.org/10.1080/13691457.2018.1499613.
[121] Alex Gillespie, Vlad Glăveanu, and Constance de Saint Laurent, *Pragmatism and Methodology: Doing Research That Matters with Mixed Methods*, *Pragmatism and Methodology* (Boston, Massachusetts: Cambridge University Press, 2024), https://doi.org/10.1017/9781009031066.
[122] Richard A Posner, "What Has Pragmatism to Offer Law?," Southern California Law Review 63 (1990): 1670, 1669.
[123] Elisabeth Krecké, "Economic Analysis and Legal Pragmatism," International Review of Law & Economics 4, no. 23 (December 2003): 421–37, 434.
[124] Robert Cooter and Thomas Ulen, Law and Economics, 6th ed. (Boston: Pearson Education, 2016), 3.

the benefit-cost analysis (BCA) discipline or literature.[125] This BCA method guided me in estimating all the costs and benefits related to the implementation of Indonesian anti-corruption policies.[126] The BCA result is a positive analysis that focuses on the monetary values of how much: (1) the Indonesian government allocated the budget to implement Indonesian anti-corruption policies, (2) the Indonesian government collected the monetary sanctions from the crimes of corruption defendants while enforcing the anti-corruption laws, and (3) the public were willing to allocate their taxes to fund the implementation of anti-corruption policies. This first inquiry can be considered to be a positivist or realist approach because it uses quantitative measurement to describe objectively the observable facts regarding those three points mentioned above.[127]

Second, the positive analysis aims to answer the roles the collection of monetary sanctions from the crimes of corruption defendants play in financing the implementation of Indonesian anti-corruption policies. The goal of answering this second research question is to provide more understanding and nuance about such practices. In answering this question, the research design that I used is qualitative, with semi-structured interviews as a data collection method.[128] This second inquiry can be considered as a constructivist approach by using a qualitative research method to draw on respondents' experience to understand the practice in determining and collecting monetary sanctions.[129] This is a positive analysis that describes how actors respond to the incentives and disincentives created by the laws and other circumstances related to the practice of determining and collection of monetary sanctions from the crimes of corruption defendants. Although most of the analysis is framed with the economic analysis of law, I did not bring a predetermined economic framework to collecting the data. This economic analysis of the qualitative data was done after collecting and reviewing the data, because it emerged that most of the respondents' answers reflected an economic view.[130]

---

[125] James K Hammitt, "Positive versus Normative Justifications for Benefit-Cost Analysis: Implications for Interpretation and Policy," *Review of Environmental Economics and Policy* 7, no. 2 (2013): 199–218, https://doi.org/10.1093/reep/ret009.

[126] See further discussion regarding the BCA methods on section 3 of this chapter.

[127] Nancy Pistrang and Chris Barker, "Varieties of Qualitative Research: A Pragmatic Approach to Selecting Methods.," in *APA Handbook of Research Methods in Psychology, Vol 2: Research Designs: Quantitative, Qualitative, Neuropsychological, and Biological.*, ed. Harris Cooper et al. (American Psychological Association, 2012), 5–18, https://doi.org/10.1037/13620-001.

[128] See further discussion regarding the qualitative research, data collection method, and data analysis plan on section 4 of this chapter.

[129] Pistrang and Barker.

[130] I will discuss the process in the section below regarding the qualitative research method that I took to answer the second research question.

This research is also pragmatic because it tries to solve "practical problems in the real world," especially regarding the efficiency of Indonesian anti-corruption policies.[131] The findings and results from the positive analysis provide empirical data, from the document analysis, quantitative BCA, and qualitative research methods, to understand the lack of funding scapegoat in fully implementing the Indonesian anti-corruption policies. This pragmatic and empirical legal research can contribute to the policy-making by (1) revealing gaps, challenges, and problems in implementing the current anti-corruption policies that help policy-makers in identifying the necessary changes in law or legal processes; and (2) understanding the policy problem that does not always need to be addressed by more laws or institutions.[132] While the focus of this dissertation is a positive analysis used to describe and understand the lack of funding claim, it has some normative analysis that discusses and recommends specific policies to improve efficiency in implementing Indonesian anti-corruption policies, as discussed in Chapter 7.[133]

This dissertation could also fall into socio-legal research because it provides empirical findings derived from social sciences methods to answer its two higher-order research questions. The Economic and Social Research Council referred to socio-legal studies as a theoretical and empirical analyses of law and legal processes that is a social phenomenon that has been conducted by lawyers, political scientists, sociologists, economists and social scientists from other disciplines.[134] Banakar and Travers also emphasized socio-legal research "as a clearinghouse or point of exchange for different discipline-based studies about the law" that has a goal to produce empirical research about how the law and legal institutions operate in practice.[135] By combining a pragmatic approach with socio-legal research, this dissertation can be considered to be a realistic socio-legal approach.[136] Tamanaha argued that the realistic

[131] Vibha Kaushik and Christine A. Walsh, "Pragmatism as a Research Paradigm and Its Implications for Social Work Research," Social Sciences 8, no. 9 (September 1, 2019), 4.
[132] Martin Partington, "Empirical Legal Research and Policy-Making," in The Oxford Handbook of Empirical Legal Research, ed. Peter Cane and Herbert M. Kritzer (Oxford University Press, 2012), 1002–24, 1003.
[133] Alessio M Pacces and Louis Visscher, "Methodology of Law and Economics," in *Interdisciplinary Research into Law*, ed. Bart van Klink and Sanne Taekema (Berlin: Mohr Siebeck, 2011), 85–107; Thomas J Miceli, "Economic Models of Law," in *The Oxford Handbook of Law and Economics: Volume 1: Methodology and Concepts*, ed. Francesco Parisi, vol. 1, Oxford Handbooks in Economics (Oxford University Press, 2017), 9–28, https://doi.org/10.1093/oxfordhb/9780199684267.013.003.
[134] Fiona Cownie and Anthony Bradney, "Socio-Legal Studies: A Challenge to the Doctrinal Approach," in Research Methods in Law, ed. Dawn Watkins and Mandy Burton, 2nd ed. (New York: Routledge, 2017), 40–65, 42.
[135] Reza Banakar and Max Travers, "Law, Sociology, and Method," in Theory and Method in Socio-Legal Research, ed. Reza Banakar and Max Travers (Portland: Hart Publishing, 2005), 18, 23.
[136] Brian Z. Tamanaha, Realistic Socio-Legal Theory: Pragmatism and a Social Theory of Law (New York: Oxford University Press, 1997).

approach to socio-legal studies recognizes both positivism and interpretivism to be "… useful and productive in the accumulation of knowledge."[137]

B. Researcher's Experience and Positionality

Reconstructing experience is a principal task in pragmatism,[138] which places human experience as a key and starting point for scientific inquiry.[139] The human experience was constructed from the belief, which developed from prior action. This belief leads to an action, in which the process and outcome of this action are influenced by the prior belief.[140] Morgan, in referring to pragmatist philosopher John Dewey, explained that inquiry ". . . is a process by which beliefs that have become problematic are examined and resolved through action."[141] Therefore, research is a systematic inquiry to produce "warranted assertions" to describe or explain the problematic situation with grounds, warrants, or evidence to support the assertation.[142] We could know more about a problematic situation or belief under examination, and in this dissertation we need to know more about the lack of funding claims in implementing Indonesian anti-corruption policies, and factors contributing to the collection of monetary sanctions as one of the sources of government revenue.

As briefly explained in Chapter 1, I have been playing the role of "participant-observer" in the Indonesian anti-corruption policies. Between 2011 and 2019, I worked at the Indonesia Judicial Monitoring Society Faculty of Law Universitas Indonesia (*Masyarakat Pemantau Peradilan Fakultas Hukum Universitas Indonesia* or MaPPI FHUI). I conducted numerous research and development-implemented programs regarding anti-corruption, criminal justice, and judicial reform issues supported by several IDOs. During my work at MaPPI FHUI, I often heard claims about the "lack of budget" as the major obstacle in implementing any reform agenda, including anti-corruption. My first encounter with this claim was when I worked as a consultant for the Australia-Indonesia Partnership for Justice (AIPJ) to develop the Prosecutorial Commission Regulation in handling public complaints in 2012. After a series of interviews and FGDs with the prosecutorial commissioners, staffs, and stakeholders, one of the

---

[137] Tamanaha, 25, 56.
[138] John Jacob Kaag, "Pragmatism & the Lessons of Experience," *Daedalus* 138, no. 2 (2009): 63–72.
[139] Gregory Pappas, "What Difference Can 'Experience' Make to Pragmatism?," European Journal of Pragmatism and American Philosophy VI, no. 2 (December 20, 2014): 200–227, https://doi.org/10.4000/EJPAP.322.
[140] David L. Morgan, "Pragmatism as a Paradigm for Social Research," Qualitative Inquiry 20, no. 8 (October 1, 2014): 1–9.
[141] Morgan, 3.
[142] Deron R. Boyles, "Dewey's Epistemology: An Argument for Warranted Assertions, Knowing, And Meaningful Classroom Practice," Educational Theory 56, no. 1 (February 1, 2006): 57–68, https://doi.org/10.1111/J.1741-5446.2006.00003.X.

findings was "lack of budget and infrastructure" as one of commission's challenges in handling public complaints.

Another example is the lack of budget complaint from the Attorney General Office (AGO) to investigate and prosecute the crimes of corruption. I first heard this complaint in the Anti-Corruption Forum held by the Transparency International Indonesia in 2012, when the Attorney General proclaimed the AGO's lack of budget.[143] The government and parliament then approved the AGO's proposal to increase the prosecution budget, so it was equal to *Komisi Pemberantasan Korupsi* or KPK's budget.[144] However, I heard another lack of budget complaint from the AGO in 2019, when the AGO invited me to talk at the conference. The conference began by playing a dramatic video illustrating the prosecutor's effort to prosecute corruption. In this video, the prosecutors needed to take a boat or travel through muddy roads to go to the anti-corruption court in the provincial capitals. The conference aimed to advocate an increased budget to prosecute the crimes of corruption, as one of the panelists was the National Planning Agency's director who has the responsibility of planning and proposing the annual budget for the AGO and other law enforcement agencies.

Another example is a lack of budget claim that was also expressed by the Indonesian Supreme Court (MA) regarding the Anti-Corruption Court. The Supreme Court could not establish anti-corruption courts in 500 cities as mandated by the 2009 Anti-Corruption Law due to the lack of budget.[145] The Supreme Court also relied on the IDO's support to develop and strengthen its anti-corruption court system. For instance, I was involved in redeveloping a training module for anti-corruption judges and drafting a Supreme Court Regulation on sentencing guidelines for judges in examining the crimes of corruption cases between 2015 and 2019 with the support from USAID-CEGAH.[146] Law professors, KPK, and the anti-corruption watchdog praised the Supreme Court when it finally issued the sentencing guideline

[143] Basrief Arief, "Penanganan Perkara Tindak Pidana Korupsi Melalui Penerapan At Cost System Suatu Harapan," *Paper Presented at the 3rd Anti-Corruption Forum Held by Transparency International Indonesia* (Jakarta, June 30, 2012).
[144] KPK and AGO have comparable prosecution budget, around IDR 400 million per case, with the exception some AG district offices with geographical challenge such as Papua and Maluku, See Guevarrato et al., "Transformasi Anggaran Kejaksaan RI: Menimbang Efektivitas Implementasi Penganggaran Berbasis Kinerja (PBK)" (Jakarta, 2019), https://seknasfitra.org/wp-content/uploads/2022/03/Buku-TransformasiI-Anggaran-Kejaksaan.pdf.
[145] Further discussion about his in Chapter 4.
[146] Mahkamah Agung Republik Indonesia, "Melalui Perma Nomor 1 Tahun 2020, Mahkamah Agung Intens Berupaya Dalam Menyusun Pedoman Pemidanaan," April 29, 2021, https://www.mahkamahagung.go.id/id/berita/4626/melalui-perma-nomor-1-tahun-2020-mahkamah-agung-intens-berupaya-dalam-menyusun-pedoman-pemidanaan.

in 2020 because it could reduce disparity in sentencing.[147] This experience made me ponder whether the government and Supreme Court did not have budget to fund the research and the drafting of the sentencing guideline; even this guideline had been proposed before and praised after its enactment by various stakeholders in judicial reform and anti-corruption sectors.

One recommendation to solve the lack of budget problem is simply by allocating more budget.[148] However, this simplistic recommendation intrigued me to ask and know more about the existing budget allocation, the empirical and measured justification for budget increase, the number of monetary sanctions collected by the government from the crimes of corruption defendants as one of the sources to increase the budget, and the factors contributing to the payment or non-payment of these monetary sanctions. These experiences and encounters with the "lack of budget" scapegoat and the reliance on IDOs to support anti-corruption programs inspired me to learn more about economic analysis of law and its methodology, especially the benefit-cost analysis, to answers those questions mentioned above. The result of this learning process led me to conduct this dissertation research to publish "warranted assertions" that could help scholars, IDOs, and government agencies in the anti-corruption sectors to know more about the problematic situation discussed above.

III. Measuring the Benefits and Costs of Implementing Indonesian Anti-Corruption Laws

In this section, I discuss the method to conduct the benefit-cost analysis (BCA) of enforcing the Indonesian anti-corruption policies. This BCA is an *in-medias* analysis. I estimated whether it is beneficial for Indonesian taxpayers to fund the ongoing programs to prevent crime and enforce the Indonesian anti-corruption laws.[149] There are two perspectives to measure the benefit and cost of implementing anti-corruption policies: 1) the fiscal or government perspective, and 2) the societal perspective.[150]

[147] Aji Prasetyo, "Ragam Tanggapan atas Finalisasi Pedoman Pemidanaan Perkara Tipikor," May 1, 2020, https://www.hukumonline.com/berita/a/ragam-tanggapan-atas-finalisasi-pedoman-pemidanaan-perkara-tipikor-lt5eabc91c715d7/.
[148] Muhammad Fikri, "Penegak Hukum Riuh Minta Tambah Anggaran: KPK Hingga Polri - Nasional," June 18, 2024, https://www.bloombergtechnoz.com/detail-news/41075/penegak-hukum-riuh-minta-tambah-anggaran-kpk-hingga-polri.
[149] Boardman et al., *Cost-Benefit Analysis: Concepts and Practice*.
[150] Boardman et al.

A. Benefit-Cost Analysis from a Fiscal or Government Perspective

First, the benefit and cost calculation from the government perspective is sometimes called "cost-savings" or "fiscal impact analysis."[151] It measures "all governmental revenues, expenditures, and savings that result from a policy or program."[152] This calculation consists of the government costs to prevent crimes of corruption and to enforce against the violator. The government bears the cost of the criminal justice system—police, prosecutors, courts, and correction—to implement the Eradication of the Criminal Act of Corruption Law.[153] In addition to the law enforcement agencies' costs, the Indonesian government created several agencies, such as the Anti-Corruption Agency (KPK) and the Anti-Corruption Court in the spirit of the anti-corruption agenda to support such existing law enforcement agencies as the Attorney General Office and ordinary courts in preventing and enforcing the crime of corruption.

Through freedom of information requests, I collected the Financial Audit (*Laporan Hasil Pemeriksaan* (LHP)) of each agency from 2014 to 2021 that have tasks in preventing and enforcing anti-corruption laws. The Financial Audit is conducted and published by the Indonesian Audit Board (*Badan Pemeriksa Keuangan* (*BPK*)).[154] The 2021 LHP report is the latest financial report that BPK gave me through the freedom of information requests. When I requested the 2022 and 2023 LHPs, the BPK responded that these reports were not available yet.

First, I estimated the law enforcement agencies' cost under the enforcement cost. The law enforcement agencies that deal with crimes of corruption are the National Police, the Attorney General's Office (AGO), and the *Komisi Pemberantasan Korupsi* (KPK). Because the National Police and AGO enforce all types of crimes, I counted only their budgets to investigate and prosecute the crime of corruption.[155] The KPK is responsible for both anti-corruption enforcement and prevention strategies; therefore, I estimated only its cost to investigate and prosecute the crimes of corruption. Moreover, I added the cost that the Centre for Financial Transactions Reporting and Analysis (PPATK) bears to support other law enforcement agencies that investigate and track defendants' money and assets.

---

[151] Henrichson and Rinaldi, "Cost-Benefit Analysis and Justice Policy Toolkit.".
[152] Henrichson and Rinaldi, 6.
[153] Cohen, The Costs of Crime and Justice, 75.
[154] Information about LHP could be seen at https://www.bpk.go.id/laporan_hasil_pemeriksaan
[155] Data on the crime of corruption cases investigated by the Police is available at di https://korlantas.polri.go.id/news/sepanjang-tahun-2021-polri-telah-tangani-247-kasus-korupsi/.

I collected all the costs mentioned above from the 2014-2021 *Laporan Hasil Pemeriksaan* (LHP) published by the Indonesian Audit Board (BPK). The enforcement cost component is not available on the 2015 PPATK's LHP; thus, I used the cost average on the available LHPs and the average for the PPATK 2015 enforcement cost. The cost of court of first instance and court of appeal to examine corruption cases was collected from the 2022-2024 Supreme Court annual budget plan.[156] I used the average of these three years' court costs and assumed that the 2014-2021 costs are the same in real terms. Moreover, I added the costs of the *Sukamiskin* prison (*Lapas Sukamiskin*). Since 2012, the *Sukamiskin* prison is a "special prison" for crimes of corruption inmates.[157] This prison has 381 inmates convicted with such crimes. This number is about 10% of the total of around 4000 corruption inmates.[158] To reflect the total cost of imprisoning corruption inmates, I multiplied the *Sukamiskin* prison by ten (10). I collected these prison costs from the 2014-2021 financial report of the Ministry of Finance.

Second, I calculated the cost of crimes to the government that society bears to "avoid victimization and residual fear of crime."[159] This cost is considered as the anticipation or prevention and educational cost. The Indonesian government has taken preventive measures to eliminate or reduce the opportunities to engage in corrupt behavior by 1) enhancing transparency (wealth disclosure, beneficial ownership, public information law) and 2) enhancing the accountability of law enforcement agencies and other government agencies. Moreover, the educational measures aim to train and change people's values, knowledge, and skills to reduce the demand side of corruption.

Several agencies were established in the spirit of the anti-corruption agenda to prevent the crime of corruption. In the previous chapter and Chapter 4, I described these agencies and the background behind their creation to prevent corruption. These agencies are the Judicial Commission (*Komisi Yudisial*, hereafter KY), Prosecutorial Commission (*Komisi Kejaksaan*), Police Commission (*Komisi Kepolisian Nasional*), Witness and Victim Protection Agency (LPSK), Information Commission (*Komisi Informasi*), Ombudsman, and National Public Procurement Agency (*Lembaga Kebijakan Pengadaan Barang/Jasa Pemerintah*, hereafter LKPP). I also estimated the cost of the Indonesian Audit Board (BPK)

[156] Indonesian Supreme Court, "Rencana Aksi Mahkamah Agung 2022" (Indonesian Supreme Court, 2022), https://www.mahkamahagung.go.id/media/10314.
[157] Indonesia Corruption Watch, "The Corruptor's Prison," March 13, 2018, https://antikorupsi.org/en/article/corruptors-prison#.
[158] Per December 2022, there were 3,463 inmates/convicts and 1,482 suspects (total 4,945) from the crimes of corruption cases, See Ministry of Law and Human Rights General Directorate of Correction, "Data Statistik Pemasyarakatan Tahun 2022 Triwulan IV" (Jakarta, December 2022), https://sdppublik.ditjenpas.go.id/artikel/data-statistik-pemasyarakatan-triwulan-iv-tahun-2022.
[159] Cohen, The Costs of Crime and Justice, 100.

and Indonesia's National Government Internal Auditor (BPKP), because these agencies prevent corruption through regular audits of agencies and government projects. I used a liberal estimate to measure these anti-corruption prevention agencies' costs by assuming 100% of their work for preventing corruption. This liberal estimate avoids underestimating the cost to prevent corruption, since there is no specific budget allocation for corruption prevention work in theirs financial reports.

Moreover, KPK and PPATK also have the task of preventing corruption; thus, I estimated their costs to prevent corruption. Their financial reports specifically categorize prevention and enforcement costs; therefore, I was able to measure the actual enforcement costs from both agencies. I measured the prevention cost from these agencies from 2014-2021 LHPs. In addition, the Indonesian government implemented the National Strategy for Preventing Corruption (*Strategi Nasional Pencegahan Korupsi*, or *Stranas* PK).[160] This strategy is designed to synchronize anti-corruption prevention efforts from all agencies, local governments, and other stakeholders, such as state-owned and private companies.[161] To collect all the costs to implement this anti-corruption strategy, I reviewed the 2024 Government Working Plan (*Rencana Kerja Pemerintah* or RKP) to estimate every program and cost to achieve *Stranas* PK's targets. All the costs and benefits are already in 2024 IDR. To verify that I included all the costs related to the anti-corruption prevention program, I discussed my initial estimation with a former *Stranas* PK staff. I updated the estimation based on his feedback.

To measure the benefit from the fiscal perspective, I estimated the monetary sanctions, such as fines, restitution, and asset forfeiture, as revenues that could benefit the government. Previous publications have relied on the court decision or KPK and AGO's report to estimate the total amount of monetary sanctions.[162] Forcing defendants to pay monetary sanctions based on a court decision can take years. Further, some defendants cannot pay all of the monetary sanctions. In Chapter 6 of my interview findings, I will elaborate on the total amount of and the factors that contributed to the unpaid fines and restitution. I used data from the 2014-2021 Financial Audit published by the BPK to obtain the actual amount the government collected from these monetary sanctions. I adjusted all the above costs and benefits to 2024 IDR to reflect inflation.[163]

[160] I got feedback to include this *Stranas* cost after discussing with a staff worker on the *Stranas* PK Team.
[161] Alvin Nicola et al., "Penguatan Strategi Nasional Pencegahan Korupsi (Stranas PK): Kajian Terhadap Tata Kelola Kelembagaan Dan Mekanisme Partisipasi Masyarakat Dalam Pelaksanaan Peraturan Presiden Nomor 54 Tahun 2018" (Jakarta, 2003).
[162] Zerbe, "Introduction: Economic Welfare Applied to Law with Costly Markets."
[163] I use the inflationtool.com to adjust to the 2024 IDR.

B. Benefit-Cost Analysis from a Societal Perspective

In this societal perspective, standing is given to the adult Indonesian population because they are the taxpayers who fund the implementation of anti-corruption policies.[164] In the BCA context, standing is those population "whose benefits and costs should be counted and included."[165] Social costs consist of the enforcement and prevention costs I measured in the previous section. Society pays these enforcement and prevention costs to the government in their taxes. This section discusses more on the method to measure social benefit through a contingent valuation survey. In the following sub-section, I will discuss the data collection and analysis methods, including the population, questionnaire, and ethical consideration of this contingent valuation survey.

i. Contingent Valuation Survey to Measure Societal Benefit

I conducted a contingent valuation survey to measure the social benefit of implementing and enforcing the Indonesian anti-corruption laws. The survey measures "how much the public expects to benefit" from enforcing Indonesian anti-corruption laws. Implementing Indonesian anti-corruption policies reflects societal values such as integrity, transparency, accountability, and good governance. Thus, this intangible cost/benefit should be considered and measured in the BCA practice to justify and determine the resources the public would like to allocate, the acceptable targets, and the values.[166] If society values the enforcement of anti-corruption laws, their willingness to pay might be high. I will use this contingent valuation (CV) survey to measure things not traded in the market. Researchers in the environmental area have used this survey widely to measure national parks' protection or enforce a strong environmental policy. In this dissertation, the survey will elicit people's willingness to pay for implementing and enforcing anti-corruption laws.

I incorporated my survey questionnaire into the National and Development Agency or *Bappenas'* "Legal Development Survey." *Bappenas* hired a survey consultant from the Demographic Institution at the Economic Department of Universitas Indonesia (LD UI) to administer the survey. I contacted the *Bappenas* and the survey consultant from the Demographic Institution at the Economic Department of Universitas Indonesia that *Bappenas* hired to administer the survey. Both *Bappenas* and LD UI agreed to insert my questionnaire

[164] The requirement to get a Tax Identification is an Indonesia Identification Card (KTP), and KTP can only be given to adult citizen. According to the Indonesian census, total adult population starting from age 20 is 184,296,000 people.
[165] Boardman et al., Cost-Benefit Analysis: Concepts and Practice, 7.
[166] Zerbe, "Introduction: Economic Welfare Applied to Law with Costly Markets."

into their survey. In Summer 2021, I coordinated with the survey consultant to run a pretest for my questionnaire. I expected some revisions on the questionnaire to be more valid and reliable. After testing the questionnaire, I administered the survey with the help of interviewers from the Demographic Institution. They have a national network of enumerators that could administer the in-person survey in every province in Indonesia. Because of collaboration with the Indonesian survey consultant, I did not have to return to Indonesia while administering the survey.

a. Data Collection Method and Implementation

This survey has a cross-sectional design, and the interviewer administered it. A face-to-face survey is desirable to reach a wider population, because only 73% of the Indonesian population has access to the internet, and only 1.6% of Indonesian families still use a landline.[167] The interviewer knocked on the door of the respondent's house in the sample area. The research coordinator provided the talking points. First, the interviewer had in-person conversations to inform the participants about the study and ask their willingness and consent to participate. The interviewer then screened the respondent by asking about their age and health conditions to determine eligibility. In administering the survey, the interviewer and participant wore masks outdoors. Something that was under my control would be the measures for interviewers. The interviewer should not administer the survey if they had COVID-19 symptoms (fever, sore throat, etc.). Each interviewer was tested using the antigen test before the survey. The respondents could stop anytime if they refuse to continue participating in the study. I stored the collected data in a cloud system to prevent loss due to computer problems. I limited access to only the survey consultant and me; the consultant would help me clean and analyze the data.

Because of the pandemic and different locations (US & Indonesia), all the communication and training with and of the interviewers were done online through email, Zoom, or text. The interviewers were recruited from the Demographic Institution at the Faculty of Economics, Universitas Indonesia. This organization has nationwide interviewers

[167] Fadjar Dewanto, "Pengguna Telepon Genggam 78,8%, Pengguna Fixed Line 1,65% - Business Lounge," October 26, 2021, https://www.blj.co.id/index.php/2021/10/26/pengguna-telepon-genggam-788-pengguna-fixed-line-165/; Cindy Muti Annur, "Ada 204,7 Juta Pengguna Internet Di Indonesia Awal 2022," March 23, 2022, https://databoks.katadata.co.id/datapublish/2022/03/23/ada-2047-juta-pengguna-internet-di-indonesia-awal-2022.

who administered the survey. These interviewers have been maintained by and worked for the Demographic Institution for years.

b. Survey Population

The target population is Indonesian adults who are 18 or older and live in Indonesia. The survey employed stratified random sampling between August and September 2021 in all 34 provinces in Indonesia. In each province, the survey asked 60 respondents in an equal proportion to a province's capital city to represent urban areas and one regency (county) to represent rural areas. Then, a district and sub-district for each city and regency was selected randomly. Next, the survey carried out the systematic random selection of individuals in the selected sub-district until the predetermined sample size was reached, which was 60 respondents in a province's capital city and a regency from 34 provinces. This equal proportion avoids bias in the highly-populated islands such as Java and Sumatra. There were 2,114 respondents to this survey, in which the unit of analysis was the individual. The study was conducted at the national level to generalize the results to the Indonesian adult population. Further, this group is more likely to have a tax ID, to work, and to pay taxes. I excluded respondents from ages 18-19 to be able to compare with datasets from The National Statistic Agency's (BPS) Socioeconomic Survey (Susenas), *Survei Angkatan Kerja Nasional* (Sakernas) and Interim Population Projection 2020–2023 (mid-year/June). The comparison can be found in the Table 1 below.

Table 1. Sample Demographics

	Sample (N=2,114)	**Indonesian Adults**
Gender: Male	50.1%	50.2%
Gender: Female	49.9%	49.8%
Education: Elementary School	6.7%	36.8%
Education: Middle School	9.9%	21.7%
Education: High School	49%	30.7%
Education: Higher Education	33.8%	10.8%
Age: 20-34	51.9%	36.3%
Age: 35-44	29.2%	22.3%
Age: 45-54	13.6%	18.7%

Age: 55-64	4.4%	13.1%
Age: 65+	.8%	9.6%
Poor-Aspiring Middle Class (0- IDR 1,200,000)	32.3%	42.8%
Middle Class-Upper Class (> IDR 1,200,000)	67.7%	57.2%

Table 1 reports the demographics of the adult respondents aged 20 and above (N=2,114). The respondents were more likely to be early adults (ages 20-34), have completed a higher education, and have an income higher than the Indonesian population. The sample resembles the proportion of the Indonesian adult population in terms of gender and age 35-44. Next, I weighted the sample based on gender, education, age, and income so that these characteristics were representative of the Indonesian adult population.[168] Based on previous research, several factors, including gender, income, and education, influence an individual's willingness to pay taxes.[169] After weighting, the total sample is 2,636. This increasing number of samples is understandable, because my sample consisted of a low percentage of individuals with a low educational background (6.7% of elementary school and 9.9% of middle school). In comparison, the total Indonesian population with this low educational background is more than 50% (36.8% of elementary school and 21.7% of middle school). Thus, the number of samples in the weighted sample increased to better reflect the Indonesian population. Therefore, my sample and analysis are more likely to be representative of the Indonesian adult population.

c. Questionnaire

I adapted Cohen's questionnaire on willingness to pay to reduce white-collar crime in the US.[170] Cohen conducted a willingness-to-pay survey on crime prevention strategies in the US. He has also published an article on the willingness-to-pay to reduce white-collar crime in the US. I contacted him and discussed my research proposal, and he agreed to share his questionnaire, which helped me to structure my questionnaire more quickly. I then tailored and modified Cohen's work to be appropriate for the Indonesian population and the purposes

[168] I used data from The National Socioeconomic Survey (Susenas) and World Bank, See BPS-Statistics Indonesia Directorate of Social Welfare Statistic, "Ringkasan Eksekutif Pengeluaran Dan Konsumsi Penduduk Indonesia" (Jakarta, 2022); World Bank, "Indonesia | Data," accessed August 8, 2024, https://data.worldbank.org/country/indonesia?view=chart.
[169] Cohen, "Willingness to Pay to Reduce White-Collar and Corporate Crime"; Thalany Kamri, "Willingness to Pay for Conservation of Natural Resources in the Gunung Gading National Park, Sarawak," *Procedia - Social and Behavioral Sciences* 101 (November 2013): 506–15, https://doi.org/10.1016/j.sbspro.2013.07.224.
[170] Cohen, "Willingness to Pay to Reduce White-Collar and Corporate Crime."

of my research. His questionnaire met NOAA's standards for a contingent valuation survey, such as a referendum format, accurate description of the program, "no-answer" option, reminder budget constraint, and follow-up questions.[171]

I tested the questionnaire on five members of the target population, five Indonesian adult individuals. I performed a "cognitive interview" once per individual to develop a questionnaire the subject would understand. Also, I tried the questionnaire with and without the presence of an interviewer. This effort aimed to assess the social-desirability bias and the participant's understanding of the questionnaire. During the questionnaire development process, I found that some participants were skeptical and distrustful of the (perceived) corrupt government, so they refused to make additional payments to the government. They were worried that the government would not manage the additional funds properly, as government corruption occurs in tax and social security services.[172] Therefore, I modified the question by asking the respondent to allocate a certain amount of money that they have paid to the government in taxes to be used to implement and enforce the anti-corruption laws. The actual language in the survey was:

> As an Indonesian citizen, you pay taxes, such as income tax, vehicle tax, land/house tax, or sales tax. Although you do not report all of these taxes that you pay, the government has received tax revenues from every activity you did or transaction that you made.
>
> - Currently, the government is planning to revoke the anti-corruption policies and stop implementing the anti-corruption programs. I want to ask you how much money the government should allocate/distribute from your existing tax (tax that you have paid) to support the continuation of anti-corruption policies.
> - *Remember* that the existing tax that you want the government to allocate to implement anti-corruption policies is the government tax that could otherwise be used for other social programs, such as food subsidy, basic education programs, housing projects, infrastructure, and healthcare.
> - In each case, I will ask you to vote "yes" or "no" to a proposal in Indonesia to support the continuation of anti-corruption policies/programs.

No	Question	Answer
1	Suppose the government stopped these anti-corruption programs, would you be	1. Yes →2 2. No →3 3. Don't Know

[171] Kenneth Arrow et al., "Report of the NOAA Panel on Contingent Valuation," Federal Register 58, no. 10 (1993): 4601–14.

[172] The Jakarta Post, "Cut Your Costs Instead, Antigraft Body Tells BPJS - National - The Jakarta Post," The Jakarta Post, March 20, 2020, https://www.thejakartapost.com/news/2020/03/20/cut-your-costs-instead-antigraft-body-tells-bpjs.html; Laila Afifa, "Another Tax Mega Scandal," Tempo.Co, March 10, 2021, https://en.tempo.co/read/1440952/another-tax-mega-scandal.

	willing to give a mandate to the government to allocate IDR 1,200,000 ($75) **per year** from your existing tax to support the continuation of these anti-corruption policies?	4. Refused to Answer →4

The amount (IDR 1,200,000 or USD 74) was doubled or halved depending upon whether their response was positive or negative. To reflect the preferences revealed to support anti-corruption programs, I used the average donation to Indonesia Corruption Watch (ICW), an NGO that works in the anti-corruption sector, as a reference to develop my questionnaire. The average donation that approximately 170 people made to ICW in 2019-2020 was IDR 1,800,000 (or USD 110) per year (or IDR 150,000 or USD 9 per month). Then, I adjusted the starting number to IDR 1,200,000 (USD 74) per year so the respondents could understand it easily in terms of a monthly expense (IDR 100,000 or USD 6 per month). One criticism of this contingent valuation survey is that the number given could anchor the respondents to a particular number (anchoring effect). The NOAA Panel on Contingent Valuation recommends that researchers use this referendum format (yes/no) and follow up with the specific number (close-ended) to elicit people's willingness to pay.[173] The WTP estimated from the dichotomous choice is affected less than the WTP estimated from open-ended surveys.[174] In addition to the willingness to pay, there are other variables in the questionnaire. These variables are strategies decision, victimization, and perception (see Table 2 below).

Table 2. Questionnaire Variables and Descriptions

Variable name	**Variable Description**	**Item Description**
Willingness to pay	Respondent's willingness to pay for enforcing anti-corruption law.	Measure individual's willingness to pay willingness to contribute or fund the implementation or enforcement of anti-corruption policies. It asks questions that help to reveal the monetary tradeoff each person would make concerning the value of services
Strategies Decision	People's strategies decision to allocate resources between	Respondent are asked to rank his/her preference regarding punishment policy (imprisonment, monetary sanction, or capital

[173] Arrow et al., "Report of the NOAA Panel on Contingent Valuation."
[174] Alok K. Bohara et al., "Effects of Total Cost and Group-Size Information on Willingness to Pay Responses: Open Ended vs. Dichotomous Choice," *Journal of Environmental Economics and Management* 35, no. 2 (March 1, 1998): 142–63, https://doi.org/10.1006/JEEM.1998.1022.

	law enforcement s, prevention, and education strategy.	punishment); prevention strategies (increasing public official salary, disclosing public official's wealth, disclosing public procurement, strengthening supervision from independent agency); education programs (training and education to the public officials, training and education to the businessperson and corporation, training and education to lay people, training and education to the younger generation (students)). Next, the respondents will be given a vignette to situate them as a policymaker. They are asked to allocate a limited budget to several anti-corruption strategies (law enforcement, prevention, education, rebate to local residents).
Victimization	People's experience as a victim of the crime of corruption.	Measure the proportion of persons who had at least one contact with a public official and who paid a bribe to a public official or were asked for a bribe by those public officials, during the previous 12 months.
Perception	People's perception on the government's job of fighting corruption.	Likert scales to measure respondent's perception on the government's job of fighting corruption. This variable could possibly be tested to see the difference result between the full sample and the sample that excludes skeptical respondents

d. Strengths, Limitations, and Potential Errors

One of the potential issues in any survey is the *nonresponse*; therefore, the interviewer administered this survey. However, the presence of an interviewer could influence the respondents in answering the survey. For this study, the interviewer asked whether the respondents would like to support implementing and enforcing Indonesian anti-corruption policies.

Also, anchoring bias can occur when asking people's willingness to pay. The NOAA Panel on Contingent Valuation recommends researchers use the referendum format (yes/no) and follow up with the specific number (close-ended) to elicit people's willingness to pay.[175] The given number could anchor the respondents to a particular number. However, according

[175] Arrow et al., "Report of the NOAA Panel on Contingent Valuation."

to Bohara et al., the WTP estimated from dichotomous choice is less affected than that from open-ended surveys.[176]

Another potential error could be the skepticism and distrust of the (perceived) corrupt government that would influence the respondents to refuse an additional payment. The respondents might think another payment, in addition to tax and social security fees, is too much. They are worried that the government would not manage the additional funds properly, as government corruption occurs in tax and social security services.[177] Therefore, I formatted the question to elicit an individual's willingness to pay from the existing payments (tax) as I described above. This asks the respondent to allocate a certain amount of money that they have paid to the government to implement and enforce the anti-corruption laws.

e. IRB, HIPAA, and Ethical Considerations

Since it involves humans, this research is subject to IRB approval. I applied to the UW IRB, and this research received exempt status from the UW IRB. This research is not subject to HIPAA because it does not involve information about people's health and was administered outside the United States (US). Also, HIPAA is a US law and is not applicable in Indonesia. However, privacy concerns are probably worth mentioning. Some ethical considerations in administering contingent valuation survey in a developing country such as Indonesia are:[178]

1) Privacy

   Privacy was one of the issues in this survey. Respondents should be informed that their privacy regarding their answers will remain intact. The promise of anonymity in this survey is crucial. Whittington explains that the promise of anonymity to get informed consent could become tricky, especially when the survey is administered by the government or as a part of government work.[179] The respondents will be worried that the government will not use the answer against them, especially in developing countries. To address this, the surveyor reassured the respondents about

[176] Bohara et al., "Effects of Total Cost and Group-Size Information on Willingness to Pay Responses: Open Ended vs. Dichotomous Choice."
[177] The Jakarta Post, "Cut Your Costs Instead, Antigraft Body Tells BPJS - National - The Jakarta Post"; Afifa, "Another Tax Mega Scandal."
[178] Dale Whittington, "Ethical Issues with Contingent Valuation Surveys in Developing Countries: A Note on Informed Consent and Other Concerns," *Environmental and Resource Economics* 28, no. 4 (August 2004): 507–15, https://doi.org/10.1023/B:EARE.0000036776.89379.4F/METRICS.
[179] Whittington.

the anonymity and the promise to not sharing their answers to the government agencies.

2) Asymmetrical power

Whittington also reminds the CV researcher about the asymmetrical power between interviewer and respondent, especially in rural areas. This survey was introduced as a study conducted by a U.S. academic institution. Moreover, this survey was administered under the "Legal Development Survey" conducted by the National Development Agency (*Bappenas*). The power among the researcher, interviewer, and respondents is likely asymmetrical. Therefore, the respondents who do not want to participate might find it challenging to refuse. To address this, the surveyor gave the respondents options to stop the interview or not answer the questions during the interview process. These options give the respondents an opportunity to stop and refuse the interview after they consented.

ii. *Data Analysis Plan*

First, I estimated the benefit and costs of implementing Indonesian anti-corruption policies from the government perspective. I put all the enforcement and prevention costs from the agencies that I discussed before into Microsoft Excel. In the Financial Audit, there are two pieces of information regarding the budgets or costs of each agency: (1) the planned budget and the actual budget. Therefore, I summed all the actual budgets from all the agencies mentioned above to represent the expense of enforcing and preventing the crimes of corruption. There are two exceptions regarding the actual cost. First, in terms of enforcement costs, the cost borne by the judiciary is the planned budget according to the 2024 Supreme Court annual budget plan. Second, in terms of prevention costs, the cost of *Stranas* PK is the planned budget from the 2024 Government Working Plan (*Rencana Kerja Pemerintah* or RKP). Next, I put all numbers on the monetary sanctions collection from the 2014-2021 Financial Audit published by the BPK. I adjusted all the above costs and benefits to 2024 IDR to reflect inflation. There are two benefit and cost analysis comparisons from the government perspective: (1) between enforcement cost and the collection of monetary sanctions, and (2) between enforcement and prevention costs and the collection of monetary sanctions. Then, I used the 10% discount rate as the low boundary and the 15% discount rate as the upper boundary to show the net future values from the government or fiscal perspective.

In the societal perspective, I summed the enforcement and prevention taken to analyze benefit and cost from the government perspective. To calculate societal benefit, I first measured the means of people's willingness to pay from both weighted (N=2,636) and unweighted (N=2,114) samples. These means were then multiplied by the total Indonesian adult population (~187 million), because this survey sample could be generalized to the Indonesian people. I then compared this total annual benefit with the total cost I estimated above. This total annual benefit and cost then were multiplied by 8 years (2014-2021) as the timeline to estimate the present benefit and cost of the Indonesian anti-corruption policies. In doing so, I estimated the future value by bringing all the costs and benefits up to 2024. I assume that all the costs and benefits are constant every year after adjusting them to 2024 IDR.[180] I used the 10% discount rate as the low boundary and 15% discount rate as the upper boundary.

I conducted a sensitivity analysis to deal with all the uncertainties regarding the costs I estimated above. This analysis is currently a "golden rule" in conducting BCA to acknowledge and clarify the underlying uncertainty. The goal of this sensitivity analysis is to demonstrate "how sensitive predicted net benefits are to changes in assumptions."[181] It aims to provide a variance or spread of the statistical distribution of realized net benefits, which conveys the riskiness of the point estimates. I conducted the sensitivity analysis by running a Monte Carlo simulation using the Oracle Crystal Ball. The Monte Carlo simulation is technique used in a sensitivity analysis due to the uncertainties in the costs and benefits. It is used to run multiple random trials of inputs - in this case it was the costs and benefits - to approximate the probability of certain outcomes, that is the social benefit of a policy is positive or more than zero.[182] To run the Monte Carlo simulation, I used the Oracle Crystal Ball, that is the spreadsheet-based application for predictive simulation to analyze the risks and uncertainties associated with my estimated costs and benefits.[183] This simulation assists in testing the likelihood of positive net benefit (more than IDR 0) with 10,000 different cost

[180] I acknowledge the uncertainties regarding the costs and benefits. In real life, the costs and benefits of most of the policies vary from one year to another. In an ideal world, I wish these annual costs and benefits data were available. However, these data are difficult to obtain. Therefore, I will conduct the sensitivity analysis later in this chapter to deal with this uncertainty.
[181] Boardman et al., *Cost-Benefit Analysis: Concepts and Practice*.
[182] See Chapter 5 for further discussion on the inputs and distributions that I used for running a Monte Carlo simulation
[183] Oracle, "Crystal Ball," accessed August 8, 2024, https://www.oracle.com/applications/crystalball/.

and benefit inputs which are drawn from specified distributions. There will be 10,000 trials in the Monte Carlo Simulation using a 10 and 15% social discount rate.

IV. Qualitative Legal Research to Understand the Process and Factors that Contributed to the Collection of Monetary Sanctions

The benefit-cost analysis provides an economic assessment of a policy or program to the government (fiscal perspective) and society (societal perspective).[184] This economic assessment focuses on the aggregate net costs and benefits of implementing a policy or program that helps policymakers allocate more efficient resources. In addition, I incorporated qualitative research to ". . . enrich the economic evaluations with detailed, context-specific information" to provide a meaningful explanation of the benefit-cost analysis result.[185]

In this qualitative research part, I limited my investigation to understand the process and factors that contributed to the collection of monetary sanctions from the crimes of corruption defendants.[186] The monetary sanctions, such as fines, restitution, and asset forfeiture, are measured as the benefit from the fiscal or government perspective. Collecting these monetary sanctions is a part of the government revenue that could later be allocated to support the anti-corruption program.

The second question of this dissertation is: What roles of the collection of monetary sanctions from the crimes of corruption defendants play in financing the implementation of Indonesian anti-corruption policies? This question has three lower-order questions that will be answered by collection and analysis through qualitative research. These two lower-order questions are:

a. How are the monetary sanctions determined by the prosecutor and judge? What factors influence prosecutors and judges in determining monetary sanctions?
b. What factors contribute to payment and collection of monetary sanctions from defendants convicted of crimes of corruption?

To answer these questions, I collected data through semi-structured interviews with 33 criminal justice actors who have direct experience and knowledge about the process and factors that contributed to the collection of monetary sanctions from the crimes of corruption

[184] Boardman et al., *Cost-Benefit Analysis: Concepts and Practice*.
[185] Johnson, Onwuegbuzie, and Turner, "Toward a Definition of Mixed Methods Research"; Dopp et al., "Mixed-Method Approaches to Strengthen Economic Evaluations in Implementation Research", 1.
[186] Lisa Webley, "Qualitative Approaches to Empirical Legal Research," in *The Oxford Handbook of Empirical Legal Research*, ed. Peter Cane and Herbert M. Kritzer (Oxford University Press, 2012), 926–50, https://doi.org/10.1093/OXFORDHB/9780199542475.013.0039.

defendants. These actors are lawyers, prosecutors, and judges because they have experience with prosecuting, examining, and defending more than three corruption cases. I interviewed them during the fall quarter of 2023, from September to December 2023. Because this second research question and data collection process to answer it came later in my dissertation research, I did not have the opportunity and resources to conduct field research in Indonesia. Thus, I interviewed all my respondents virtually via Zoom from Seattle.

I triangulated the interview data with document analysis to improve the validity. I examined documents such as the Attorney General Office and KPK reports, the Attorney General and Supreme Court Guidelines in handling the crimes of corruption cases, and laws. For example, most respondents said the defendants tend not to pay the imposed fines and restitution. To verify their answers, I reviewed the Attorney General's Office and KPK reports that show unpaid fines and restitution data.

In the next section, I will first discuss my strategy to sample and gain access to the respondents. I will also show tables to describe my respondents' profiles, such as profession, work experience, and geographical location. Second, I will explain the interview technique I used when I asked questions. Third, I will discuss my data analysis strategy, including coding and analyzing the recurring themes. Last, I will elaborate on some ethical concerns in this qualitative research.

A. Respondent Sampling

In sampling the respondents, I purposively targeted lawyers, prosecutors, and judges with experience prosecuting, examining, and defending no fewer than three corruption cases. This purposive sampling aims to get an accurate answer about the phenomena under investigation, the process, and the factors that contributed to the collection of monetary sanctions from the crimes of corruption defendants.[187] The prosecutors must have been posted at the special crime unit to prosecute the crimes of corruption defendants. The judges must have been trained and obtained a certificate as an anti-corruption judge. However, the Supreme Court has not assigned every certified anti-corruption judge to examine corruption cases. Therefore, I selected judges with an anti-corruption certificate and experience examining corruption cases. For the lawyers, I selected those who had experience representing defendants facing prosecution for crimes of corruption.

[187] Trochim and Donnelly, Research Methods: The Essential Knowledge Base, 87.

Next, I used a proportional quota to sample respondents from the prosecutors, judges, and lawyers. I set 10 respondents from each category mentioned above, so I aimed to have at least 30 respondents.[188] I acknowledge that there is no standard number of respondents to reach saturation in qualitative research, because it depends on many variables, such as research questions, objectives, respondents' profiles, and the point at which patterns become apparent in the respondents' answers. However, a systematic review of 23 qualitative research articles found that between 9 and 17 interviews could reach saturation in "… relatively homogenous study populations and narrowly defined objectives."[189] Setting 30 as a total quota is not the end, but this is the minimum number I aimed to reach. To reach this number, I employed snowball sampling. After interviewing some respondents, I asked for their recommendation of a potential respondent who met the criteria for my research: a criminal justice actor with experience in handling corruption cases. Snowball sampling is beneficial for reaching target respondents who are hard to find.[190] In the end, I interviewed more than 30 criminal justice actors to answer my research questions. Below are the details:

Table 3. Respondents of the Study: Position and Experience

Role	**Number of respondents**	**Experience** **Low = 0-5 years, or less than 3-5 corruption cases;** **Medium = 6-10 years, or 6-10 corruption cases;** **High = more than 10 years, and more than 15 cases**
Prosecutors		
High-ranking prosecutor (leadership level at the central Attorney General Office)	1	High
High-ranking prosecutor (leadership level at the provincial attorney office)	2	High
Mid-ranking prosecutor (leadership level at the district attorney office)	2	High
Mid-ranking prosecutor (operator level)	3	High

[188] "Sample size for a good grounded theory may have approximately 30 to 50 participants, depending on the topic and the scope of the inquiry", see Janice M. Morse, "Analytic Strategies and Sample Size," Qualitative Health Research 25, no. 10 (October 11, 2015): 1317–18, 1318.
[189] Monique Hennink and Bonnie N. Kaiser, "Sample Sizes for Saturation in Qualitative Research: A Systematic Review of Empirical Tests," Social Science & Medicine 292, no. 114523 (January 1, 2022), 6.
[190] Trochim and Donnelly, Research Methods: The Essential Knowledge Base, 91.

Mid-ranking prosecutor (head of unit at the district level)	3	Medium
Low-ranking prosecutor	1	Low
Total number of interviews with prosecutors	12	
High-level lawyer	5	High
Mid-level defense lawyer	4	Medium
Low-level defense lawyer	1	Low
Total number of interviews with lawyers	10	
Ad hoc anti-corruption judge (Supreme Court)	1	High
Ad hoc anti-corruption judge (district court)	2	High
Ad hoc anti-corruption judge	1	Medium
high court judge	2	High
District court judge (leadership level)	2	High
District court judge	3	High
Total number of interviews with judges	11	
Total number of interviews	**33**	

Table 4. Respondents of this Study: Sex

Respondent's Sex	Number of Respondents
Male	28
Female	5

Table 3 shows that my respondents are 12 prosecutors, 10 lawyers, and 11 judges. Most respondents from all professions are considered to have a lot of experience in handling corruption cases. Table 3 shows 17% (5 out of 33) of my respondents are female, consisting of 3 female prosecutors, 2 female judges, and 0 female defense lawyers. I understand the number of female respondents is low, but it represents the legal industry population in Indonesia fairly. Only 3% of prosecutors in Indonesia are female.[191] While 29% of judges are female, we should count the proportion of the total judges who had been certified as anti-corruption judges. In 2020, approximately 20% of around 8000 judges who are certified as anti-corruption judges.[192] Therefore, I estimated that only 5.8% of female judges have anti-

[191] Abu Nadzib, "Dari 11.070 Jaksa Hanya 345 Yang Perempuan," Solopos News, January 27, 2022, https://news.solopos.com/dari-11-070-jaksa-hanya-345-yang-perempuan-1244880.
[192] Indonesian Supreme Court, "Data Hakim Pengadilan Negeri Yang Sudah Bersertifikasi Per Januari 2020," Indonesian Supreme Court, January 2020,

corruption certificates.[193] For the defense lawyers, there is no available data to show the number of female defense lawyers, much less female defense lawyers who are experienced in defending the crimes of corruption defendants. During the recruiting process, the most difficult respondents to be recruited were defense lawyers. Some defense lawyer respondents even suggested a name that they had been in a team with while they were defending a corruption case to be my respondent. I would ask them again for another name so it could give this research a broader description about the research questions asked above from different lawyers who defended various cases.

I also tried to select respondents from outside Java Island, even though the number of corruption cases in Java Island is higher than in other big islands in Indonesia (Sumatera, Kalimantan, Sulawesi, Papua). The reason and purpose of this strategy was to fully capture and understand the practices and factors that influenced the collection of monetary sanctions from the crimes of corruption defendants. In Table 4, I show the distribution between respondents from Java Island and outside Java Island. Despite these 23 to 10 ratios, some judges and prosecutors posted in Java Island had worked outside Java. Moreover, two lawyers had experience representing clients from outside Java.

Table 5. Respondents Geographic Location

Profession	**Number**	**Location**
Judge	7	Java
Prosecutor	7	
Lawyer	9	
Total	**23**	
Judge	4	Outside Java
Prosecutor	5	
Lawyer	1	
Total	**10**	

To gain access, I utilized my position as an assistant professor at the Faculty of Law at the University of Indonesia and a PhD Candidate at the University of Washington School of Law. I used texting through the WhatsApp messenger application to contact my respondents because many Indonesians, including criminal justice actors, use this application for day-to-day communication. Contacting the respondents through WhatsApp resulted in a

https://badilum.mahkamahagung.go.id/index.php?option=com_attachments&task=download&id=563; Indonesian Supreme Court, "Data Hakim Pengadilan Negeri Yang Sudah Bersertifikasi Tipikor Per-Januari 2020," January 2020, https://badilum.mahkamahagung.go.id/index.php?option=com_attachments&task=download&id=564.

[193] It is the result of 29% times 20%.

faster response than email and formal letters.[194] First, I texted my contacts with whom I have worked together or met before. After providing a brief introduction and stating the purpose of my research in the text, I attached and sent the letter of request from the University of Washington and the consent form, which included information such as interview procedure, interview duration, benefits of the study, and confidentiality information. Second, I set up the best schedule for the respondents and then sent them the Zoom link. Some respondents asked me to send them the questionnaire so they could prepare the answers, which I did.

At the beginning of the interview, I built a rapport by asking the respondent about themselves. For some respondents whom I know or have worked with, I built a rapport by discussing our current life, such as my family and study in the US, and their family and work since the last time we met. Also, I had questions about their role, years of experience, and the number of corruption cases they have handled. When they mentioned a high-profile case, I asked a follow-up question about the most exciting part of the case. I found that method was beneficial for encouraging them to talk about their experience in the corruption cases.

B. Semi-Structured Interview Technique

I conducted a semi-structured interview to focus on and limit the respondents' answers to the (1) process (how) and (2) factors (why) that contributed to the collection of monetary sanctions from the crimes of corruption defendants. This semi-structured interview also allowed me to ask follow-up questions for more detailed exploration and understanding of the phenomena under investigation.[195] In addition to these questions, I asked respondents' demographics and views on my BCA findings. The latter question was crucial to assess the use and criticism of benefit-cost analysis and identify possible legal reforms from the criminal justice actors.

I asked the interview questions to respondents in Bahasa (Indonesian) because this is the native language of all of my respondents. I interviewed them virtually through Zoom. Before the interview, I printed the questionnaire and took note of important answers on the printed questionnaire. This questionnaire and the notes are helpful in highlighting and revisiting important information to code and analyze the data. All respondents (33) gave

[194] Indonesia ranked 3rd as the highest WhatsApp user in the world after India and Brazil, See Erlina F. Santika, "Indonesia Masuk 3 Besar Negara Dengan Pengguna WhatsApp Terbanyak Di Dunia Pada 2022," Katadata, May 11, 2023, https://databoks.katadata.co.id/datapublish/2023/05/11/indonesia-masuk-3-besar-negara-dengan-pengguna-whatsapp-terbanyak-di-dunia-pada-2022.

[195] Joe Soss, "Talking Our Way to Meaningful Explanations: A Practice-Centered View of Interviewing for Interpretive Research," in Interpretation and Method: Empirical Research Methods and the Interpretive Turn, ed. Dvora Yanow and Peregrine Schwartz-Shea (New York: Routledge, 2012), 127–49, 135.

permission to record the audio conversation. I transcribed the audio recording as soon as the interview was conducted when my memory was still fresh. I transcribed the audio recording at Atlas.TI 24, the qualitative analysis software that I used to code and analyze the interview data. Some respondents, however, asked me not to record some of their answers. I turned the audio recording off and asked them when to turn it on again. In this case, I relied on my handwritten notes to transcribe the unrecorded answer. Moreover, I translated the important part of the interview into English. I also had a chance to conduct group interviews with 3 prosecutors. I had an interview scheduled with Prosecutor S, and she invited two subordinates to participate in the interview.

C. Data Analysis Method

I employed mixed approaches in coding (closed and open) and analyzing the data (content and thematic analysis). As mentioned, I transcribed all the interview audio into text at Atlas. TI 24. This software facilitated coding the text as I transcribed the interview audio. Coding is the process to organize segments or "chunks" of data by putting words or phrases of words representing the content and theme. I started with deductive coding by creating predetermined codes based on my research questions, interview questions, and previous literature on this topic. Based on the research question, I was interested to learn the procedure and factors that contributed to the collection of monetary sanctions. Therefore, I created codes such as types of monetary sanctions (fines, restitutions, asset forfeiture), whether the defendant paid the monetary sanctions (paying and not paying), and the reasons for the defendant not paying the monetary sanctions (too high, not having money, choose additional prison time). Also, I set up codes to categorize the respondents' profiles, such as profession and level of experience. These predetermined codes helped me focus on understanding the phenomena under my investigation.

In addition to these codes, I applied open coding to my data by assigning codes (or sometimes codes) to organize interview content. For instance, my respondents answered different factors that influenced the imposed monetary sanctions to understand the process of determining fines and restitution. I categorized these various factors into several codes. Another example is when my respondents mentioned some challenges in determining and collecting monetary sanctions. After all the data were coded, I reviewed all the codes in the Code Manager at Atlas. TI 24.

Next, I reread the segments under some codes to fully understand the content and theme; I merged or grouped codes that had similar content and themes. For instance, there were three factors that my respondents considered as "mitigating factors," so I grouped three of them into a group with the same name. In this example, I referred to the theoretical framework from the literature on punishment.[196] This framework would later be important for reporting and writing my findings. Another theoretical reference is the rational choice theory in the punishment and deterrence literature. This process demonstrated how my open coding contributed to our understanding of the existing theoretical frameworks.[197]

I reread and reviewed the codes before interviewing all my respondents. Therefore, I could flag some interesting answers, codes, and contents and ask the respondents about to be interviewed. For instance, respondents from outside Java Island mentioned a "village fund" or "village head" in the case they prosecuted, defended, or examined. This iterative process helped me check hunches and gather deeper and richer explanations that were useful for my qualitative interpretation.[198] In Chapter 6, I discuss the collection of monetary sanctions where the defendant was the village head.

After all the interviews were conducted, transcribed, and coded, I reviewed all the data codes and segments. I used Atlas.TI analytical tools to facilitate insight for writing the findings. First, I used the "Code Cloud" and "List" to see the most common codes in my data. Second, I utilized the "Co-Occurrences" analysis to understand the pattern between two or more codes. For instance, I picked "Fines," "Paying," and "Not Paying" to know the respondents' answers about whether the defendant paid the fines. In this example, I used content analysis by counting the number of codes to understand the pattern of fine payment among the crimes of corruption defendants. To elaborate and interpret the reasoning behind the payment (or non-payment), I then analyzed the co-occurrences between "Paying" or "Not Paying" and "Factors." In the literature, both steps mentioned above are considered as summative approaches to qualitative content analysis by quantifying selected codes to explore the themes I will be interpreting and discussing in the analysis.[199]

---

[196] In the punishment literature, there are two factors influencing punishment: aggravating and mitigating factors, See Julian V. Roberts, "Mitigation and Aggravation at Sentencing," in Encyclopedia of Criminology and Criminal Justice, ed. Brian J Ostrom and Roger A Hanson (New York: Springer, 2014), 3103–12, https://doi.org/10.1007/978-1-4614-5690-2_491.
[197] Donald Mitchell, "Advancing Grounded Theory: Using Theoretical Frameworks within Grounded Theory Studies," *The Qualitative Report* 19, no. 36 (2014): 1–11, https://doi.org/10.46743/2160-3715/2014.1014.
[198] Hsiu Fang Hsieh and Sarah E. Shannon, "Three Approaches to Qualitative Content Analysis," *Qualitative Health Research* 15, no. 9 (November 2005): 1277–88, https://doi.org/10.1177/1049732305276687.
[199] Hsieh and Shannon.

Third, I shifted from content to thematic analysis by reading the interview transcriptions closely behind the selected codes to comprehend the qualitative aspect[200]. This thematic analysis process aims to "bring[] meaning and identity to a recurrent experience and its variant manifestations." One of the advantages of the thematic analysis is its flexibility, so I used both deductive and inductive approaches to my thematic analysis.[201] In the deductive approach, there were two big themes to answer my second research question: (1) the process to impose monetary sanctions and (2) the factors that contributed to the collection of monetary sanctions. I applied the inductive approach when I reviewed codes and transcriptions under the second theme above. I found subthemes that help me understand better the factors that contributed to the collection of monetary sanctions. For instance, some respondents further explained the economic calculation when the defendant would rather spend additional prison time than pay fines. Then, I used "Networks" in Atlas. TI 24 to explore and visualize the relationship between "economic rationale" and the preference to spend additional prison time.[202]

D. Ethical Consideration

I obtained ethical approval from the University of Washington Institutional Review Board in September 2023. This study received an exempt status. Before interviewing my respondents, I sent an informed consent form with important information about the research, such as the interview procedure, risks, and confidentiality. I explained that the interview might take 30-120 minutes, and the interviewee could refuse to answer some of the questions and stop the interview if they felt uncomfortable or needed to do other things. I told my respondents that the interview would be audio-recorded if they gave me permission. All respondents gave me permission to audio record the interview; however, some asked me to stop recording when answering sensitive questions or giving confidential information. On this occasion, I took handwritten notes to record their answers. All the audio recordings are stored in Apple Cloud and Atlas. TI.

---

[200] David F.Marks and Lucy Yardley, "Research Methods for Clinical and Health Psychology," *Research Methods for Clinical and Health Psychology*, July 15, 2004, 56–68, https://doi.org/10.4135/9781849209793.
[201] Lorelli S. Nowell et al., "Thematic Analysis: Striving to Meet the Trustworthiness Criteria," *International Journal of Qualitative Methods* 16, no. 1 (September 28, 2017): 1–13, https://doi.org/10.1177/1609406917733847.
[202] Using the "economic rationale" concept is derived from literature in rational choice theory in sentencing and punishment, See Becker, "Crime and Punishment: An Economic Approach."

I offered my respondents to remain confidential ensuring the ". . . separation of data from any identifiable individuals."[203] I kept their information under lock and key or on a password-protected email file and did not share it with anyone other than the researcher. I let them know that material from this interview might be used in a book, article, or presentation. I explained that I would send the draft of the unpublished material that contained a direct quote from their answer with some context for them to review and approve. I did not offer a gift to my respondents; however, some respondents who were enrolling in master's and doctorate programs asked me to find and send them related journal articles for their research. I fulfilled their request after the interviews, so this "gift" did not induce them to be my research participant.

[203] Joseph Hoft, "Anonymity and Confidentiality," in The Encyclopedia of Research Methods in Criminology and Criminal Justice, 2021, 223–27, 226.

Chapter 3: Utilizing Benefit-Cost Analysis for Comparative Legal Research in Law and Development Arena

I. Introduction

This chapter discusses literature on law and development, comparative legal research, and benefit-cost analysis (BCA). The purpose of this chapter is to explain the foundations and gaps in these three areas of scholarship to make a case for the application of BCA in assessing law and development projects.[204] This chapter answers the lower order (1.a.) questions: What method is available to assess the efficiency of a law and development project, including the implementation of Indonesian anti-corruption policies? What are the functions and limitations of this method?

Law and development and comparative legal research literature have highlighted the importance of considering the efficiency of legal reform (or transplants) projects in developing countries. BCA is one of the techniques widely used to review the efficiency of policy and development projects, mainly in education, infrastructure, and health.[205] The World Bank, for instance, tended to measure BCA in five sectors: Agriculture and Rural Development, Energy and Mining, Transport, Urban Development, and Water.[206] This lack of BCA application in assessing the proposed and evaluating the implemented policies under law and development projects, especially anti-corruption, gives this dissertation the opportunity to fill in and add to the literature.

This chapter is organized as follows. First, this chapter starts with the section on law and development, which describes three aspects: (1) the concept and its relationship with the economic development goal; (2) rule of law, anti-corruption, and good governance as parts of law and development agenda; and (3) "good-enough governance" idea to make the law and development project more realistic and achievable. Second, this chapter discusses the theoretical and methodological development in comparative law and legal research from the functionalist approach to comparative law and economics. Comparative legal research is very relevant for law and development projects, because most legal scholars, development practitioners, and policymakers who are involved conducted comparative legal research to explore the laws and institutions that exist in other countries to address social problems.

---

[204] In this dissertation, I use the Indonesian anti-corruption policies as the case study to apply the benefit-cost analysis; I will discuss the reasons in choosing this case study in Chapter 4.
[205] Johnsøn, "Cost-Effectiveness and Cost-Benefit Analysis of Governance and Anti-Corruption Activities", 36.
[206] The World Bank, "Cost-Benefit Analysis in World Bank Projects" (Washington, D.C., 2010), https://ieg.worldbankgroup.org/sites/default/files/Data/Evaluation/files/cba_full_report1.pdf.

Third, this chapter explains the concept of BCA to give readers an understanding of its procedure, function, and limitations in a policy-making process. Some limitations and criticisms are related to the fact that the BCA does not protect rights seriously and should not be the only basis for assessing policy. I also review the current literature on the use of BCA in making and evaluating policy in Indonesia, especially the anti-corruption policies. At the end of this chapter, there is an elaboration on BCA as one tool for public deliberation in a democratic setting.

II. Law and Development Agenda

A. Law and Development: Law as a Tool for Development

David Trubek defined law and development as "organized efforts to transform legal systems in developing countries to foster economic, political, and social development."[207] Well-functioning laws and institutions are crucial elements to the success of the law and development agenda.[208] "Institution," according to Franz Neumann, is a relationship between individuals, either regulated by public or private law, "for the purpose of regulating social process."[209] Douglas North argued that "institutions matter" for economic development because they can enforce contracts effectively.[210] This claim was supported by empirical findings from Rodrik, Subramanian, and Trebbi, who argued the quality of a country's institutions influences economic development more than geographical and trade factors.[211] In the law and development context, Yong-Shik Lee described "institutions" as "organizations, norms, and practices related to the adoption, implementation, and enforcement of law."[212]

International Development Organizations (IDOs), such as the World Bank, the International Monetary Fund, and the United States Agency for International Development (USAID), have been administering law and development projects in developing countries since

[207] David M. Trubek, "Law and Development," in International Encyclopedia of the Social & Behavioral Sciences: Second Edition, ed. James D. Wright (Elsevier, January 1, 2015); David M Trubek, "Toward a Social Theory of Law: An Essay on the Study of Law and Development," The Yale Law Journal 82, no. 1 (1972): 1–50,44.
[208] Veronica L. Taylor, "The Rule of Law Bazaar," in Rule of Law Promotion: Global Perspectives, Local Applications, ed. Per Bergling, Jenny Ederlöf, and Veronica L. Taylor (Uppsala: Iustus Förlag, 2009), 325–59, 332.
[209] Franz Neumann, The Rule of Law: Political Theory and the Legal System in Modern Society (Dover: Berg Publishers, 1986), 40.
[210] Douglass C. North, "Institutions and Economic Growth: An Historical Introduction," World Development 17, no. 9 (September 1, 1989): 1319–32.
[211] Dani Rodrik, Arvind Subramanian, and Francesco Trebbi, "Institutions Rule: The Primacy of Institutions over Geography and Integration in Economic Development," Journal of Economic Growth 9, no. 2 (June 2004): 131–65.
[212] Yong Shik Lee, "General Theory of Law and Development: An Overview," The Law and Development Review 12, no. 2 (May 27, 2019): 351–75, 355.

the mid-20th century.[213] Indonesia is not an exception; the IDOs supported the legislation reform, judicial reform, and law enforcement apparatus reform under the "legal reform projects."[214] The most notable law and development project is the Washington Consensus, which listed ten policy proposals for Latin American countries to liberalize their economic system in 1989.[215] In 2002, Dani Rodrik "augmented" the Washington Consensus by adding other areas besides economic liberalization, such as corporate governance, anti-corruption, and social safety nets.[216]

Adding anti-corruption into the "augmented" law and development agenda is reasonable, because the World Bank considers corruption "the greatest obstacle to economic and social development" which could impede economic growth.[217] In the past, some scholars have argued that corruption fostered economic growth by making it easier for companies to invest.[218] However, an empirical study by Paolo Mauro denied that claim because it found that corruption hinders economic growth.[219] In Indonesia, for example, Ari Kuncoro found that firms that bribed would later give "up and simply reduced the bribe payment" due to uncertainty and an unstable environment in conducting business.[220]

Corruption is the most problematic factor for doing business in Indonesia.[221] According to the Global Corruption Barometer Asia 2020, 30% of respondents experienced paying a bribe

---

[213] David M. Trubek, "Law and Development: Then and Now," *Proceedings of the ASIL Annual Meeting* 90 (1996): 223–26, https://doi.org/10.1017/S0272503700086195; John Henry Merryman, "Comparative Law and Social Change: On the Origins, Style, Decline & Revival of the Law and Development Movement," *The American Journal of Comparative Law* 25, no. 3 (1977): 457–91; Markus Böckenförde and Berihun A. Gebeye, "Law & Development," in *The Oxford Handbook of Law and Anthropology*, ed. Marie Claire Foblets et al. (Oxford: Oxford University Press, 2020), 400–419, https://doi.org/10.1093/OXFORDHB/9780198840534.001.0001.

[214] Ifdhal Kasim, "Berjalan Ke Arah Mana Reformasi Hukum?," in Wacana Pembaharuan Hukum Di Indonesia, ed. Donny Danardono (Jakarta: HuMa, 2007), 103.

[215] The Washington Consensus is a term coined by John Williamson who wrote "the central areas of policy reform that most people in Washington thought were needed in most Latin American countries at the time." See John Williamson, "The Strange History of the Washington Consensus," Journal of Post Keynesian Economics 27, no. 2 (2004): 195–206, 195.

[216] Michael Spence, "Some Thoughts on the Washington Consensus and Subsequent Global Development Experience," *The Journal of Economic Perspectives* 35, no. 3 (2021): 67–82, https://doi.org/10.2307/27041215.

[217] The World Bank, "The World Bank Group's Sanctions Regime: Information Note" (The World Bank), 1, accessed August 8, 2024, https://www.worldbank.org/content/dam/documents/sanctions/other-documents/osd/The_World_Bank_Group_Sanctions_Regime.pdf.

[218] Pierre-Guillaume Méon and Khalid Sekkat, "Does Corruption Grease or Sand the Wheels of Growth?," *Public Choice* 122, no. 1 (2005): 69–97.

[219] Paolo Mauro, "Corruption and Growth," *Quarterly Journal of Economics* 110, no. 3 (1995): 681–712, https://doi.org/10.2307/2946696.

[220] Ari Kuncoro, "Corruption and Business Uncertainty in Indonesia," *ASEAN Economic Bulletin* 23, no. 1 (2006): 11–30, https://doi.org/10.1355/ae23-lb.

[221] World Economic Forum, "The Global Competitiveness Index 2017-2018 Edition - Indonesia," 2018, https://www3.weforum.org/docs/GCR2017-2018/03CountryProfiles/Standalone2-pagerprofiles/WEF_GCI_2017_2018_Profile_Indonesia.pdf.

to get an essential service from an Indonesian public official.[222] This survey ranked Indonesia third for the highest bribery rates in Asia. Olken and Barron illustrated the widespread corruption that adds extra costs to doing business in Indonesia.[223] They observed illegal payments from truck drivers in Aceh and identified more than 6,000 bribes in 304 trips transporting goods to and from Aceh. Truck drivers paid these illegal payments to police, military officers, and officials at weigh stations. The truck drivers paid about 20 payments and USD 40 per trip, or about 13% of the trip's total cost.[224] Findings from Olken and Barron's study confirmed the high cost of doing business in Indonesia because of corruption.

Therefore, economic development became one of the purposes and narratives for eradicating and preventing corruption.[225] The economic development narrative has always been a part of the Indonesian anti-corruption agenda. In the early *Reformasi* era, these anti-corruption projects aimed to support economic activities and improve the Indonesian rule of law.[226] In the existing Indonesian Anti-corruption Law (1999 & 2001), the economic narrative becomes two of the first legal considerations:[227]

1. Corruption harms the state's finances or economy and inhibits national development. Thus, it must be eradicated to create a just and prosperous society based on Pancasila and the 1945 Constitution.
2. In addition to being detrimental to the state's finances or the economy, the consequences of recent corruption also inhibit growth and the sustainability of national development, which demand the highest efficiency.

This narrative also resembles the economic rhetoric of anti-corruption law during Soekarno's (1945-1965) and Soeharto's (1965-1998) administrations.[228] The historical and political grounds for prosecuting the crimes of corruption are in the economic realm.

---

[222] Jon Vrushi, "Global Corruption Barometer Asia 2020: Citizens' Views and Experiences of Corruption," November 2020, https://images.transparencycdn.org/images/GCB_Asia_2020_Report_Web_final.pdf.
[223] Benjamin A Olken and Patrick Barron, "The Simple Economics of Extortion: Evidence from Trucking in Aceh," *Journal of Political Economy* 117, no. 3 (2009): 417–52, https://doi.org/10.1086/599707.
[224] Olken and Barron.
[225] David M. Trubek, "The 'Rule of Law' in Development Assistance: Past, Present, and Future," in *The New Law and Economic Development: A Critical Appraisal*, ed. David M. Trubek and Alvaro Santos (Cambridge: Cambridge University Press, 2006), 74–94, https://doi.org/10.1017/CBO9780511754425.003.
[226] Naoyuki Sakumoto and Hikmahanto Juwana, "Reforming Laws and Institutions in Indonesia: An Assessment," ASEDP Series (Chiba-Shi, 2007), https://www.ide.go.jp/English/Publish/Reports/Asedp/074.html.
[227] "Corruption Eradication Law," Pub. L. No. 31 (1999); "Amendment to Law No 31/1999 on Corruption Eradication," Pub. L. No. 20 (2001).
[228] J. A.C. Mackie, "The Commission of Four Report on Corruption," *Bulletin of Indonesian Economic Studies* 6, no. 3 (November 1, 1970): 87–101,

B. Rule of Law, Anti-Corruption, and Good Governance Agenda

Rule of Law and Anti-Corruption projects can be considered part of a law and development agenda. Similarly, the implementation of anti-corruption policies with the help of IDOs falls under a broad definition of rule of law assistance.[229] According to Bosch's definition, rule of law assistance refers to "all donor-funded interventions intended, at least in part, to increase the level of 'the rule of law' in a target or partner country."[230] For instance, the Indonesian law enforcement agencies, facilitated by the IDOs, agreed on an action plan to address corruption in 2004. The main goal of this action plan was to strengthen law enforcement agencies as the main actors to "fulfill legal supremacy."[231] This legal supremacy is one of the elements of the rule of law.[232]

The World Bank considered the anti-corruption strategy as a way to "build[] the rule of law."[233] The Bank has undertaken the expansion of the rule of law that includes anti-corruption since 1996. The World Bank worried that governments in developing countries did not use their financial aid efficiently and adequately because of corruption.[234] Despite the instrumental goal of fighting corruption to ensure effectiveness of development aid and foster economic development, the Bank also viewed corruption as intrinsically bad "because it corrodes societies."[235] Khan claimed that this relationship between economic development and government accountability is the "good governance reform agenda."[236] Khan emphasized that the anti-corruption reforms "play a significant role in the new reform agenda within the good governance agenda."[237] "Good governance" and "anti-corruption" became buzzwords within

https://doi.org/10.1080/00074917012331331728/ASSET//CMS/ASSET/C7FB0079-08A5-4994-9031-5274629AD5BF/00074917012331331728.FP.PNG.

[229] Bosch, "Local Actors in Donor-Funded Rule of Law Assistance in Indonesia: Owners, Partners, Agents?," 78 (including the implementation of anti-corruption policies under the definition of rule of law assistance).

[230] Bosch, 77-78.

[231] Partnership for Governance Reform (Kemitraan), "Consolidating of the Rule of Law in Indonesia: Restoring Public Trust Through Institutional Reform" (Jakarta, April 2004).

[232] Richard H. Fallon, "'The Rule of Law' as a Concept in Constitutional Discourse," *Columbia Law Review* 97, no. 1 (January 1997): 56, https://doi.org/10.2307/1123446.

[233] Alvaro Santos, "The World Bank's Uses of the 'Rule of Law' Promise in Economic Development," in The New Law and Economic Development: A Critical Appraisal, ed. David M. Trubek and Alvaro Santos (Cambridge: Cambridge University Press, 2006), 253–300, 274.

[234] Santos, 273-274.

[235] Santos, 274.

[236] Mushtaq H. Khan, "Governance and Anti-Corruption Reforms in Developing Countries: Policies, Evidence and Ways Forward," G-24 Discussion Paper Series (New York, November 2006).

[237] Khan, 4.

the IDOs.[238] Good governance, rule of law, and anti-corruption values are part of strategies to prevent corruption used by IDOs or donors such as the World Bank.[239]

In Indonesia, the anti-corruption reform was not only a tool for IDOs, but it was also advocated by the Indonesian policymakers and Non-Government Organizations (NGOs). After the Asian financial crisis in 1997, Indonesian economics deteriorated and needed financial support from international institution such as the International Monetary Fund (IMF).[240] The IMF also set conditions for the host country to reform its institution.[241] This policy reform agenda was utilized by Indonesian policymakers to "strengthen its own position in the domestic political game."[242] Moreover, local NGOs became more engaged and involved with the reform process because the political opportunities were more open after the collapse of the Soeharto administration.[243] These NGOs, such as the Indonesian Corruption Watch (ICW) and budget watch (FITRA), seized the opportunity to advocate for "good governance, accountability, and transparency of public institutions."[244]

These buzzwords still exist in 2020s with the inception of Goal 16 in the Sustainable Development Goals (2015-2030).[245] Goal 16 aims to "promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and to build effective, accountable and inclusive institutions at all levels."[246] Despite the exclusion of the "rule of law term" and replacing it with the "access to justice," the Goal 16 has some rule of law elements.[247]

---

[238] Carmen Celeste Malena, "Good Governance and Civil Society," in International Encyclopedia of Civil Society, ed. Helmut K. Anheier and Stefan Toepler (New York: Springer, December 2009), 784.
[239] Santos, "The World Bank's Uses of the 'Rule of Law' Promise in Economic Development," 273.
[240] J. Soedradjad Djiwandono, "Role of the IMF in Indonesia's Financial Crisis," in *Governance in Indonesia*, ed. Hadi Soesastro, Anthony L. Smith, and Han Mui Ling (Singapore: ISEAS Publishing, 2002), 196–228, https://doi.org/10.1355/9789812305213-012/HTML.
[241] M. Chatib Basri, "Twenty Years after the Asian Financial Crisis," in *Realizing Indonesia's Economic Potential*, ed. Luis E Breuer, Jaime Guajardo, and Tidiane Kinda (Washington, D.C.: International Monetary Fund, 2018), 67–84, https://www.elibrary.imf.org/display/book/9781484337141/ch002.xml.
[242] Leonardo Martinez-Diaz, "Pathways Through Financial Crisis: Indonesia," Global Governance 12, no. 4 (1972): 395–412, 395.
[243] Aditya Perdana, "The Politics of Civil Society Organizations (CSOs) Post-Reformation 1998," *Masyarakat: Jurnal Sosiologi* 20, no. 1 (January 25, 2015): 23–42, https://doi.org/10.7454/MJS.v20i1.1090.
[244] Hans Antlöv, Rustam Ibrahim, and Peter van Tuijl, "NGO Governance and Accountability in Indonesia: Challenges in a Newly Democratizing Country," in *NGO Accountability Politics, Principles and Innovations*, ed. Lisa Jordan and Peter van Tuijl, 1st ed. (London: Routledge, 2006), https://doi.org/10.4324/9781849772099.
[245] United Nations Office on Drugs and Crime, "Press Release: Combating Corruption to Achieve the Sustainable Development Goals," November 7, 2017, https://www.unodc.org/unodc/en/press/releases/2017/November/combating-corruption-to-achieve-the-sustainable-development-goals.html.
[246] United Nations Department of Economic and Social Affairs, "Goal 16: Promote Peaceful and Inclusive Societies for Sustainable Development, Provide Access to Justice for All and Build Effective, Accountable and Inclusive Institutions at All Levels ," United Nations Sustainable Development, accessed August 9, 2024, https://sdgs.un.org/goals/goal16.
[247] Julinda Beqiraj and Lawrence Mcnamara, "The Rule of Law and Access to Justice in the Post-2015 Development Agenda: Moving Forward but Stepping Back," Bingham Centre Working Paper (London, August 2014), www.binghamcentre.biicl.org.

Within this goal, there is a specific target to reduce corruption and bribery as an important means to achieving sustainable development.[248] The United Nations (UN) argued that corruption could impede achieving other goals and targets in SDGs such as healthy life (SDG 3), environment protection (SDG 14 and 15), and gender equality (SDG 5).[249] In the Indonesian context, an example of the UN-supported cross-cutting project was the program to strengthen Indonesian criminal justice institutions (National Police, AGO, and KPK) to investigate and prosecute corruption cases in the forestry sector between 2021-2022.[250] In addition, U4 Anti-Corruption Resource Center supported an Indonesian research institution, SustaIN, to conduct research and publish a paper on corruption in the health sector.[251]

Scrutinizing the World Bank Rule of Law project during the emergence of a good governance agenda, Santos criticized the World Bank that promoted the "one size fits all" package.[252] His criticism is that this top-down World Bank Rule of Law program ". . . prevent[s] an engagement in regard to their theoretical premises and their effects. These conditions favor lack of transparency and make it harder to open these projects to scrutiny and evaluation."[253]

Creating an anti-corruption agency is one example of the "one size fits all" approach. Anti-corruption reform has brought numerous institutional developments to many countries, including Indonesia. Some of these developments can be traced to the creation of the Anti-Corruption Agency (ACA) mandated by Article 6 of the United Nations Convention Against Corruption (UNCAC) and the Anti-Corruption Court. As of 2017, there are 42 anti-corruption agencies across 27 Asian-Pacific countries.[254] The ACA has also been established

[248] Irene Khan, "Shifting the Paradigm: Rule of Law and the 2030 Agenda for Sustainable Development," in *The World Bank Legal Review: Financing and Implementing the Post-2015 Development Agenda: The Role of Law and Justice Systems*, ed. Frank Fariello, Laurence Boisson de Chazournes, and Kevin E. Davis, vol. 7 (Washington, D.C.: The World Bank, 2016), 221–40.
[249] United Nations Office on Drugs and Crime, "Corruption and Sustainable Development," Fact Sheet, accessed August 9, 2024, www.anticorruptionday.org; United Nations, "Corruption and the Sustainable Development Goals," Press Release, December 2023, https://unis.unvienna.org/unis/en/pressrels/2023/uniscp1172.html.
[250] United Nations Office on Drugs and Crime, "Final Independent Project Evaluation of Country Programme: Indonesia-Sub- Programme 1: Strengthening Criminal Justice Responses on Forest Crimes to Support REDD+ Implementation in Indonesia" (Vienna, September 2016), www.unodc.org.
[251] Dwi Siska Susanti et al., "Tackling Fraud and Corruption in Indonesia's Health Insurance System," U4 Issue (Bergen, 2022), https://www.u4.no/publications/tackling-fraud-and-corruption-in-indonesias-health-insurance-system.
[252] Santos, "The World Bank's Uses of the 'Rule of Law' Promise in Economic Development."
[253] Santos, 300.
[254] Jon S.T. Quah, "Anti-Corruption Agencies in Asia Pacific Countries: An Evaluation of Their Performance and Challenges," 2017.

in other locations, including Eastern Europe (Serbia and Ukraine), Africa (Nigeria), and South America (Argentina).[255]

Santos also highlighted that the recipient countries bore the cost and resources to implement the program.[256] Ogus has predicted the high cost that the recipients' countries would bear if they implemented the "major changes to culture as well as institutions" of the anti-corruption policies.[257] Some institutions and programs often could not run well because the stakeholders could not anticipate the costs.[258] In southeastern Europe, many anti-corruption projects could not work according to their plans because of a lack of resources.[259] Doig, Watt, and Williams found that ACAs in Zambia, Malawi, Tanzania, and Uganda experienced institutional problems such as "under-funding, poor staffing levels, and an inability to fulfill adequately their core functions."[260] The donors sponsored these African ACAs to replicate the Hong Kong Independent Commission Against Corruption (ICAC) success without considering differences in resources, capabilities, and political-social-economic conditions.[261]

In addition to the ACAs, some countries, including Indonesia, have created an anti-corruption court (ACC). Indonesian scholars and NGOs also advocated the creation of ACC. The coalition of Indonesian NGOs published a book arguing the need for and structure of specialized anti-corruption courts.[262] A year later, the National Law Commission (*Komisi Hukum Nasional* or KHN) published several recommendations to reform Indonesian law during the *Reformasi* period, and one of its recommendations was to create specialized anti-corruption courts.[263] This ACC, however, faced problems such as lack of funding, human resources, and distrust from citizens, which hampered the creation of anti-corruption courts in

[255] French Anti-Corruption Agency, "Global Mapping of Anti-Corruption Authorities," May 2020.
[256] Santos, "The World Bank's Uses of the 'Rule of Law' Promise in Economic Development."
[257] Anthony Ogus, "Corruption and Regulatory Structures," Law & Policy 26, no. 3–4 (October 1, 2004): 329–46, 342.
[258] Bob Hudson, David Hunter, and Stephen Peckham, "Policy Failure and the Policy-Implementation Gap: Can Policy Support Programs Help?," *Policy Design and Practice* 2, no. 1 (2019): 1–14, https://doi.org/10.1080/25741292.2018.1540378.
[259] OECD, "Competitiveness in South East Europe: A Policy Outlook 2018, Competitiveness and Private Sector Development," Competitiveness and Private Sector Development (Paris: OECD, April 24, 2018), https://doi.org/10.1787/9789264298576-EN.
[260] Doig, Watt, and Williams, "Why Do Developing Country Anti-Corruption Commissions Fail to Deal with Corruption? Understanding the Three Dilemmas of Organisational Development, Performance Expectation, and Donor and Government Cycles," 253.
[261] Alan Doig, David Watt, and Robert Williams, "Measuring 'Success' in Five African Anti-Corruption Commissions: The Cases of Ghana, Malawi, Tanzania, Uganda & Zambia" (Bergen, May 2005), https://www.u4.no/publications/measuring-success-in-five-african-anti-corruption-commissions.pdf.
[262] Nizar Suhendra et al., Pengadilan Khusus Korupsi, Naskah Akademis Dan Rancangan Undang-Undang Pengadilan Tindak Pidana Korupsi (Jakarta: LeIP, MTI, PSHK & TGTPK, 2002), 23-31.
[263] Komisi Hukum Nasional, Kebijakan Reformasi Hukum (Suatu Rekomendasi) (Jakarta: Komisi Hukum Nasional, 2003), https://perpustakaan.komnasperempuan.go.id/web/index.php?p=show_detail&id=296.

every city across the Indonesia archipelago.[264] All these results came with comparable challenges to administering the ACC globally.[265] In Uganda, the ACC experienced a budget cut due to political interference, affecting and undermining the court's performance. Ukraine relied on IDO's funding to finance the operation of its ACC.[266]

In the comparative anti-corruption literature, some scholars have highlighted the political will, including the government's willingness to allocate adequate resources as one of the "success factors" of anti-corruption reforms.[267] Quah reviewed five anti-corruption agencies (ACAs) in Asia and argued that a lack of resources caused ACAs in China, India, and the Philippines to fail to curb corruption.[268] Allocating sufficient resources to sustain anti-corruption efforts is one of indicators, "continuity of effort," to assess the government's political will.[269]

The inadequate resources problem to implement anti-corruption efforts experienced by Indonesia and other countries mentioned above suggests that the ostensible policy commitment to anti-corruption efforts has not been matched by budget allocations by the national government. Alternatively, we could view this as a problem of symbolic gesturing toward a policy ideal, without the resources or capacity necessary to fully implement that policy. In 2003, Teten Masduki, then a coordinator of Indonesia Corruption Watch, expressed his concern that the creation of new anti-corruption institutions such as KPK and Ombudsman was a formality to satisfy IDOs' demands and receive financial aid.[270] In the context of international development, Andrews et al have called this "isomorphic mimicry," that is, "the adoption of the forms of other functional states and organizations which camouflages a persistent lack of function."[271] When these newly adopted or created institutions were frequently asked by the government, local NGOs, and IDOs to perform too many tasks, with too little resources and short period of time, Andrews et al argued this "premature load bearing" creates pressure that could weaken the institutions' capability.[272]

---

[264] Ramadhan, "Reviewing the Indonesian Anticorruption Court: A Cost-Effective Analysis."
[265] Carson, "Institutional Specialisation in the Battle against Corruption: Uganda's Anti-Corruption Court."
[266] Vaughn and Nikolaieva, "Launching an Effective Anti-Corruption Court: Lessons from Ukraine."
[267] Robert I. Rotberg, "Accomplishing Anticorruption: Propositions & Methods," *Daedalus* 147, no. 3 (July 1, 2018): 5–18, https://doi.org/10.1162/DAED_A_00513.
[268] Quah, "Combating Corruption in Asian Countries: Learning from Success & Failure."
[269] Brinkerhoff, "Assessing Political Will for Anti-corruption Efforts: An Analytic Framework."
[270] Teten Masduki, Omong Kosong Pemberantasan Korupsi, in Sukri Abdurrachman, ed., "Prociding Seminar Nasional Demokrasi & Penegakan Supremasi Hukum: Jakarta, 10-11 Desember 2003," (Jakarta: Puslit Kemasyarakatan dan Kebudayaan-LIPI, 2003), 387.
[271] Andrews, Pritchett, and Woolcock, *Building State Capability: Evidence, Analysis, Action*.
[272] Pritchett, Woolcock, and Andrews, "Capability Traps? The Mechanisms of Persistent Implementation Failure."

Focusing attention on the institutional approach could fail to achieve the intended ends when the scholars and practitioners do not consider the challenges and compatibility of the newly created institutions.[273] The capacity (or willingness) to allocate adequate resources is crucial for the success or failure and sustainability of such institutions. Lack of resources, such as insufficient government revenue to finance anti-corruption efforts, are common scapegoats, especially in Indonesia.[274] Indonesian legal reformers and rule-of-law practitioners should not simply ask for extra budgets from the government or IDOs without considering the availability of resources. Estimating and planning the allocation of "financial, human, and material resources" are essential to establishing the enabling environment for effective and equitable legal institutions.[275]

C. "Good Enough Governance"

Law and development scholars and practitioners should assess the good governance project with the "good enough governance" approach.[276] This "good enough governance" idea seeks the marginal improvement of development intervention by considering the underlying conditions and reform dynamics.[277] Reformers could look to develop more achievable law and development agendas by reviewing resources and limiting targets. This good enough governance approach critically examines the historical, economic, and political background of the countries where development projects or interventions would be implemented.[278]

Most development projects aim to improve the country's governance to contribute to other ends, such as delivering services, reducing poverty, or preventing corruption. However, these projects might not be compatible with the country's situation and needs. As Grindle proposed, the appropriate question is: "Given limited resources of money, time, knowledge, and human and organizational capacity, what are the best ways to move towards better governance in a particular country context?"[279]

---

[273] Tim Lindsey, "Legal Infrastructure and Governance Reform in Post-Crisis Asia: The Case of Indonesia," Asian-Pacific Economic Literature 18, no. 1 (May 1, 2004): 12–40, 34; Vivienne O'connor, "Understanding the International Rule of Law Community, Its History, and Its Practice," August 2015, 23.
[274] Arsil et al., "Pengadilan Tindak Pidana Korupsi Di Indonesia Pasca-2009: Antara Harapan Dan Kenyataan"; Lidya Julita Sembiring Kembaren, "Sri Mulyani: Dulu PNS Korupsi Karena Gaji Kecil," CNBC Indonesia, December 9, 2019, https://www.cnbcindonesia.com/news/20191209145559-4-121536/sri-mulyani-dulu-pns-korupsi-karena-gaji-kecil.
[275] The World Bank, "World Development Report 2017: Governance and the Law" (Washington, D.C., 2017), 102.
[276] Merilee S. Grindle, "Good Enough Governance: Poverty Reduction and Reform in Developing Countries," *Governance* 17, no. 4 (2004): 525–48, https://doi.org/10.1111/j.0952-1895.2004.00256.x.
[277] Grindle; Grindle, "Good Enough Governance Revisited."
[278] Grindle, "Good Enough Governance Revisited."
[279] Grindle, 554.

Reformers should employ more analytical frameworks to review these projects. Grindle explains three steps that reformers could use to examine the context and content of a development project.[280] First, she argues that we should assess "the strengths and weaknesses of states" and "the sources of change that might exist in particular environments."[281] Second, we should identify and specify the characteristics of the projects. Additional information on the projects' resources, challenges, processes, and objectives could provide valuable insight for planning and implementing the projects.[282] Third, reformers should be more flexible and open "to introduce and sustain effective change."[283]

A study on integrity or anti-corruption agencies in Australia provides essential insight connected to Grindle's approach. In Australia, the anti-corruption agencies do not have power to hold the ministerial advisers accountable because they are only held accountable by their ministers. This situation creates conflict of interest between the ministers and their advisers, "for example, inappropriate mixing of business interests with public decision."[284] Head argued that supportive political and business culture is essential for the anti-corruption agencies to work accordingly.[285] An anti-corruption agency cannot reform the political and business culture alone. The agency could not "function effectively" if the country's political and economic conditions were not conducive.[286] Therefore, reformers must identify and understand "the obstacles to the achievement of integrity in public administration, the options for integrity reform, and the appropriate strategic framework for implementing them."[287]

Development practitioners should tailor and adjust the long-list menu of good governance so the project can fit the country's condition. Research on post-soviet Eurasia, for instance, "confirms Grindle's hypothesis that not all governance dimensions affect economic performance." Baris, Knox, and Pelizzo highlight political stability as the most crucial component for economic development in Central Asia.[288]

For the good enough governance agenda, Grindle reminded the development practitioners to ask critically about allocating resources that could be more beneficial for the

[280] Grindle.
[281] Grindle, 562.
[282] Grindle, 567.
[283] Grindle, 569.
[284] Brian W. Head, "The Contribution of Integrity Agencies to Good Governance," Policy Studies 33, no. 1 (January 2012): 7–20, 17, https://doi.org/10.1080/01442872.2011.601200.
[285] Head.
[286] Head.
[287] Mark Evans, "Beyond the Integrity Paradox – towards 'Good Enough' Governance?," Policy Studies 33, no. 1 (January 2012): 97–113, 97.
[288] Omer F. Baris, Colin Knox, and Riccardo Pelizzo, "'Good Enough' Governance in the Post-Soviet Eurasia," Journal of Comparative Policy Analysis: Research and Practice 24, no. 4 (July 4, 2022): 329–59,.

target countries.[289] As Chenery and Kretschmer explained, "[d]evelopment programs are concerned with the choice of social goals, the allocation of resources to meet these goals, and the legal and administrative techniques best suited to secure [the] allocation desired."[290] Peerenboom also argued that one of the lessons for policymakers and development agencies in promoting good governance in middle-income countries is to "prioritize reforms based on political as well as economic cost-benefit analysis";[291] thus, they could prioritize the reforms that will achieve better and higher results. The efficient allocation of resources in the development of a project is one of the purposes of the development management implemented by donors.[292]

III. The Use of Comparative Legal Research in Law and Development

Before describing the BCA, I will be discussing the development of comparative law and comparative legal research. This discussion aims to show the connection with and use of comparative legal research in the law and development agenda. Moreover, there has been a development in comparative law that integrates economic analysis with comparative legal research. This comparative law and economics also highlight the need to assess efficiency in conducting comparative legal research and evaluating or proposing legal transplant programs under the law and development agenda.

A. The Functionalist Comparative Legal Research

Many countries have been borrowing and learning from foreign legal ideas and systems, known as the "legal transplant," to address their particular social problems.[293] This practice has spread worldwide due to the influence of law and development projects

[289] Merilee S Grindle, "Social Policy in Development: Coherence and Cooperation in the Real World by Merilee S. Grindle :: Center for International Development at Harvard University Working Paper No. 203 :: October 2010," CID Working Paper (Cambridge, Massachusetts , October 2010), www.hks.harvard.edu.
[290] Hollis B. Chenery and Kenneth S. Kretschmer, "Resource Allocation for Economic Development," Econometrica 24, no. 4 (October 1956): 365-399, 367.
[291] Randall Peerenboom, "Conclusion," in Law and Development of Middle-Income Countries: Avoiding the Middle-Income Trap, ed. Tom Ginsburg and Randall Peerenboom (Cambridge: Cambridge University Press, 2014), 335–66, 359.
[292] Derick W Brinkerhoff and Jennifer M Coston, "International Development Management in a Globalized World," Public Administration Review 59, no. 4 (1999): 346–61, 349.
[293] Jedidiah Kroncke, "Law and Development as Anti-Comparative Law," Vanderbilt Journal of Transnational Law 45, no. 2 (March 2012): 477–555; Nicola Lupo and Lucia Scaffardi, eds., Comparative Law in Legislative Drafting : The Increasing Importance of Dialogue amongst Parliaments, (Den Haag: Eleven international publishing, 2014); Alan Watson, "Comparative Law and Legal Change," The Cambridge Law Journal 37, no. 2 (1978): 313–36, https://doi.org/10.1017/S0008197300093338.

supported by international organizations, mainly from the U.S. and Western Europe[294]. In doing so, with their functionalist approach, comparative law scholars and practitioners have dominated the discipline since the middle of the 20th century.[295] This functionalist approach assumes different societies might face similar problems (*praesumptio similitudinis*), and one must have a legal system that addresses the problems.[296]

In the law and development arena, scholars and practitioners frequently apply functionalist comparative legal research to analyze foreign legal institutions and rules that are appropriate to address the societal problems in developing countries.[297] The IDOs play a significant role in this comparative legal research.[298] For instance, the Asian Development Bank supported the Indonesian government and CSO in conducting comparative law and institution research. They provided technical assistance and funded study tours to review the Hong Kong Anti-corruption Agency (ICAC) when creating the Indonesian Anti-corruption Agency (KPK).[299] Indonesian criminal law scholar Romli Atmasistmata also compared the Hong Kong anti-bribery law to give insight into the legislation process of anti-corruption law in the early 2000s.[300] In addition, the Indonesian NGOs had an influential role in conducting comparative legal research by assessing rules and institutions from other countries to address social and legal problems. For instance, the 2004 Indonesian Constitutional Court blueprint compared the financial independence of the Philippines' court to advocate for its budgetary autonomy.[301] Since the law is a normative discipline, this functionalist approach helps explore the functionally equivalent legal system or institution from other jurisdictions that could address domestic problems.[302]

---

[294] Merryman, "Comparative Law and Social Change: On the Origins, Style, Decline & Revival of the Law and Development Movement"; Santos, "The World Bank's Uses of the 'Rule of Law' Promise in Economic Development"; Jedidiah Kroncke, "Law and Development as Anti-Comparative Law," *Vanderbilt Journal of Transnational Law* 45, no. 2 (March 2012): 477–555.
[295] Günter Frankenberg, *Comparative Law as Critique* (Cheltenham: Edward Elgar Publishing, 2019), https://www.e-elgar.com/shop/usd/comparative-law-as-critique-9781789902174.html.
[296] Zweigert and Kötz, *Introduction to Comparative Law*; Michaels, "The Functional Method of Comparative Law."
[297] Siems, "Comparative Law."
[298] Jonathan M. Miller, "A Typology of Legal Transplants: Using Sociology, Legal History and Argentine Examples to Explain the Transplant Process," *The American Journal of Comparative Law* 51, no. 4 (October 1, 2003): 839–86, https://doi.org/10.2307/3649131.
[299] Schütte, "Against the Odds: Anti-Corruption Reform in Indonesia."
[300] Romli Atmasasmita, *Reformasi Hukum Hak Asasi Manusia & Penegakan Hukum* (Bandung: Mandar Maju, 2001), https://lib.ui.ac.id.
[301] This blueprint was published by the support from Konsorsium Reformasi Hukum Nasional (KRHN) and Tifa Foundation, See Indonesian Constitutional Court, Cetak Biru Membangun Mahkamah Konstitusi Sebagai Institusi Peradilan Konstitusi Yang Modern Dan Terpercaya, Indonesian Constitutional Court (Jakarta: Indonesian Constitutional Court, 2004), 21.
[302] Frankenberg, *Comparative Law as Critique*.

Nevertheless, some comparative law scholars criticized the presumption of similarity and demanded a review of one country's legal system and culture before adopting a legal reform.[303] Failure to consider the cultural differences in the legal system could lead to the failure of legal transplant projects.[304] For instance, Alkon documented the challenges to achieve a meaningful legal reform when the IDOs or donors did not consider different needs, conditions, cultures, and conditions in each post-Soviet Union country.[305] Therefore, a successful legal transplant requires a law-in-context assessment to ensure the proposed legal reforms suit the social and political context.

To achieve that, comparative law scholars could utilize socio-legal research to investigate the domestic political and social context in receiving and adapting the legal reform.[306] This effort is essential to supplement the doctrinal, normative, or black-letter comparative law to help local legislators practically assess the proposed rules by instilling social inquiry and theory building.[307] Comparative socio-legal research helps answer essential questions regarding legal reform and transplant projects, such as (1) the demand for reform and (2) stakeholders' views on the proposed reform.[308]

In addition, comparative law scholars and law and development practitioners could utilize an economic analysis by using the benefit-cost analysis technique. BCA is helpful in contextualizing such economic factors as the cost to implement the legal reforms and the benefit from implementing such reforms.[309] Measuring the benefits and costs of the proposed policy can minimize cognitive error in designing a policy.[310] According to Sunstein, one of the

---

[303] Michaels, "The Functional Method of Comparative Law"; Berkowitz, Pistor, and Richard, "The Transplant Effect"; Alkon, "Lost in Translation: Can Exporting ADR Harm Rule of Law Development"; Hoecke, "Methodology of Comparative Legal Research."

[304] David Nelken and Johannes Feest, eds., *Adapting Legal Cultures*, *Adapting Legal Cultures* (Oxford and Portland, Oregon: Hart Publishing, 2001), https://doi.org/10.5040/9781472559166.

[305] Cynthia Alkon, "The Cookie Cutter Syndrome: Legal Reform Assistance under Post-Communist Democratization Programs," *Journal of Dispute Resolution* 2002, no. 2 (July 1, 2002), https://scholarship.law.tamu.edu/facscholar/131.

[306] Naomi Creutzfeldt, Agnieszka Kubal, and Fernanda Pirie, "Introduction: Exploring the Comparative in Socio-Legal Studies," *International Journal of Law in Context* 12, no. 4 (December 1, 2016): 377–89, https://doi.org/10.1017/S1744552316000173; Michele Graziadei, "The Oxford Handbook of Comparative Law," in *The Oxford Handbook of Comparative Law*, ed. Mathias Reimann and Reinhard Zimmermann, 2nd ed. (Oxford: Oxford University Press, 2019), 442–73, https://doi.org/10.1093/OXFORDHB/9780198810230.001.0001.

[307] Merryman, "Comparative Law and Social Change: On the Origins, Style, Decline & Revival of the Law and Development Movement."

[308] Natalia Hanley et al., "Improving the Law Reform Process: Opportunities for Empirical Qualitative Research?," *Journal of Criminology* 49, no. 4 (September 10, 2015): 546–63, https://doi.org/10.1177/0004865815604195.

[309] Peerenboom, Zürn, and Nollkaemper, "Conclusion."

[310] Cass R. Sunstein, "Cognition and Cost-Benefit Analysis," *Journal of Legal Studies* 29, no. s2 (2000): 1103, https://doi.org/10.1086/468105.

cognitive problems is when the public and policymakers can justify the benefits of a particular policy. However, they cannot estimate the costs of implementing the policy.[311]

Failure to estimate the cost of implementing the adopted legal reforms has occurred in many law and development projects in many countries.[312] The recipient countries also rely heavily on IDO funds to sustain their legal reforms, and this situation discourages the recipient countries' governments from allocating adequate funds to implement such reforms.[313] For instance, the Costa Rica court failed to allocate the operational cost for implementing arbitration and mediation after the USAID funding ended.[314] Thus, comparative law scholars, law and development practitioners, and host governments could use BCA to assess the efficiency of identify resources needed, and assess the efficiency of legal transplant projects.[315]

B. Comparative Law and Economics

Comparative law and economics are both positive and normative disciplines.[316] First, the positive analysis focuses on descriptive questions to describe how actors (individuals, firms, or institutions) behave to the change in incentives.[317] It assumes that all actors are rational actors who decide and behave to maximize their utility. The government has the power to change the incentives through rules and regulations; thus, the positive analysis describes the influence of rules and regulations on actors' behaviors and their impact on social welfare.[318] From the positive discipline point of view, the economic analysis could help better understand the features, processes, and factors contributing to legal transplants.[319]

Second, the normative analysis of comparative law and economics focuses on evaluating policies or rules in terms of efficiency and social welfare.[320] This analysis normatively claims that one policy or rule is better if it has relative advantages or higher

---

[311] Sunstein.
[312] Hammergren, Justice Reform and Development : Rethinking Donor Assistance to Developing and Transition Countries; Thomas Carothers, ed., Promoting the Rule of Law Abroad, Promoting the Rule of Law Abroad (Carnegie Endowment for International Peace, 2006). Moreover, see Chapter IV for the Indonesian experience in the lack of resources to support its legal reform, especially in the anti-corruption policies.
[313] Erbeznik, "Money Can't Buy You Law: The Effects of Foreign Aid on the Rule of Law in Developing Countries."
[314] Luis Salas, "From Law and Development to Rule of Law: New and Old Issues in Justice Reform in Latin America," in *Rule of Law in Latin America: The International Promotion of Judicial Reform*, ed. Pilar Domingo and Rachel Sieder (London: Institute of Latin American Studies, 2001), http://www.sas.ac.uk/ilas/publicat.htm.
[315] Mattei, "Efficiency in Legal Transplants: An Essay in Comparative Law and Economics."
[316] Mattei, Comparative Law and Economics, 418.
[317] Steven Shavell, Foundations of Economic Analysis of Law (Cambridge, Massachusetts: The Belknap Press of Harvard University Press, 2004).
[318] Nuno Garoupa, "Trends in Comparative Law and Economics," in *Trends in Comparative Law and Economics* (Anthem Press, 2022), https://doi.org/10.2307/J.CTV2SVJXWN.
[319] Mattei, "Efficiency in Legal Transplants: An Essay in Comparative Law and Economics."
[320] Garoupa and Ginsburg, "Economic Analysis and Comparative Law," 57.

efficiency.[321] Mattei believed this economic analysis of law provides a practical contribution to comparative law research in assessing the legal rules from other countries that would be more efficient to adopt and assessing the process of adopting those rules.[322] In addition, Parisi argued that comparative law and economic scholars, with their functional approach, are interested in "identify[ing] process[es] of law formation that are best capable of capturing the true preferences of the subjects of the law."[323] This technique could result in more significant cost savings of the government's resources from unnecessary legal transplants that would likely fail.

Allocating scarce resources to implement rules and achieve social goals as efficiently as possible is one of the essential elements of economic analysis.[324] When resources for implementing policies such as budget, staff, and infrastructure are finite, we have to decide on a reasonable target and find alternative policies to achieve it. Because the resources are scarce, their allocation is efficient if it maximizes net benefit.[325] One method to assess the efficiency of policy is the BCA. This analysis provides valuable insight into identifying resources and assessing the efficiency of rules, regulations, and programs.

Assessing the efficiency of legal transplant projects should be considered an additional insight to inform policy decisions and strategies. The use of economic analysis such as BCA provides a valuable framework and insight to capture the phenomena, that is, the efficiency of legal transplants (i.e., institution or rules), and then compare the efficiency of other legal transplants. In Weil's words, this approach serves as a "map" to help comparative law scholars by "providing analytical frameworks that increase our ability to compare real-life legal institutions."[326]

The efficiency evaluation resulting from a BCA might not explain the contexts and nuances surrounding the legal institutions, rules, and actors.[327] Further inquiry into comparative law research should be done to overcome the limitation of the economic analysis of law, including BCA. Comparative law researchers can utilize socio-legal research, mainly qualitative legal research, to better understand and explain the context and nuances. Michaels,

---

[321] Garoupa and Ginsburg.
[322] Mattei, Comparative Law and Economics, 148.
[323] Francesco Parisi, "The Multifaceted Method of Comparative Law and Economics," Comparative Law Review 12 (January 1, 2023): 25–32, 30.
[324] Perloff, *Microeconomics*.
[325] Farnsworth, The Legal Analyst: A Toolkit for Thinking about the Law.
[326] Ernesto Vargas Weil, "Map and Territory in Comparative Law and Economics," Global Journal of Comparative Law 11, no. 1 (2022): 1–35, 1.
[327] Lindsey D Carson, "Restoring Law in Comparative Law and Economics," July 23, 2013, http://ssrn.com/abstract=2297660.

for instance, argued that comparative law and economics research could also be enriched by focusing on the interaction between legal institutions and the evolution of a legal system under investigation.[328] In addition, Gramcheva claimed that comparative law can help "further contextualize the concept of efficiency and at the same time bridge the different legal traditions."[329]

In Chapter 5, I will present the BCA result of implementing the Indonesian anti-corruption policies. This BCA result, especially from the fiscal or government perspective, provides a data point to identify that the Indonesian government-collected monetary sanctions were less than the cost to enforce and prevent corruption cases. This finding is a positive analysis that describes the monetary result where actors (i.e., prosecutors, judges, lawyers/offenders) work under the Indonesian-anti corruption laws and justice systems.[330] This description undeniably does not capture complete information about their work, attitude, and rationales. Rather, this result becomes a basis to design comparative socio-legal research to understand and interpret better the process and factors that contributed to the collection of monetary sanctions from the crimes of corruption defendant. I will discuss the qualitative findings of these phenomena in Chapter 6.

IV. Benefit-Cost Analysis

A. The Function of Benefit-Cost Analysis

BCA is a method to compare the benefits and costs of a policy in monetary terms to help decision-makers choose the efficient allocation of resources to increase social net benefits and achieve social goals.[331] The BCA could be done before (*ex-ante*), in the middle of (*in medias res*), or after (*ex-post*) the program implementation. It is one valuable technique that a recipient country can use to review proposed or implemented development projects. Moreover, the policymakers can use BCA to anticipate the cost burdening recipient countries' taxpayers after donors or IDOs stop supporting this institution.

[328] Michaels, "The Second Wave of Comparative Law and Economics?"
[329] Lyubomira Gramcheva, "Comparative Institutional Law and Economics: Reclaiming Economics for Socio-Legal Research," Maastricht Journal of European and Comparative Law 26, no. 3 (June 26, 2019): 372–93, 375.
[330] As explained earlier, these laws and criminal justice systems to enforce and prevent corruption in Indonesia were influenced and transplanted through law and development projects. Some of the legal rules and institutions were inspired by foreign legal systems such as Hong-kong anti-corruption agency (ICAC).
[331] Boardman et al., Cost-Benefit Analysis: Concepts and Practice, 2.

William Easterly is one of the most notable critics of the ineffective allocation of international development program funding.[332] He argued that development experts, or "planners," created ineffective programs to address international development goals, for example, poverty alleviation or malaria prevention. The IDOs and "planners" have used USD 2.3 trillion from 1950 to 2000 to fund their program; however, the problems of poverty, malaria, corruption, and human rights abuse still exist. Easterly claimed planners ". . . keep pouring resources into a fixed objective, despite many previous failures at reaching that objective."[333]

Criticism on the effectiveness of development programs also includes the rule of law and legal reform programs across the world, and this view can be applied to the Indonesian anti-corruption reforms.[334] Despite national and international commitment to fight against corruption in Indonesia, the lack of progress in recent years is concerning.[335] After hitting the highest score of 40 in 2020, Indonesia's corruption perception index (CPI) score dropped to 34 in 2023, the same score that Indonesia had in 2014.[336] Indonesia's "absence of corruption" indicator of the Rule of Law Index also has not improved significantly, going only from 0.37 to 0.40 point between 2015 and 2023.[337] Despite the criticisms and limitations of using these global indicators to measure the impact of anti-corruption efforts, these indicators are still useful to track a country's progress and achievement in implementing anti-corruption agendas.[338] These indicators gauge the corruption level and situations that inspire national government and IDOS to assess the effectiveness, impact, and sustainability of anti-corruption efforts.[339]

---

[332] William Easterly, *The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So ...* (New York: Penguin Books, 2007), http://books.google.com/books?id=Dcj_Ju1wICkC&pgis=1.
[333] Easterly, 12.
[334] Elin Cohen et al., "Truth and Consequences in Rule of Law: Inferences, Attribution and Evaluation," *Hague Journal on the Rule of Law* 3, no. 1 (January 4, 2011): 106–29, https://doi.org/10.1017/S1876404511100068/METRICS.
[335] Kemitraan (Partnership), "Indonesia's Corruption Perception Index Stagnates in 2023, Ranked 115th ," Press Release, January 31, 2024, https://kemitraan.or.id/en/press-release/indonesias-corruption-perception-index-stagnates-in-2023-ranked-115th/.
[336] Transparency International, "2023 Corruption Perceptions Index: Indonesia," Transparency International, 2023, https://www.transparency.org/en/cpi/2023/index/idn.
[337] World Justice Project, "WJP Rule of Law Index | Indonesia Insights," World Justice Project, 2023, https://worldjusticeproject.org/rule-of-law-index/country/2023/Indonesia/Absence%20of%20Corruption/.
[338] Pornanong Budsaratragoon and Boonlert Jitmaneeroj, "A Critique on the Corruption Perceptions Index: An Interdisciplinary Approach," *Socio-Economic Planning Sciences* 70 (2020): 100768, https://doi.org/https://doi.org/10.1016/j.seps.2019.100768; Cecilie Wathne and Matthew C. Stephenson, "The Credibility of Corruption Statistics: A Critical Review of Ten Global Estimates," U4 Issue (Bergen, 2022), https://www.u4.no/publications/the-credibility-of-corruption-statistics.
[339] Cecilie Wathne, "Effectively Evaluating Anti-Corruption Interventions," U4 Issue (Bergen, July 17, 2022), https://www.u4.no/publications/effectively-evaluating-anti-corruption-interventions.

In the past decade, many development agencies and donors have incorporated the BCA method into their management strategies. For instance, USAID started using BCA in 2010 "to strengthen the impact of its work, save money, and reduce the need for U.S. assistance over time."[340] OECD highlighted BCA as one of the tools to assess "value for money" in international development.[341] In 2017, the Asian Development Bank (ADB) published a practical guide to conducting BCA for development.[342] This trend shows that BCA is becoming a valuable method for assessing the efficiency and effectiveness of development projects. By the end of the last decade, several scholars have analyzed the benefits and costs of Sustainable Development Goals (SDGs).[343]

I take two perspectives on calculating the benefit and cost of a policy or program: 1) government and 2) societal. First, BCA from the government perspective is known as the cost-savings or fiscal impact analysis. It will measure "all governmental revenues, expenditures, and savings that result from a policy or program."[344] This fiscal impact analysis is valuable and important for assessing the capability of the target country's government to implement a policy and allocate its available resources.

Second, BCA from the societal perspective, or social BCA, is used to "measure the societal effects of the investment beyond the budget."[345] This analysis tries to measure the public valuation of the policy impact, so it can be used as a reference to understand how much the public values the benefit of existing anti-corruption tactics. This BCA estimates citizens' preferences and values equally to measure societal utility. Meanwhile, for analyzing the content of law and development projects, BCA helps identify costs to set up a new institution, build infrastructure, and invest in human resources by raising salaries or conducting training. These costs will be aggregated so the policymaker and public have information about the resources needed to implement such policies. They will then need to deliberately discuss where they will get the money to fund the policy, for instance, by raising taxes, asking for donor support, or borrowing funds from another program.

---

[340] USAID, "Cost-Benefit Analysis," USAID, accessed August 9, 2024, https://www.usaid.gov/economic-growth-and-trade/cost-benefit-analysis.
[341] David Pearce, Giles Atkinson, and Susana Mourato, *Cost-Benefit Analysis and the Environment: Recent Developments*, *Cost-Benefit Analysis and the Environment: Recent Developments* (Organisation for Economic Cooperation and Development (OECD), 2006), https://doi.org/10.1787/9789264010055-EN.
[342] Asian Development Bank, "Guidelines for the Economic Analysis of Projects" (Manila, 2017).
[343] Bjorn Lomborg, ed., *Prioritizing Development: A Cost Benefit Analysis of the United Nations' Sustainable Development Goals Edited by Bjorn Lomborg Frontmatter More Information Prioritizing Development* (Cambridge: Cambridge University Press, 2018), https://doi.org/10.1017/9781108233767.
[344] Henrichson and Rinaldi, "Cost-Benefit Analysis and Justice Policy Toolkit."
[345] Henrichson and Rinaldi, 6.

BCA, however, should not be the only assessment used to accept or reject the proposed policy. As Chamber has warned, BCA could reduce the complexity and variety of values and things to the simple and standard.[346] Development practitioners and local actors undeniably should consider many factors in planning and executing legal transplant projects. Both development practitioners and policymakers in a target country should view BCA as a tool that provides them with information about the cost of implementing the policy to allocate sufficient resources and potential benefit of the policy. BCA can also suggest alternatives to modify the proposed policy to achieve more significant benefits with limited resources. This information about benefits and costs helps enhance public reasoning in a democratic process. Therefore, a target country could be "good enough," or at least slightly better than before, by implementing a more realistic and achievable legal transplant project.

B. BCA of Indonesian Anti-Corruption Policies

BCA has been mentioned for the policymaking process in Indonesia.[347] As a relatively new policy tool, the BCA method is typically embedded within regulatory impact assessment (RIA).[348] It has attracted attention as part of efforts to reduce the volume and complexity of regulatory rulemaking in Indonesia. Since 2011, the Indonesian Planning and Development Agency (*Bappenas*) has mentioned the need for BCA to synergize its development and budgeting plan.[349] *Bappenas* re-emphasized that BCA is one of the methods to review the problem of over-regulations in 2013.[350] In 2018, the agency conducted its first BCA to review 47 regulations related to small-micro businesses. However, this analysis overlooked a critical aspect in the BCA textbook, specifically, the sensitivity analysis.[351] In the latest National Medium Term Development Plan 2020-2024, BCA is considered a technique to evaluate the quality and number of regulations needed to support the President's 2020-2024 policies.[352] Moreover, there is a lack of rigorous steps to conduct a BCA in the

[346] Robert Chambers, Whose Reality Counts? Putting the First Last (London: Intermediate Technology Publications, 1997).
[347] Rival Ahmad and Erni Setyowati, "Adaptasi Cost-Benefit Analysis Dalam Pembentukan Peraturan Di Indonesia," *Badan Pembinaan Hukum Nasional*, November 17, 2013, https://bphn.go.id/data/documents/materi_cle_7_rival_ahmad_ghulam,_sh.,ll.m.pdf.
[348] Supanca, *Sebuah Gagasan Tentang Grand Design Reformasi Regulasi Indonesia,*.
[349] Biro Hukum Kementerian PPN/Bappenas, "Sinergitas Perencanaan Pembangunan Dan Penganggaran."
[350] Direktorat Analisa Peraturan Perundang-undangan, "Background Study: Pengintegrasian Kerangka Regulasi Dalam RPJMN 2015 – 2019."
[351] Staf Ahli Menteri bidang Hubungan Kelembagaan Bappenas, " Laporan Kegiatan Reformasi Regulasi: Analisis Dampak Kebijakan UMKM Untuk Pembangunan Ekonomi."
[352] Indonesian President, "Lampiran Peraturan Presiden Republik Indonesia Nomor 18 Tahun 2020: Rencana Pembangunan Jangka Menengah Nasional 2020-204" (Jakarta, 2020), https://bappeda.bondowosokab.go.id/uploads/image/Lampiran_1__Narasi_RPJMN_2020-2024.pdf.

regulatory-reform guidance published by the Indonesian National Law Development Agency (*BPHN*).[353] This guidance does not require analysts to estimate the effects over the project's life, discount benefits and costs, and perform a sensitivity analysis.

There have been some attempts to measure the cost and benefit of enforcing Indonesian anti-corruption laws. Pradiptyo estimated the IDR 67.77 trillion (USD 7.28 billion) gap between the total cost of corruption and the total monetary sanctions the judges levied.[354] However, he did not estimate the law enforcement cost. He limited the cost component to the government's embezzled budget and the money paid to public officials as bribes. Moreover, the KPK has also estimated the social cost of a corruption case by calculating the prevention cost, law enforcement cost, and the amount of money defendants received.[355] This cost was then compared to its monetary punishment from nine cases. The result showed that the state finance loss was 543 times more than the court verdicts' conventional calculation. Nevertheless, this calculation focused only on the law enforcement and prevention cost that the KPK bore and did not estimate other agencies' law enforcement costs. Moreover, a comparison between the cost and the monetary sanction was only for a particular case—bribery in the forestry sector—with only nine samples.

Olken, a World Bank economist, undertook a BCA of specific anti-corruption interventions to review different types of programs' efficiency in reducing corruption. He examined more than 600 Indonesian village road projects and found that increasing top-down government audits reduced corruption significantly compared to increasing grassroots participation.[356] He estimated that the net social benefit from the government audit was approximately $250 per village. Although this analysis is valuable to compare the most beneficial anti-corruption program (top-down audit vs grassroots participation), this analysis does not estimate the overall benefits and costs of the Indonesian anti-corruption policies.

BCA studies of anti-corruption policies are also limited outside Indonesia. Most of the publications have calculated the costs that are attributable to crimes of passion, such as murder, rape, and assault.[357] Two studies that may be related are the cost and benefit

[353] Kepala Badan Pembinaan Hukum Nasional, "PEDOMAN EVALUASI PERATURAN PERUNDANG-UNDANGAN NOMOR PHN-HN.01.03-07."
[354] Pradiptyo, "Does Corruption Pay in Indonesia? If So, Who Are Benefited the Most?"; Pradiptyo, " A Certain Uncertainty; Assessment of Court Decisions in Tackling Corruption in Indonesia A Certain Uncertainty; Assessment of Court Decisions in Tackling Corruption in Indonesia 1."
[355] Zulaiha and Angraeni, "Menerapkan Biaya Sosial Korupsi Sebagai Hukuman Finansial Dalam Kasus Korupsi Kehutanan."
[356] Olken, "Monitoring Corruption: Evidence from a Field Experiment in Indonesia."
[357] Cohen, *The Costs of Crime and Justice*.

measurements of white-collar crime conducted in the U.S. and Norway.[358] In one of these studies, Cohen used a contingent valuation (CV) survey to measure the willingness to pay to reduce white-collar crime in the U.S.; the result is that respondents are willing to pay more to reduce a white-collar crime than the actual cost they bear.[359] This valuation could justify the high allocation of resources to enforce of white-collar crime because the public is willing to pay.

This contingent valuation or stated preference survey is one of the methods used to measure non-market value.[360] This approach "ask[s] questions that help to reveal the monetary tradeoff each person would make concerning the value of goods or services."[361] Contingent valuation is a useful method to measure things that are not traded in the market, and it has been used widely in the environmental arena. For instance, this approach has been applied to measure the willingness to pay to conserve a wetland in Malaysia.[362] This stated preference method could earn people's willingness to pay for value other than efficiency, such as with equity.[363] In Indonesia, no contingent valuation has been done to measure any criminal justice policy, including anti-corruption policies.

C. Limitations of Benefit-Cost Analysis

BCA practitioners should carefully measure the social benefit or welfare of using BCA, because more than just economic factors—such as efficiency and maximizing social welfare—could be involved.[364] A society might value equity more than efficiency.[365] Most criticism regarding BCA and its moral value—utilitarianism—comes from scholars arguing that rights and values must be protected. Rawls argued that each person has an equal right to the most extensive fundamental liberty.[366] Rawls then defended individual rights, claiming that they ". . . are not subject to political bargaining or to the calculus of social interests,"[367] that are

[358] Cohen.
[359] Cohen, "Willingness to Pay to Reduce White-Collar and Corporate Crime."
[360] Carson, "Contingent Valuation: A Practical Alternative When Prices Aren't Available"; Richard T. Carson, "Contingent Valuation: A User's Guide," *Environmental Science and Technology* 34, no. 8 (April 15, 2000): 1413–18, https://doi.org/10.1021/es990728j; Zerbe Jr., "The Legal Foundation of Cost-Benefit Analysis."
[361] Carson, "Contingent Valuation: A Practical Alternative When Prices Aren't Available," 28.
[362] Siew et al., "Estimating Willingness to Pay for Wetland Conservation: A Contingent Valuation Study of Paya Indah Wetland, Selangor Malaysia."
[363] Vining and Weimer, "An Assessment of Important Issues Concerning the Application of Benefit-Cost Analysis to Social Policy."
[364] Perloff, *Microeconomics*.
[365] Perloff.
[366] John Rawls, A Theory of Justice, Advances in Applied Business Strategy, Revised (Cambridge, Massachusetts: Belknap Press of Harvard University Press, 1999), https://www.hup.harvard.edu/books/9780674000780.
[367] Rawls, 4.

maximizing welfare as a utilitarian would prioritize. According to Rawls, individual rights cannot be overridden by "the welfare of society as a whole."[368] Dworkin also rejected the utilitarian theory because it does not take individual rights into account.[369] He disagreed that rights are merely an instrument for maximizing welfare.[370] One of his criticisms is about torture, where he disagreed with torturing a person to reveal evidence that might stop future crimes and benefit the greater public.

Another criticism is related to the utilitarian value underpinning the benefit-cost analysis. Rawls criticized the utilitarian idea of justice because it lacks an independent definition of "the good." Utilitarianists consider "the good" a mostly pleasure, hedonistic measurement.[371] Dworkin made a similar argument that BCA lacks moral consideration because any decision that only prioritizes self-interest, such as maximizing wealth, "has no inherent moral value."[372] Kelman also argued that utilitarianism's moral philosophy "is insufficient as a moral view" because it emphasizes self-interest consequences.[373] If a murderer derived pleasure from killing a person or a motorist used a newly constructed road for an illegal race, some utilitarianists would agree to include their pleasure and satisfaction of preference into the equation.[374] Hanson presented these examples to illustrate the lack of moral consideration in utilitarianism.

Responding to criticism on the self-interest preferences that might produce injustice, the BCA analyst could limit preference based on existing rights protected by the Constitution and laws as the rule utilitarian would propose.[375] BCA can exclude ". . . such sentiments as envy, hatred, jealousy, malice, sadism, or the rewards of thievery or murder."[376] Sunstein reminded the BCA practitioner of Mill's harm principle, which only regulates and limits people's freedom to act if it could prevent harm to others.[377] Some rules might not be ideal, but based

[368] Rawls, 513.
[369] Ronald Dworkin, "It Is Absurd to Calculate Human Rights According to a Cost-Benefit Analysis | Ronald Dworkin | The Guardian," May 23, 2006, https://www.theguardian.com/commentisfree/2006/may/24/comment.politics.
[370] Ronald M. Dworkin, "Is Wealth a Value?," *The Journal of Legal Studies* 9, no. 2 (March 1980): 191–226.
[371] Dworkin.
[372] Dworkin, 225.
[373] Steven Kelman, "Cost-Benefit Analysis: An Ethical Critique Steven Kelman A," Regulation 5, no. 1 (1981): 33–40, 35.
[374] Sven Ove Hansson, "Philosophical Problems in Cost-Benefit Analysis," *Economics and Philosophy* 23, no. 2 (July 2007): 163–83, https://doi.org/10.1017/S0266267107001356.
[375] Richard O Zerbe, "Ethical Benefit Cost Analysis as Art And Science: Ten Rules For Benefit-Cost Analysis," University of Pennsylvania Journal of Law and Social Change 12 (2008): 73, 95.
[376] Zerbe.
[377] Cass R. Sunstein, *The Cost-Benefit Revolution* (Cambridge, Massachusetts: The MIT Press, 2019).

on past experiences and thoughts, they could be essential as a "practical aid" to maximize utility.[378]

An ethical BCA should consider the moral sentiments.[379] Society may prefer to advocate for specific values. Sen proposed upgrading the practice of BCA to invoke the ". . . explicit social choice judgments that take us beyond market-centered valuation."[380] A value such as impartial government in a gift-giving regulation is one example. The Indonesian Constitution, for instance, stipulates that "every person shall have the right of recognition, guarantees, protection, and certainty before a just law, and of equal treatment before the law."[381] Although consensual gift-giving from a person to a public official could maximize their welfare, the law that criminalizes this act as justifiable to ensure impartiality and equal treatment of public officials to every person. Moreover, this gift-giving practice could "erode[] belief in the political system and reduce[s] interpersonal trust."[382] A utilitarian argument could support the ban on gift-giving because the government would be impartial in providing public services to its citizens. Although they have paid taxes, citizens may be required to pay the extra money to receive their rights and services from government officials.

To measure intangible benefits or values such as a clean environment, non-discrimination, or good governance, BCA practitioners developed a contingent valuation or stated preference survey to measure these non-market values. This approach "ask[s] questions that help to reveal the monetary tradeoff each person would make concerning the value of goods or services."[383] Contingent valuation is a valuable method to measure things not traded in the market. It has been widely used in environmental areas. This survey is a stated preference method that could ascertain people's willingness to pay for a value other than efficiencies, such as equity or distributive justice.[384] Thus, the BCA practice should consider these existing values to determine the resources the public would like to allocate, what the acceptable targets would be.[385] For instance, Cohen measured the willingness to pay

---

[378] David Lyons, *Forms and Limits of Utilitarianism*, *Forms and Limits of Utilitarianism* (Oxford: Oxford University Press, 1965), https://doi.org/10.1093/ACPROF:OSO/9780198241973.001.0001.
[379] Zerbe Jr., "Ethical Benefit Cost Analysis As Art And Science: Ten Rules For Benefit-Cost Analysis."
[380] Amartya Sen, "The Discipline of Cost-Benefit Analysis," Journal of Legal Studies 29, no. S2 (June 2000): 931-952, 952.
[381] Article 28 D, "Indonesian Constitution 1945" (1945).
[382] Mitchell A. Seligson, "The Impact of Corruption on Regime Legitimacy: A Comparative Study of Four Latin American Countries," The Journal of Politics 64, no. 2 (2002): 408–33, 408.
[383] Carson, "Contingent Valuation: A Practical Alternative When Prices Aren't Available."
[384] Vining and Weimer, "An Assessment of Important Issues Concerning the Application of Benefit-Cost Analysis to Social Policy."
[385] Zerbe, "Introduction: Economic Welfare Applied to Law with Costly Markets."

to reduce white-collar crime in the U.S., and the result is that respondents are willing to pay more to reduce white-collar crime than the actual cost they bear. The out-of-pocket costs for the victims of consumer fraud are about $100, but their willingness to pay to reduce per crime is about $1200. This higher valuation of the cost of crime means that the public bears more than the out-of-pocket cost. This cost could include financial hardship, pain, and suffering. This valuation could justify white-collar crime enforcement's high price or, conversely, show an inefficient allocation to enforce white-collar crime.

Criticism about user preference as a basis for the policy-making process comes from Mark Sagoff.[386] He argued that preference would not necessarily transform into the actual action of the individual. His example is a dad who went to Disney World but would rather have been sailing. In the contingent valuation survey, the BCA analyst asks about participants' willingness to pay in a hypothetical setting. They may not commit the act in accordance with their answer. In the hypothetical setting, the participant might answer willingly to contribute $20 per month to protect the forest. However, he does not end up actually sending a monthly payment of $20 to the U.S. Forest Service. Some scholars, like Madriaga and McConnel, used actual contributions to environmental organizations to estimate the public valuation of the environment.[387] However, such actual contribution is also problematic because of the free-riding problem, the situation where some individuals enjoy public goods and service without paying their share (tax).[388]

Excluding BCA from estimating the program's efficiency and informing policymakers contradicts the democratic principle. According to Sen, democracy should include "government by discussion" and "public reasoning."[389] Moreover, the experts could contribute to better design and analyze the contingent valuation surveys. Nou proposed the involvement of the public in deciding "contested aspects" of BCA, such as standing (impacted population), impacts, variables, or discount rates.[390] Nou, however, does not abandon the role of the expert in preparing and providing information related to the BCA

[386] Mark Sagoff, "Should Preferences Count?," *Land Economics* 70, no. 2 (May 1994): 127–44, https://about.jstor.org/terms.
[387] Bruce Madariaga and Kenneth E. McConnell, "Exploring Existence Value," *Water Resources Research* 23, no. 5 (May 1, 1987): 936–42, https://doi.org/10.1029/WR023I005P00936.
[388] Jean Hampton, "Free-Rider Problems in the Production of Collective Goods," *Economics and Philosophy* 3, no. 2 (1987): 245–73, https://doi.org/10.1017/S0266267100002911; Boardman et al., *Cost-Benefit Analysis: Concepts and Practice*.
[389] Amartya Sen, *The Idea of Justice*, *German Law Journal*, vol. 13 (Cambridge, Massachusetts: The Belknap Press University of Harvard, 2009), https://www.hup.harvard.edu/books/9780674060470.
[390] Jennifer Nou, "Regulating the Rulemakers: A Proposal for Deliberative Cost-Benefit Analysis," *Yale Law & Policy Review* 26, no. 2 (2008): 601–44.

before the public deliberates their decision. BCA reflects "a technocratic conception of democracy" where the public gives technocrats who have time, expertise, and resources authority to analyze a proposed policy.[391] The iterative discussion between the public and the expert, with the contingent valuation survey as one of the analysis tools, could enrich the decision-making process and thus improve its legitimacy.

The last response to the criticism is that the BCA proponent acknowledges that this analysis is not the only basis for the decision-making process in a democratic society, where different citizens, groups, and parties have other interests.[392] The BCA can provide "information to the decision process rather than one of providing the answer."[393] BCA could provide information about the cost or resources that need to be allocated to implement a policy. The last section elaborates on how the BCA result could contribute to public deliberation in the decision-making process.

D. The Use of BCA to Support Public Deliberation

The BCA helps policymakers in the recipient countries to deliberately review a policy, including the allocation of resources. To achieve Golden Vision 2045, the Indonesian government also needs to commit to allocate resources in implementing strategies and programs to achieve the target. Two of its strategies and programs are strengthening the rule of law and transforming good governance.[394] The Indonesian government also explicitly looks for aid and support from outside government to finance its strategies and programs to achieve the Indonesian Golden Vision 2045.[395] The government cannot always expect the non-state entities to finance the government vision, including expecting support from the IDOs to implement the anti-corruption policies.[396] Public deliberation that brings various stakeholders' opinions, preferences, and recommendations into account could undeniably redefine the policy and program during consultation.

Richardson worried that BCA could restrict "intelligent deliberation," because if a BCA concludes that a particular policy is costly, then a country should not implement the

---

[391] Sunstein, *The Cost-Benefit Revolution*.
[392] Lewis A. Kornhauser, "On Justifying Cost-Benefit Analysis," *Journal of Legal Studies* 29, no. S2 (2000): 1057, https://doi.org/10.1086/468104.
[393] Zerbe Jr., "The Legal Foundation of Cost-Benefit Analysis," 177.
[394] Kementerian Perencanaan Pembangunan Nasional/ Badan Perencanaan Pembangunan Nasional, "Indonesia Emas 2045: Negara Nusantara Berdaulat, Maju, Dan Berkelanjutan."
[395] Kementerian Perencanaan Pembangunan Nasional/ Badan Perencanaan Pembangunan Nasional, 277.
[396] In the Stranas PK report the National Secretariat of Stranas PK expected more support from local civil society organizations (CSOs) and International Development Organizations (IDOs), See National Secretariat of Corruption Prevention (Sekretariat Nasional Pencegahan Korupsi/Setnas PK), "Laporan Pelaksanaan Strategi Nasional Pencegahan Korupsi: Triwulan II Tahun 2023-2024" (Jakarta, August 2023), https://stranaspk.id/uploads/documents/64ed4ac5844bf-Rev_Laporan_Triwulan_II_compressed_(1).pdf.

policy without further deliberation among its citizens.[397] BCA could enrich public deliberation to seek better policies or projects that could moderately improve the target country's government. This public deliberation is not mutually exclusive from BCA and could consider different values besides efficiency from different stakeholders. BCA could be a part of the consideration in public deliberation, especially in predicting the consequences or impact of implementing the proposed policy.[398]

Bächtiger et al. conceptualized deliberation as "mutual communication that involves weighing and reflecting on preferences, values, and interests regarding matters of common concern."[399] This deliberation allows the public and policymakers to give a reason, defend, and convince others about the problem and proposed policy.[400] It is also an attempt to understand other parties' attempt to "arrive at an agreed judgment or a shared view."[401] BCA could be a part of the consideration in public deliberation, especially in predicting the consequences or impact of implementing a proposed policy. The reason for this is that the government collects its budget from the taxpayers to implement policies or programs. Some taxpayers would like to know what their tax allocation is and its impact on society. In a country where donors support programs, we still should decide on the best and most sustainable programs with limited resources from the donors.[402] Also, the donors' support has its own limited resources and timeframes. The recipients' government and their taxpayers must bear the responsibility to fund the policy after donors leave the target country, and BCA could assist them in evaluating the allocation of taxpayers' resources to sustain the adopted policies, if such policies are worthwhile.

BCA can be used in public deliberation in a development project with Grindle's "good enough governance" analytical steps.[403] This framework suggests that development practitioners assess the country's context and the project content. BCA could offer additional input to evaluate these factors. To review the context, BCA tries to measure how the government and society value the proposed policy. Chapter 5 presents the BCA of Indonesian

---

[397] Henry S. Richardson, "The Stupidity of the Cost-Benefit Standard," *Journal of Legal Studies* 29, no. S2 (June 2000): 1003, https://doi.org/10.1086/468102; Kelman, "Cost-Benefit Analysis: An Ethical Critique Steven Kelman A."
[398] Sen, *The Idea of Justice*.
[399] Andre Bächtiger et al., "The Oxford Handbook of Deliberative Democracy," in The Oxford Handbook of Deliberative Democracy, ed. Andre Bächtiger et al. (Oxford: Oxford University Press, 2018), 1–32, 2.
[400] Amy Gutmann and Dennis Thompson, *Why Deliberstive Democracy?, Issues in Science and Technology* (Princeton University Press, 2004).
[401] Ian O'Flynn, Deliberative Democracy (Cambridge: Polity Press, 2021), 2.
[402] Easterly, *The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So …*; Grindle, "Good Enough Governance Revisited."
[403] Grindle, "Good Enough Governance Revisited."

anti-corruption law measures from both government and societal perspectives. The results show that the government collected monetary sanctions at an amount lower than the cost to enforce and prevent corruption cases, while from the societal perspective, the result shows that the government spending to implement Indonesian anti-corruption policies resulting in high social benefits.

Meanwhile, in analyzing the content, BCA helps identify costs to set up a new institution, build infrastructure, and invest in human resources by raising salaries or conducting training. These costs will be aggregated so the policymaker and public have information about the resources needed to implement such policies. They will then need to deliberately discuss where they will get the money to fund a policy, for instance, by raising taxes, asking for donor support, or reducing funds of another program.

After assessing the context and the content, Grindle suggested that stakeholders focus on the reform process. In this phase, they should be adaptive, flexible, and willing to modify the policy or program to be more sustainable and effective.[404] This process thrives when the donors do not strictly impose the blueprint of "best practices" on the target country and allow local stakeholders to seek a more viable policy and target deliberately. Therefore, development practitioners could ". . . concentrate on more modest, [and] doable steps" to achieve better governance in the target country.[405] Evaluating the context, content, and reform process is not strictly linear. Grindle argued that ". . . there are important feedback loops and constraints that operate at each phase to promote, alter, or stymie opportunities for change."[406]

Dryzek and List argued that deliberation could also involve "second-order decisions on the design of institutions for solving (first-order) decision problems, such as the allocation of resources or distribution of benefits and burdens."[407] This type of deliberation occurred in the abovementioned examples, where actors modified their preferences to choose the more effective and beneficial policy. There were examples of alcohol prohibition and the "war on drugs" that used many public resources. After evaluating the cost, the public deliberately debated and reformed those policies to allocate better resources for other policies, such as

[404] Grindle.
[405] Easterly, The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So ..., 102.
[406] Grindle, "Good Enough Governance Revisited," 569.
[407] John S. Dryzek and Christian List, "Social Choice Theory and Deliberative Democracy: A Reconciliation," British Journal of Political Science 33, no. 1 (2003): 1–28, 25.

rehabilitation for problematic alcohol drinkers and substance users.[408] Another example is the experiment with psychology students in the United States, which also reported that participants preferred more lenient punishment when presented with the cost of imprisonment.[409]

Nussbaum also claimed that the BCA helps to answer "the obvious question" by guiding the citizens in deciding and implementing the policy for a particular problem.[410] Nussbaum reminded us to imagine and think beyond the obvious question. Hence, public deliberation helps answer the "tragic question" of the arrangement in society to prevent similar problems such as corruption and gender discrimination.[411] BCA is not the only tool in the decision-making process, but it could provide information to allocate resources better. Decision-makers could complement BCA with other types of analysis to scrutinize discrimination, equality, or distributional impact.[412] Perhaps it was this type of discussion that made some middle-income countries in East Asia and Latin America "have political will and the resources to carry out meaningful [rule of law] reforms" despite the high cost of such reforms.[413] For instance, Singapore and Hong Kong were relatively small countries when they launched the fight against corruption; however, they equipped the anti-corruption agencies with adequate resources and backed them with political support.[414]

If donors and host governments believe democracy is an essential aspect of development, they should support the democratic process in decision-making based on reliable information. Instead of listing good governance prescriptions and considering them as "best practice," donors and host governments could promote the production of various studies, including BCA, to enrich deliberative reasoning among stakeholders. This deliberative process is one of the instrumental values of democracy, and it develops citizens' intellect and morals by allowing them to participate in decision-making.[415] In the long run,

---

[408] Redonna K. Chandler, Bennett W. Fletcher, and Nora D. Volkow, "Treating Drug Abuse and Addiction in the Criminal Justice System: Improving Public Health and Safety," *JAMA : The Journal of the American Medical Association* 301, no. 2 (January 1, 2009): 190, https://doi.org/10.1001/JAMA.2008.976.
[409] Eyal Aharoni et al., "Justice at Any Cost? The Impact of Cost–Benefit Salience on Criminal Punishment Judgments," *Behavioral Sciences & the Law* 37, no. 1 (November 18, 2019): 38–60, https://doi.org/10.1002/BSL.2388.
[410] Martha C. Nussbaum, "The Costs of Tragedy: Some Moral Limits of Cost-Benefit Analysis," *Journal of Legal Studies* 29, no. 2 PART II (June 2000): 1036, https://doi.org/10.1086/468103.
[411] Nussbaum.
[412] Cass R. Sunstein, "Some Costs & Benefits of Cost-Benefit Analysis," *Daedalus* 150, no. 3 (July 1, 2021): 208–19, https://doi.org/10.1162/DAED_A_01868.
[413] Peerenboom, Zürn, and Nollkaemper, "Conclusion," 320.
[414] Quah, "Combating Corruption in Asian Countries: Learning from Success & Failure."
[415] Adam Swift, Political Philosophy : A Beginners' Guide for Students and Politicians, 4th ed. (Medford: Polity Press, 2019), 92-93

this effort could empower the citizens to hold the government accountable. Moreover, BCA evaluation before program implementation could save donors resources by adjusting the good governance aspect to be more suitable to recipients' countries' conditions, dynamics, and resources. For the host country, the BCA could justify the needs to allocate more sufficient resources to implement reform agenda, or to readjust reform agenda to be more moderate and realistic.

V. Conclusion

This chapter has explained the use of BCA to review donors' idealistic and "one size fits all" blueprint on good governance, rule of law, or anti-corruption projects. BCA could give input about the efficiency of a project. Law and development practitioners and comparative law scholars rarely use the BCA to assess the success or failure of the legal transplant agenda. This technique is anchored in economic analysis, which has also been developed theoretically in the comparative legal research literature (comparative law and economics). This chapter has also addressed criticism based on the protection of rights and the variety of values arguments, which answer a question different from what the BCA tries to answer. Combining every possible value and the various techniques to measure them is needed in public deliberation to promote deliberative democracy. This information about benefits and costs helps enhance public reasoning in a democratic process. The proponents of efficiency and utilitarianism could bring BCA to support their reasons, while other participants with other philosophical values could support their argument with different types of study. Therefore, a target country could be "good enough," at least slightly better than before, by implementing a more realistic and achievable development policy.

Chapter 4: The Development of Indonesian Anti-Corruption Policies and the Challenges in the *Reformasi* and Post-*Reformasi* Period

I. Introduction

After the Asian Financial Crisis and the collapse of the Soeharto regime in 1998, also known as the Reformation (*Reformasi*) era, the Indonesian government enacted several anti-corruption policies. At the beginning of the *Reformasi* era, the MPR issued the first decree regarding anti-corruption. The MPR Decree No. XI/ MPR/1998 on State Officials Who Are Free and Clean from Corruption, Collusion, and Nepotism determined the future of Indonesian anti-corruption policies (TAP MPR XI/1998). MPR updated this decree by specifying the direction of anti-corruption policies in The MPR Decree no XIII/MPR/2001 on Policy Direction of Eradication and Prevention of Corruption (TAP MPR XIII/2001). This latter decree mandated both Parliament and government to create laws concerning the following: (1) an anti-corruption agency; (2) a Witness and Victim Protection Agency; (3) Organized Crime; (4) Freedom of Information; (5) Government Ethics; (6) Crime of Money Laundering; and (7) the Ombudsman.

The Indonesian government passed the mandated laws and created new institutions to implement the laws; they enforce the crime of corruption laws via newly created institutions such as the anti-corruption agency (KPK), Financial Intelligence Unit (PPATK), and Anti-Corruption Court. The existing law enforcement agencies, such as police and prosecutor offices, also formed specialized units with more resources than the other units within the agency. Moreover, the Indonesian government created several agencies to prevent corruption by promoting transparency and accountability, such as the Information Commission and Ombudsman.

In creating and developing these institutions, the Indonesian government and NGOs received substantial support from IDOs or donors. The rule of law, anti-corruption, and good governance, with such underlying values as transparency and accountability, became the narratives behind the creation of those institutions.[416] According to Belton, this approach to creating new institutions is viewed as "measurable ends" by rule of law practitioners in the international development sector.[417] These practitioners focus their projects on developing legal institutions that can improve the rule of law. For instance, Indonesia created a commercial

[416] See Chapter 3 for a detailed discussion.
[417] Rachel Kleinfeld Belton, "Competing Definitions of Rule of Law: Implications for Practitioners," Rule of Law Series (Washington, D.C., January 2005), www.CarnegieEndowment.org/pubs.

court as "a condition of the loans" from the IMF in the commercial area.[418] Designing and developing institutions to implement an anti-corruption agenda became one of the legal reform priorities during the post-Soeharto era.[419]

This chapter introduces the readers by describing institutions, systems, regulations, and efforts to prevent and curb corruption in Indonesia as mandated by the TAP MPR XIII/2001 above and supported by IDOs or donors. This chapter describes the Indonesian anti-corruption policies during the *Reformasi* period, including the newly created institutions that implemented these policies. This description justifies some of the institutions mentioned in this chapter in measuring the costs discussed later in Chapter 5. This chapter will also highlight the IDOs' role and involvement in creating these institutions to illustrate that these newly created institutions are part of law and development/anti-corruption projects.

For this chapter, I used Brata's categorization of the anti-corruption approaches to elaborate on Indonesian anti-corruption policies (e.g., preventive, repressive, and educational measures).[420] However, this chapter focuses on the former two: preventive and repressive measures. The reason for this is that the government creates no designated institution to implement the educational measures. Several newly created institutions tasked with prevention, such as KPK and the Ombudsman, also have the authority to educate the public and agencies as part of the prevention strategy.[421]

Next, this chapter discusses the challenges—mainly the lack of resources, including infrastructure, human, and financial resources, to implement these policies based on secondary sources or previous publications regarding Indonesian anti-corruption policies. This discussion elaborates on one of the challenges in implementing and maintaining development projects using the Indonesian anti-corruption projects as a case study. Most of these anti-corruption institutions and programs did not work well because of the lack of resources. Scholars and

[418] Richard Mohr, "Local Court Reforms and 'global' Law," *Utrecht Law Review* 3, no. 1 (2007): 41–59, https://ro.uow.edu.au/lawpapershttps://ro.uow.edu.au/lawpapers/50.
[419] McGuire, "Indonesian Law Reform and The Promotion Of Justice: An Analysis of Law Reform In The Post-Soeharto Period."
[420] Roby Arya Brata, Why Did Anticorruption Policy Fail?: A Study of Anticorruption Policy Implementation Failure in Indonesia (North Carolina: Information Age Publishing, 2014).
[421] Untung S, "KPK Resmikan Gedung Pusat Edukasi Antikorupsi," November 27, 2018, https://infopublik.id/kategori/nasional-politik-hukum/313568/kpk-resmikan-gedung-pusat-edukasi-antikorupsi?video=; Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), "Assistance in Preventing and Combating Corruption in Indonesia (APCC-KPK)," Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), accessed August 9, 2024, https://www.giz.de/en/downloads/giz2020_en_apcc_factsheet.pdf. One of the donors, the German Agency for International Cooperation (GIZ), supported the creation of the Anti-Corruption Learning Center (ACLC) at the KPK. This center has trained hundreds of trainers to educate the public about anti-corruption. GIZ claimed this effort as a strategy to prevent and combat corruption in Indonesia.

donors have highlighted the limited resources as one of the problems that hamper the Indonesian government from implementing anti-corruption laws. This discussion answers lower order questions: What is the resourcing challenge created by the multilateral push for anti-corruption measures in Indonesia after 1997? (1.b.) How do we assess the current state of resourcing for Indonesian anti-corruption policies? (1.c.) This section aims to set the background and rationales for conducting a benefit-cost analysis of the Indonesian anti-corruption policies.

Last, this chapter describes the monetary sanctions for the crimes of corruption defendants, i.e., fines, restitutions, and asset forfeiture. The government considers monetary sanctions as one of its revenue sources. This description will serve as a background for the next chapter, which discuss the findings on the process and factors that contributed to the collection of monetary sanctions.

II. Preventive Measures: New Institutions to Prevent Corruption

The Indonesian government has taken preventive measures to eliminate or reduce opportunities to engage in corrupt behavior. Prevention has been a dominant strategy throughout the history of Indonesian anti-corruption policies.[422] This section provides an overview of policies and institutions that aim to prevent corruption measures in the *Reformasi* era.

A. Wealth Audit Commission

In TAP MPR 1998, only one practical prevention strategy was stated in a decree: reviewing the public officials' wealth (income and assets) by an independent agency.[423] Parliament followed up the decree by enacting law No. 28 in 1999, which provides the fundamental legal framework for public officials to disclose their income and assets. This wealth disclosure effort was not a new strategy.[424] In the first anti-corruption policies under the administration of Soekarno, this first Indonesian president required all public officials to declare their income and assets.[425]

[422] Vishnu Juwono, "Berantas Korupsi: A Political History of Governance Reform and Anti-Corruption Initiatives in Indonesia 1945-2014" (The London School of Economics and Political Science, 2016).
[423] Article 3 (1) & (2) "MPR Decree on State Official Who Are Free and Clean from Corruption, Collusion, and Nepotism," Pub. L. No. XI/MPR/1998 (1998).
[424] Brata, Why Did Anticorruption Policy Fail?: A Study of Anticorruption Policy Implementation Failure in Indonesia.
[425] The World Bank, "Income and Asset Disclosure: Case Study Illustrations," Directions in Development (Washington, D. C., 2043), 99.

Mandated by the TAP MPR 1998, in 1999, the Indonesian government created an independent agency called the Wealth Audit Commission (*Komisi Pemeriksa Kekayaan Penyelenggara Negara* or KPKPN). The agency was merged into a single department within the Corruption Eradication Commission (*Komisi Pemberantasan Korupsi* or KPK) when the government created this anti-corruption agency in 2004. This asset disclosure policy aimed to improve transparency, as mentioned in the handbook about wealth disclosure that KPK published.[426] KPK claims that transparency could increase public trust in the government. Reciprocally, government officials could also be responsible and respectful to the public when doing their job.[427] I will elaborate on the history and rationales of KPK creation later in the section regarding repressive measures, because KPK has both preventive and repressive tasks and authority.

B. Information Commission

In the beginning, the Indonesian civil society organization (CSO) activists have also successfully promoted freedom of information regulation within the Indonesian Supreme Court, which issued a regulation to ensure and provide public information in 2007. The CSO activists and the Supreme Court officials received support in the regulation-making process from such international donors as the Indonesia-Australia Legal Development Facility (LDF) and USAID/Millennium Challenge Corporation.[428] The UNDP deemed this regulation one of the best practices to prevent corruption in the judiciary.[429] The IMF also advocated transparency to prevent corruption.[430]

Promoting transparency in the judiciary allowed human rights and anti-corruption activists, with the support of IDOs, to push the legislation process for the Public Information Law.[431] This law is mandated by the TAP MPR XIII/2001. Parliament enacted this law in 2008

---

[426] Komisi Pemberantasan Korupsi (KPK), Pengantar Laporan Harta Kekayaan Penyelenggara Negara (LHKPN) (Jakarta: Komisi Pemberantasan Korupsi (KPK), 2015), 20.
[427] Komisi Pemberantasan Korupsi (KPK).
[428] Marcus Cox, Emele Duituturaga, and Nur Sholikin, "Indonesia Case Study: Evaluation of Australian Law and Justice Assistance" (Canberra, December 2012), 39.
[429] Sofie Arjon Schütte, Paavani Reddy, and Liviana Zorzi, A Transparent and Accountable Judiciary to Deliver Justice for All (Bangkok: United Nations Development Programme (UNDP), 2016), 38.
[430] Poverty Reduction and Economic Management Unit and The World Bank East Asia and Pacific Region, "Indonesia - Combating Corruption In Indonesia: Enhancing Accountability For Development," November 12, 2003.
[431] Harkrisyati Kamil, "The Role and Initiatives of NGOs in Indonesia in Empowering Freedom of Information," in *CONSAL XIII* (Manila, Phillipines, 2006); Masduki, "Keterbukaan Informasi Publik: Pengalaman Beberapa Negara," *Jurnal Penelitian Illmu Pengetahuan Dan Teknologi Komunikasi* 12, no. 1 (June 2010): 17–28, https://fpscs.uii.ac.id/wp-content/uploads/Jurnal%20FPSB/Karya%20Ilmiah%20Dosen/Prodi%20Ilmu%20Komunikasi/Masduki,%20S.Ag.,%20MA/Keterbukaan-Informasi-Publik-Pengalaman-Beberapa-Negara.PDF.

to ensure every person's right to communicate and obtain information.[432] The law broadens public access to the information held by every institution that receives government funding and non-government organizations funded by either community or foreign sources.[433] Human rights activists consider this law as a protection and guarantee for public civil and political rights according to the International Covenant on Civil and Political Rights,[434] and anti-corruption activists deem transparency and access to public documents, particularly the public budget, as prerequisite criteria to curb corruption.[435]

Transparency is interrelated with accountability. The Indonesian government established several institutions to uphold accountability among its agencies and officers to promote good governance. As for the Public Information Law, a new institution, the Information Commission (*Komisi Informasi*), ensures its implementation. The Information Law requires the government to create one central Commission and 34 provincial Information Commissions.[436] This Commission has the authority to settle disputes between the public and institutions regarding access to public information.

C. Ombudsman

In addition, the Indonesian government created the Ombudsman to promote good governance and anti-corruption at the beginning of the *Reformasi* era under Presidential Decree No. 4 Year 2000.[437] This law was mandated by the TAP MPR XIII/2001. The legal basis for the Ombudsman then changed with Law of 38 the Year 2008. The idea to create this oversight institution can be traced back to the 1970s. Two Indonesian legal scholars, Satjipto Rahardjo and Muchsan, proposed an institution that could ensure that the government operates according to the law.[438] Despite the legal basis of the Ombudsman having been changed since its first iteration, the Ombudsman has two main goals: 1) promoting good governance that is fair, just, open, and free from corruption, collusion, nepotism, and discrimination, and 2) improving

[432] Consideration (b) "Public Information Law," Pub. L. No. 14 (2018).
[433] Article 1 (3) Public Information Law.
[434] Article 19 (2) ICCPR states "[e]veryone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice,""Ratification of International Covenant on Civil and Political Rights Law," Pub. L. No. 12 (2005).
[435] Agus Sudibyo, "Jangan Tunda Keterbukaan Informasi," *Kompas*, April 30, 2010, https://antikorupsi.org/id/article/jangan-tunda-keterbukaan-informasi.
[436] The commission could be created in a district/rural area if the policymakers think it is needed.
[437] Melissa A Crouch, "The Yogyakarta Local Ombudsman: Promoting Good Governance through Local Support," Asian Journal of Comparative Law 2, no. 1 (2007): 1–30.
[438] Susi Dwi Harijanti, "Complaint Handling Systems In The Public Sector: A Comparative Analysis Between Indonesia and Australia," Indonesian Comparative Law Review 3, no. 1 (December 31, 2020): 1–24, 4.

public services.[439] The Ombudsman has the authority to receive public complaints, investigate the complaints, and report the investigation results to other related institutions.[440] Like the Information Commission, the Ombudsman also has regional offices in 34 provinces in Indonesia.[441]

CSO, alongside IDOs, supported the creation of this oversight institution. Crouch documented the establishment of the first local Ombudsman in the Yogyakarta province.[442] She described the support from local CSOs, *Kemitraan* (Partnership for Governance Reform), and *Pusham UII* (Human Rights Study Center at the Islamic University of Indonesia, in creating an Ombudsman in Yogyakarta.[443] *Kemitraan and the Asia Foundation* supported the first national Ombudsman in 2000. These organizations supported financial and expert resources to set up, develop, and operate the Ombudsman.[444]

D. National Public Procurement Agency (LKPP)

UNODC considers that "public procurement is a major risk area for corruption." Many countries, including Indonesia, have tried to curb corruption in public procurement.[445] In 2001, the World Bank published the "Indonesia Country Procurement Assessment Report: Reforming the Public Procurement System." This report reviewed the public procurement laws and practices in Indonesia; it also provided several reform proposals to improve the Indonesian public procurement system based on international principles.[446] This report highlighted the benefits of establishing a National Public Procurement Office, such as providing modern and internationally accepted policies in public procurement.[447]

The effort to reform Indonesian public procurement started at the beginning of the *Reformasi* period.[448] President Abdurrahman Wahid issued Presidential Decision Number 18 Year 2000 regarding Public Procurement Guidance. This regulation promotes open,

---

[439] Article 3 "Presidential Decree on National Ombudsman," Pub. L. No. 44 (2000); Article 15 "Ombudsman Law," Pub. L. No. 37 (2008).
[440] Article 10 Presidential Decree on National Ombudsman; Article 8 Ombudsman Law.
[441] Ombudsman, "Perwakilan," accessed August 10, 2024, https://ombudsman.go.id/perwakilan/.
[442] Crouch, "The Yogyakarta Local Ombudsman: Promoting Good Governance through Local Support."
[443] Stephen Sherlock, "Combating Corruption in Indonesia? The Ombudsman and the Assets Auditing Commission," Bulletin of Indonesian Economic Studies 38, no. 3 (December 2002): 367–83.
[444] Sherlock, 372.
[445] United Nations Office on Drugs and Crime (UNODC), "Public Procurement Reform in Indonesia," United Nations Office on Drugs and Crime (UNODC), December 8, 2020, https://www.unodc.org/roseap/en/what-we-do/anti-corruption/topics/2020/public-procurement-reform-indonesia.html.
[446] The World Bank, "Indonesia - Country Procurement Assessment Report: Reforming the Public Procurement System," (Washington, D. C., 2013).
[447] The World Bank, 13.
[448] Agung Djojosoekarto, ed., *E-Procurement Di Indonesia : Pengembangan Layanan Pengadaan Barang Dan Jasa Pemerintah Secara Elektronik , Kemitraan* (Jakarta: Kemitraan, 2009).

accountable, transparent, and fair public procurement.[449] The Indonesian government then committed to the Consultative Group for Indonesia (CGI), a group of international development agencies, to create a National Public Procurement Office (LKPP).[450] Based on President Regulation Number 106 Year 2007, the Indonesian government created the National Public Procurement Agency (*Lembaga Kebijakan Pengadaan Barang/Jasa Pemerintah*, hereafter LKPP).[451] LKPP is tasked with developing and drafting public procurement policies in Indonesia and has become a driving force in reforming the Indonesian public procurement system, improved it overall.[452]

One of its efforts is the electronic procurement system (e-procurement) mandated by Presidential Regulation Number 54 Year 2010 regarding Public Procurement. In 2011, LKPP issued guidance to regulate electronic public procurement in Indonesia.[453] Moreover, LKPP develops and manages the Electronic Public Procurement System (*Sistem Pengadaan Secara Elektronik* or SPSE), first developing this electronic procurement system (e-procurement) in several provinces and agencies in 2007. LKPP, with the support of *Kemitraan* and Millenium Challenge Corporation-USAID, bought hardware and software to create e-procurement in five provinces in Indonesia.

This e-procurement could minimize fraud and corruption in public procurement.[454] Before its existence, vendors were required to submit their proposals in person. Some people obstructed the submission process so that certain vendors would be eliminated from the tender process. E-procurement helps remove barriers for vendors to participate in tender by simplifying the process.[455] There are at least two benefits of e-procurement for public officials.

---

[449] Consideration "Presidential Decree on Public Procurement Guidelines," Pub. L. No. 18 (2000).
[450] Badan Perencanaan dan Pembangunan Nasional (Bappenas), "Snapshot Assessment of Indonesia's Public Procurement System: Piloting OECD/DAC Procurement JV Baseline Indicator (BLI) Benchmarking Methodology Version 4," June 2007.
[451] National Procurement Agency, "Sejarah dan Latar Belakang," accessed August 10, 2024, https://www.lkpp.go.id/tentang/sejarah.
[452] Richo Andi Wibowo, "Preventing Maladministration in Indonesian Public Procurement (A Good Public Procurement Law Approach and Comparison with the Netherlands and the United Kingdom)" (Utrecht University, 2017).
[453] National Procurement Agency, "E-Tendering Procedure," Pub. L. No. 1 (2011), https://jdih.lkpp.go.id/regulation/peraturan-kepala-lkpp/peraturan-kepala-lkpp-nomor-1-tahun-2011.
[454] Richo Andi Wibowo, "Mencegah Korupsi Pengadaan Barang Jasa (Apa Yang Sudah Dan Yang Masih Harus Dilakukan?)," Integritas : Jurnal Antikorupsi 1, no. 1 (April 19, 2015): 37–60; Anastasia Citra Puspita and Yohanna M.L. Gultom, "The Effect of E-Procurement Policy on Corruption in Government Procurement: Evidence from Indonesia," International Journal of Public Administration 47, no. 2 (January 25, 2024): 117–29.
[455] Dwi Haryati, Anugrah Anditya, and Richo Andi Wibowo, "Pelaksanaan Pengadaan Barang/Jasa Secara Elektronik (E-Procurement) Pada Pemerintah Kota Yogyakarta," Mimbar Hukum 23, no. 2 (June 7, 2011): 328–42.

First, this system simplified the process and reports that public officials must administer.[456] Second, this system helps public officials who previously had been threatened to choose a particular vendor to refuse to pick vendors who do not participate in the e-procurement system.

E. National Strategy of Corruption Prevention and Eradication

Besides creating new institutions such as KPK, the Information Commission, and the Ombudsman, the Indonesian government also designed and implemented the National Strategy of Corruption Prevention and Eradication (*Strategi Nasional Pencegahan dan Pemberantasan Korupsi* hereafter the *Stranas* PK). Historically, President Susilo Bambang Yudhoyono issued this strategy during his first administration term (2004-2009).[457] After ratifying the United Nations Convention Against Corruption (UNCAC) in 2006, *Stranas* PK was updated during every president's term to harmonize the president's agenda on anti-corruption and UNCAC mandates.[458] This anti-corruption strategy consists of programs and indicators that several national and local agencies must implement and achieve.

For instance, one of the current strategies focuses on reforming the licensing and procurement process to curb corruption in the business sector. To achieve that goal, several agencies, such as the Ministry of Law and Human Rights, the National Procurement Agency (LKPP), and the Ministry of Investment, need to utilize the Beneficial Ownership regulation to prevent corruption. The transparency of the beneficial owner of a company (beneficial ownership) has developed as one of the important policies to fight corruption, track the flow of illegal money, and fight tax avoidance so the government can quickly identify individuals who have benefits and are responsible for the business carried out by the company.[459] Some IDOs, such as UNODC, ADB, and Publish What You Pay (PWYP), have supported and developed the Beneficial Ownership policy in Indonesia.[460]

---

[456] Richo Andi Wibowo (associate professor at Faculty of Law Gadjah Mada University) in discussion with the author, September 12, 2021.
[457] "Presidential Instruction on Accelerating Corruption Eradication," Pub. L. No. 5 (2004).
[458] Australia Indonesia Partnership for Justice (AIPJ), "Dokumen Rancangan," December 2010.
[459] Inter-American Development Bank and Organization for Economic Cooperation and Development (OECD), A Beneficial Ownership Implementation Toolkit, (Inter-American Development Bank and Inter-American Development Bank Organization for Economic Cooperation and Development (OECD), 2019), https://doi.org/10.18235/0001711.
[460] Ramandeep Chhina, Beneficial Ownership Transparency in Asia and the Pacific (Manila: Asian Development Bank, 2022); Choky Ramadhan, "Contract Disclosure and Beneficial Ownership Transparency" (Jakarta, 2020); United Nations Office on Drugs and Crime, "Promoting Beneficial Ownership Disclosure in Indonesia," United Nations Office on Drugs and Crime, March 25, 2021, https://www.unodc.org/roseap/en/what-we-do/anti-corruption/topics/2021/05-beneficial-ownership-disclosure-indonesia.html.

To implement *Stranas* PK, the Indonesian government has placed KPK as its coordinator since 2019. Before that, the Ministry of Planning and Development (*Bappenas)* was the agency that managed *Stranas* PK. *Bappenas* also worked collaboratively with international donors and CSOs, so their support aligns with the national development plan, including the national anti-corruption strategy.[461] In implementing *Stranas* PK, these development partners have supported the program by providing financial or technical assistance. Such donors as UNDP, USAID, AIPJ (AusAID), GIZ, and World Bank are still involved in and support *Stranas* PK's implementation during the current management at KPK.[462] KPK has a budget for managing *Stranas* PK, mainly for managerial and coordination tasks.[463] Budgets to implement *Stranas* PK are within each agency mandated to execute the anti-corruption program. Unfortunately, these budgets do not appear in each agency's annual financial plan and report because they are internalized in the ordinary operational budget.

III. Repressive Measures: New Institutions to Enforce the Anti-Corruption Laws

Repressive measures aim to detect corrupt behavior then prosecute and punish violators; this enforcement also aims to deter potential offenders. Investment in law enforcement agencies represents the "fourth wave" and "fifth wave" of the rule of law assistance that focuses on the judiciary, law enforcement, and correction.[464] Law enforcement agencies are an essential and integral part of upholding and enforcing the rule of law among public officials who violate the law.[465] Belton also noted that "good" law enforcement has become one of the goals of rule of law practitioners.[466] This strategy, focusing on law enforcement reform, can promote other ends of the rule of law, such as equality before the law and impartial justice.[467]

Creating an anti-corruption agency, for instance, aims to supplement or replace the existing law enforcement agencies that are prone to corrupt practices. Sousa surveyed that the "governments, donors and international governmental organizations (IGOs)" supported creating specialized anti-corruption agencies in many countries.[468] In Indonesia, the Australia-

[461] Muhammad Isro, (former staff at Bappenas and currently works at the Stranas PK team) in discussion with author, March 7, 2022.
[462] National Secretariat of Corruption Prevention (Sekretariat Nasional Pencegahan Korupsi/Setnas PK), "Laporan Pelaksanaan Stranas PK Triwulan VII Tahun 2020" (Jakarta, November 2020), 96.
[463] Isro in discussion with author
[464] O'connor, "Understanding the International Rule of Law Community, Its History, and Its Practice."
[465] Claes Sandgren, "Combating Corruption: The Misunderstood Role of Law," *International Lawyer* 39, no. 3 (2005): 717–31, https://scholar.smu.edu/til/vol39/iss3/5http://digitalrepository.smu.edu.
[466] Belton, "Competing Definitions of Rule of Law: Implications for Practitioners."
[467] Belton.
[468] de Sousa, "Anti-Corruption Agencies: Between Empowerment and Irrelevance."

Indonesia Partnership for Justice (AIPJ) is an example of the rule of law project that focuses on improving law enforcement to investigate and prosecute corruption crimes.[469] During the first period of AIPJ work (2011-2016), it considered the need to improve KPK and the Attorney General Office's work in prosecuting corruption crimes.[470] AIPJ also promoted transparency at the Attorney General Office by supporting its first publicly available Annual Report.[471] In its second period, AIPJ supported KPK and local CSO *Pusat Studi Hukum dan Kebijakan* (PSHK) to publish the guidelines for money laundering case management in the capital market.[472]

A. Corruption Eradication Commission (*Komisi Pemberantasan Korupsi*/KPK)

In the initial period of *Reformasi,* President Wahid created a joint anti-corruption task force that consisted of law enforcement officers such as police and prosecutors, public representation, scholars, and the State Auditor.[473] The Attorney General led this task force before it was determined to be unlawful according to the Supreme Court in 2001.[474] After dissolving the task force based on the Supreme Court decision, the Indonesian government created an anti-corruption agency based on Law Number 30 Year 2000 regarding KPK. This anti-corruption agency has repressive authorities to investigate and prosecute crimes of corruption. Creating KPK and giving law enforcement authority is necessary because the police and prosecutorial offices "have not been functioning effectively and efficiently in eradicating corruption."[475] The enforcement power is typical for the newly created anti-corruption agencies worldwide, such as in South America, and some provinces in Australia, Africa, East Asia, and Southeast Asia.[476] The KPK also supervises other law enforcement agencies, monitors government programs, and prevents corruption.[477]

Schütte illustrated donors' contribution to the KPK law's legislation process.[478] The Asian Development Bank (ADB) supported the technical assistance draft of the bill. At the

[469] Bosch, "Local Actors in Donor-Funded Rule of Law Assistance in Indonesia: Owners, Partners, Agents?," 2016, 118.
[470] Australia Indonesia Partnership for Justice (AIPJ), "Dokumen Rancangan," 26.
[471] Australia Indonesia Partnership for Justice (AIPJ).
[472] Australia-Indonesia Partnership for Justice 2 (AIPJ2), "Six Monthly Progress Report: 1July to 31 December 2018" (Jakarta, 2018), 6.
[473] Tempo, "Kontroversi Kewenangan Tim," *Tempo*, May 6, 2005, https://koran.tempo.co/read/nasional/39649/kontroversi-kewenangan-tim.
[474] Mudzakkir, "Laporan Akhir Tim Kompendium Hukum Tentang Lembaga Pemberantasan Korupsi" (Jakarta, November 2011).
[475] Consideration, Corruption Eradication Law.
[476] Robert I. Rotberg, The Corruption Cure: How Citizens and Leaders Can Combat Graft (New Jersey: Princeton University Press, 2017), 119.
[477] Article 6 "Corruption Eradication Commission Law," Pub. L. No. 30 (2002).
[478] Schütte, "Against the Odds: Anti-Corruption Reform in Indonesia."

same time, the IMF also recommended the creation of an anti-corruption body as a priority and prerequisite to receiving the IMF fund.[479] The United Nations Convention Against Corruption (UNCAC) also requires each country that ratified the convention to establish an anti-corruption body.[480] Juwono listed all 14 international donors that supported the creation and early period of KPK as of 2005.[481] The local CSOs that participated most in advocating and supporting the creation of KPK are *Kemitraan*, Indonesia Corruption Watch (ICW), and *Masyarakat Transparansi Indonesia* (MTI).[482] Their support was in the form of a public campaign, research publication, and a parliamentary lobby. After creating the KPK, *Kemitraan* and MTI also assisted in the first KPK leadership selection process.[483] Through quantitative and qualitative analysis of Indonesian CSOs' role and influence, Silvia-Leander found that "the main influencing path for CSOs to achieve policy influence is through public opinion, alliance with formal decision-makers and pressure".[484]

Some scholars have hailed KPK as one of Indonesia's successes in anti-corruption reform. Schütte, for instance, claimed that "KPK has brought previously untouchable high-profile perpetrators to jail, has recovered stolen assets, and enjoys a much higher degree of public trust and support than the other Indonesian law enforcement agencies."[485] KPK has prosecuted the Speaker of the Indonesian House Representatives, the Chief of Constitutional Court Justice, governors, mayors, ministers, leaders of political parties, police generals, prosecutors, and prison wardens. KPK achieved high prosecution and conviction rates in its first six years.[486] In 2021, ICW published that KPK, on average, prosecuted offenders for longer sentences than AGO.[487] From the comparison of monetary sanctions collected by KPK and AGO, KPK tended to prosecute grand corruption cases with the offenders of high-ranking public officials.[488] One of the reasons is that the KPK law mandates this anti-corruption agency to prosecute the crime of corruption that involves (1) law enforcement officers and high-

[479] Schütte.
[480] "Ratification of United Nations Convention Against Corruption," Pub. L. No. 7 (2006), https://peraturan.bpk.go.id/Details/40161.
[481] Juwono, "The Partner in Prosecuting Crime: The Role of International Organization in Setting Up Corruption Eradication Commission in Indonesia."
[482] Setiyono and McLeod, "Civil Society Organisations' Contribution to the Anti-Corruption Movement in Indonesia," 2010.
[483] Setiyono and McLeod.
[484] Annika Silva-Leander, "The Role and Influence of Nongovernmental Organisations on Anti-Corruption Policy Reform in Indonesia" (Lonon School of Economics and Political Science, 2015).
[485] Schütte, "Against the Odds: Anti-Corruption Reform in Indonesia."
[486] Jin Wook Choi, "Measuring the Performance of an Anticorruption Agency: The Case of the KPK in Indonesia," International Review of Public Administration 16, no. 3 (2011): 45–63.
[487] Indonesia Corruption Watch, "Hasil Pemantauan Persidangan Perkara Tindak Pidana Korupsi Tahun 2020" (Jakarta, March 22, 2020).
[488] Ramadhan, "Reviewing the Indonesian Anticorruption Court: A Cost-Effective Analysis."

ranking officials, (2) public attention, or (3) state financial loss of at least IDR 1 billion (USD 75,000). Although the AGO can prosecute any corruption crime, the case selection has raised public criticism. ICW has complained that the AGO primarily prosecuted the "operator" of corrupted government projects, such as low-rank public officials, heads of villages, and private companies.[489] ICW criticized the AGO failure to explore the evidence and develop the cases to prosecute individuals with a strategic position and authority to plan the crime of corruption. The AGO also rarely combines the prosecution of corruption crimes with money laundering crimes; if they did, it could potentially increase the collection of monetary sanctions.[490]

KPK has more independence and public support than law enforcement agencies like the Indonesian Police and AGO. The president does not select or appoint the KPK leaders. The five leaders of KPK are selected through a committee set up by the government that consists of government representatives and public and academic representatives. This committee invites CSO and media to provide additional background checks and oversight of the interview process.[491] The committee shortlists candidates and then sends the lists to Parliament. Next, Parliament conducts a "fit and proper" to select KPK leaders. This sequential selection process does not jeopardize the independence of KPK leaders from a particular executive or legislative power.[492]

B. Anti-Corruption Court

Simultaneously, under the KPK Law (2002), Indonesia created its Anti-Corruption Court in 2004. The public demanded an independent, impartial, and competent judiciary to examine corruption cases because of distrust of the corrupt judiciary. Unlike the anti-corruption agency, the UNCAC does not mandate or recommend that countries establish specialized courts to examine cases of crime of corruption. The UNODC acknowledges the importance of judicial integrity to combat corruption; therefore, "strengthening judicial institutions" became one of their anti-corruption strategies.[493] With this strategy, UNODC argued that fair and consistent judicial decisions could deter crime of corruption defendant.[494]

The IDO that also influences the judicial reform narrative is the World Bank. The

[489] Wana Alamsyah, Lais Abid, and Agus Sunaryanto, "Laporan Tren Penindakan Kasus Korupsi Tahun 2018" (Jakarta, February 25, 2018).
[490] Alamsyah, Abid, and Sunaryanto.
[491] Sofie Arjon Schütte, "Appointing Top Officials in a Democratic Indonesia: The Corruption Eradication Commission," Bulletin of Indonesian Economic Studies 47, no. 3 (2011): 355–79.
[492] Schütte.
[493] Ratification of United Nations Convention Against Corruption.
[494] United Nations Office on Drugs and Crime (UNODC), *The Global Programme Against Corruption Un Anti-Corruption Toolkit* , 2nd ed. (Vienna: United Nations Office on Drugs and Crime (UNODC), 2004).

World Bank has been involved in "judicial reform" projects since the 1960s, with an increased effort in the 1990s.[495] Before the enactment of UNCAC, the World Bank published a framework to evaluate anti-corruption policies in 2000.[496] One of the strategies to improve the probability of punishment is to strengthen judicial integrity and performance by providing adequate resources and ensuring its independence.[497] The World Bank supported the creation of ACC in Ukraine and Indonesia as a strategy to improve court independence in examining crime of corruption cases.[498] Since 2003, there have been newly created anti-corruption courts (ACC) in 23 countries.[499] In 2022, 27 countries have a specialized anti-corruption court (ACC). The number of ACCs has increased since the enactment of UNCAC.

Some scholars reported positive outcomes of ACC creation; one reported that an ACC is influential in attracting and increasing U.S. foreign direct investment.[500] One plausible reason for this is that ACCs ensures U.S. firms create a level playing field with local companies by improving judicial independence and the probability of punishment to companies that commit crimes of corruption. The proceeding also achieved by the Uganda Anti-Corruption Court resulted in an expedited process when examining the crime of corruption cases.[501] The result also occurred in other ACCs, like those in the Philippines and Indonesia. These expediency results inspired other countries like Zambia to consider establishing an ACC.[502]

The Indonesian Anti-Corruption Court's establishment brought hope toward eradicating the rampant corruption in Indonesia.[503] Stephenson and Schütte identified three reasons for the establishment of an anti-corruption court in several countries, including Indonesia:(1) efficiency, (2) integrity, and (3) expertise. Because of the need for expertise and the general distrust of a career judge's integrity, the Indonesian Anti-Corruption Court

---

[495] W. Ofosu-Amaah, "Legal and Judicial Reform in Developing Countries: Reflections on World Bank Experience," *Law and Business Review of the Americas* 8, no. 4 (October 27, 2017): 551–81, https://scholar.smu.edu/lbra/vol8/iss4/4.
[496] Jeff Huther and Anwar Shah, "Anti-Corruption Policies: A Framework for Evaluation," Policy Research Working Paper (Washington, D. C., December 2000), www.worldbank.org/research/workingpapers.
[497] Huther and Shah.
[498] Ihor Zabokrytskyy, "Transnational Civil Society Influence on Anti-Corruption Courts: Ukraine's Experience," Global Jurist 20, no. 1 (April 1, 2020): 1–12.
[499] Matthew C. Stephenson and Sofie Arjon Schütte, "Specialised Anti-Corruption Courts: A Comparative Mapping," U4 Issue (Bergen, 2016), https://www.u4.no/publications/specialised-anti-corruption-courts-a-comparative-mapping.
[500] Emre Kuvvet, "Anti-Corruption Courts and Foreign Direct Investments," *International Review of Economics & Finance* 72 (March 1, 2021): 573–82, https://doi.org/10.1016/J.IREF.2020.12.019.
[501] Carson, "Institutional Specialisation in the Battle against Corruption: Uganda's Anti-Corruption Court."
[502] Mrs Martha Kashala, "Specialised Anti-Corruption Courts: What Lessons for Zambia," *The International Journal of Multi-Disciplinary Research* CFP, no. 326 (2017): 1–14, www.ijmdr.net.
[503] Ali Said Damanik, "Evaluasi Kebijakan Pemberantasan Korupsi Pemerintahan SBY-Kalla (Oktober 2004 – Mei 2005)" (Jakarta: The Indonesian Institute, June 2005), https://www.neliti.com/publications/45108/.

has external judges, known as ad hoc judges, to sit with the career judges in examining and deciding the crime of corruption cases.[504] These ad hoc judges would also know the law and other specialties to help examine corruption cases. For instance, financial, tax, and banking expertise might help unveil the modus operandi of corruption crime. Some scholars argue that ad hoc judges represent the public because they offer the "people's voice" to the criminal proceedings of corruption crime.[505]

In 2004, the first Indonesian Anti-Corruption Court was located only in Jakarta. It only adjudicated corruption cases prosecuted by KPK. This anti-corruption agency and the Anti-Corruption Court achieved a 100% conviction rate on more than 100 cases.[506] Because of this achievement, ICW considered the Anti-Corruption Court as a *kuburan koruptor* (cemetery for corruptors).[507] Butt argued that two aspects arguably influenced this astonishing result in the first period of an anti-corruption court (2004-2010).[508] First, all cases brought to the Anti-Corruption Court were investigated and prosecuted by a high-quality prosecutor at the newly created KPK with better remuneration and a lighter caseload compared prosecutors from the National Police and Attorney General Office.[509] Second, the "mandated majority" of the ad hoc judges represented a significant factor in an anti-corruption court performance.[510] In examining a corruption case, there should be three ad hoc judges compared to two ordinary judges.

C. Specialized Prison

Indonesia has also been experimenting with a special prison for locking up the defendants convicted of crimes of corruption since 2012. This prison idea is not new; the Dutch built one in 1918 to lock up common criminals and resistance group members who broke Dutch

---

[504] Suhendra et al., *Pengadilan Khusus Korupsi, Naskah Akademis Dan Rancangan Undang-Undang Pengadilan Tindak Pidana Korupsi*.
[505] Tim Taskforce, Naskah Akademis Dan Rancangan Undang-Undang Pengadilan Tindak Pidana Korupsi (Jakarta: Konsorsium Reformasi Hukum Nasional (KRHN), 2008), 43.
[506] Simon Butt, "Indonesia's Regional Anti-Corruption Cort: Should They Be Abolished?," Indonesia Law Review 2, no. 2 (2012): 145–62, 146.
[507] Didi Purwadi, "ICW Desak Hakim 'Kuburan Koruptor' Dievaluasi ," Republika Online, November 7, 2011, https://news.republika.co.id/berita/lu9vga/icw-desak-hakim-kuburan-koruptor-dievaluasi.
[508] Butt, "Indonesia's Regional Anti-Corruption Cort: Should They Be Abolished?"
[509] Komisi Pemberantasan Korupsi, "Laporan Tahunan Komisi Pemberantasan Korupsi (KPK) Tahun 2005" (Jakarta, 1991), https://www.kpk.go.id/images/pdf/laptah/KPK_LAPTAH_2005.pdf; Joanna MacMillan, "Reformasi and Public Corruption: Why Indonesia's Anti-Corruption Agency Strategy Should Be Reformed to Effectively Combat Public Corruption," Emory International Law Review 25, no. 1 (January 13, 2011): 587–630; CRN, "KPK Rekrut Jaksa Baru," Hukumonline, June 6, 2007, https://www.hukumonline.com/berita/a/kpk-rekrut-jaksa-baru--hol16865/.
[510] Simon Butt and Sofie Arjon Schütte, "Assessing Judicial Performance in Indonesia: The Court for Corruption Crimes," *Crime, Law and Social Change* 62, no. 5 (2014): 603–19, https://doi.org/10.1007/s10611-014-9547-1.

law.[511] Denny Indrayana, then a Deputy Minister of Law and Human Rights, initiated an idea to relocate all defendants found guilty of corruption crimes to the *Sukamiskin* prison in West Java. He believed that it would be easier to supervise all inmates because "one [prison] cell [would be used by] one person."[512]

The Ministry of Law and Human Rights has worked closely with the Asia Foundation (TAF) to reform the correctional system from its corrupting practice. TAF supported the development of the correctional database system (*sistem database pemasyarakatan* hereafter SDP), which contains information about the number of inmates, capacity, staff, and budget for every jail and prison in Indonesia.[513] Transparency became the primary goal of this program. The Ministry and TAF believed this program would improve the quality of services in jail and prison by promoting transparency. This system aids the Ministry in detecting the jails and prisons that need resources the most and then allocating the resources accordingly. TAF initiated the program by procuring the hardware and developing the system.[514] The Ministry, with its resources, maintains the program. TAF also assisted the Ministry in developing a standard operating procedure that complies with corruption-free zone guidance published by the Ministry of Administrative and Bureaucratic Reform. TAF also trained the prison staff, including Sukamiskin prison staff, to implement and comply with the newly created procedure.

D. The State Auxiliary Agencies Supporting Law Enforcement Agencies

The Indonesian government has also created several state auxiliary agencies to reform and support the existing law enforcement agencies. The term "auxiliary" is used in most Indonesian legal publications to define these agencies' roles as supporting institutions.[515] Their duty is not to enforce the law but to support the existing law enforcement agencies in preventing and enforcing crimes of corruption. These agencies are the Judicial Commission (*Komisi Yudisial,* hereafter K.Y.), Prosecutorial Commission, Police Commission, Centre for Financial

[511] Muhammad Syahrial, "Sejarah Lapas Sukamiskin, Tempat Pemerintah Belanda Penjarakan Sang Proklamator, Kini Sel Untuk Koruptor," Kompas.com, September 7, 2022, https://bandung.kompas.com/read/2022/09/07/102539578/sejarah-lapas-sukamiskin-tempat-pemerintah-belanda-penjarakan-sang.
[512] Grace Gandhi, "Kata Denny, Sukamiskin Untuk Koruptor Kelas Kakap," Tempo.co, December 28, 2012, https://nasional.tempo.co/read/450782/kata-denny-sukamiskin-untuk-koruptor-kelas-kakap.
[513] IMohammad Doddy Kusadrianto (Program Director Rule of Law Indonesia the Asia Foundation), in discussion with author on September 20, 2021.
[514] Direktorat Jenderal Pemasyarakatan, "Informasi Data Pemasyarakatan," accessed August 10, 2024, https://sdppublik.ditjenpas.go.id/.
[515] Abdillah Abdillah et al., "The Position of Auxiliary Organ in Government System of West Java Provincial Government," *Journal of Contemporary Governance and Public Policy* 1, no. 2 (October 27, 2020): 67–81, https://doi.org/10.46507/JCGPP.V1I2.11.

Transactions Reporting and Analysis (PPATK), and Witness and Victim Protection Agency (LPSK).

i. Judicial Commission (Komisi Yudisial)

In 2000, the Indonesian Institute for Independent Judiciary (*LEIP*), a CSO, proposed the creation of K.Y.[516] *LEIP*, arguing that K.Y. must create "an effective control" over the Supreme Court, which has gained considerable power and independence since *Reformasi*.[517] Historically, the Supreme Court was under the Ministry of Justice and Human Rights. This agency had power for judicial appointments, training, promotions, dismissals, court finances, and infrastructure.[518] Thus, the government could easily intervene in judicial authority because of a lack of judicial independence. In 2001, the Indonesian Parliament amended the Indonesian Constitution to include the provision on K.Y.[519]

The plan to create a Judicial Commission was elaborated on in one of the 2003 Supreme Court Blueprints chapters. The LeIP assisted the Supreme Court in writing the blueprints.[520] This blueprint serves as a comprehensive plan to identify and plan for judicial reforms project.[521] Dan S. Lev argued that the role of CSOs should not be undermined in the Indonesian judicial and legal reform process.[522] The Supreme Court Chief Justice acknowledged the engagement of LeIP and other CSOs as participants in the judicial reform process.[523] The CSO's involvement in the judicial reform process, including the publication of blueprints, was supported by international donors because the Supreme Court could not receive financial assistance in cash.[524] Therefore, the international donors' support to publish blueprints, train judges, and develop the system was "channeled through relevant" CSO to implement such programs.

K.Y. has tasks to (1) screen and propose Supreme Court Justices, (2) uphold the judges' nobility, (3) create a code of ethics and conduct for judges, and (4) enforce the code of ethics and conduct.[525] K.Y. was created to improve judicial accountability because the judiciary is

[516] Elza Faiz et al., Risalah Komisi Yudisial: Cikal Bakal, Pelembagaan, Dan Dinamika Wewenang (Jakarta: Komisi Yudisial, 2013), 19.
[517] Faiz et al.
[518] Lindsey, "Legal Infrastructure and Governance Reform in Post-Crisis Asia: The Case of Indonesia."
[519] Komisi Yudisial, "KY | Sejarah Pembentukan," accessed August 10, 2024, https://www.komisiyudisial.go.id/frontend/static_content/history/about_ky.
[520] Choky Ramadhan, "Kata Pengantar," *Jurnal Peradilan Indonesia: Teropong* 6 (2017): iii–iv.
[521] The World Bank, "Legal and Judicial Reform: Strategic Directions" (Washington, D. C., 2003).
[522] Daniel S. Lev, "Foreword" in Sebastian Pompe The Indonesian Supreme Court: A Study of Institutional Collapse (Ithaca, New York: Cornell University Press, 2005).
[523] Bagir Manan, "Introduction by the Chief Justice of the Supreme Court of Indonesia" in Pompe.
[524] Manan in Pompe.
[525] Komisi Yudisial, "KY | Sejarah Pembentukan."

essential in achieving the rule of law.[526] K.Y. is an institution outside of the Supreme Court because many reformers and the public do not trust the Supreme Court to implement the tasks mentioned above.[527] In its 2018 report, K.Y. claimed it had conducted 16 Supreme Court Justices' selection processes since 2006.[528] Fifty-eight Supreme Court Justices were appointed via this process. K.Y. collaborated with the press and CSOs to scrutinize candidates' profiles in this process and also consistently recommends sanctions for judges who violate the code of ethics and conduct.[529] In 2021, K.Y. gave sanctions to 85 judges and 130 judges in 2019.[530] If the judges allegedly committed the crime of corruption, K.Y. would report this allegation and its investigation to KPK.[531] Moreover, K.Y. trained thousands of judges to improve their skills and knowledge.[532]

ii. Police and Prosecutor Oversight

After creating the Judicial Commission, MaPPI FHUI (a CSO) worked with the Ombudsman and *National Legal Commission* (*Komisi Hukum Nasional* or KHN), proposing that the government and Parliament create a commission to supervise and support the prosecutor and police in 2002.[533] Their idea was to expand the Judicial Commission's authority to deal with the ethical violations committed by the prosecutors and police.[534] The reasoning behind the creation of these three institutions is similar: the internal supervision or monitoring

[526] , Muhammad Fajrul Falaakh, "Beberapa Pemikiran Untuk Revisi Undang-Undang Komisi Yudisial Republik Indonesia," in *Konsep Pengawasan Kejakiman: Upaya Memperkuat Kewenangan Konstitusional Komisi Yudisial Dalam Pengawasan Peradilan*, ed. Imam Anshori Saleh (Malang: Intrans, 2014); Melissa Crouch, "The Judicial Reform Landscape in Indonesia: Innovation, Specialisation and the Legacy of Dan S. Lev," in *The Politics of Court Reform: Judicial Change and Legal Culture in Indonesia*, ed. Melissa Crouch (Cambridge: Cambridge University Press, 2019), 1–28, https://doi.org/10.1017/9781108636131.001.
[527] Masyarakat Pemantau Peradilan Indonesia (MaPPI FHUI) & Komisi Hukum Nasional (KHN), *Lembaga Pengawas Sistem Peradilan (Pidana) Terpadu* (Jakarta: Masyarakat Pemantau Peradilan Indonesia (MaPPI FHUI) & Komisi Hukum Nasional (KHN), 2002); Tim Lindsey, "Legal Infrastructure and Governance Reform in Post-Crisis Asia: The Case of Indonesia," *Asian-Pacific Economic Literature* 18, no. 1 (May 2004): 12–40, https://doi.org/10.1111/J.1467-8411.2004.00142.X.
[528] Agus Sahbani, "Sejak Berdiri, KY 'Produksi' 58 Hakim Agung," Hukumonline, August 13, 2018, https://www.hukumonline.com/berita/a/sejak-berdiri--ky-produksi-58-hakim-agung-lt5b721e79a9f70.
[529] Mei Susanto, "Revitalisasi Peran Publik Dalam Pengangkatan Calon Hakim Agung," *Jurnal Peradilan Indonesia: Teropong* 6 (2017): 1–15.
[530] Festy, " KY Rekomendasikan Sanksi Terhadap 85 Hakim," Komisi Yudisial, December 22, 2021, https://komisiyudisial.go.id/frontend/news_detail/15037/ky-rekomendasikan-sanksi-terhadap-hakim.
[531] Bambang Hari, "KY Laporkan 6 Hakim Terduga Terima Suap Ke KPK," KBR, January 9, 2014, https://kbr.id/berita/nasional/ky-laporkan-6-hakim-terduga-terima-suap-ke-kpk.
[532] Priskilla and Noer, "Optimalkan Kinerja Lembaga, Ketua KY Sambut Kunjungan Silaturahmi Menpan-RB," Komisi Yudisial, March 12, 2020, https://komisiyudisial.go.id/frontend/news_detail/1213/optimizing-performance-kys-chairman-hails-a-friendly-visit-of-the-ministerrb.
[533] Zae, "MAPPI Usul Bentuk Lembaga Pengawas Baru Untuk Sistem Peradilan," Hukumonline, July 16, 2002, https://www.hukumonline.com/berita/a/mappi-usul-bentuk-lembaga-pengawas-baru-untuk-sistem-peradilan--hol6021/?page=all.
[534] Zae.

in the existing law enforcement agencies (Supreme Court, AGO, and National Police) was ineffective due to partiality, low professionalism, and weak monitoring systems.[535]

The government and Parliament had different ideas about supporting prosecutor and police work. The Parliament enacted the Police Law 2002 and Prosecutor Law 2004, giving legal mandates for the president or government to create the Prosecutorial and Police Commission. The government then established these commissions in 2005 with the Presidential Regulation. These commissions do not enjoy the same independence as the Judicial Commission because their budgets, recruitments, and administration are under the president, particularly through the Coordinating Ministry for Political, Legal, and Security Affairs.[536]

Each commission has the authority to receive public complaints on police and prosecutor misconduct, respectively.[537] They also have the task of evaluating and making policy recommendations to improve prosecutor and police work.[538] Unlike the Information Commission and Ombudsman, neither the Prosecutorial Commission nor the Police Commission have regional offices.

Both commissions received support from the CSOs and IDOs to develop their monitoring system and evaluate prosecutor and police work. From 2011 to 2015, the AIPJ supported the Prosecutor Commission to draft five internal regulations and train its staff.[539] The Police Commission also received similar support in 2008 when *Kemitraan* assisted the commission in creating a guideline to handle public complaints on police misconduct.[540] The Police Commission also worked with IDOs such as the International Organization for

[535] Rifqi Assegaf and Nur Syarifah, "Membandingkan Komisi-Komisi Pengawas Lembaga Peradilan Dan Penegak Hukum," Jentera: Jurnal Hukum, no. 12 (2006).
[536] Anw/Gun, "Mulai 2011, Anggaran Komisi Kejaksaan & Kompolnas Di Bawah Kemenko Polhukam," DetikNews, March 9, 2011, https://news.detik.com/berita/d-1588217/mulai-2011-anggaran-komisi-kejaksaan-kompolnas-di-bawah-kemenko-polhukam.
[537] Choky Ramadhan, "Kedudukan, Tugas, Dan Kewenangan Komisi Kejaksaan," *Teropong: Media Hukum Dan Keadilan* 1 (January 2013): 1–14; Yusuf Warsyim, "Peran Komisi Kepolisian Nasional Dalam Penegakan Kode Etik Kepolisian Negara Republik Indonesia," *Fundamental: Jurnal Ilmiah Hukum* 12, no. 1 (May 3, 2023): 130–52, https://doi.org/10.34304/JF.V12I1.108.
[538] Ramadhan, "Kedudukan, Tugas, Dan Kewenangan Komisi Kejaksaan"; Warsyim, "Peran Komisi Kepolisian Nasional Dalam Penegakan Kode Etik Kepolisian Negara Republik Indonesia."
[539] I was involved as one of the consultant to develop and draft one of the regulation with the support from AIPJ, Komisi Kejaksaan, Kompilasi Peraturan Organisasi Dan Tata Kerja Komisi Kejaksaan (Jakarta: Komisi Kejaksaan, 2012).
[540] Arya Bangga et al, *Buku Panduan Penanganan Saran Dan Keluhan Masyarakat (SKM) Komisi Kepolisian Nasional (Kompolnas) /* (Jakarta: Komisi Kepolisian Nasional: Kemitraan, 2008).

Migration (IOM) and the Asia Foundation (TAF), to conduct training in community policing and human rights.[541]

The national CSOs have also advocated creating a financial intelligence unit to detect and trace the money resulting from crimes.[542] The CSOs' strategy included proposing policy drafts, lobbying Parliament, and organizing public support.[543] In 2002, Indonesia created the financial intelligence unit, the Centre for Financial Transactions Reporting and Analysis (*Pusat Pelaporan dan Analisis Transaksi Keuangan* or PPATK). This creation was also part of the TAP MPR XIII/2001 mandate. PPATK is an independent agency similar to KPK. Eddy referred to the "distinct preference for so-called independent bodies and commissions" during the *Reformasi* era as one of the reasons to set PPATK as an independent agency.[544]

PPATK has the authority to prevent and eradicate the crime of money laundering. Despite the eradication or enforcement task, the center does not have the authority to investigate and prosecute a person who committed money laundering. The center, however, could participate in the investigation process by recommending that the investigator intercept the electronic information related to the financial transaction.[545] Moreover, the center has the authority to mandate that financial service institutions stop suspicious transactions.[546]

PPTAK works mainly with the money laundering that goes hand in hand with the crime of corruption. In 2019, there were 251 Analysis Reports (*Laporan Hasil Analisis,* hereafter LHA) regarding the crime of corruption from 631 reports by PPATK.[547] The crime of corruption was also the majority source of money laundering analyzed, 206 of 523 reports by PPATK in 2020.[548] PPATK made these reports based on complaints and information about suspicious financial transactions. PPATK then sent the reports to law enforcement agencies to investigate further. Also, PPATK received requests from law enforcement agencies to examine suspicious financial transactions. Law enforcement agencies need the Examination Report

[541] IOM Indonesia, "IOM Backs Police Reform Process | International Organization for Migration," International Organization for Migrant (IOM), September 13, 2007, https://www.iom.int/news/iom-backs-police-reform-process.
[542] Budi Setiyono, "Making a New Democracy Work: The Role of Civil Society Organisations (CSOs) in Combating Corruption during Democratic Transition in Indonesia" (Curtin University of Technology, 2010).
[543] Setiyono.
[544] Jonathan A Eddy, "Legal Culture, Institutional Design Choices, and the Struggle to Implement an Effective Anti-Money Laundering Regime in Indonesia," Australian Journal of Asian Law 7, no. 1 (2005): 1–24, 6.
[545] "Money Laundering Prevention and Eradication Law," Pub. L. No. 8 (2000).
[546] Money Laundering Prevention and Eradication Law.
[547] Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), "Laporan Tahunan 2019" (Jakarta, August 2020), https://www.ppatk.go.id/publikasi/read/116/laporan-tahunan-2019.html.
[548] Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), "Laporan Tahunan 2020," *Pusat Pelaporan Dan Analisis Transaksi Keuangan (PPATK)* (Jakarta, May 21, 2021), https://www.ppatk.go.id/publikasi/read/138/laporan-tahunan-2020.html.

(*Laporan Hasil Pemeriksaan,* hereafter LHP) to complete their investigation process. KPK is the law enforcement agency that requested the most LHPs from PPATK. PPATK provided 11 of 24 LHP to KPK in 2019 and 8 of 25 LHP in 2020.[549] These numbers indicate that PPATK works primarily with money laundering, of which corruption is its underlying crime.

Nevertheless, the creation of PPATK was not solely based on combating corruption. International donors, such as the IMF and World Bank, recommended that countries create financial intelligence units to "fight[] organized crime, corruption, and the financing of terrorism, and maintain financial markets' integrity."[550] Historically, criminalizing money laundering is related to the fight against illicit traffic of narcotics, drugs, and psychotropic substances (United Nations Vienna Convention 1988). Other U.N. Conventions, the International Convention Against Transnational Organized Crimes (UN Palermo Convention 2000) and Convention Against Corruption (UNCAC), also refer to criminalizing money laundering as a strategy to combat crimes.[551] After the infamous terrorist attack on September 11 in the United States, the Financial Action Task Force (FATF) highlighted the critical role of the financial intelligence unit in detecting suspicious transactions related to financing terrorist groups.[552]

iii. Witness and Victim Protection Agency

Another institution supporting law enforcement agencies is the Witness and Victim Protection Agency (*Lembaga Perlindungan Saksi dan Korban* or LPSK), created in 2006 as part of recommendations under the TAP MPR XIII/2001. Teten Masduki, the former Coordinator of the Indonesia Corruption Watch (ICW), argued that LPSK is integral to eradicating corruption alongside KPK and PPATK.[553] LPSK aims to protect witnesses and victims who blow the whistle or report a crime, especially the crime of corruption. LPSK would also give the whistleblower incentives such as legal assistance, a stipend, and lesser punishment (by the LPSK if they also committed a crime). These incentives encourage more whistleblowers to reveal the most challenging corruption crime to detect.

---

[549] Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), "Laporan Tahunan 2019"; Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), "Laporan Tahunan 2020."
[550] International Monetary Fund and World Bank, Financial Intelligence Units: An Overview, ed. Paul Gleason and Glenn Gottselig (Washington, D. C.: International Monetary Fund, 2004) 1.
[551] Yunus Husein, "Tindak Pidana Pencucian Uang (Money Laundering) Dalam Perspektif Hukum Internasional," *Indonesian Journal of International Law* 1, no. 2 (2004): 342–63, https://doi.org/10.17304/ijil.vol1.2.409.
[552] Mark Pieth, ed., "FATF Special Recommendations on Terrorist Financing," in *Financing Terrorism* (Dordrecht: Springer, 2002), 131–45, https://doi.org/10.1007/0-306-48044-1_9.
[553] Teten Masduki, "Kata Pengantar" in Supriadi Widodo Eddiyono et al, Main Opinions on Drafting The Blue Print For Witness And Victim Protection Institution (Jakarta: Indonesia Corruption Wacth (ICW), 2008).

Indonesian CSOs, with the support of donors, contributed in many ways to create the LPSK. First, by "forming an Alliance for Witness Protection, and organi[z]ing multi-stakeholder discussion forums to direct and manage the drafting of a witness and victim protection law."[554] Moreover, CSOs such as ICW and the Institute for Criminal Justice Reform (ICJR) also published the blueprint for LPSK.[555] This publication was supported by the Danish International Development Agency (DANIDA) and The Asia Foundation (TAF). This blueprint also mentioned the need to cooperate with CSO in providing a "safe house" to the witness or victim.[556]

LPSK has protected a number of witnesses since its creation. Agus Condro, for instance, received protection from LPSK because he reported bribery from the Central Bank of Indonesia (B.I.) to the members of Parliament to appoint Miranda S. Goeltom as a Deputy Governor of B.I. KPK investigated this report and prosecuted 26 members of Parliament, including Agus Condro himself.[557] LPSK assisted him in receiving a lesser punishment because of his role in revealing the crime. In 2018, the Chief of LPSK, Abdul Haris Semendawai, claimed that LPSK had protected 148 witnesses and victims from corruption.[558]

IV. Lack of Resources Challenge to Implement Anti-Corruption Policies in the *Reformasi* and Post-*Reformasi* Periods

In the early period of creating this institution (2005), the Late Adnan Buyung Nasution, a founder of the Indonesian Legal Aid organization, reminded the government to fulfill its good governance by more than just creating those institutions discussed in the previous section.[559] He demanded the government's commitment to allocate an adequate budget, recruit high-quality staff, and secure these institutions' independence.[560] After several years of operation, these institutions gathered to make a Joint Statement asking the government for more budget and staff in 2009.[561] The government has not solved this problem since they made the

[554] Setiyono and McLeod, "Civil Society Organisations' Contribution to the Anti-Corruption Movement in Indonesia," 359.
[555] Eddiyono et al., Main Opinions on Drafting The Blue Print For Witness And Victim Protection Institution.
[556] Eddiyono et al., 111.
[557] Lembaga Perlindungan Saksi dan Korban (LPSK), *Potret Saksi Dan Korban Dalam Media Massa Tahun 2011* (Jakarta: Lembaga Perlindungan Saksi dan Korban (LPSK), 2012).
[558] Robertus Belarminus and Diamanty Meiliana, "LPSK Saat Ini Lindungi 148 Saksi Dan Korban Kasus Korupsi," Kompas.com, April 5, 2018, https://nasional.kompas.com/read/2018/04/05/20371611/lpsk-saat-ini-lindungi-148-saksi-dan-korban-kasus-korupsi#google_vignette.
[559] CR, "Efektivitas Pembentukan Komisi Kejaksaan Jadi Sorotan," Hukumonline, April 10, 2005, https://www.hukumonline.com/berita/a/efektivitas-pembentukan-komisi-kejaksaan-jadi-sorotan--hol12614/.
[560] CR.
[561] Mys/Ali, "Komisi-Komisi Negara Minta Dukungan Nyata Pemerintah," Hukumonline, January 22, 2009, https://www.hukumonline.com/berita/a/komisikomisi-negara-minta-dukungan-nyata-pemerintah-hol20990/.

statement, as I will describe in this section. Some literature and reports have emphasized adequate resources as one factor in successful anti-corruption institutions and programs.[562] However, inadequate budgets and salaries are viewed as one factor that causes corruption to flourish within the Indonesian public sector.[563] Law enforcement agencies also face inadequate budget issues.[564]

An adequate budget allocation has been referred as one of key factors for a government to implement strategies, policies, and programs.[565] However, the government has diverse policies with different goals, and it has the difficult task of allocating resources to implement such diverse polices.[566] One of the indicators, "continuity of effort," is used to assess whether the government has the political will to support and sustain anti-corruption efforts.[567] In the context of international development, Andrews et al. have called this "isomorphic mimicry," that is, "the adoption of the forms of other functional states and organizations which camouflages a persistent lack of function."[568] When these newly adopted or created institutions were frequently asked by the government, local CSOs, IDOs, to perform too many tasks with too few resources over a short period of time, Andrews et al. argued that this "premature load bearing" creates pressure that could weaken the institutions' capability.[569]

I will describe some of the budgetary problems that hindered the implementation of Indonesian anti-corruption policies and the work of newly created anti-corruption institutions mentioned above. I will divide this lack of resources section into two subsections—prevention and repressive—according to the discussion in the previous section. This description gives

---

[562] Emil P. Bolongaita, "An Exception to the Rule? Why Indonesia's Anti-Corruption Commission Succeeds Where Others Don't - a Comparison with the Philippines' Ombudsman," *U4 Issue*, vol. 2010:4, U4 Issue (Bergen, 2010), https://www.cmi.no/publications/3765-an-exception-to-the-rule; Poverty Reduction and Economic Management Unit and East Asia and Pacific Region, "Indonesia - Combating Corruption In Indonesia: Enhancing Accountability For Development."

[563] Ross H McLeod, "Inadequate Budgets and Salaries as Instruments for Institutionalizing Public Sector Corruption in Indonesia," *South East Asia Research* 16, no. 2 (2008): 199–223, https://doi.org/10.5367/000000008785260464.

[564] Nani Afrida and Pandaya, "Superficial Reform to Uphold Rule of Flaw," The Jakarta Post, November 28, 2016, https://www.thejakartapost.com/news/2016/11/28/superficial-reform-uphold-rule-flaw.html.

[565] Kevin B. Smith and Christopher W. Larimer, The Public Policy Theory Primer, 3rd ed. (New York: Routledge, 2018), 174.

[566] John Peter, Analyzing Public Policy, Analyzing Public Policy (London: Routledge, 2012), 1.

[567] Brinkerhoff, "Assessing Political Will for Anti-corruption Efforts: An Analytic Framework"; Derick W. Brinkerhoff, "Unpacking the Concept of Political Will to Confront Corruption," U4 Brief (Bergen, 2010), www.rti.org.

[568] Andrews, Pritchett, and Woolcock, *Building State Capability: Evidence, Analysis, Action*; Pritchett, Woolcock, and Andrews, "Capability Traps? The Mechanisms of Persistent Implementation Failure."

[569] Pritchett, Woolcock, and Andrews, "Capability Traps? The Mechanisms of Persistent Implementation Failure"; Andrews, Pritchett, and Woolcock, *Building State Capability: Evidence, Analysis, Action*.

readers a glimpse of background and information regarding the lack of resources in creating an institution that promotes good governance and prevents corruption in Indonesia.

In addition, the anti-corruption efforts suffered frequent setbacks in Indonesia, with the weakened KPK, the set of laws favoring oligarchs (Oil and Gas Law, and Omnibus Law), and the dual appointments for police and military personnel in civil positions.[570] Under the Joko Widodo (Jokowi) administration (2014 to 2024), the main focus is developing infrastructure and deregulation to foster economic growth; however, Warburton claimed Jokowi has "no anti-corruption agenda."[571] Baker also observed that the current administration used anti-corruption law and its law enforcement agencies to prosecute political opponents to consolidate power, and brought about "the end of the campaign against corruption."[572]

Furthermore, several scholars have noted that Indonesia's reform agenda has taken a wrong turn.[573] Lindsey, for example, asserted that "*Reformasi* is history" due to a weakened Corruption Eradication Commission (KPK) and a more authoritarian government.[574] Additionally, Baker argued that the reform movement has regressed as elites have rolled back key aspects of Indonesia's reform agenda in areas such as anti-corruption, human rights, and the rule of law.[575] Therefore, I adopt Lindsey's term "*Post-Reformasi*" to describe the anti-corruption policies during the Joko Widodo (Jokowi) administration from 2014 to 2021.[576] Most of the instances cited to describe the inadequate resources to implement anti-corruption policies occurred during Jokowi administration. Thus, the section that discusses the problem of lack of resources also aims to add a supporting argument about the lack of political will under the Jokowi administration in supporting and sustaining anti-corruption efforts. This discussion answers lower order questions: What is the resourcing challenge created by the multilateral push for anti-corruption measures in Indonesia after 1997? (1.b.) How do we assess the current state of resourcing for Indonesian anti-corruption policies? (1.c.)

---

[570] Sambhi, "Generals Gaining Ground: Civil-Military Relations and Democracy in Indonesia | Brookings"; Transparency International Indonesia, "Pelemahan Jadi Nyata: Evaluation of the Corruption Eradication Commission 2019-2023"; Indonesia Corruption Watch, "Catatan Akhir Tahun Pemberantasan Korupsi Indonesia Corruption Watch: Pandemi, Kemunduran Demokrasi, Dan Redupnya Spirit Pemberantasan Korupsi."

[571] Warburton, "Jokowi and the New Developmentalism."

[572] Baker, "Reformasi Reversal: Structural Drivers of Democratic Decline In Jokowi's Middle-Income Indonesia."

[573] Diprose, McRae, and Hadiz, "Two Decades of Reformasi in Indonesia: Its Illiberal Turn."

[574] Lindsey, "Post-Reformasi Indonesia: The Age of Uncertainty."

[575] Baker, "Reformasi Reversal: Structural Drivers of Democratic Decline In Jokowi's Middle-Income Indonesia."

[576] Lindsey, "Post-Reformasi Indonesia: The Age of Uncertainty."

A. The Lack of Resources at the Institutions that Prevent Corruption

Numerous publications have cited the lack of resources to support the work of the Information Commission, especially after the creation of regional Information Commission offices. Sjoraida et al. found that the lack of resources was one of the challenges for the West Java Information Commission to promote freedom of information effectively.[577] Harun also documented the same challenge with the South Kalimantan Information Commission, which received a relatively small annual budget (IDR 762 million in 2015) and administrative hurdles to use the budget.[578] The National/Federal Information Commission also faces a budgeting challenge because the budget is planned and allocated by the Indonesian Ministry of Communication and Informatics. The inadequate resources contributed to the failure and effectiveness of the Information Commission in implementing the Freedom of Information Law.[579]

Unlike the Information Commission, the Ombudsman is an independent institution that deals with its budget directly with Parliament. This legal structure gives the Ombudsman more independence than the Information Commission in planning and proposing budgets. However, the Ombudsman also faces an inadequate budget to work according to its tasks and duties.[580] This problem became apparent when the Ombudsman was mandated to set up regional offices in every province between 2010-2016. A coalition of CSOs evaluated the Ombudsman's 2011-2016 performance and found that lack of budget limited its work to prevent maladministration and corruption.[581] After the regional Ombudsman offices began to operate, Bedner also found budgetary problems where these offices "are fully dependent on the central Ombudsman for their finances."[582] In some instances, these offices paid some of their expenses out of their own pockets.[583] One solution that is always advocated by policymakers, scholars, and CSOs is to increase the resources. In 2023, for example, the Parliament invited two Universitas Indonesia

[577] D F Sjoraida, A Asmawi, and R K Anwar, " The Spirit of Democracy in the Implementation of Public Information Policy at the Provincial Government of West Java ," *IOP Conference Series: Earth and Environmental Science* 126, no. 12054 (2018): 1–7, https://doi.org/10.1088/1755-1315/126/1/012054.
[578] Tamliha Harun, "Beberapa Kendala Implementasi Tugas Dan Fungsi Komisi Informasi Provinsi Kalimantan Selatan," *AS-SIYASAH : Jurnal Ilmu Sosial Dan Ilmu Politik* 1, no. 1 (June 1, 2016): 1–11, https://ojs.uniska-bjm.ac.id/index.php/Asy/article/view/585.
[579] Simon Butt, "Freedom of Information Law and Its Application in Indonesia: A Preliminary Assessment," *Asian Journal of Comparative Law* 8, no. 1 (2014): 113–54, https://doi.org/10.1515/asjcl-2013-0030.
[580] Harijanti, "The Evolution of the Indonesian Ombudsman System."
[581] Masyarakat Peduli Pelayanan Publik (MP3), "Hasil Studi Evaluasi Kinerja Ombudsman Republik Indonesia (ORI)" (Jakarta, 2000).
[582] Adriaan Bedner, "Ombudspersons in Developing Countries: The Case of Indonesia," in *Research Handbook on the Ombudsman*, ed. Marc Hertogh and Richard Kirkham (Cheltenham: Edward Elgar Publishing Ltd., 2018), 167–87, https://doi.org/10.4337/9781786431257.00019.
[583] Bedner.

professors to speak at the public hearing on the bill to revise the Ombudsman law, and they also proposed staff and budget increases. [584]

For the LKPP, the main problem is its human resources. In its evaluation report, LKPP stated that it had limited staff to manage the information system for the public procurement certification.[585] LKPP has the task of administering public procurement training and certification to improve members' quality, professionalism, integrity, and accountability.[586] LKPP also experienced a lack of human resources in socializing the *Swakelola Tipe III,* the type of public procurement for the CSOs.[587] In addition to the quantity, the quality of LKPP staff is another issue. Arifin and Hartadi found that some LKPP auditors do not have a professional certificate to audit fraud in public procurement.[588]

The lack of human and financial resources remains a major challenge for the *Stranas* PK.[589] Transparency International Indonesia (TII) criticized the government for not allocating the budget for the *Stranas* PK National Secretary to coordinate, supervise, and run the programs.[590] *Stranas* PK budget is under the KPK and other related agencies' annual budgets, and the *Stranas* PK National Secretary staff are in a temporary job with a one-year contract. This arrangement creates uncertainty and a lack of sustainability in implementing anti-corruption prevention strategies. Therefore, TII proposed that the government allocate a designated budget and recruit more permanent staff to coordinate and run the *Stranas PK* program.[591]

---

[584] Ady Thea DA, "2 Guru Besar FHUI Beri Masukan Revisi UU Ombudsman," Hukumonline, April 5, 2023, https://www.hukumonline.com/berita/a/2-guru-besar-fhui-beri-masukan-revisi-uu-ombudsman-lt642d40b08956a/?page=1.

[585] National Procurement Agency, "Laporan Monitoring & Evaluasi Kinerja Unit Organisasi Juni 2023" (Jakarta, n.d.).

[586] National Procurement Agency, "Tugas Dan Fungsi," accessed August 10, 2024, https://www.lkpp.go.id/tentang/peran-dan-fungsi.

[587] Danang Widoyoko, "Laporan Evaluasi Penggunaan Swakelola Tipe III Tahun 2021," December 2022.

[588] Johan Arifin and Toni Hartadi, "The Implementation of Probity Audit to Prevent Fraud in Public Procurement of Goods and Services for Government Agencies," *Jurnal Akuntansi Dan Auditing Indonesia* 24, no. 1 (September 4, 2020): 11–21, https://doi.org/10.20885/JAAI.VOL24.ISS1.ART2.

[589] Wawan Suyatmiko, Alvin Nicola, and Nur Fajrin, "Laporan Pemantauan Mandiri Kelompok Masyarakat Sipil Terhadap Pelaksanaan Strategi Nasional Pencegahan Korupsi Tahun 2019" (Jakarta, 2020), www.ti.or.id; Anis Wijayanti and Azhar Kasim, "Implementasi Strategi Nasional Pencegahan Korupsi Di Indonesia: Perspektif Collaborative Governance," *Integritas : Jurnal Antikorupsi* 7, no. 2 (April 5, 2021): 291–310, https://doi.org/10.32697/INTEGRITAS.V7I2.858; National Secretariat of Corruption Prevention (Sekretariat Nasional Pencegahan Korupsi/Setnas PK), "Laporan Pelaksanaan Stranas PK Triwulan VII Tahun 2020."

[590] Nicola et al., "Penguatan Strategi Nasional Pencegahan Korupsi (Stranas PK): Kajian Terhadap Tata Kelola Kelembagaan Dan Mekanisme Partisipasi Masyarakat Dalam Pelaksanaan Peraturan Presiden Nomor 54 Tahun 2018."

[591] Nicola et al.

B. The Lack of Resources at the Institutions that Enforce Crimes of Corruption

As an independent agency, KPK still needs support from both the government and Parliament to secure its resources.[592] KPK faces ongoing and daily political struggles to weaken anti-corruption efforts.[593] For instance, the Parliament halted the funds requested by KPK to erect a new building in 2013; this led to a public campaign where ICW organized public crowdfunding (*saweran*) to fund the KPK building.[594]

In the past four years, KPK has also experienced the strongest resistance from the government and Parliament. In 2019, the government and Parliament revised KPK. The revised KPK law sets up a supervisory committee to monitor KPK's work. Before exercising their authority, each KPK investigator and prosecutor must receive a search, seizure, and wiretap warrant from a supervisory committee appointed by the president. At the end of 2019, Parliament selected Firli Bahuri, a police general, as the chief of KPK. Scholars and CSOs criticized this appointment because of his poor track record. He violated an ethical rule while working as the Head of the Law Enforcement Unit at the KPK.[595] Also, KPK has a hostile relationship with the police. KPK has investigated three police generals in three different crime of corruption cases. Every time KPK announced a police general as a suspect, the police institution launched investigations on KPK leaders and investigators for other crimes.[596] In addition to these issues, in 2021, more than 70 KPK independent investigators and staff failed to pass the Civic Knowledge Test administered by the National Civil Service Agency, a government institution.[597] This result made KPK more dependent on recruiting investigators and staff from existing agencies, such as the police and prosecutor's offices.

The Anti-Corruption Court also experiences a lack of resource problems, similar to problems of other specialized courts such as the Constitutional Court, Industrial Court, and

---

[592] Transparency International Indonesia, "Pelemahan Jadi Nyata: Evaluation of the Corruption Eradication Commission 2019-2023."
[593] Ahmad Khoirul Umam et al., "Addressing Corruption in Post-Soeharto Indonesia: The Role of the Corruption Eradication Commission," *Journal of Contemporary Asia* 50, no. 1 (2020): 125–43, https://doi.org/10.1080/00472336.2018.1552983.
[594] Donal Fariz, "Saweran Gedung KPK," *Kompas*, June 28, 2012, https://www.antikorupsi.org/id/article/saweran-gedung-kpk.
[595] Dandy Bayu Bramasta and Sari Hardiyanto, "Sederet Fakta Soal Ketua KPK Firli Bahuri, Dari Berharta 18 Miliar Hingga Pernah Sewa Helikopter," Kompas.com, August 26, 2020, https://www.kompas.com/tren/read/2020/08/26/113100665/sederet-fakta-soal-ketua-kpk-firli-bahuri-dari-berharta-18-miliar-hingga?page=all.
[596] Jakarta Globe, "All Eyes on Jokowi as KPK, National Police Kerfuffle Continues," Jakarta Globe, January 27, 2015, https://jakartaglobe.id/news/all-eyes-on-jokowi-as-kpk-national-police-kerfuffle-continues.
[597] Ricky Mohammad Nugraha, "75 KPK Employees Fail Civic Knowledge Test to Become State Apparatus," Tempo.co, May 5, 2021, https://en.tempo.co/read/1459721/75-kpk-employees-fail-civic-knowledge-test-to-become-state-apparatus.

Human Rights Court.[598] In 2009, Parliament passed the Anti-Corruption Court Law, which ordered the Indonesian Supreme Court or M.A. to establish anti-corruption courts in many other cities around Indonesia. This law mandated the Indonesian Supreme Court to establish more than 514 anti-corruption courts. However, the Supreme Court could only create anti-corruption courts in each Indonesian province because of a lack of resources. For example, an anti-corruption court in Central Java could not fully operate because the court did not have any budget allocation in 2010 and had to wait for the 2011 budget.

Moreover, some court officers did not want to work for an anti-corruption court because they had not received the additional remuneration as promised.[599] The Supreme Court claimed the budgeting issue hindered the creation of regional anti-corruption courts. The 2010 Supreme Court Annual Report stated that the Supreme Court budget had been allocated to other priority programs. It was not easy to amend the budget allocation or request additional funding. Additionally, the AGO complained about establishing a provincial anti-corruption court because the prosecutor in its district office has an insufficient budget to prosecute corruption cases at the anti-corruption courts in the province's capital.

In addition, the *Sukamiskin* prison has struggled to meet the inmates' needs and maintain facilities. Some inmates bribed the prison warden and officials to upgrade the facilities in prison and their cell.[600] Yasona Laoly, the Minister of Law and Human Rights, acknowledged the lack of a government budget to provide all prisoners with hygienic and clean sitting toilet.[601] The Minister then admitted that inmates with more money could afford to improve facilities in their cells. Sudaryono commented that this situation is ". . . like putting a grizzly bear in a wobbly bamboo cage designed to hold goats guarded by unskilled shepherds."[602] He argued that the underfunded and understaffed Sukamiskin prison contributed to the prison corruption. He proposed reforms; two of three required additional budget

[598] Melissa Crouch, "The Challenges for Court Reform after Authoritarian Rule: The Role of Specialized Courts in Indonesia," *Constitutional Review* 7, no. 1 (May 31, 2021): 1–25, https://doi.org/10.31078/CONSREV711.
[599] Imam Herdiana, "Tak Dapat Tunjangan, Panitera Pengadilan Tipikor Malas Bekerja : Okezone News," Okezone News, November 12, 2011, https://news.okezone.com/read/2011/11/12/340/528375/tak-dapat-tunjangan-panitera-pengadilan-tipikor-malas-bekerja.
[600] Choky R. Ramadhan, "Using Rational Choice Theory to Understand Corruption in Indonesia," *Integritas : Jurnal Antikorupsi* 9, no. 2 (November 30, 2023): 171–82, https://doi.org/10.32697/INTEGRITAS.V9I2.949.
[601] Najwa Shihab, "Mata Najwa Part 7 - Pura-Pura Penjara: Penjara Tak Bikin Jera - YouTube" (Youtube, July 25, 2018), https://www.youtube.com/watch?v=N6LkxwqpONE.
[602] Leopold Sudaryono, "'Holding Bears in Bamboo Cages': The Irony of Indonesian Corruptors behind Bars," The Conversation, July 27, 2018, https://theconversation.com/holding-bears-in-bamboo-cages-the-irony-of-indonesian-corruptors-behind-bars-100540.

allocation: improving prison staff resiliency through rewards and training and installing electronic devices such as CCTV and electronic ankle bracelets.[603]

K.Y. also experienced problems with the scarcity of financial resources. In 2010, the Chief of K.Y. complained that its budget was less than other newly created institutions such as KPK and PPATK.[604] To cover its financial needs, K.Y. received support from international donors. Donors' support comes in various programs and outputs. In 2010, the National Legal Reform Program (NLRP), funded by the Dutch government, supported K.Y. in publishing its blueprint.[605] One of K.Y.'s leaders has also complained about the limited number of investigators to find evidence of judges' misconduct.[606] Recently, KY also experienced a budget cut due to the COVID-19 pandemic in Indonesia.[607]

The Prosecutorial and Police Commissions have also faced insufficient resources.[608] Both commissions' budgets are under the Coordinating Minister of Politic, Law, and Defense. Thus, these Commissions' budgets were reduced when this Ministry cut its budget.[609] In 2019, the Prosecutor Commission complained about the lack of funding that was not sufficient to do its work. The Commission stated this complaint in its 2019 Annual Report.[610] The Prosecutor Commission also published a policy proposal to increase its nine commissioners' salaries and other benefits in 2021.[611] Moreover, some scholars highlighted the inadequate number of staff to handle public complaints about prosecutor.[612] To address this issue, Rachman proposed the

[603] Sudaryono.
[604] Busyro Muqoddas, "Dinamika Kelembagaan Komisi Yudisial: Sebuah Pembelajaran," in Seminar on Comparative Models of Judicial Commissions: Peran Komisi Yudisial Di Era Transisi Menuju Demokrasi., ed. Komisi Yudisial RI (Jakarta: Komisi Yudisial Republik Indonesia, 2010), 60.
[605] Komisi Yudisial Republik Indonesia, *Cetak Biru Pembaruan Komisi Yudisial, 2010-2025* (Jakarta: Komisi Yudisial Republik Indonesia, 2010).
[606] Koran Tempo, "Komisi Yudisial Kekurangan Tenaga Penyidik," Koran Tempo, April 15, 2013, https://koran.tempo.co/read/nasional/307005/komisi-yudisial-kekurangan-tenaga-penyidik.
[607] Dian Dewi Purnamasari, "Anggaran KY Terbatas Untuk Rekrutmen Hakim Baru," Kompas, July 8, 2021, https://www.kompas.id/baca/polhuk/2021/07/08/anggaran-ky-terbatas-untuk-rekrutmen-hakim-baru.
[608] Halilul Khairi, "Evaluation of Non-Structural Institution Establishment Policy In Indonesia: Cases on National Police Commission and Prosecutor's Commission," *Sosiohumaniora: Jurnal Ilmu-Ilmu Sosial Dan Humaniora* 24, no. 1 (March 2022): 1–7, https://doi.org/10.24198/sosiohumaniora.v24i1.37757.
[609] Adinda Ade Mustami, "Anggaran Dua Kementerian Koordinator Dipangkas," Kontan, July 11, 2017, https://nasional.kontan.co.id/news/anggaran-dua-kementerian-koordinator-dipangkas.
[610] Komisi Kejaksaan Republik Indonesia, "Laporan Tahunan 2019" (Jakarta, January 2020), www.komisi-kejaksaan.go.id.
[611] Komisi Kejaksaan Republik Indonesia, "Penyusunan Naskah Akademik: Peningkatan Hak-Hak Komisioner Komisi Kejaksaan RI Tahun Anggaran 2021" (Jakarta, 2021), https://komisi-kejaksaan.go.id/komjak/wp-content/uploads/2021/10/Peningkatan-Hak-Hak-Komisioner-Komisi-Kejaksaan-RI.pdf.
[612] Heru Suyanto, Andriyanto, and Adhi Nugroho, "Realizing Indonesia Prosecutors Commission Professional and Trustworthy," *International Journal of Multicultural and Multireligious Understanding* 7, no. 5 (June 13, 2020): 52–60, https://doi.org/10.18415/IJMMU.V7I5.1597.

creation of a Prosecutor Commission in every province and city in Indonesia, a proposal that would cost Indonesian taxpayers.[613]

The Police Commission also does not have sufficient human resources to handle public complaints about police,[614] and it still uses the National Police Assets; therefore, this arrangement undermines the Commission's independence and impartiality in handling public complaints on police misconduct.[615] The Police Commission published a policy paper admitting that ". . . the Police Commission in its performance has become unprofessional because it does not have adequate facilities and infrastructure."[616] In 2005, Umar warned that creating the Police Commission without sufficient resources and independence would waste the government's (and therefore the taxpayers') money.[617]

V. Monetary Sanctions as the Government Revenue: Fines, Restitutions and Asset Forfeiture

Defendants convicted of crimes of corruption are punishable with the death penalty, imprisonment, and monetary sanctions under the Indonesian Anti-Corruption Law.[618] The monetary sanctions consist of fines, restitutions, and asset forfeiture. Law and economic scholars consider monetary sanctions "an efficient method of sanctioning since the burden on the taxpayer for enforcing it is low, and the offender is transferring wealth to society." These monetary sanctions could serve as a source of revenue for the government, particularly law enforcement revenue.[619] Those could be collected and reallocated to cover the law enforcement's salary and resources to investigate, prosecute, and punish the defendants.[620]

---

[613] Taufik Rachman, "Can the Indonesian Criminal Justice System Be Enhanced by Replacing the Mandatory Prosecution System with a Discretionary One, like That Used in Australia?" (Victoria University, 2016), http://vuir.vu.edu.au/.
[614] Nasrullah Nasrullah, "Tinjauan Terhadap Independensi Komisi Polisi Nasional Dalam Perspektif Lembaga Negara Independen," *UNES Law Review* 5, no. 4 (June 30, 2023): 3581–92, https://doi.org/10.31933/UNESREV.V5I4.677.
[615] Adnan Pandupraja, "Independensi Komisi Kepolisian Nasional," Jurnal Studi Kepolisian, no. 64 (2005): 29–45, 39.
[616] Komisi Kepolisian Republik Indonesia, "Naskah Akademik Dan RUU Kompolnas " (Jakarta, December 2013), 5.
[617] Bambang W. Umar, "Komisi Kepolisian Nasional Dimasalahkan," Jurnal Studi Kepolisian, no. 64 (2005): 79–83, 83.
[618] Corruption Eradication Law; Amendment to Law No 31/1999 on Corruption Eradication.
[619] Elena Kantorowicz-Reznichenko, "Day-Fines: Should the Rich Pay More?," Review of Law & Economics 11, no. 3 (November 1, 2015): 481–501, 481.
[620] Becker, "Crime and Punishment: An Economic Approach"; A . Mitchell Polinsky and Steven Shavell, "Enforcement Costs and the Optimal Magnitude and Probability of Fines," *The Journal of Law & Economics* 35, no. 1 (1992): 133–48.

A. Fines

The Indonesian criminal law (*Kitab Undang-undang Hukum Pidana* or KUHP) considers fines as a principal punishment, in the same category as the death penalty and imprisonment. For the crimes of corruption, the Indonesian Anti-Corruption Law (*Undang-Undang Tipikor* 1999 & 2001) dictates fines with the range from IDR 50 million (USD 3,177) to IDR 1 billion (USD 63,540), amounts that have not been adjusted for more than 20 years. The law sets the minimum and maximum fines depending on the types of the crimes of corruption, such as bribery, embezzlement, or a crime that "unlawfully enriches themselves or another person in a way that could result in the state finances or economy's loss" (article 2 & 3 *UU Tipikor*).

Moreover, the Indonesian Anti-Corruption Law sets the fines as a cumulative punishment to imprisonment for most crimes of corruption. This cumulative punishment is stated with the word "and" between fines and imprisonment in the articles under the Indonesian Anti-Corruption Law. Therefore, the prosecutor and judge are expected to impose both fines and imprisonment on the defendant. However, the law also sets the fines as cumulative-facultative (imprisonment "and/or" fines) for some crimes, which legally criminalize similar acts with comparable elements of crime. This cumulative-facultative setting gives the prosecutor and judge leeway not to impose fines on the defendant, resulting in less overall punishment compared to the cumulative setting.[621]

The case of Chief Constitutional Court Justice, Akil Mochtar, who received IDR 50 billion (USD 500,000) in bribes, is a good example.[622] In this case, the prosecutor charged him with Articles 11 and 12 of the Anti-Corruption Law, both of which are the articles to charge a defendant who committed bribery.[623] However, Article 11 sets the fines as a cumulative-facultative, and Article 12 as a cumulative. In Akil's Case, the Judge sentenced him to life imprisonment without fines, as permitted by Article 11.[624] Thus, the law provides discretion to

[621] Ramiyanto, "Penghapusan Pidana Denda Dalam Perkara Tindak Pidana Korupsi Di Indonesia," *Jurnal Legislasi Indonesia* 11, no. 3 (2014): 247–56.
[622] Adinda Ade Mustami, "Urus 9 Pilkada, Akil Terima Rp 50,15 Miliar," Kontan, February 20, 2014, https://nasional.kontan.co.id/news/urus-9-pilkada-akil-terima-rp-5015-miliar.
[623] Dion Valerian, "Meretas Konsep Baru Pidana Denda Terhadap Tindak Pidana Korupsi: Analisis Komparatif Dengan Foreign Corrupt Practices Act Amerika Serikat, Bribery Act Inggris, Dan Wetboek van Strafrecht Belanda," *Integritas: Jurnal Antikorupsi* 5, no. 2 (2019): 87–116, https://doi.org/10.32697/integritas.v5i1.342.
[624] Icha Rastika, "Meski Divonis Seumur Hidup, Akil Dibebaskan Membayar Denda Dan Uang Pengganti," June 30, 2014, https://nasional.kompas.com/read/2014/06/30/2258129/Meski.Divonis.Seumur.Hidup.Akil.Dibebaskan.Membayar.Denda.dan.Uang.Pengganti.

prosecutors and judges to not impose fines on defendants, leading to a lesser amount of fines that could be collected by the government.

Procedurally, Indonesian law further dictates the defendant should pay the fines within 30 days of the conviction or 60 days in particular conditions.[625] If the defendant does not pay, the defendant will serve a custodial punishment for a maximum of six months and eight months when there is an aggravating factor.[626] Both custodial punishment and imprisonment limit the defendant's liberty and place them under the penitentiary system; however, custodial punishment provides more rights to the defendant.[627]

B. Restitution (*Uang Pengganti*)

Restitution is an additional punishment for defendants convicted of crimes of corruption. Article 18 (1) (b) of the Indonesian Anti-Corruption Law states that the defendant should pay restitution to the government equivalent to the illegal gain obtained from the crime of corruption. The prosecutor and judge could only impose the defendant restitution if the defendant committed a crime under Articles 2 and 3 of the Indonesian Anti-Corruption Law (see discussion above).

The defendant should pay restitution within 30 days of the conviction.[628] If the defendant fails to pay, the prosecutor could forfeit the defendant's assets equivalent to the imposed restitution.[629] The defendant should serve additional imprisonment if the forfeited assets are insufficient to replace the imposed restitution. Unlike the custodial punishment for the unpaid fines, the additional imprisonment for the unpaid restitution can be longer. The law states that the additional imprisonment for the unpaid restitution "does not exceed the maximum imprisonment of the crime."[630] Therefore, for a crime that is punishable by 20 years imprisonment, the judge has the discretion to impose 20 years' additional imprisonment on the defendant for the unpaid restitution.

C. Asset Forfeiture

Indonesian law enforcement officers have the authority to seize and forfeit the defendant's property or assets used or obtained from a criminal act.[631] The defendant should

[625] Article 273 (1) (2) "Criminal Procedure Law," Pub. L. No. 8 (1981).
[626] Article 30 (3) (5) "Criminal Law," Pub. L. No. 1 (1946).
[627] Rifqi Sjarief, "Criminal Sentencing in Indonesia: Disparity, Disproportionality and Biases" (University of Melbourne, 2020), http://hdl.handle.net/11343/265784.
[628] Article 18 (1) Corruption Eradication Law.
[629] Article 18 (2) Corruption Eradication Law.
[630] Article 18 (3) Corruption Eradication Law.
[631] Article 39 (1) Criminal Law.

serve a custodial sentence of a maximum of 6 months if the defendant fails to let the law enforcement officer seize the properties. In practice, the investigator and prosecutor seize the defendant's assets before the trial. Article 39 of the criminal procedure law specifies the property's criteria that law investigator and prosecutor can seize:

1. Property or object which are wholly or partly obtained by the suspect or convicts from a criminal act or as a result of a criminal act;
2. Property or object used for the crime;
3. Property or object used to hinder or obstruct criminal proceedings;
4. Property or object specifically made to commit a crime; and
5. Property or objects that are related to the crime.

VI. Conclusion

This chapter has described the evolution and key features of the Indonesian anti-corruption policies from the *Reformasi* period (1998) to now. This description includes the IDOs or donors' involvement as part of the law and development push to support the creation of several institutions to prevent and enforce the crimes of corruption. These institutions include the anti-corruption agency (KPK), anti-corruption court, Judicial Commission (K.Y.), Ombudsman, and many others. This chapter also discusses reports of the lack-of-resources challenges faced by these anti-corruption institutions, with some instances occurring during the Jokowi administration or post-*Reformasi* period. These resourcing challenges suggest a lack of sustained political will to support anti-corruption measures, which was created by the multilateral push during the *Reformasi* and post-*Reformasi* period.

This chapter is also intended to set rationales for conducting benefit-cost analysis on the Indonesian anti-corruption policies. It is understandable that several people proposed to shut down some of these institutions because of the lack of resources and impact. However, Indonesian policymakers would be well-advised to first consider the benefit-cost analysis (in Chapter 5) before deciding to shut down any institution. This analysis speaks to whether implementing the anti-corruption policies by funding all these agencies is beneficial for Indonesian citizens.

In addition, the last section of this chapter briefly describes the monetary sanctions available by law for defendants facing a crime of corruption, including fines, restitution, and asset forfeiture. These sanctions are one of the sources of government revenue; thus, they can be considered as a benefit from the fiscal perspective. In Chapter 6, this dissertation explains the findings on the process and factors that contributed to the collection of monetary sanctions in the post-Reformasi period under the Jokowi administration.

Chapter 5: Benefit and Cost Analysis of Implementing Indonesian Anti-Corruption Policies

I. Introduction

As discussed in the previous chapter (Chapter 4), the Indonesian government, with support from international development agencies, implemented anti-corruption policies and created several new institutions after the authoritarian Soeharto regime collapsed in 1998. However, after the donors left the country, these policies and newly created institutions were too costly for Indonesian taxpayers to continue to implement and support. Most of these anti-corruption institutions and programs faced the problem of a lack of resources. Scholars and donors have highlighted the limited resources as one of the problems that hampers the Indonesian government from implementing its anti-corruption policies.[632]

In this chapter, I measure the cost and benefit of implementing Indonesian anti-corruption policies. This is an *in media res* analysis because I measured the ongoing anti-corruption policies to evaluate the efficiency of their implementation in providing input to policymakers to reallocate the resources or reformulate the policies.[633] There are two perspectives from which I measure the benefit and cost of enforcing anti-corruption policies: 1) governmental, and 2) societal.[634] First, the benefit and cost calculation from the governmental perspective is referred to sometimes as a cost-savings analysis or fiscal impact analysis. It measures "… all governmental revenues, expenditures, and savings that result from a policy or program."[635] This analysis is useful and important for budgeting and resource allocation purposes.

Second, the BCA from the societal perspective is referred to sometimes as the social BCA. This analysis "… measures the societal effects of the investment beyond the budget."[636] This research also measured both the tangible and intangible costs of the crime of corruption, which is a valuable investment in "… developing evidence-based shadow prices" where such data are unavailable now.[637]

---

[632] See Chapter 4 for more context and background on the Indonesian anti-corruption policies.
[633] Boardman et al., *Cost-Benefit Analysis: Concepts and Practice*.
[634] Several BCA measured from two perspectives, see Tatyana Guzman, "Cost-Benefit and Fiscal Impact Analysis of Ohio Historic Preservation Tax Credit (OHPTC)," Journal of Benefit-Cost Analysis 9, no. 2 (June 1, 2018): 342–73, https://doi.org/10.1017/BCA.2018.8; Jie Bai and Naomi Akamine, "Cost-Benefit and Fiscal Impact Analysis of Hawai'i's Film Tax Credit in 2020," July 2022.
[635] Henrichson and Rinaldi, "Cost-Benefit Analysis and Justice Policy Toolkit," 6.
[636] Henrichson and Rinaldi.
[637] Vining and Weimer, "An Assessment of Important Issues Concerning the Application of Benefit-Cost Analysis to Social Policy," 29.

This chapter answers the first higher-order research question: How efficient is the allocation of budgets in implementing Indonesian anti-corruption policies? This study aims to fill and bridge the literature gaps on the economic analysis of law, particularly a BCA of criminal justice policy using Indonesian anti-corruption policies as a case study.[638] This analysis also could provide a baseline that allows policymakers to measure the costs and benefits of implementing Indonesian anti-corruption policies. If a society values the implementation of anti-corruption policies as beneficial, the findings could then justify the government's decision to sustain the implementation of policies.

II. Fiscal Impact Analysis from the Government Perspective: The Government Expense Is Higher than the Monetary Sanctions Collection

A fiscal impact analysis estimates "… direct, current and public costs and revenues associated with residential or non-residential growth to the local jurisdiction(s) in which the growth is taking place."[639] This analysis considers the government's expenses and revenues in implementing a program or policy. This impact analysis is useful and important for budgeting and resource allocation purposes, particularly for criminal justice or law enforcement costs to enforce anti-corruption laws.

The government bears the cost of the criminal justice system—police, prosecutors, courts, and correction—to enforce the Eradication of the Criminal Act of Corruption Law.[640] To determine the criminal justice cost, I collected the cost of law enforcement agencies that investigated the crime of corruption.[641] These agencies are the National Police, Attorney General's Office (AGO), and anti-corruption agency (*Komisi Pemberantasan Korupsi* or KPK). Because the National Police and AGO enforce all types of crimes, I counted only their budgets to investigate and prosecute the crime of corruption.[642] The KPK is responsible for both anti-corruption enforcement and prevention strategies; therefore, I counted only its cost to investigate and prosecute the crime of corruption.

---

[638] See Chapter 1 and 3 for discussion about the literature gaps on these topics.
[639] Robert W. Burchell and David Listokin, The Fiscal Impact Handbook: Estimating Local Costs and Revenues of Land Development (New Jersey: Transaction Publishers, 2012), 1.
[640] Cohen, *The Costs of Crime and Justice*.
[641] Through freedom information request, I collected Financial Audit (Laporan Hasil Pemeriksaan ((LHP)) from The Indonesian Audit Board (Badan Pemeriksa Keuangan (BPK)) from every agency that have tasks in preventing and enforcing anti-corruption policies. The 2021 LHP report is the lates financial report that is open and accessible for the public. Information about LHP could be seen at Badan Pemeriksa Keuangan Republik Indonesia, "Laporan Hasil Pemeriksaan," accessed August 11, 2024, https://www.bpk.go.id/laporan_hasil_pemeriksaan.
[642] Data on the crime of corruption cases investigated by the Police is available at Korlantas Kepolisian Republik Indonesia, "Sepanjang Tahun 2021, Polri Telah Tangani 247 Kasus Korupsi - Korlantas Polri," January 27, 2022, https://korlantas.polri.go.id/news/sepanjang-tahun-2021-polri-telah-tangani-247-kasus-korupsi/.

Moreover, I added the cost that the Centre for Financial Transactions Reporting and Analysis (*Pusat Pelaporan dan Analisis Transaksi Keuangan* or PPATK) bears to support other law enforcement agencies that investigate and track defendants' money and assets. I collected all the costs mentioned above from the 2014-2021 financial audit report, or *Laporan Hasil Pemeriksaan* (LHP), published by the Indonesian Audit Board (BPK). The enforcement cost component is not available on the 2015 PPATK's LHP; thus, I used the cost average on the available LHPs and the average for the PPATK 2015 enforcement cost. The cost of court of first instance and court of appeal to examine corruption cases was collected from the 2022-2024 Supreme Court annual budget plan.[643] I used the average of these 3 years' court costs and assumed that the 2014-2021 annual costs are the same. I added the cost of the *Sukamiskin* prison (*Lapas Sukamiskin).* Since 2012, *Sukamiskin* prison has been a "special prison" for the crimes of corruption inmates.[644] This prison has 381 inmates convicted with the crimes of corruption; this number is about 10% of the total of around 4000 corruption inmates.[645] To reflect the total cost of imprisoning corruption inmates, I multiplied the cost of the *Sukamiskin* prison by ten (10). I collected these prison costs from the 2014-2021 financial report at the Ministry of Finance.

To measure the benefit, I estimated the monetary sanctions, such as fines, restitution, and asset forfeiture, as revenues that could benefit the government. Monetary sanctions are arguably "… an efficient method of sanctioning since the burden on the taxpayer to enforce it is low, and the offender is transferring wealth to society."[646] These monetary sanctions could serve as one of the sources of government revenue that is reallocated to cover the law enforcement officers' salary, as well as resources to investigate, prosecute, and punish defendants.[647] Previous publications have relied on the court decisions or KPK and AGO's reports to estimate the total amount of monetary sanctions.[648] However, forcing defendants to

[643] Mahkamah Agung Republik Indonesia, "Rencana Aksi Mahkamah Agung 2022" (Jakarta, 2022).
[644] Indonesia Corruption Watch, "The Corruptor's Prison."
[645] Per December 2022, there were 3,463 inmates/convicts and 1,482 suspects (total 4,945) from the crimes of corruption cases. See, Ministry of Law and Human Rights Directorate of Correction, "Data Statistik Pemasyarakatan Triwulan IV Tahun," Directorate of Correction, Ministry of Law and Human Rights, 2022, 59, https://sdppublik.ditjenpas.go.id/artikel/data-statistik-pemasyarakatan-triwulan-iv-tahun-2022
[646] Kantorowicz-Reznichenko, "Day-Fines: Should the Rich Pay More?"
[647] Becker, "Crime and Punishment: An Economic Approach"; A . Mitchell Polinsky and Steven Shavell, "Enforcement Costs and the Optimal Magnitude and Probability of Fines," *The Journal of Law & Economics* 35, no. 1 (1992): 133–48.
[648] Pradiptyo, "Does Corruption Pay in Indonesia? If So, Who Are Benefited the Most?"; Pradiptyo, " A Certain Uncertainty; Assessment of Court Decisions in Tackling Corruption in Indonesia A Certain Uncertainty; Assessment of Court Decisions in Tackling Corruption in Indonesia 1"; Fadjar Hadi, Aprilandika Pratama, and Ananda Teresia, "ICW: Pengembalian Kerugian Negara Oleh Terdakwa Kasus Korupsi Masih Tak Sebading | Kumparan.Com," October 11, 2020, https://kumparan.com/kumparannews/icw-pengembalian-kerugian-negara-oleh-terdakwa-kasus-korupsi-masih-tak-sebading-1uN5hONN1zo/full.

pay monetary sanctions based upon a court decision could take years. Further, some defendants cannot pay all of the monetary sanctions. Therefore, I used data from the 2014-2021 financial reports published by the BPK to obtain the actual amount that the government collected from these monetary sanctions. All the costs and benefits mentioned above were adjusted to 2024 IDR to reflect inflation.[649] In the 2014 reports, some agencies such as police, court, PPATK, and Ministry of Law and Human Rights reported revenue related to the crimes of corruption. Moreover, the Ministry of Law and Human Rights reported small amount of revenue in 2015. I categorized this revenue from the agencies other than AGO and KPK as "Other Agencies," notated in Table 1 below.

This cost calculation is underestimated because I counted only the activity costs to manage the crime of corruption cases from the investigation to the prosecution, adjudication, and punishment. These costs include those to gather evidence, pay witnesses' expenses, bring defendants before the court, and adjudicate their sentence. I did not estimate the recurring costs, such as salary for the law enforcement officers and supporting staff, and assets maintenance.

Figure 1: Annual Enforcement Agencies Cost and Monetary Sanctions Collection (2014-2021)

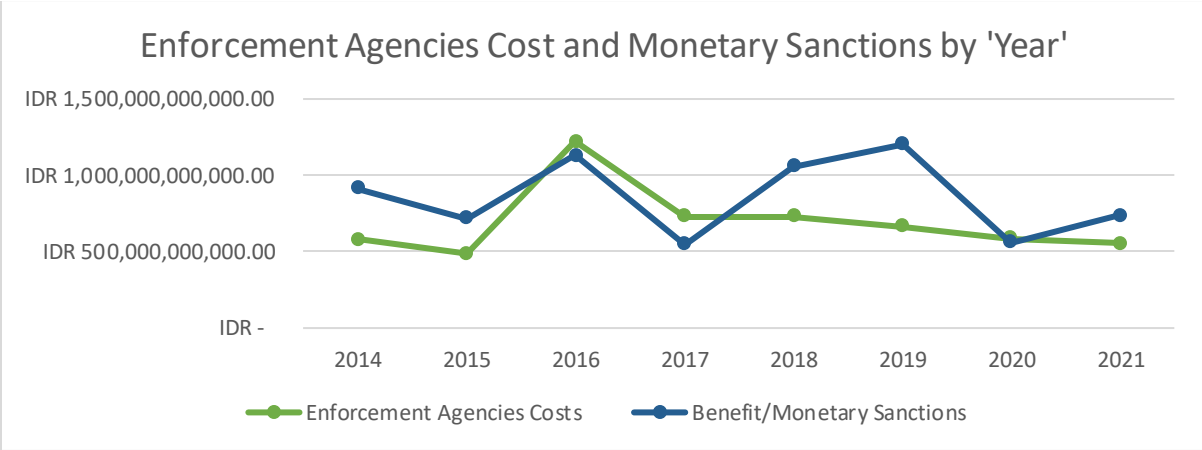


Figure 1 shows the trend of annual enforcement costs spent and monetary sanction collected by the government from 2014 to 2021. This graph shows that the Indonesian government collected more monetary sanctions than the cost to fund the enforcement agencies almost every year, except in 2016, 2017, and 2020 when the government spent slightly more on the enforcement cost compared to the collection of monetary sanctions. In 2018 and 2019, there were big increases of monetary sanctions collection because there were a high number of corruption case defendants convicted by the court, such as the former House Speaker (2018),

[649] I use the inflationtool.com to adjust to the 2024 IDR.

former Senate Speaker (2018), and CEO of PLN Batubara, a state-owned company that mines coal.[650]

Table 1. Fiscal Impact Analysis: Law Enforcement Agencies (IDR 2024)

Law Enforcement Agencies	**Total Cost (2014-2021)**
Police	IDR 189,495,346,495.70
AGO	IDR 1,764,085,481,834.15
KPK	IDR 1,911,739,552,852.49
Court	IDR 24,563,020,569.97
Correction	IDR 1,224,549,918,666.24
PPATK	IDR 445,625,661,791.33
Total Cost	**IDR 5,560,058,982,209.88**
	IDR 5,384,222,487,010.86
Revenue - Monetary Sanctions (Fines, Restitution, Money & Asset Seizure)	**Total Revenue (2014-2021)**
AGO	IDR 3,962,515,839,743.55
KPK	IDR 2,733,444,938,904.66
Other Agencies (2014 and 2015)	IDR 176,320,994,701.50
Total Revenue	**IDR 6,872,281,773,349.71**
Enforcement Cost : Benefit	**4 : 5**
Net Revenue	**IDR 1,312,222,791,139.83**

Table 1 illustrates that the total cost of law enforcement agencies responsible for investigating the crime of corruption was lower than the monetary sanctions that they collected between 2014 and 2021. The enforcement cost and benefit ratio for the 2014-2021 period is 4:5, which means every IDR 4 spent in funding the law enforcement agencies that dealt with the crimes of corruption generated IDR 5 revenue in monetary sanctions. Between 2014-2021, the government collected IDR 1,312,222,791,139.83 net revenue from monetary sanctions. This estimation in Table 1 has not been adjusted using the social discount rate.

[650] Detikcom, "Uang Rp 477 Miliar Korupsi Kokos Jiang Akhirnya 'Pulang,'" November 16, 2019, https://news.detik.com/berita/d-4786714/uang-rp-477-miliar-korupsi-kokos-jiang-akhirnya-pulang.

Next, I estimated the present value of the costs and benefits in Table 1 above by incorporating the social discount rate, that is the rate to discount future costs and benefits because reflecting "the idea that resources available at some future date are worth less today than the same amount available right now." Unlike in the US, there is no guideline or regulation on the social discount rate that should be used to conduct a BCA in Indonesia. The Japan International Cooperation Agency (JICA) and Mitsubishi Research Institute, Inc. cited a study that indicated that the Indonesian social discount rate is 15%. They use this number to guide the evaluation of Japanese overseas development projects. The Global Green Growth Institute is another organization that proposed 15% as a social discount rate in Indonesia. This organization partnered with the National Planning and Development Agency (*Bappenas*) to implement the green growth policy. In their training toolkit, they explain the BCA steps with a 10% discount rate as the lower bound and 15% as the higher bound. Therefore, I use a 10% discount rate as the lower bound and 15% discount rate as a higher bound to estimate the net future value of all the costs and benefits from 2014-2021 (8 years period).

Using the 10% discount rate as the lower bound, I found that the net future value (NFV) is IDR 1.7 trillion (1,796,651,529,396.39) to enforce the Indonesian anti-corruption policies, as shown in Table 2. When I used the 15% discount rate as the upper bound, the NFV is IDR 2.4 trillion (2,406,168,415,483.23), as shown in Table 2. Both NFVs show that the government collected more revenue from the collection of monetary sanctions compared to the budget spent by the agencies that enforce anti-corruption laws.

Table 2. Net Future Value of Fiscal Impact Analysis: Law Enforcement Agencies

Law Enforcement Agencies	**2024 Future Value (10% Discount Rate)**	**2024 Net Future Value (15% Discount Rate)**
Police	IDR 343,152,411,011.94	IDR 459,551,572,598.79
AGO	IDR 4,191,064,259,824.01	IDR 5,898,108,100,381.83
KPK	IDR 3,639,400,770,154.88	IDR 4,977,141,047,022.37
Court	IDR 46,734,729,952.60	IDR 64,099,584,709.78
Correction	IDR 2,352,533,511,367.76	IDR 3,236,353,179,133.32
PPATK	IDR 807,328,726,009.03	IDR 1,079,596,622,875.02
Total Cost	**IDR 11,380,214,408,320.20**	**IDR 15,714,850,106,721.10**

Revenue - Monetary Sanctions (Fines, Restitution, Money & Asset Seizure)		
AGO	IDR 7,590,582,448,731.48	IDR 10,462,923,951,065.70
KPK	IDR 5,170,458,991,511.46	IDR 7,037,665,123,774.31
Other Agencies (2014 and 2015)	IDR 415,824,497,473.66	IDR 620,429,447,364.33
Total Revenue	**IDR 13,176,865,937,716.60**	**IDR 18,121,018,522,204.30**
Enforcement Cost: Benefit	**6: 7**	**7:8**
Net Revenue	**IDR 1,796,651,529,396.39**	**IDR 2,406,168,415,483.23**

In addition to the law enforcement agencies' costs, there are several agencies that were established in the spirit of the anti-corruption agenda to support the existing law enforcement agencies in preventing and enforcing the crime of corruption (see Chapter 4 for the discussion of these agencies). Thus, I also estimated the annual cost of all of these agencies, such as the Judicial Commission (*Komisi Yudisial*, hereafter KY), Prosecutorial Commission (*Komisi Kejaksaan*), Police Commission (*Komisi Kepolisian Nasional*), Centre for Financial Transactions Reporting and Analysis (PPATK), and Witness and Victim Protection Agency (LPSK). Moreover, the government spends part of its budget to prevent or reduce the opportunities to engage in corrupt behavior (prevention cost). I estimated the cost of such prevention agencies as the Information Commission (*Komisi Informasi*), Ombudsman, and National Public Procurement Agency (*Lembaga Kebijakan Pengadaan Barang/Jasa Pemerintah*, hereafter LKPP). I also estimated the cost the Indonesian Audit Board (BPK) and Indonesia's National Government Internal Auditor (BPKP), because these agencies prevent corruption by performing regular audits of agencies and government projects.

The Indonesian government implemented the National Strategy for Preventing Corruption (*Strategi Nasional Pencegahan Korupsi* or *Stranas* PK) as well. This strategy is designed to synchronize anti-corruption prevention efforts on the part of all agencies, local government, and other stakeholders, such as state-owned and private companies.[651] The

[651] Nicola et al., "Penguatan Strategi Nasional Pencegahan Korupsi (Stranas PK): Kajian Terhadap Tata Kelola Kelembagaan Dan Mekanisme Partisipasi Masyarakat Dalam Pelaksanaan Peraturan Presiden Nomor 54 Tahun 2018."

Indonesian government first implemented this strategy between 2014-2018; however, I could not find the 2014-2018 data to analyze the cost of implementing this strategy during its first period. In 2018, the government revised the strategy with the Presidential Government No. 54 Year 2018, and I collected the 2019-2024 Government Working Plan (*Rencana Kerja Pemerintah or* RKP) to estimate every program and cost to achieve *Stranas* PK's targets. It is likely that the *Stranas* PK costs prior to 2019 were smaller; thus, I imputed *Stranas* PK's costs between 2014-2018 by using the 2019 number. All the costs and benefits are then adjusted in 2024 IDR.

Table 3: Total Fiscal Impact Analysis (IDR 2024)

Cost	**2014-2021 (IDR 2024)**
Law Enforcement Agencies	IDR 5,560,058,982,209.88 IDR 5,384,222,487,010.86
Anti-Corruption Prevention Agencies	IDR 57,782,170,015,865.80
Stranas PK	IDR 61,739,478,486,417.30
Total Cost	**IDR 125,081,707,484,493.00**
Revenue - Monetary Sanctions (Fines, Restitution, Money & Asset Seizure)	
AGO	IDR 3,962,515,839,743.55
KPK	IDR 2,733,444,938,904.66
Other Agencies (2014 and 2015)	IDR 176,320,994,701.50
Total Revenue	**IDR 6,872,281,773,349.71**
Net Value	**IDR (118,209,425,711,143.00)**
Cost : Benefit Ratio	**18 : 1**

Table 3 reports the total fiscal impact analysis of the Indonesian government's implementation of anti-corruption policies, which includes law enforcement agencies, anti-corruption agencies, and *Stranas* PK costs. The government spent approximately IDR 125 trillion to implement anti-corruption policies and programs during the 2014-2021 period, while they received only IDR 6.8 trillion in monetary sanctions from the crime of corruption defendants. The value from this fiscal perspective is negative: IDR 118 trillion (IDR

118,209,425,711,143.00) between 2014 and 2021. Next, I estimated the present value of the costs and benefits in Table 3 above by accounting for the social discount rate of 10% as the lower bound and 15% as the upper bound.

Table 4. Total Fiscal Impact Analysis with 10% and 15% Social Discount Rate

Cost	**2024 Future Value (10% Discount Rate)**	**2024 Future Value](15% Discount Rate)**
Law Enforcement Agencies	IDR 11,380,214,408,320.20	IDR 15,714,850,106,721.10
Anti-Corruption Prevention Agencies	IDR 108,965,448,986,537.00	IDR 148,788,811,589,579.00
***Stranas* PK**	IDR 117,114,698,561,806.00	IDR 160,457,507,554,731.00
Total Cost	**IDR 237,460,361,956,663.00**	**IDR 324,961,169,251,031.00**
Revenue - Monetary Sanctions (Fines, Restitution, Money & Asset Seizure)		
AGO	IDR 7,590,582,448,731.48	IDR 10,462,923,951,065.70
KPK	IDR 5,170,458,991,511.46	IDR 7,037,665,123,774.31
Other Agencies (2014 and 2015)	IDR 415,824,497,473.66	IDR 620,429,447,364.33
Total Revenue	**IDR 13,176,865,937,716.60**	**IDR 18,121,018,522,204.30**
Net Future Value (2024)	**-IDR 224,283,496,018,946.00**	**-IDR 306,840,150,728,827.00**
Cost : Benefit Ratio	**18 : 1**	**18:1**

Using the 10% discount rate as the lower bound, I found that the net future value to enforce and prevent corruption (NFV) is negative IDR 224 trillion (IDR 224,283,496,018,946.00) from the fiscal or government perspective. When I used the 15% discount rate as the upper bound, the NFV is negative 306 trillion (IDR 306,840,150,728,827.00) as shown in Table 4. Both NFVs show that the government spent more to enforce and prevent corruption than collected revenue from the monetary sanctions. The cost to implement both anti-corruption enforcement and prevention strategies is 18 times

higher than the revenues collected from the monetary sanctions. Therefore, this analysis finds that enforcing and preventing the crime of corruption have substantially adverse fiscal effects, as the government cannot recoup its expenses.

Again, this fiscal impact analysis focused only on the government's expenses and revenues in implementing a program or policy. It did not analyze the economic and social effects of implementing policies. However, it could help the public and policymakers understand the fiscal situation and use this finding to allocate their resources more effectively.[652] In the next section, I use the social perspective to analyze the benefit and cost of implementing Indonesian anti-corruption policies. This BCA considers the social influences of anti-corruption policies and programs in Indonesia.

III. Social Benefit-Cost Analysis: Implementing Indonesian Anti-Corruption Policies Benefits the Indonesian

In this societal perspective, standing is given to the adult Indonesian population, because they are the taxpayers who fund the implementation of anti-corruption policies.[653] Social costs consist of both the enforcement and prevention costs that I measured in the previous section. Society pays these enforcement and prevention costs to the government in their taxes. To measure the social benefit, I administered a contingent valuation survey in 2021 to ask people's willingness to allocate their paid taxes to support the continuation of implementing anti-corruption policies.[654]

The contingent valuation survey is not free from criticism. One of the criticisms is that the contingent valuation survey estimation is higher than the actual contribution. People who answer that they would be willing to pay for a program or policy might not actually pay for it.[655] Some scholars, like Madriaga and McConnel, used actual contribution to the environmental organizations to estimate the public valuation on the environment.[656] However, such actual contribution is also problematic because of the free-riding problem, the situation where some individuals enjoy public goods and service without paying their

[652] Zenia Kotval and John Mullin, "Fiscal Impact Analysis: Methods, Cases, and Intellectual Debate" (Cambridge, Massachusetts, 2006); Jim Robey and Kathleen Bolter, "Fiscal Impacts: A Literature Review," W.E. Upjohn Institute for Employment Research (Kalamazoo, January 31, 2020).
[653] The requirement to get a Tax Identification is an Indonesia Identification Card (KTP), and KTP can only be given to adult citizens. According to the Indonesian census 2020, total adult population starting from age 20 is 184,296,000 people.
[654] See Chapter 2 on research methodology to read more about the method and sample I took for the contingent valuation survey.
[655] Sagoff, "Should Preferences Count?"
[656] Madariaga and McConnell, "Exploring Existence Value."

share.[657] For instance, a non-government organization that works on anti-corruption that collects donations from the public is the Indonesia Corruption Watch (ICW). Based on its 2019-2020 donation data, ICW collected on average IDR 3.8 billion per year from around 170 members.[658] The number of people who donated are way below the total number of Indonesian taxpayers.

The free riding problem also occurs in the Indonesian income tax system. In 2021, there were more than 61.5 million people who had a tax identification card, but only 17.3 million people were obligated to pay income tax, and only 14.9 million of 17.3 million people filed an income tax report.[659] Despite the low number of income taxpayers, most of the population pays sales taxes that are added to the price of goods when they buy something, and some pay other taxes such as property, vehicle, and interest/dividend tax. Moreover, the income tax from individuals only contributed around 11% from the total government revenue from taxes in 2021.[660] Therefore, I give standing to the Indonesian adult population because they are most likely to pay taxes in any form mentioned above.

In developing the contingent valuation survey, I modified Cohen's questionnaire on willingness to pay to reduce white collar crime in the US. His questionnaire met NOAA's standard for a contingent valuation survey, such as having a referendum format, an accurate description of program, a "no-answer" option, a reminder of budget constraint, and a follow up question.[661] During the questionnaire development process, I found that some participants were skeptical and distrustful of the (perceived) corrupt government, so they refused to make additional payments to the government. They were worried that the government would not manage the additional funds properly, as government corruption occurs in tax and social security services.[662] Therefore, I modified the question by asking the respondents to allocate a certain amount of money that they have paid to the government in taxes to be used or

[657] Boardman et al., *Cost-Benefit Analysis: Concepts and Practice*; Hampton, "Free-Rider Problems in the Production of Collective Goods."
[658] I received this unpublished data from the ICW director.
[659] Indonesian Ministry of Finance The Directorate General of Taxes, "Laporan Tahunan 2021," *The Directorate General of Taxes, Indonesian Ministry of Finance* (Jakarta, 2053), https://www.pajak.go.id/sites/default/files/2022-11/Laporan%20Tahunan%20DJP%202021%20-%20Bahasa.pdf.
[660] Olina Rizki Arizal, "Komposisi Realisasi Penerimaan Pajak 2022: PPh Badan Dan PPN DN Mendominasi," TBrights, accessed August 11, 2024, https://tbrights.com/komposisi-realisasi-penerimaan-pajak-2022-pph-badan-dan-ppn-dn-mendominasi/.
[661] Arrow et al., "Report of the NOAA Panel on Contingent Valuation."
[662] Afifa, "Another Tax Mega Scandal"; The Jakarta Post, "Cut Your Costs Instead, Antigraft Body Tells BPJS - National - The Jakarta Post."

allocated to implement and enforce the anti-corruption policies. The actual language in the survey was:

> As an Indonesian citizen, you pay taxes, such as income tax, vehicle tax, land/house tax, or sales tax. Although you do not report all of these taxes that you pay, the government has received tax revenues from every activity you did or transaction that you made.
>
> - Currently, the government is planning to revoke anti-corruption policies and stop implementing anti-corruption programs. I want to ask you how much money you think the government should allocate/distribute from your existing taxes (taxes that you have paid) to support the continuation of anti-corruption policies.
> - *Remember* that the existing taxes that you want the government to allocate to implement the anti-corruption policies is the government tax that could otherwise be used for other social programs, such as food subsidy, basic education, housing projects, infrastructure, and healthcare.
> - In each case, I will ask you to vote "yes" or "no" to a proposal in Indonesia to support the continuation of anti-corruption policies/programs.

No	Question	Answer
1	Suppose the government stopped these anti-corruption programs, would you be willing to give a mandate to the government to allocate IDR 1,200,000 ($84) **per year** from your existing tax to support the continuation of these anti-corruption policies?	1. Yes →2 2. No →3 3. Don't Know 4. Refused to Answer →4

The amount (IDR 1,200,000) was doubled or halved depending on whether their response was positive or negative. To reflect the preferences revealed to support anti-corruption programs, I used the average donation to Indonesia Corruption Watch (ICW), an NGO that works in the anti-corruption sector, as a reference to develop my questionnaire. The average donation that approximately 170 people made to ICW in 2019-2020 was IDR 1,800,000 per year (or IDR 150,000 per month). Then, I adjusted the starting number to IDR 1,200,000 per year so the respondents could understand it easily in terms of a monthly expense (IDR 100,000 per month). One criticism of this contingent valuation survey is that the number given could anchor the respondents to a particular number (anchoring effect). The NOAA Panel on Contingent Valuation recommends that researchers use this referendum format (yes/no) and follow up with the specific number (close-ended) to elicit people's willingness to pay.[663] The

[663] Arrow et al., "Report of the NOAA Panel on Contingent Valuation."

WTP estimated from the dichotomous choice is affected less than the WTP estimated from open-ended surveys.[664]

Table 5. Willingness to Allocate Existing Tax by Number

Willingness to Let the Government Allocate Tax	**Unweighted Sample (N=2,114)**	**Weighted Sample (N=2636)**
IDR 2,400,000 (USD 168)	8%	5.5%
IDR 1,200,000 (USD 84)	17.4%	15.6%
IDR 600,000 (USD 42)	8.7%	6.5%
Not willing to allocate tax	55.7%	54.4%
Don't understand the question/refuse to answer	10.2%	18%

Table 4 summarizes the contingent valuation survey results. Although I reframed the question, most respondents (55.7% of the unweighted and 54.4% of the weighted sample) did not want the government to allocate their tax to enforce anti-corruption policies. When respondents were willing to allocate their tax, most were willing to allow the government to allocate IDR 1,200,000 of their taxes per year to support the implementation of anti-corruption policies (17.4% of the unweighted and 15.6% of the weighted sample). Only a small percentage of the respondents were willing to allow the government to allocate IDR 2,400,000 (8% of the unweighted and 5.5% of the weighted sample) and IDR 600,000 (8.7% of the unweighted and 6.5% of the weighted sample) of their taxes per year to support anti-corruption policies. While some of the respondents still thought that additional payments or taxes to the government would be made, most believed that the taxes should be used for other social welfare programs.

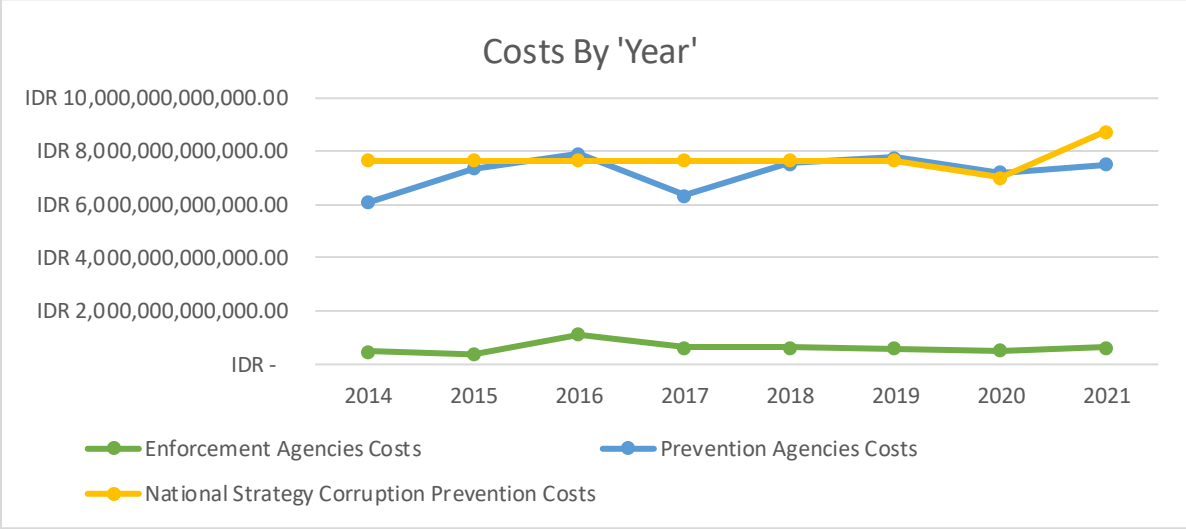
From this result, the average amount that the respondents were willing to have the government allocate to implement anti-corruption policies was IDR 357,712.71 per respondent per year for the weighted sample, and IDR 363,505.31 per respondent per year for the unweighted sample. This contingent valuation survey was performed in every province (34) in Indonesia where the unit of analysis was the individual. The study was conducted at a national level so that it could be generalized to the Indonesian adult population. According to the 2020 Indonesian census, the total number of adults from age 20 is 184,296,000. Then, I

[664] Bohara et al., "Effects of Total Cost and Group-Size Information on Willingness to Pay Responses: Open Ended vs. Dichotomous Choice."

multiplied the total Indonesian adult population by the average amount of the taxes they were willing to allocate to implement anti-corruption policies.

First, I discuss the social benefit and cost with the focus on the year 2021 for two reasons: (1) the contingent valuation survey was conducted in 2021, and (2) the most available cost data is for the year 2021.[665] The State Auditor Agency (BPK) has not yet published the 2022, 2023, 2024 financial reports of the agencies that enforce and prevent crimes of corruption. Figure 3 shows that there is no clear trend of the enforcement, prevention, or *Stranas* PK costs. Figure 2 below shows that the costs fluctuate from 2014 to 2021; therefore, I used the average of 2019-2021 costs of enforcement agencies, prevention agencies, and *Stranas* PK to impute the 2021 cost.

Figure 2. Annual Cost of Enforcement Agencies, Prevention Agencies, and *Stranas* PK (2014-2021)



After adjusting the costs and benefits to reflect 2024 IDR, Table 4 presents the comparison between the social benefit and cost of implementing the Indonesian anti-corruption policies in 2021, both for the unweighted and weighted samples. Although the majority of respondents (54.4%) did not want the government to allocate their taxes to enforce anti-corruption policies, the aggregate social benefit is still higher than the cost that the Indonesian government has allocated to enforce and prevent corruption. The net benefit of implementing Indonesian anti-corruption policies is IDR 58,724,624,137,212.80 for the unweighted sample and IDR 57,535,436,207,479.90 for the weighted sample. In terms of the benefit and ratio, there were no significant differences between when the weighted sample (1:4.5) and the unweighted sample (1:5) were used.

[665] See the discussion on the previous section on the Fiscal Impact Analysis in this chapter.

Table 6. Cost and Benefit Ratio of Implementing Anti-Corruption Policies

Societal Cost (2019-2021 average)	**2021 (adjusted to 2024 IDR)**	
Law Enforcement Agencies	IDR 580,727,828,669.99	
Anti-Corruption Prevention Agencies	IDR 7,504,335,391,022.49	
***Stranas* PK**	IDR 7,815,877,661,651.68	
Total Cost	***IDR 15,900,940,881,344.20***	
Societal Benefit (2021 CV Survey)	**Weighted**	**Unweighted**
	IDR 73,436,377,088,824	IDR 74,625,565,018,557
Cost : Benefit Ratio	**1:4.5**	**1:5**
Net Benefit	IDR 57,535,436,207,479.90	IDR 58,724,624,137,212.80

Second, I estimated the net present benefit and cost of implementing the anti-corruption policies during the period 2014-2021. I used the social benefit from the weighted sample (IDR 73,436,377,088,824) because this reflects the Indonesian population more than the unweighted sample. Therefore, I used 8 years (2014-2021) as the timeline to estimate the present benefit and cost of the Indonesian anti-corruption these policies from each year from 2014 to 2021, adjusted to 2024 dollars, as shown in Figure 2 above. This annual cost includes enforcement agencies, prevention agencies, and implementing the *Stranas* PK. Then, I assumed the social benefit from the contingent valuation survey was constant every year in real terms.[666]

Using the 10% discount rate as the lower bound, I found that the net future value (NFV) of implementing the Indonesian anti-corruption policies from 2014-2021 is IDR 881 trillion (IDR 881,041,416,811,330.00), as shown in Table 5. When I used the 15% discount rate as the upper bound, the NFV is IDR 1,209 trillion (IDR 1,209,219,475,304,100.00) as shown in Table 6. Both NFVs show that the Indonesian anti-corruption policies provided a great benefit to Indonesian society.

Table 7. Social Benefit-Cost Analysis 2014-2021 with 10% Discount Rate

[666] I acknowledge the uncertainties especially regarding benefits. In an ideal world, the contingent valuation survey to measure social benefit should be done in every year. However, these data are difficult and expensive to obtain. Therefore, I will conduct the sensitivity analysis later in this chapter to deal with this uncertainty.

Discount Rate		**10%**	
Year	**Costs (IDR 2024)**	**Benefits (IDR 2024)**	**2024 Net Future Value**
2014	IDR 14,318,248,699,713.70	IDR 73,436,377,088,824.10	IDR 153,337,199,764,479.00
2015	IDR 15,500,587,309,371.60	IDR 73,436,377,088,824.10	IDR 136,609,561,736,721.00
2016	IDR 16,797,841,031,536.60	IDR 73,436,377,088,824.10	IDR 121,409,732,107,183.00
2017	IDR 14,745,272,613,810.20	IDR 73,436,377,088,824.10	IDR 114,372,358,908,346.00
2018	IDR 15,952,305,476,443.40	IDR 73,436,377,088,824.10	IDR 101,836,539,389,701.00
2019	IDR 16,114,024,932,886.10	IDR 73,436,377,088,824.10	IDR 92,318,221,370,659.80
2020	IDR 14,827,213,897,359.90	IDR 73,436,377,088,824.10	IDR 85,809,675,828,622.80
2021	IDR 16,826,213,523,371.50	IDR 73,436,377,088,824.10	IDR 75,348,127,705,617.50
Net future value (NFV) – Discount Rate 10 %			**IDR 881,041,416,811,330.00**

Table 8. Social Benefit-Cost Analysis 2014-2021 with 15% Discount Rate

Discount Rate		**15%**	
Year	**Costs**	**Benefits**	**2024 Net Future Values**
2014	IDR 14,318,248,699,713.70	IDR 73,436,377,088,824.10	IDR 239,165,801,625,139.00
2015	IDR 15,500,587,309,371.60	IDR 73,436,377,088,824.10	IDR 203,810,941,318,792.00
2016	IDR 16,797,841,031,536.60	IDR 73,436,377,088,824.10	IDR 173,258,576,699,985.00
2017	IDR 14,745,272,613,810.20	IDR 73,436,377,088,824.10	IDR 156,119,504,710,205.00

2018	IDR 15,952,305,476,443.40	IDR 73,436,377,088,824.10	IDR 132,964,150,694,976.00
2019	IDR 16,114,024,932,886.10	IDR 73,436,377,088,824.10	IDR 115,295,725,013,252.00
2020	IDR 14,827,213,897,359.90	IDR 73,436,377,088,824.10	IDR 102,507,792,729,141.00
2021	IDR 16,826,213,523,371.50	IDR 73,436,377,088,824.10	IDR 86,096,982,512,607.70
Net future value (NFV) – Discount Rate 15%			**IDR 1,209,219,475,304,100.00**

IV. Sensitivity Analysis

I conducted a sensitivity analysis to address the uncertainties regarding the costs and benefits I estimated above. The goal of this sensitivity analysis was to demonstrate "how sensitive predicted net benefits are to changes in assumptions."[667] I conducted the sensitivity analysis by running a Monte Carlo simulation using the Oracle Crystal Ball. This simulation allowed me to test the likelihood of a positive net benefit (more than IDR 0) with 10.000 different cost inputs. I assumed the cost of law enforcement agencies, prevention agencies, and anti-corruption national strategies (*Stranas PK*) were uniformly distributed, with a range from +/- 10% of the best estimates of each annual cost between 2014-2021. I used the uniform distribution because of the high uncertainties of costs. For the enforcement cost, the uncertainties resulted from the unavailability of data regarding the exact proportion of corruption inmates to the correction cost and corruption cases investigated by the police to their special crime cost. It is also uncertain how much the allocation of cost that such prevention agencies as BPK, LPSK, and others are used to specifically prevent corruption. Also, the *Stranas* PK cost is uncertain because the 2014-2018 costs are unavailable; thus, I used the 2019 cost as a conservative estimate.

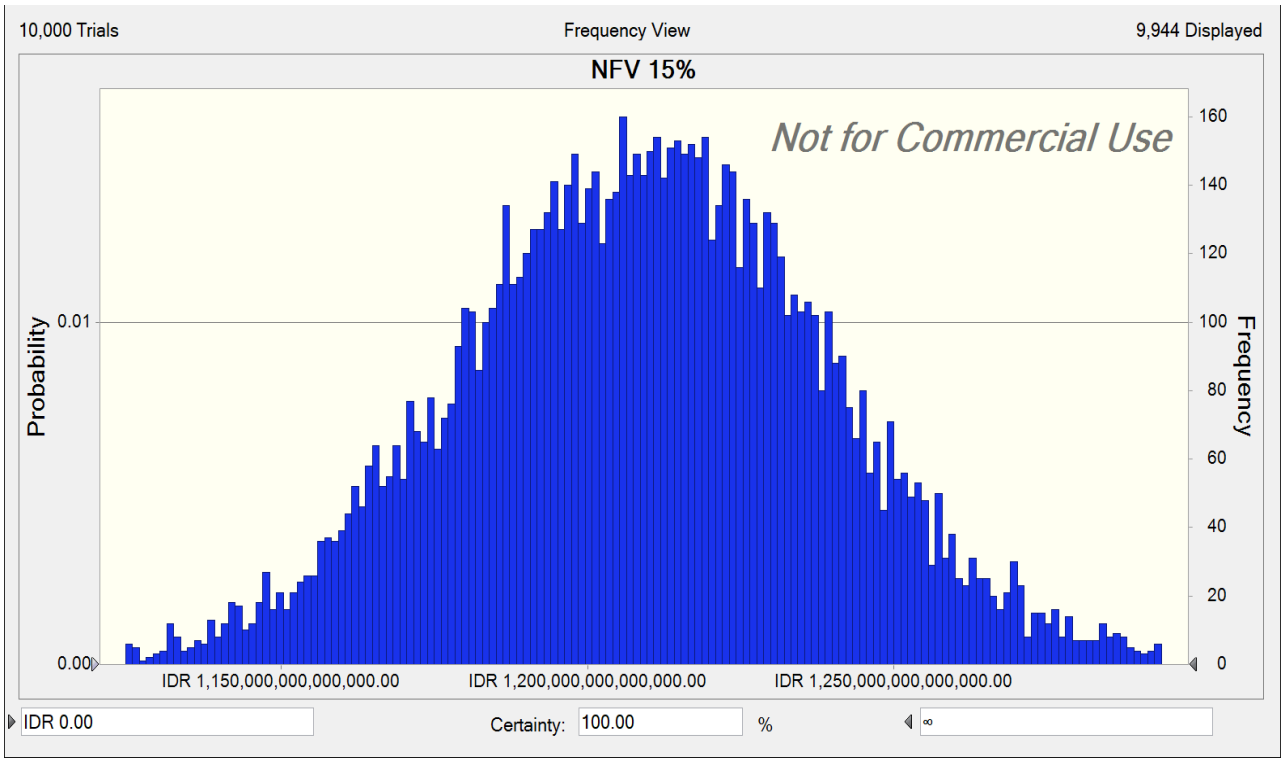
Then, I used the normal distribution for the social benefit that resulted from the weighted sample of the contingent valuation survey result (IDR 73 trillion), which was conducted with stratified random sampling in every province in Indonesia; thus, the result could be generalized to the Indonesian adult population. Moreover, I weighted the sample to better reflect the Indonesian population. Therefore, the CV result (the mean of the distribution)

[667] Boardman et al., *Cost-Benefit Analysis: Concepts and Practice*.

is more likely to occur, and approximately 68% of values are within a range +/- 10% of the of CV result (mean).

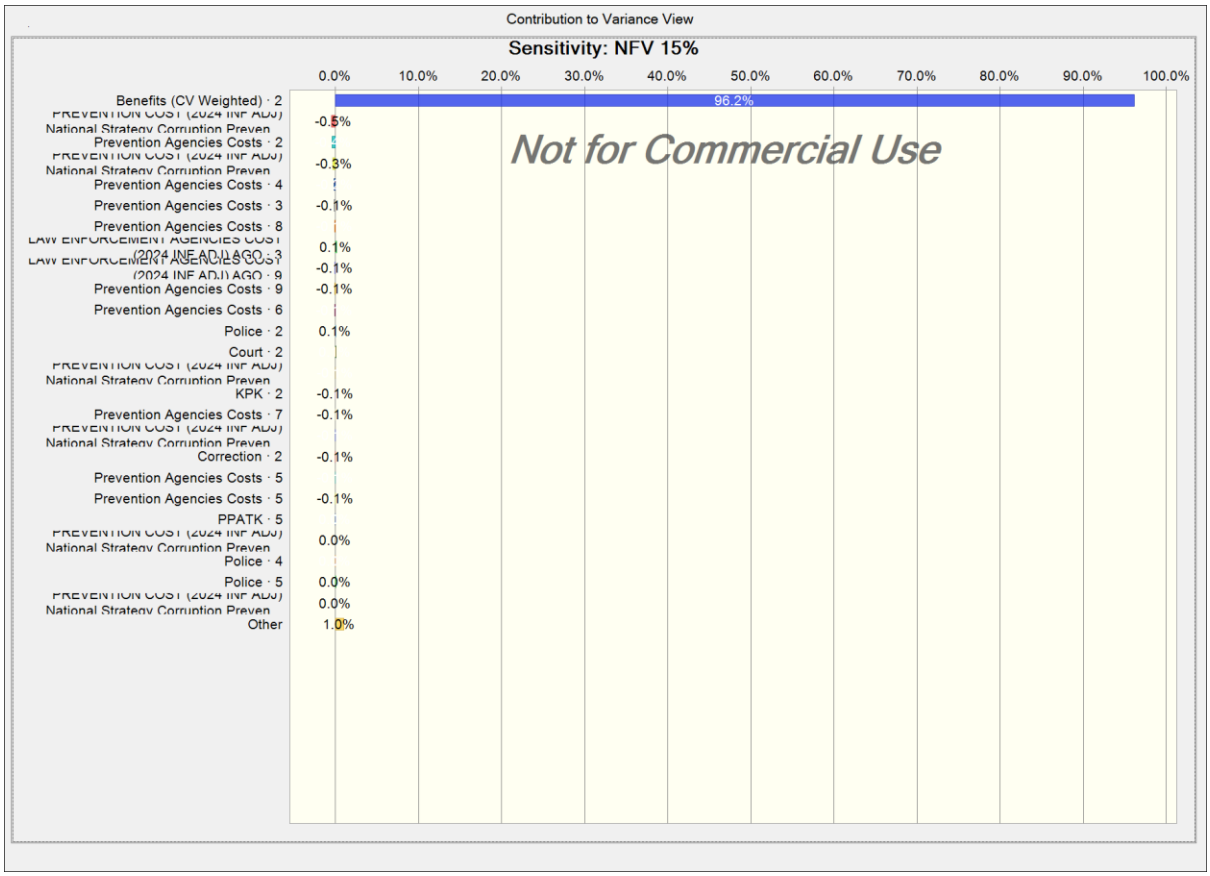
Next, I set the 15% discount rate as an input, and the estimated NFV results from this rate (IDR 1,209 trillion) as the outcomes or forecasts when I ran the Monte Carlo simulation. Figures 3 shows that based upon the calculations and distributions specified for the variables mentioned above, there is a 100% likelihood that the NFV of implementing Indonesian anti-corruption policies is greater than IDR 0, or positive. Hence, implementing Indonesian anti-corruption policies is beneficial from the societal perspective with the 15% discount rate.

Figure 3. Monte Carlo Simulation with 15% Discount Rate and NFV



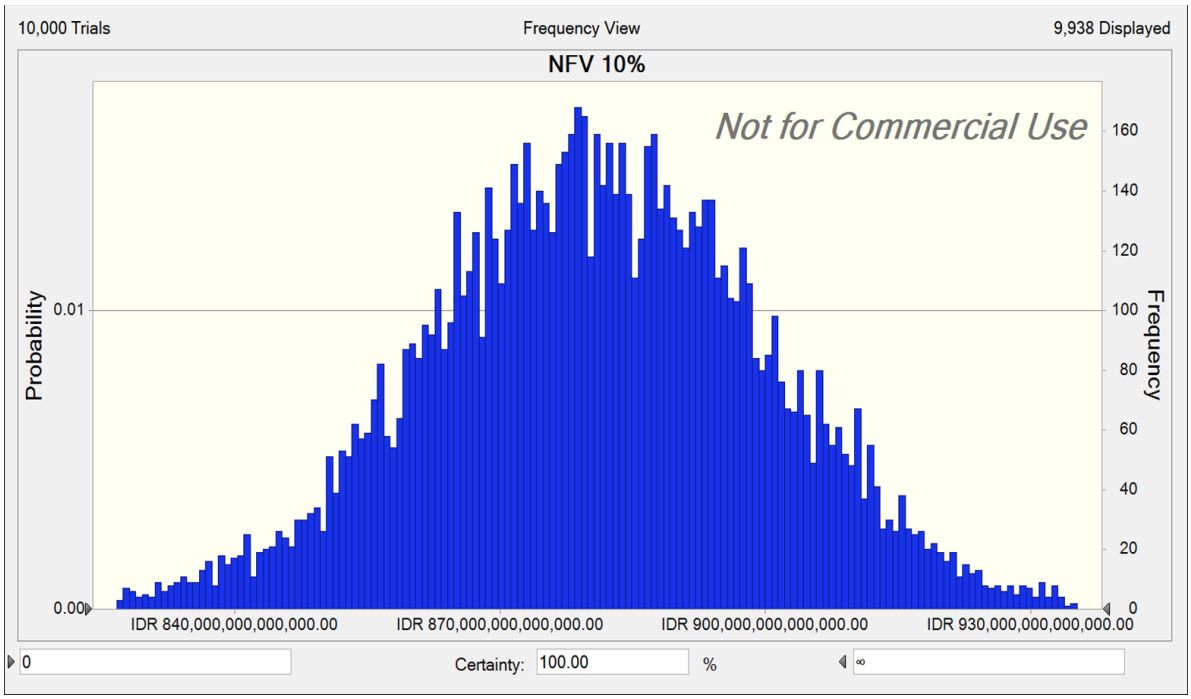
I inserted Figure 4 to show the variables causing most of the uncertainty in this simulation. The social benefit from the CV survey (96.2%) contributes to the variance in this model.

Figure 4. Variables Contributing the Most to the Variance (15% Discount Rate and NFV)



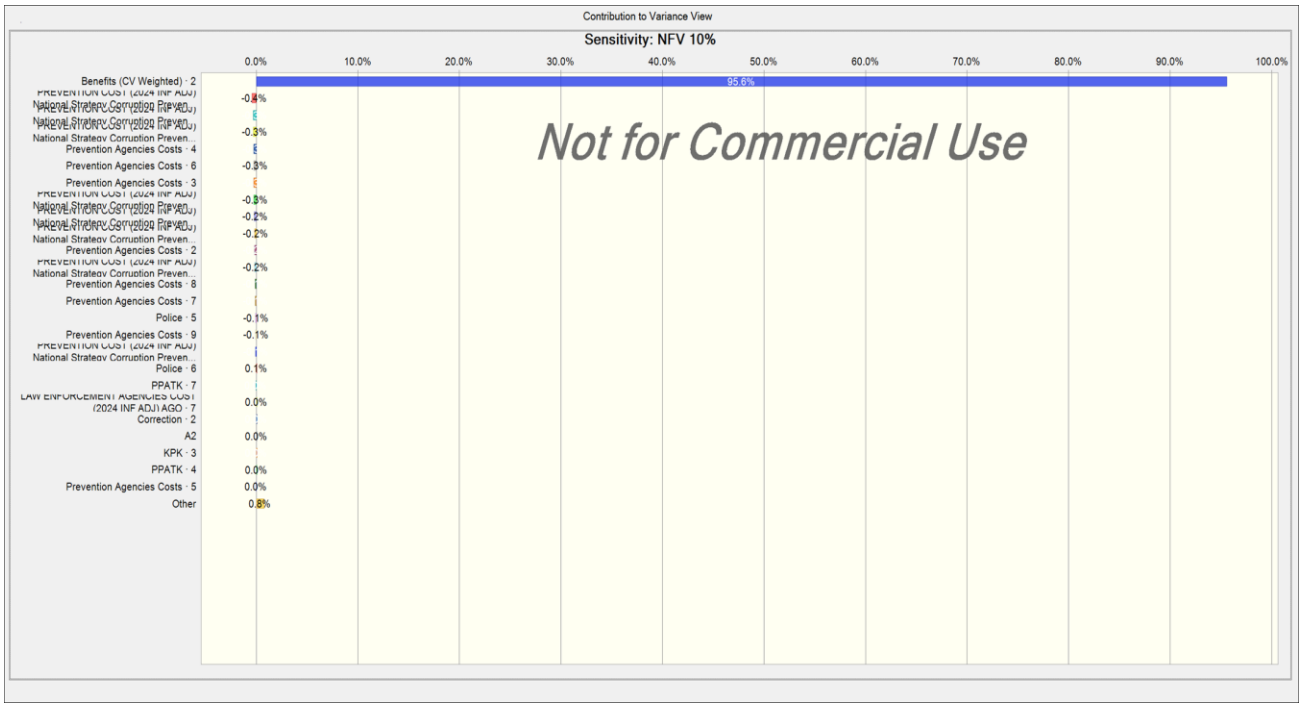
Finally, I set the 10% discount rate as an input, and the estimated NFV results from this rate (IDR 881 trillion) as the outcomes or forecasts when I ran the Monte Carlo simulation. Figure 5 shows that based upon the calculations and distributions specified for the variables mentioned above, there is also a 100% likelihood that the NFV of implementing Indonesian anti-corruption policies is greater than IDR 0, or positive. Therefore, implementing Indonesian anti-corruption policies is also beneficial from the societal perspective with the 10% discount rate.

Figure 5. Monte Carlo Simulation with 10% Discount Rate and NFV



I inserted Figure 6 to explain the variables that cause most of the uncertainty in this simulation. The social benefit from the CV survey (95.6%) contributes to the variance in this model.

Figure 6. Variables Contributing the Most to the Variance (10% Discount Rate and NFV)



5. Discussion and Policy Implications

First, from the governmental or fiscal perspective, based on the government's financial documents, the Indonesian government spent more on enforcing and preventing corruption than they collected in monetary sanctions such as fines, restitution, and asset forfeiture from the crimes of corruption. The government spent approximately IDR 125 trillion to implement the anti-corruption policies and programs during the 2014-2021 period, while they received only IDR 6.8 trillion in monetary sanctions from defendants convicted of crimes of corruption. The value from this fiscal perspective is negative: IDR 118 trillion (IDR 118,209,425,711,143.00) between 2014 and 2021. I also adjusted this result with 10% and 15% social discount rates to reflect the net future value (NFV). Using the 10% discount rate as the lower bound, I found that the net future value to enforce and prevent corruption (NFV) is negative IDR 224 trillion (IDR 224,283,496,018,946.00) from the fiscal or government perspective. When I used the 15% discount rate as the upper bound, the NFV is negative 306 trillion (IDR 306,840,150,728,827.00). Both NFVs show that the government spent more to enforce and prevent corruption than the collected revenue from monetary sanctions. The cost to implement both anti-corruption enforcement and prevention strategies is 18 times higher than the revenues collected. As a result, this BCA concludes that both enforcing and preventing corruption incur significant negative fiscal impacts, as the Indonesian government is unable to recover its expenditures from the collection of monetary sanctions.

Revising the anti-corruption laws regarding monetary sanctions is one proposal to recoup costs. Setting the monetary punishment proportionally to the social cost of corruption had been proposed by Indonesian scholars, and by the Indonesian anti-corruption agency or *Komisi Pemberantasan Korupsi* (KPK).[668] Despite the fact that the monetary sanctions collected are lower than policy costs, we must be cautious in setting monetary sanction amounts. Criminal laws are never intended to be used as the principal source of government revenue.[669] Future research needs to be conducted to explore the types of monetary sanctions

[668] Choky Ramadhan, "Korupsi Juga Soal Jumlah," *Koran Sindo*, July 25, 2017, https://nasional.sindonews.com/berita/1223692/18/korupsi-juga-soal-jumlah; Pradiptyo, "Does Corruption Pay in Indonesia? If So, Who Are Benefited the Most?"; Zulaiha and Angraeni, "Menerapkan Biaya Sosial Korupsi Sebagai Hukuman Finansial Dalam Kasus Korupsi Kehutanan."

[669] The primary purposes of criminal law and its enforcement are to prevent wrongful acts (deterrence), punish the wrongdoers (retribution), incapacitate dangerous people (incapacitation), rehabilitate wrongdoers (rehabilitation), and restore harmony between the offender and the victim or society (restorative).

that could serve at least three goals of punishment: 1) deterrence by increasing severity of punishment; 2) retribution as just deserts;[670] and 3) revenue for the government.[671]

Nevertheless, the collection of monetary sanctions finding is beneficial as a reference to evaluate the existing practice in determining and collecting monetary sanctions from defendants facing prosecution for crimes of corruption. In the next chapter (Chapter 6), I will discuss my findings on the process and factors that contributed to the collection of monetary sanctions from the crime of corruption offenders. This finding helps the Indonesian public and policymakers to better understand the challenges so they can develop policies and systems to effectively collect monetary sanctions from defendants facing prosecution for crimes of corruption.

Second, from the societal perspective, implementing Indonesian anti-corruption policies is beneficial: IDR 881 trillion with the 10% discount rate and IDR 1,209 trillion with the 15% discount rate. These NFVs are still positive after conducting the sensitivity analysis with the Monte Carlo simulation discussed above. Therefore, the government needs to continue to support and implement the policies, as the net social benefit is higher than the cost allocated.

There are two possible ways to interpret this finding. First, even though the Indonesian government has invested few resources to enforce anti-corruption policies, they receive a great social benefit; some might argue that the Indonesian government has allocated those few resources efficiently to achieve a large social benefit. Moreover, the social benefit result from the CV survey is conditional on the existing outcome, which the Indonesian Corruption Watch (ICW) claimed is "far from the expectation."[672] Reports from many organizations have also documented the Indonesian government's struggle to curb corruption despite its anti-corruption efforts. According to Global Corruption Barometer Asia 2020, 30% of respondents experienced paying a bribe to get basic services from public officials.[673] This survey ranked Indonesia at the third position for the highest bribery rates in Asia. Moreover, the World Justice

---

[670] Kevin M Carlsmith, John M Darley, and Paul H Robinson, "Why Do We Punish? Deterrence and Just Deserts as Motives for Punishment," *Journal of Personality and Social Psychology* 83, no. 2 (2002): 284–99, https://doi.org/10.1037/0022-3514.83.2.284.

[671] Karin D. Martin, "Monetary Myopia: An Examination of Institutional Response to Revenue From Monetary Sanctions for Misdemeanors," *Criminal Justice Policy Review* 29, no. 6–7 (July 1, 2018): 630–62, https://doi.org/10.1177/0887403418761099/ASSET/IMAGES/LARGE/10.1177_0887403418761099-FIG2.JPEG; Karin D. Martin et al., "Monetary Sanctions: Legal Financial Obligations in US Systems of Justice," *Annual Review of Criminology* 1 (January 13, 2018): 497–515, https://doi.org/10.1146/ANNUREV-CRIMINOL-032317-091915/CITE/REFWORKS.

[672] Fathiyah Wardah, "ICW: Pemberantasan Korupsi Di Era Jokowi Masih Jauh Dari Memuaskan," VOA, October 20, 2021, https://www.voaindonesia.com/a/icw-pemberantasan-korupsi-di-era-jokowi-masih-jauh-dari-memuaskan/6277944.html.

[673] Vrushi, "Global Corruption Barometer Asia 2020: Citizens' Views and Experiences of Corruption."

Project ranked Indonesia 98 of 139 with a score of 0.4 of 1 for the Absence of Corruption factor.[674] In addition, Transparency International reported that 92% of Indonesians believe that government corruption is still a large problem that needs to be eradicated.[675]

Second, it is highly possible that the public might be in favor of increased spending for implementing anti-corruption policies because their valuation of the policies was high. If the government spent more resources for anti-corruption policies, it is likely to address the lack of resources problem experienced by the institutions that enforce (the AGO, KPK, and anti-corruption court) and prevent (Ombudsman, Information Commission, etc.)[676] corruption. In the comparative anti-corruption literature, some scholars have highlighted the political will to allocate adequate resources as one of the "success factors" of anti-corruption reforms.[677] Allocating sufficient resources to sustain anti-corruption efforts is one indicator, "continuity of effort," to assess the government's political will.[678] The lack of resources finding then supports an argument that there is lack of political will to support anti-corruption efforts during the post-*Reformasi* under the Joko Widodo administration. Some scholars have argued that the Joko Widodo administration has "no anti-corruption agenda" or it has pushed back anti-corruption efforts.[679] However, their arguments tend to be normative, or based on analyses of announced policy. The findings from BCA (Chapter 5) and the lack of resources challenges (Chapter 4) fill the gap in analyses by looking specifically at budget allocations to implement anti-corruption policies and whether these are adequate. Moreover, the BCA finding supports the public demand for the government to have a political will to sustain anti-corruption policies.

The reports that the Indonesian government under the Joko Widodo administration has let the anti-corruption agencies experience inadequate resources to enforce and prevent anti-corruption policies, and relied on IDOs to support some of the policies (Chapter 4), answers the question posed by Brinkerhoff to assess the "continuity of effort" indicator: "[d]oes the reformer treat the anti-corruption effort as a one-shot endeavor and/or symbolic gesture, or are efforts clearly undertaken for the long term?"[680] The results of this study indicate that the Indonesian government treats the anti-corruption effort as a one-shot endeavor and/or symbolic

[674] World Justice Project, "WJP Rule of Law Index | Indonesia Insights."
[675] Transparency International, "2023 Corruption Perceptions Index: Indonesia."
[676] See Chapter 4 for more detailed discussion on the institutions that enforce and prevent corruption in Indonesia.
[677] Quah, "Combating Corruption in Asian Countries: Learning from Success & Failure."
[678] Brinkerhoff, "Assessing Political Will for Anti-corruption Efforts: An Analytic Framework"; Brinkerhoff, "Unpacking the Concept of Political Will to Confront Corruption."
[679] Warburton, "Jokowi and the New Developmentalism"; Baker, "Reformasi Reversal: Structural Drivers of Democratic Decline In Jokowi's Middle-Income Indonesia."
[680] Brinkerhoff, "Assessing Political Will for Anti-corruption Efforts: An Analytic Framework," 243.

gesture by not sustaining the efforts with the adequate and efficient resources. Thus, this indication supports previous studies that argue that the reliance on IDOs could decrease host government incentives to adopt a political will to sustain and support the reform.[681]

Nevertheless, the contingent valuation survey did not ask the public about how much they want the government to spend, so it is uncertain how much rupiahs (IDR) or percentages from the annual budget that the public does want the government to allocate for implementing anti-corruption policies. There is no law that mandates the government to allocate a certain amount for anti-corruption policies, unlike the mandatory budget allocations for education (20% of annual budget) and health (10% of annual budget). Moreover, the CV survey was implemented based on the existing or status quo outcomes. If the spending and budget to implement anti-corruption policies was increased, there is a possibility of achieving a higher level of outcomes from the policies; still, we are not certain how much more the public would be willing to pay for what could be a marginal improvement. This is an area for future research to know exactly the public's ideal valuation with presumably different levels of outcomes.

Another implication from the BCA results is to evaluate the impact of some anti-corruption policies and programs. As mentioned before, corruption remains a pervasive problem in the Indonesian government and society with the current amount of spending and level of outcomes.[682] This gives an opportunity for future inquiry about the policies or programs that are more impactful in preventing, curbing, and eradicating corruption. If the government keeps up the current level of spending, this evaluation is valuable for the government to invest more on the policies and programs that bring more impact, and reform the policies and programs that are less impactful. In doing so, the government could improve the effectiveness of its anti-corruption policies by prioritizing its resources on the more impactful policies and programs.

Examples of questionable programs are the "Corruption-Free Zone" (*Wilayah Bebas Korupsi*, WBK) and "Clean and Serving Bureaucracy Zone" (*Wilayah Birokrasi Bersih dan Melayani*, WBBM). The Ministry of Bureaucratic Reform administers these programs to review all agencies and their units based upon the ministry's requirements. These requirements are the agencies' plans and procedures used to prevent corruption, and surveys to assess public

[681] Erbeznik, "Money Can't Buy You Law: The Effects of Foreign Aid on the Rule of Law in Developing Countries"; Stephen Knack, "Aid Dependence and the Quality of Governance: Cross-Country Empirical Tests," *Southern Economic Journal* 68, no. 2 (October 2001): 329, https://doi.org/10.2307/1061596; Todd Moss, Gunilla Pettersson, and Nicolas Van De Walle, "An Aid-Institutions Paradox? A Review Essay on Aid Dependency and State Building in Sub-Saharan Africa" (Washington, D. C., 2006), www.cgdev.org.
[682] United Nations Office on Drugs and Crime, "Indonesia: Anti-Corruption," accessed August 11, 2024, https://www.unodc.org/indonesia/en/issues/anti-corruption.html#.

satisfaction. The WBK and WBBM assessments are too formal and based heavily upon the document submitted to the Ministry. Moreover, some of the public surveys were methodologically flawed because, for example, they used internal staff as respondents rather than the public or were conducted by the Ministry rather than an external and independent organization.[683]

Even in the agency units that have their WBK and WBBM status, bribery and corruption still do exist. For instance, the Ministry of Bureaucratic Reform revoked the WBK and WBBM from the Surabaya Court after a judge and clerk were arrested and charged for bribery.[684] Therefore, granting an agency and its regional unit with the WBK and WBBM status based on their internal documents and surveys are like, as Taylor claimed, "counting the wrong chickens."[685] Thus, an external organization should evaluate these WBK and WBBM programs to assess their impact in preventing and curbing corruption.

Impact evaluation has been done often in education, health, and economic programs.[686] Recently, the CMI/U-4 anti-corruption center has called for an evaluation on the anti-corruption programs "that focus on impact and sustainability to gauge whether the anti-corruption intervention contributes to wider, and deeper, change."[687] This evaluation could also prevent an agency from asking for more resources when it did not implement the anti-corruption program effectively and efficiently. However, conducting an impact evaluation on the rule of law and anti-corruption programs is not an easy task because it is costly and complex, sometimes unethical, and too big to be measured.[688] Reviewing literature on the conceptual and empirical discussion of impact evaluation on the rule of law and anti-corruption reforms would be a good start for future research before evaluating the impact of Indonesian anti-corruption policies.

---

[683] Treasury Office Branch Pelaihairi, "Survei Reformasi Birokrasi : Self Assestment Pembangunan Zona Integritas Menuju WBK/WBBM," June 4, 2018, https://djpb.kemenkeu.go.id/kppn/pelaihari/id/data-publikasi/berita-terbaru/2833-survei-reformasi-birokrasi-self-assestment-pembangunan-zona-integritas-menuju-wbk-wbbm.html; Cabinet Secretariat, "Survei Zona Integritas," accessed August 11, 2024, https://setkab.go.id/zona-integritas/survei/.

[684] Kementerian PANRB Cabut Predikat WBK Empat Instansi Pemerintah, "Ministry of State Apparatus Utilization and Bureaucratic Reform," July 5, 2022, https://www.menpan.go.id/site/berita-terkini/kementerian-panrb-cabut-predikat-wbk-empat-instansi-pemerintah.

[685] Veronica Taylor, "Rethinking Donor Intervention in Promoting the Rule of Law in Asia | East Asia Forum," East Asia forum, June 22, 2011, https://eastasiaforum.org/2011/06/22/rethinking-donor-intervention-in-promoting-the-rule-of-law-in-asia/.

[686] Julia Kaufman et al., "Breakthrough to Policy Use: Reinvigorating Impact Evaluation for Global Development" (Washington, D. C., 2022), www.CGDev.org/evidence-to-impact.

[687] Wathne, "Effectively Evaluating Anti-Corruption Interventions."

[688] Nicholas Menzies, "Are Impact Evaluations Useful for Justice Reforms in Developing Countries?," Governance for Development, World Bank Blogs, August 5, 2013, https://blogs.worldbank.org/en/governance/are-impact-evaluations-useful-justice-reforms-developing-countries.

V. Conclusion

Such International Development Organizations (IDOs) as the World Bank, the International Monetary Fund, and the Asian Development Bank, have advocated for the creation of many anti-corruption agencies and initiatives in Indonesia. It cost Indonesian taxpayers to implement these ongoing policies and newly created institutions (Chapter 3). The Indonesian government has experienced a lack of resources to finance its Anti-Corruption Court and other anti-corruption prevention agencies (Chapter 4). The BCA in this chapter was designed to evaluate the efficiency of implementing Indonesian anti-corruption policies to provide policymakers with input to reallocate the resources or reform the policies.

The benefit and cost of enforcing anti-corruption policies can be measured from two perspectives: 1) governmental, and 2) societal. First, from the governmental or fiscal perspective, based on the government's financial reporting documents, the Indonesian government spent more on enforcing and preventing corruption than collecting monetary sanctions such as fines, restitution, and asset forfeiture from the crimes of corruption. The government spent approximately IDR 125 trillion to implement the anti-corruption policies and programs during the 2014-2021 period, while they received only IDR 6.8 trillion in monetary sanctions from defendants convicted of crimes of corruption. The value from this fiscal perspective is negative: IDR 118 trillion (IDR 118,209,425,711,143.00) between 2014 and 2021. I also adjusted this result with 10% and 15% social discount rates to reflect the net future value (NFV). Using the 10% discount rate as the lower bound, I found that the net future value to enforce and prevent corruption (NFV) is negative IDR 224 trillion (IDR 224,283,496,018,946.00) from the fiscal or government perspective. When I used the 15% discount rate as the upper bound, the NFV is negative 306 trillion (IDR 306,840,150,728,827.00). Both NFVs show that the government spent more to enforce and prevent corruption than they collected revenue from monetary sanctions. The cost to implement both anti-corruption enforcement and prevention strategies is 18 times higher than the revenues collected from the monetary sanctions. Therefore, this analysis finds that enforcing and preventing the crime of corruption has substantially adverse fiscal effects, as the government cannot recoup its expenses.

Nevertheless, enforcing Indonesian anti-corruption laws is beneficial for Indonesia from the societal perspective. I measured how much of their taxes the public is willing to allocate to support the existing anti-corruption policies. In 2021, I asked 2,114 respondents from all 34 provinces in Indonesia and found that the majority (54.4%) did not want to

allocate their taxes to enforce and prevent corruption. However, the aggregate social benefit is still higher (IDR 73 trillion for the weighted and IDR 74 trillion for the unweighted sample) than the cost that the Indonesian government allocated to enforce and prevent corruption in 2021 (IDR 15.9 trillion). Thus, the net benefit of implementing Indonesian anti-corruption policies is IDR 58,724,624,137,212.80 for the unweighted sample and IDR 57,535,436,207,479.90 for the weighted sample in 2021.

In terms of the benefit and ratio, there were no significant differences between when weighted sample (1 : 4.5) and unweighted sample (1 : 5) were used. I also measured the net future value of implementing Indonesian anti-corruption policies during the period of 2014-2021 by taking into account the social discount rate. Using the 10% discount rate, I found that the net future value (NFV) is IDR 881 trillion (IDR 881,041,416,811,330.00) to enforce the Indonesian anti-corruption laws. When I used the 15% discount rate, the NFV is IDR 1,209 trillion (IDR 1,209,219,475,304,100.00). Both NFVs show that the Indonesian anti-corruption policies provided a great benefit to Indonesian society.

These findings indicate that the implementation of Indonesian anti-corruption policies is beneficial from the societal point of view, and the government should keep supporting and implementing such policies. Nevertheless, the social benefit from the contingent valuation survey did not measure how much the public might want the government to spend on anti-corruption policies, so it is uncertain how much rupiahs (IDR) or percentage from the annual budget that the public wants the government to allocate for the policies, and this creates an avenue for future research.

The social BCA findings—that implementing anti-corruption policies is more efficient than not doing so— suggest two potential interpretations. First, despite the Indonesian government's relatively modest investment in anti-corruption policies, there appears to be significant net benefit valued by the Indonesian adult population from the contingent valuation (CV) survey. This high net social benefit was a result from the CV survey conditional on the existing outcomes that fall short of expectations from national and international organizations. Second, there is a strong indication that the public values anti-corruption policies highly and may support increased government spending in this area. Such investment could potentially address the resource constraints faced by institutions tasked with enforcing and preventing corruption (Chapter 4). Findings from this study suggest a perceived lack of sustained political will during the Joko Widodo administration by looking

specifically at budget allocations to implement anti-corruption policies and whether these are adequate.[689]

Despite the fact that the social benefit from contingent valuation survey is high, the public's ideal valuation and expectation regarding government spending on anti-corruption efforts remain unclear. Increasing such spending could potentially improve outcomes, but the public's willingness to support this financially remains uncertain and warrants further research.

Furthermore, the implication of the Benefit-Cost Analysis (BCA) suggests a need to evaluate the effectiveness of Indonesia's anti-corruption policies. Despite the Indonesian government's efforts in preventing and enforcing crimes of corruption, identifying and prioritizing impactful policies is essential because of persistent corruption issues within the Indonesian government and society. While impact evaluations are common in sectors like education and health, they are less frequent in anti-corruption efforts. However, conducting such evaluations poses challenges due to cost, complexity, and ethical considerations. Thus, future research should draw from existing literature to develop robust methodologies for comprehensive assessments of Indonesian anti-corruption policies.

[689] Quah, "Combating Corruption in Asian Countries: Learning from Success & Failure"; Brinkerhoff, "Unpacking the Concept of Political Will to Confront Corruption"; Brinkerhoff, "Assessing Political Will for Anti-corruption Efforts: An Analytic Framework."

Chapter 6: Factors Contributing to the Collection of Monetary Sanctions from Defendants Convicted of Crimes of Corruption

I. Introduction

In the previous chapter, I estimated that the collection of monetary sanctions is slightly more than the cost for the law enforcement agencies that investigate, prosecute, judge, and sentence the crimes of corruption defendant with a cost and benefit ratio for the 2014-2021 period of 4:5. This means that every IDR 4 spent in funding the law enforcement agencies that dealt with crimes of corruption generates IDR 5 revenue in monetary sanctions. Again, this analysis focused only on the government's expenses and revenues for law enforcement agencies to enforce anti-corruption laws. Even so, it allows the public and policymakers to better understand the existing resource allocation within the law enforcement agencies that deal with corruption.[690]

If I add the cost for agencies that *prevent* corruption, the government revenue from monetary sanctions is far below the total cost to prevent and enforce corruption.[691] The cost and benefit ratio from enforcing and preventing corruption is 18:1, which means the cost to implement both anti-corruption enforcement and prevention strategies is 18 times higher than the revenue collected from the monetary sanctions. This finding is useful as a reference to launch follow-up research to illuminate the existing practice in prosecuting crimes of corruption and collecting monetary sanctions from defendants convicted of crimes of corruption.

The qualitative component of the case study aims to provide a more nuanced, comprehensive, and actionable explanation of the practice and factors that contributed to the (lack of) collection of monetary sanctions. To achieve this understanding, this chapter derived its analysis from semi-structured interviews with 33 Indonesian criminal justice actors (12 prosecutors, ten lawyers, and 11 anti-corruption judges) from various ranks and regions. The interviews discussed the processes, practices, factors considered, and challenges faced among criminal justice actors in imposing and collecting monetary sanctions from defendants convicted of crimes of corruption. I employed mixed approaches in coding (closed and open) and analyzing the data (content and thematic analysis). Moreover, I

[690] Kotval and Mullin, "Fiscal Impact Analysis: Methods, Cases, and Intellectual Debate"; Robey and Bolter, "Fiscal Impacts: A Literature Review."

[691] From the governmental or fiscal perspective, I measured the cost of law enforcement agencies that investigate and identify the crime of corruption (enforcement cost), the cost of agencies that prevent corruption (prevention cost), and the monetary sanctions that they collected. This fiscal impact analysis is limited to the amount that government spent and collected.

triangulated the interview data with such documents as court decisions, agencies' regulations, government reports, and non-government organization (NGO) reports.[692]

This qualitative inquiry serves as a case study that combines Benefit-Cost Analysis (BCA) with qualitative research to better understand the BCA result.[693] In addition, this research sheds light on the "law in practice" taking place when Indonesian criminal justice actors impose and collect monetary sanctions from defendants convicted of crimes of corruption. The combination of quantitative and qualitative research is strongly advised to help researchers and readers better understand the phenomena under investigation.[694]

The first section discusses factors the prosecutor and judge use to determine the monetary sanctions sentenced to defendants convicted of crimes of corruption (hereinafter the "defendant"). These factors influence how low or high the monetary sanctions sentenced to the defendant will be. This section is divided into three subsections to discuss factors for each type of monetary sanction: fines, restitution, and assets forfeiture. Interview data found that the prosecutor and judge considered the seriousness of the offense and the defendant's profiles to determine fines and the illegal gain obtained to determine restitution. Moreover, interview data referred to their institutional guidelines, asset tracing units, and inter-agency support as factors influencing their work in tracing, seizing, and forfeiting defendants' assets. The AGO and Supreme Court have issued guidelines to determine fines and restitution.[695] However, the qualitative findings in this second section could provide more nuance on how prosecutors and judges consider such factors in practice and how this practice influences defense lawyer work (specifically on the defendant's profile factor).

The second section answers the main question to understand the BCA result on monetary sanctions: What factors contribute to the payment and collection of monetary sanctions? Previous literature referred to the defendant's inability to pay as a factor for the low rate of fines and restitution payments, and the prosecutor faced many challenges in tracing and seizing assets as a factor for the low collection of asset forfeiture.[696] However,

---

[692] See Chapter 2 Research Methodology to see more details on the data collection and analysis plan.
[693] Trochim and Donnelly, *Research Methods: The Essential Knowledge Base*.
[694] Robinson et al., "Conducting Benefit-Cost Analysis in Low- and Middle-Income Countries: Introduction to the Special Issue."
[695] "Attorney General Guideline Regarding Prosecution Guideline on the Crimes of Corruption," Pub. L. No. 1 (2019); "Supreme Court Regulation Regarding Sentencing Guideline on the Crimes of Corruption," Pub. L. No. 1 (2020).
[696] Rommy Y Hiola, "Pelaksanaan Sanksi Pidana Denda Dan Uang Pengganti Dalam Perkara Tindak Pidana Korupsi Di Gorontalo," *Jurnal To Ciung* 2, no. 2 (2022): 30–46, https://www.mendeley.com/catalogue/3b8db018-3f1c-320e-9834-16291eda6f46/; Rendradi Suprihandoko and Marhenia Woro Srikandi, "Faktor Faktor Penyebab Terpidana Korupsi Tidak Membayar Uang Pengganti Alam Perkara Korupsi Di Kota Yogyakarta," in *Perkembangan Bidang Sosial Humaniora, Pertanian Dan Teknologi:*

these previous findings do not explore the underlying reasons and subtleties to give us an understanding of these factors. Interview data and triangulation from documents reveal that the factors contributing to the low collection of monetary sanctions are (1) preference for imprisonment among judges, prosecutors, and the public; (2) unpaid fines and restitutions from defendants with a low socio-economic background and those who rationally choose additional imprisonment; and (3) inadequate government resources and administrative hurdles to seize and forfeit the defendants' assets. I discuss these qualitative findings, which emerged from the interview data, with the economic analysis framework as its basic assumption: defendants and prosecutors respond to incentive (or disincentive) and try to maximize their benefit.[697]

II. The Process and Factors Determining Monetary Sanctions

A. Fines

Chart 6.1. Factors in Determining Fines

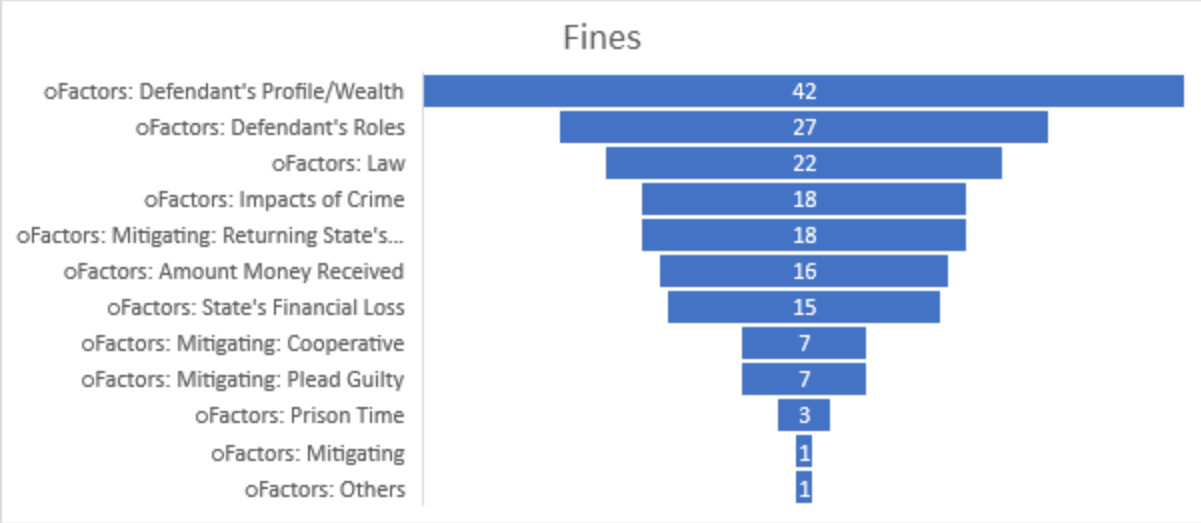


Chart 6.1. shows the factors in determining fines that were reported by respondents. Indonesia's anti-corruption law determines the possible range of fines for crimes of corruption to be between IDR 50 million to 1 billion ($ 3,200 to $ 63,250).[698] Some interview respondents referred to the law as their basis for imposing fines (see the third list of Chart

Mendukung Sustainable Development Goals, ed. Untoro Budi Surono and Bayu Megaprastio (Yogyakarta: Kepel Press, 2020), 216–28, https://doi.org/10.23887/JKH.V6I1.23441.

[697] Louis Kaplow and Steven Shavell, "Economic Analysis of Law," in *Handbook of Public Economics*, ed. Alan Auerbach and Martin Feldstein, vol. 3 (Elsevier, 2002), 1661–1784, https://doi.org/10.1016/S1573-4420(02)80029-5; Henry N. Butler, Christopher R. Drahozal, and Joanna Shepherd, *Economic Analysis for Lawyers*, 3rd ed. (Durham: Carolina Academic Press, 2014).

[698] Corruption Eradication Law; Corruption Eradication Commission Law. See Chapter 4 to read more about the monetary sanctions.

6.1. above). The prosecutors and judges answered that they should work according to the law.[699] This answer suggests that Indonesian prosecutors and judges apply the legality principle, imposing fines according to the punishment in the written criminal statute (*nulla poena lege scripta*).[700] This supports the general claim that Indonesian judges, like many judges from the civil law system, merely apply the law.[701]

However, some scholars argue that the Indonesian judicial system allows judges to interpret and make the law in practice.[702] The anti-corruption law itself is silent as to the factors to be considered by the prosecutors and judges when determining fines. Interviews revealed several factors that judges and prosecutors consider in practice. Most of the factors in Chart 6.1 above resemble those listed in the prosecutorial and sentencing guidelines mentioned before.[703] Therefore, these interview data suggest that the prosecutor and judge determine the fines following their guidelines.

This suggestion addresses a skepticism that such guidelines, transposed from the common law jurisdictions such as the U.S. and U.K., are not suitable with the Indonesian legal system as a civil law country.[704] *Masyarakat Pemantau Peradilan Indonesia Fakultas Hukum Universitas Indonesia* (MaPPI FHUI) highlighted that some criminal justice actors rejected the idea to adopt the guidelines simply because these guidelines are the common law's product.[705] Moreover, some scholars argued that these guidelines limit the prosecutor

---

[699] *See* article 7 (1) Prosecutor Law (2004) and article 1 (1), 4 (1), and 5 (1) Judicial Power Law (2009).
[700] Jerome Hall, "Nulla Poena Sine Lege," *The Yale Law Journal* 47, no. 2 (1937): 165–93; Evgeny Tikhonravov, "Nulla Poena Sine Lege in Continental Criminal Law: Historical and Theoretical Analysis," *Criminal Law and Philosophy* 13, no. 2 (June 1, 2019): 215–24, https://doi.org/10.1007/S11572-018-9466-9; Stefan Glaser, "Nullum Crimen Sine Lege," *Source: Journal of Comparative Legislation and International Law* 24, no. 1 (1942): 29–37.
[701] John Henry Merryman and Rogelio Pérez-Perdomo, The Civil Law Tradition : An Introduction to the Legal Systems of Europe and Latin America, Fourth Edition, 4th ed. (Stanford: Stanford University Press, 2018), 36; Tim Lindsey and Simon Butt, "The Judicial System," in Indonesian Law, vol. 1 (Oxford: Oxford University Press, 2018), 73–99, https://doi.org/10.1093/OSO/9780199677740.001.0001; John O. Haley and Daniel H. Foote, "Judicial Lawmaking and the Creation of Legal Norms in Japan: A Dialogue," in Legal Innovations in Asia: Judicial Lawmaking and the Influence of Comparative Law, ed. John O. Haley and Toshiko Takenaka (Cheltenham: Edward Elgar Publishing Ltd., 2014), 77–122, https://doi.org/10.4337/9781783472796.00014.
[702] Lindsey and Butt, "The Judicial System"; Choky Ramadhan, "Konvergensi Civil Law Dan Common Law Di Indonesia Dalam Penemuan Dan Pembentukan Hukum," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 30, no. 2 (June 15, 2018): 213–29, https://doi.org/10.22146/JMH.31169.
[703] Attorney General Guideline regarding Prosecution Guideline on the Crimes of Corruption ; Supreme Court Regulation regarding Sentencing Guideline on the Crimes of Corruption.
[704] Orucu used the term "transposition" to describe the legal transplant process where the recipient countries' actors "tune" or adjust the legal rules to new forms. See Esin Örücü, "Law as Transposition," International & Comparative Law Quarterly 51, no. 2 (2002): 205–23, https://doi.org/10.1093/ICLQ/51.2.205; Inc. Social Impact, "Final Evaluation Report: Final Performance Evaluation of USAID CEGAH" (Jakarta, January 13, 2009); Anugerah Akbari Rizki, Adery Ardhan Saputro, and Andreas Nathaniel Marbun, Studi Terhadap Praktik Pemidanaan Pada Tindak Pidana Korupsi (Depok: Masyarakat Pemantau Peradilan Indonesia Fakultas Hukum Universitas Indonesia, 2017), www.mappifhui.org.
[705] Anugerah Akbari Rizki, Adery Ardhan Saputro, and Andreas Nathaniel Marbun, Studi Terhadap Praktik Pemidanaan Pada Tindak Pidana Korupsi (Depok: Masyarakat Pemantau Peradilan Indonesia Fakultas Hukum

and judge's independence in determining sentence and "seeking justice."[706] Despite this doubt, interview data indicated (all eleven judges and six prosecutors) that prosecutors and judges refer to these guidelines.[707] From those who used the guidelines, eight judges and two prosecutors reported that the guidelines assisted them in determining fines.[708] Also, some judges (seven) and one prosecutor who applied the guidelines explicitly claimed that such guidelines do not limit their independence because the guidelines still allow them to use their discretion in determining sentences.[709]

The list of factors in Chart 6.1. above can be summarized into two main categories: (1) the defendant's profile and (2) the severity of the crime. I use this categorization based on *Masyarakat Pemantau Peradilan Indonesia Fakultas Hukum Universitas Indonesia* (MaPPI FHUI) findings from reviewing more than 500 court decisions of corruption cases.[710] These categories proved helpful in cataloging and analyzing the interview data, which provides nuance that is unavailable by reading the court decisions alone on how the prosecutor and judge exercise their independence and discretion in applying some of the factors from the guidelines, and how one factor (defendant's cooperation) influences lawyers' defense strategy.

i. How the Seriousness of the Offense/Severity of Crime Factors into Determining Fines

The Indonesian criminal justice system actors decide the sentence, including fines, based on the seriousness or severity of the crimes of corruption committed by the defendant. Criminal justice actors have also considered this factor in most jurisdictions.[711] Setting punishment proportionate to the seriousness of the offense is the basic principle of

Universitas Indonesia, 2017), www.mappifhui.org; In developing, drafting, and lobbying the AGO and Supreme Court to adopt these guidelines, MaPPI FHUI received supports from the United States Agency for International Development (USAID), See Inc. Social Impact, "Final Evaluation Report: Final Performance Evaluation of USAID CEGAH" (Jakarta, January 13, 2009).

[706] Aida Mardatillah, "Dua Profesor Ini Sebut Perma Pemidanaan Perkara Tipikor Batasi Kemandirian Hakim," Hukumonline, August 6, 2020, https://www.hukumonline.com/berita/a/dua-profesor-ini-sebut-perma-pemidanaan-perkara-tipikor-batasi-kemandirian-hakim-lt5f2bfe025dc90/?page=3.

[707] Judge D, Judge Ans, Judge P, Judge St, Judge T, Judge J, Judge B, Judge Id, Judge Sb, Judge F, Prosecutor N, Prosecutor P, Prosecutor Hd, Prosecutor, Pk, Prosecutor O, Prosecutor Z.

[708] Judge D, Judge Ans, Judge P, Judge St, Judge T, Judge Id, Judge Sb, Judge F, Pk, Prosecutor O, Prosecutor Z.

[709] Judge D, Judge P, Judge St, Judge T, Judge B, Judge Sb, Judge F, Prosecutor Z.

[710] In 2017, Masyarakat Pemantau Peradilan Indx`onesia Fakultas Hukum Universitas Indonesia (MaPPI FHUI) found that the prosecutor and judge considered factors such as the defendant's profile, the defendant's roles, and the state's financial loss to impose a sentence on the crime of corruption defendant based on reviewing hundreds court decisions, See Rizki, Saputro, and Marbun, Studi Terhadap Praktik Pemidanaan Pada Tindak Pidana Korupsi.

[711] Roberts, "Mitigation and Aggravation at Sentencing."

proportionality in punishment that ". . . embodies, or seems to embody, notions of justice."[712] One prosecutor shared that the fines for the crimes of corruption defendants are "very closely" influenced by the seriousness of the offense.[713] Some interviewees used the term "*sifat jahat"* or 'the evil nature of the act" to refer to the seriousness of the offenses.[714] Interview data suggests that to determine the severity of a corruption case, the prosecutor and judge took into account (1) the government/state's financial loss resulting from the crime of corruption, (2) the defendant's role therein, and (3) the impact of the crime.

a. State's Financial Loss from the Corruption

The first basis offered for determining the severity of crime is the amount of the state's financial loss resulting from the crime. Most respondents (six prosecutors and seven judges) based the amount of fines on the state's financial loss. This practice is understandable because both the Prosecutorial Guideline and Sentencing Guideline place the state's financial loss as the first factor that the prosecutors and judges must evaluate in sentencing. One judge emphasized:

> We impose fines based on the state's financial loss, the factor **that is the main point.** We see the state's financial loss as a reference for how much the fine is…..**If the state's financial loss is very large, we will adjust [increase] it [the fines]**. (Judge I)

The interview data indicate that most prosecutors and judges consider the amount of the state's financial loss to determine the fines. They are more likely to sentence defendants with high fines when the loss is high. They do this following the Prosecutorial and Sentencing Guidelines.

b. The Defendant's Role in the Corruption

The second basis for determining fines is the defendant's role in committing the crimes of corruption, as regulated in the Prosecutorial and Sentencing Guideline. Indeed, most interview respondents (six prosecutors, nine judges, and one lawyer) answered that the defendant's specific role in the crime is crucial in determining the amount of fines to impose. If the defendant played a significant role in planning and committing crimes, the prosecutor and judge would sentence the defendant with higher fines. One judge stated that he reviewed the facts and evidence to determine whether the defendant was an "intellectual actor,"

---

[712] Andrew von Hirsch, "Proportionality in the Philosophy of Punishment," *Crime and Justice* 16 (1992): 55–98, https://doi.org/10.1086/449204.
[713] Prosecutor Hd.
[714] Lawyer Ar, Judge K, J, Prosecutor Hd.

participating actor, or supporting actor in the committed crime.[715] His answer reflects the participation and assistance principle and doctrine based on the Indonesian criminal code, which also applies to sentencing the defendant in other crimes.[716]

In determining the defendant's role, interview data revealed that prosecutors and judges consider the defendant's (1) culpability or mental states (knowingly, purposively, negligently), (2) *modus operandi* or operating method, and (3) motive (greed or compulsion).[717] First, the prosecutor and judge consider the defendant's mental state to determine defendant's role and culpability, which would influence the sentence. They do so even though Indonesian anti-corruption law does not differentiate punishment based on the defendant's mental state. Moreover, the law, precedent, and practice provide a broad interpretation of the "violation of law" element that not only includes violating the written law but also the public official norm or propriety.[718] In addition, the broad interpretation also consists of the mental state required to convict the defendant, which is the awareness that the "violation of the law" would probably "enrich the defendant or other persons."[719] Despite these circumstances, the sentencing guidelines and practice consider the defendant's mental state in determining fines. One judge reported that some defendants, especially in rural areas, have low educational backgrounds and did not know they had violated an anti-corruption law. Some defendants did not obtain any illegal financial gain, but their acts illegally enriched other persons or corporations. In these cases, the judge would consider the defendant's mental state to sentence them with more lenient fines.[720]

Second, prosecutors and judges consider the defendant's operating method or *modus operandi* in committing the crimes of corruption.[721] If the defendant committed the crime

---

[715] Judge Sub.

[716] Participation principle, regulated under Article 55 Indonesian Criminal Law, categorizes four roles of defendants participating in committing a crime: (1) those who commits a criminal act him/herself; (2) those who order other people to commit a crime; (3) those who participate in committing a crime; (4) those who persuade other people to commit a crime. Assistance principle, regulated under Aricle 56 Indonesian Criminal Law, categorizes two types of assistants: (1) those who assist when the crime committed; (2) those who provide opportunities, facilities, or information to commit a crime. The Indonesian Criminal Code regulates a more lenient sentence for defendant who assisted the crime compared to those participated in the crime. However, the Indonesian Criminal Code is silent on the sentence grade for a defendant who participated in a crime. See Criminal Law.

[717] Prosecutor Hd, Prosecutor S, Prosecutor Y, Prosecutor A, Judge Sb, Judge T, and Judge P.

[718] Article 55 Criminal Law.

[719] Shinta Agustina et al., *Penafsiran Unsur Melawan Hukum Dalam Pasal 2 Undang-Undang Pemberantasan Tindak Pidana Korupsi*, ed. Adriaan W. Bedner and Imam Nasima (Jakarta: Lembaga Kajian dan Advokasi Untuk Independensi Peradilan (LeIP)), accessed August 12, 2024, https://bldk.mahkamahagung.go.id/images/PDF/2018/PENJELASAN-HUKUM-UNSUR-MELAWAN-HUKUM.pdf.

[720] Judge T

[721] Prosecutor Hd, Prosecutor S, Judge Sb, Judge T, and Judge P.

with an "advanced" method, one judge answered that he would punish them with a higher fine.[722] A senior prosecutor illustrated a corruption crime with a more straightforward method, such as bribery to receive a business license.[723] Another prosecutor claimed that the crimes of corruption is sometimes committed by more than one defendant or, in some cases, by a group of defendants.[724] He explained that the prosecutor would determine the crime as "very severe" or "very serious" when it was committed in a coordinated fashion by defendants from various agencies and entities.[725] He used the Base Transceiver Station (BTS) project case as an example of a "very serious" offense with an "advanced" operating method. This is a corruption case where the public officials and CEO of companies conspired to change the tender requirements for the BTS installation so the targeted companies would win the tender. This corruption resulted in government loss of IDR 8 trillion (USD 500 million).[726] In this case, the AGO prosecuted 16 defendants, including the Telecommunication Minister, the State Auditor Agency Commissioner, six executives from six different corporations, and high-ranking public officials.[727] According to the respondent, another "advanced" method is when the defendant laundered the illegal gain.[728]

Third, interviews suggest that prosecutors and judges subjectively weigh the defendant's motive as a basis to determine the seriousness of the offense and fines. This factor is a subjective assessment because the prosecutor and judge do not have to examine and prove the defendant's motive to prove guilt in the Indonesian legal system and doctrine regarding criminal law.[729] Yet, one prosecutor and three judges suggested that they consider the fact and evidence that the defendant was greedy as an aggravating factor in imposing punishment, including fines.[730] In 2012, there was a case when Semarang Anti-Corruption

[722] KPK prosecutor
[723] Prosecutor Y
[724] Prosecutor Hd
[725] *Id*.
[726] Rahel Narda Catherine and Icha Rastika, "Kaleidoskop 2023: Kasus Korupsi BTS 4G Kominfo, 16 Orang Jadi Tersangka Sepanjang Tahun Ini Halaman All - Kompas.Com," December 25, 2023, https://nasional.kompas.com/read/2023/12/25/20010471/kaleidoskop-2023-kasus-korupsi-bts-4g-kominfo-16-orang-jadi-tersangka?page=all.
[727] BBC News Indonesia, "Kasus Dugaan Korupsi Menara BTS Kominfo: Anggota BPK Achsanul Qosasi Menjadi Tersangka Ke-16, BPK Didesak Berbenah - BBC News Indonesia," BBC News Indonesia, November 3, 2023, https://www.bbc.com/indonesia/articles/cw9vy4j5v8xo.
[728] Judge T.
[729] Prosecutor and Judge can consider motive, but they do not have to prove defendant's motive in a trial. See Sisca Pangestuti and Emmilia Rusdiana, "Penentuan Motif Sebagai Alat Bukti Petunjuk Dalam Tindak Pidana Pembunuhan Berencana (Studi Putusan Nomor 454/Pid.B/2019/PN.Kwg)," NOVUM: JURNAL HUKUM In Press-SPK, no. 17 (June 22, 2023): 84–90, https://doi.org/10.2674/NOVUM.V0I0.52815; Adrianus Herman Henok, "Konstruksi Motif Dalam Pembuktian Perkara Pidana," Honeste Vivere 33, no. 2 (July 24, 2023): 113–29, https://doi.org/10.55809/HV.V33I2.242.
[730] Prosecutor A And Judge St, P, Id.

Court sentenced a defendant with 15 Years (out of 20 years maximum) Imprisonment, and the court considered the defendant as "greedy" in its court decision.[731]

In contrast, judges tend to order more lenient punishment when the defendant committed the crime without any motive of enriching himself.[732] One judge described a case where he did not find that the defendant was greedy, but rather, he committed the crime by not complying with reporting and financial standards.

> There is an example of the village head who got the village fund. He used the money to buy cement, but there was no receipt. He bought cement to help citizens in need. So, if a citizen comes in need of cement to fix the road or build something, he will give the citizen the cement. Cases like this are usually the reason for mitigating the sentence. (Judge T)

Therefore, prosecutors and judges do consider the motives of the defendant facing prosecution for crimes of corruption despite it not being required by Indonesian criminal law and its doctrine.

c. Impact of the Corruption

Five prosecutors and four judges take the impact of the crime into account in determining the seriousness of the crime and fines. Both the Prosecutorial Guideline and Sentencing Guideline list the impact of crime as the evaluation criteria for both prosecutors and judges. However, each guideline has its own definition and standard. In the Prosecutorial Guidelines, there are three standards in determining the impact of crime: (1) resulting in loss to the government and public, (2) hindering national development, and (3) disturbing public order and stability.[733] In contrast, the Sentencing Guidelines list the standard based on (1) the territorial or geographical impact (provincial or national), (2) the output and utility of public procurement on goods and services, and (3) the demographic of a potential victim being from marginalized groups (i.e., seniors, people with a disability, and children).[734]

Despite the differences in regulating the criteria to assess the impact of crimes of corruption, four prosecutors and one judge reported that crimes of corruption that impact the wider public, such as social welfare programs, have a severe impact and result in the defendant being sentenced to higher fines.[735] One prosecutor illustrated a case where the

[731] Puji Utami, "Divonis 15 Tahun, Terdakwa Korupsi Sudah Kabur Duluan," Kompas.com, November 1, 2012, https://nasional.kompas.com/read/2012/11/01/20412220/~Regional~Jawa.
[732] Judge P.
[733] Article XIII Attorney General Guideline regarding Prosecution Guideline on the Crimes of Corruption .
[734] Article 10 Supreme Court Regulation regarding Sentencing Guideline on the Crimes of Corruption.
[735] Prosecutor Ad, D, Z, Y and Judge Sb.

financial loss resulting from the crime of corruption was relatively small, but the crime directly impacted the public because it reduced the social welfare they received.[736] According to interview respondents, the Attorney General is concerned about this type of case, so the prosecutor tends to charge the defendant with higher punishment, including fines.[737] Another prosecutor shared his experience in which the "emotional nuance" influenced his decision to charge the former Minister of Social Welfare in the Beef Import Case:[738]

> The Minister of Social Affairs who went to prison because he committed a crime in a social assistance program to improve the community's economy. . . **we were emotional, we saw that this person had to be severely punished so that there would be a deterrent effect** like that. (prosecutor Z)

The defendant who committed corruption in the social welfare program would likely receive severe punishment, including hefty fines, because prosecutors and judges believe this type of crime directly influences and affects many people adversely.

In addition to the corruption cases related to social welfare programs, it is worth exploring in the future how prosecutors and judges determine fines for corruption cases resulting environmental damage. There was a recent case where the judges sentenced the defendant to a maximum fine of IDR 1 billion.[739] In this case, the defendant was sentence because of bribing public officials to change the status of more than 36,420 hectares natural forest to plantation land status, and grant the plantation land status to his Palm Oil company.[740] I interviewed one of the judges and several of the lawyers who handled this case, and they cited the environmental damage resulting from the crime of corruption as the aggravating factor.[741] The judge explained the reasoning as:

> So, who is going to restore this environmental damage? Restoring [the environmental damage] is the responsibility of the government. . . Restoring the forest area [and environment] takes years and

[736] Prosecutor Ad
[737] Prosecutor Ad from D
[738] Prosecutor Z
[739] EoF News, "Pemilik Grup Sawit Duta Palma Divonis 15 Tahun Dan Denda Kerugian | Eyes On The Forest," Eyes on the Forest, February 24, 2023, https://www.eyesontheforest.or.id/news/pemilik-grup-sawit-duta-palma-divonis-15-tahun-dan-denda-kerugian.
[740] Wahyudi Soeriaatmadja, "Indonesian Palm Oil Tycoon Fined Record $3.71b, First Graft Penalty Based on Losses to Economy | The Straits Times," The Straits Time, February 28, 2023, https://www.straitstimes.com/world/indonesian-tycoon-fined-a-record-371b-the-first-corruption-penalty-based-on-losses-to-economy.
[741] Judge F and Lawyer M.

> considerable government money to spend. That's the consideration. (Judge F)

This judge thought it would take a longer time and create a high cost for the government to restore the environmental damage; thus, he sentenced a maximum fine to the defendant.

This is another area for further research, to know whether the judge's opinion and decision in this case would become a precedent that will be followed by other judges in corruption cases resulting environmental damage. At the time of writing this section, the AGO's prosecutor is investigating a crime of corruption related to tin mining with the potential State's financial loss from environmental damage estimated at IDR 271 trillion (USD 17 billion).[742]

ii. Defendant Profile as It Relates to Determining Fines

a. Defendant's Wealth/Profile

The defendant's profile, as defined by the wealth they possess, is the factor most frequently cited by judges (8) and prosecutors (5) in determining fines. Chart 6.1 above illustrates the close relationship between fines and the defendant's profile/wealth compared to other factors. Two lawyers also observed the defendant's ability to pay fines as one factor influencing the determination of fines.[743] The prosecutor and judge rely on the facts and evidence, such as the defendant's wealth or tax report, to assess the defendant's ability to pay fines. One prosecutor stated that the defendant's profile/wealth is a "subjective factor" influencing the fines imposed on the defendant.

> We sometimes take into account the defendant's ability to pay the fine. We would know his ability to pay the fine from the start of the investigation and the trial. We can see the defendant's profile and whether he can pay the fine we impose. If, for example, he can pay the fine and judging from the level of crime he committed, we usually impose them with higher fines . . . So, the factors are subjective to the economic condition of the defendant (Prosecutor A).

Prosecutors (2) and judges (7) also report doing their best to achieve justice and fairness by considering the defendant's profile, especially if the defendant has a low

[742] Faqihah Muharroroh Itsnaini and Hilda B. Alexander, "Kerugian Kerusakan Lingkungan Rp 271 Triliun Dari Kasus Korupsi Timah Halaman All - Kompas.Com," Kompas.com, February 20, 2024, https://lestari.kompas.com/read/2024/02/20/190000086/kerugian-kerusakan-lingkungan-rp-271-triliun-dari-kasus-korupsi-timah?page=all.
[743] Lawyer Mq, and Lawyer Al.

economic background with few assets.[744] In such cases, punishments tend to involve only minimum fines and shorter additional imprisonment. The reason behind this is to ensure proportionality of punishment and effective enforcement (payment), as one judge argued:

> When I impose fines to the defendant, I do not want it to be a "decorator" of the punishment; it must be calculated correctly, how much fine the defendant is capable of.… In practice, I usually take into account the (defendant's wealth), because the spirit of the anti-corruption law is not only a deterrent effect, it has been classical for a long time, but also recovering assets and state financial losses. Even though it would not be recovered or not be returned 100%, at least there is something that can indeed be recovered. I encourage that concept. (Judge D)

The prosecutor and judge use the proportionality principle to decide the fine, taking into account the defendant's characteristics, particularly if the defendant comes from a low-income background. This technique seeks to ensure justice and fairness in sentencing.

In addition to the defendant's financial ability to pay, the prosecutor and judge consider the defendant's occupation when deciding the amount of fines.[745] A judge argued that he would sentence higher fines to the defendants with higher rank/position in the government because they have a more significant duty of care.[746] Another judge shared his experience of sentencing Anas Urbaningrum, then the chairman of the ruling and the largest party in parliament, with high fines by considering the defendant's high-ranking status.[747]

b. The Defendant Was Cooperative during the Criminal Proceeding

Decisions by prosecutors and judges in imposing fines are also influenced by how the defendant behaves during the criminal proceeding. Indonesian criminal justice actors consider whether the defendant cooperates during the investigation, prosecution, and cross-examination. Interview data from all backgrounds (three prosecutors, two judges, and two lawyers) revealed that the prosecutor and judge would view the defendant as "cooperative" if the defendant (1) pleads guilty and shows remorse, (2) gives straightforward testimony, and (3) returns the illegal gain. These are also mitigating factors the prosecutor and judge can

[744] Judge B, Judge F, Judge Id, Judge D, Judge P, Prosecutor Hd, and Prosecutor A.
[745] Prosecutor Hd, Judge St, and Judge Sb.
[746] Judge Sb.
[747] Judge St.

consider in their Prosecutorial and Sentencing Guidelines,[748] and as noted above, were likely considered by criminal justice system actors even before those guidelines came into effect.[749]

The Indonesian criminal law does not regulate a lesser sentence for the defendant who pleads guilty. Its criminal procedure law also does not have a plea bargain procedure, where the defendant who pleads guilty receives a more simplified procedure and can bargain for reduced charges and sentences.[750] However, it does not mean the defendant could not plead guilty in the Indonesian criminal justice system. The defendant may plead guilty during the investigation or trial, and then the trial judges will review the defendant's guilty plea as evidence to consider the sentence.[751] Indonesian judges have been considering confession or guilty pleas as a mitigating factor to reduce sentences.[752]

Interview data (three prosecutors and two judges) also suggest pleading guilty and showing remorse are factors to be considered cooperative by the prosecutor and judge; thus, they tend to sentence the crimes of corruption defendant with lesser fines.[753] When the defendant pleads guilty, it shows remorse for their crime. One prosecutor claimed that law enforcement officers could sense the defendant's remorse from the beginning of the investigation.[754] The prosecutor and judge also consider the defendant's testimony during the investigation and trials. As in, straightforward and uncomplicated testimony by the defendant that helps law enforcement officers proceed and conclude the case is viewed as a mitigating factor.[755] In contrast, interview data (one judge and two lawyers) suggest that the defendant would likely receive harsher sentences or higher fines if they give convoluted or complicated testimony.[756]

---

[748] Attorney General Guideline regarding Prosecution Guideline on the Crimes of Corruption ; Supreme Court Regulation regarding Sentencing Guideline on the Crimes of Corruption.
[749] Rizki, Saputro, and Marbun, *Studi Terhadap Praktik Pemidanaan Pada Tindak Pidana Korupsi*.
[750] Choky R Ramadhan, "Plead Guilty, Without Bargaining: Learning from China's 'Summary Procedure' before Enacting Indonesia's 'Special Procedure' in Criminal Procedure.," *UCLA Pacific Basin Law Journal* 32, no. 1 (2014).
[751] In orthodox civil law rhetoric, the guilty plea was admissible as evidence but could not be used to avert the trial. It was for the court to determine guilt, not the defendant or the prosecutor, and plea bargaining accordingly was prohibited." See Merryman and Pérez-Perdomo, The Civil Law Tradition: An Introduction to the Legal Systems of Europe and Latin America, Fourth Edition.
[752] Dwi Hananta, "Pertimbangan Keadaan-Keadaan Meringankan Dan Memberatkan Dalam Penjatuhan Pidana ," *Jurnal Hukum Dan Peradilan* 7, no. 1 (March 21, 2018): 87–108, https://doi.org/10.25216/JHP.7.1.2018.87-108; Matheus Nathanael et al., *Penelitian Disparitas Pemidanaan Dan Kebijakan Penanganan Perkara Tindak Pidana Narkotika Di Indonesia: Studi Perkara Tindak Pidana Narkotika Golongan 1 Tahun 2016 -2020 (Pasal 111-116 Dan Pasal 127 UU Narkotika 35 Tahun 2009)*, ed. Choky R. Ramadhan (Jakarta: Indonesia Judicial Research Society (IJRS) supported by Open Society Foundation (OSF), 2022), https://ijrs.or.id/wp-content/uploads/2022/08/Penelitian-Disparitas-Pemidanaan-dan-Kebijakan-Pidana-Narkotika.pdf.
[753] Prosecutor Hd, Prosecutor S, Prosecutor Y, Judge P, Judge Id.
[754] Prosectuor Hd.
[755] Prosecutor Y, Prosecutor A, Prosecutor Z, Judge P, Judge J, Judge Id.
[756] Judge Id, Lawyer R, Lawyer L.

Of these three mitigating factors, returning illegal gain is the most cited factor by most respondents (seven prosecutors, five judges, and four lawyers). Article 4 of the Indonesian Anti-Corruption law states that returning illegal gain is not grounds for non-prosecution.[757] However, imposing a more lenient punishment on defendants who return the illegal gain is the standard practice within the Indonesian criminal justice system.[758] Lawyers also reported getting more lenient results for their clients after they return the illegal gain.[759]

In practice, there is a dilemma for defense lawyers in advising the defendant to return the illegal gain because by doing so, the defendant admits their guilt and cannot defend for an acquittal.[760] In some cases, the defendant received money from someone, but they did not know that it might have been illicit.[761] After the court convicted the money-giver, the defendant would likely be brought to the court, and they faced a dilemma of returning the money and admitting the guilt or defending their innocence to get an acquittal. According to the lawyer respondents, the current system does not offer great incentives to the defendant to return the illegal gain, because they still must go to trial at an anti-corruption court,[762] which usually takes longer to conclude and has more news exposure than the ordinary crime trial, and faces punishment in terms of imprisonment and fines.[763]

The Indonesian legal system has also accommodated the practice of giving lesser sentences if the defendant becomes a justice collaborator for a crime of corruption case.[764] The Indonesian Supreme Court enacted a guideline (*Surat Edaran Mahkamah Agung No 4 Tahun 2011*, hereinafter SEMA 4/2011) that specifies several criteria to grant a witness who assists law enforcement as a "justice collaborator" or JC. To be considered a "justice

[757] There are two cases that will be discussed in the restitution section below regarding the return of illegal gain as grounds for non-prosecution.
[758] Supreme Court Regulation regarding Sentencing Guideline on the Crimes of Corruption; Attorney General Guideline regarding Prosecution Guideline on the Crimes of Corruption .
[759] Lawyer E, Lawyer Mq, Lawyer I.
[760] Lawyer L.
[761] In 2007-2008, Jember regent was convicted for a crime of corruption. He gave money to Jember head of parliament, but the receiver did not know that the money was illicit. See Koran Tempo, "Sejumlah Tokoh Terima Uang Korupsi Bekas Bupati Jember - Nusa - Koran.Tempo.Co," Koran Tempo, May 31, 2007, https://koran.tempo.co/read/nusa/102684/sejumlah-tokoh-terima-uang-korupsi-bekas-bupati-jember.
[762] Lawyer Al, lawyer I.
[763] rticle 29 Indonesian Anti-Corruption Court Law (2009) regulates the trial for a corruption case should be concluded in 120 working days or approximately 6 months, compared to the ordinary crime trial that should be concluded in 5 months according to the Supreme Court Circular Letter Number 2 Year 2014. For the media exposure, a journalist argued that corruption cases have been dominating headline of many media platforms, see Desca Lidya Natalia, "Media Massa Dan Pemberitaan Pemberantasan Korupsi Di Indonesia," Integritas : Jurnal Antikorupsi 5, no. 2 (December 23, 2019): 57–73, https://doi.org/10.32697/INTEGRITAS.V5I2.472.
[764] This development was made because Indonesia ratified the United Nations Against Convention (UNCAC). Article 37 (2) UNCAC recommends the ratified countries to consider "providing for the possibility, . . . , of mitigating punishment" for the defendant who cooperates and assists the investigation or prosecution.

collaborator," the defendant should meet all these criteria: (1) be one of the offenders; (2); assist law enforcement; (3) be named in a particular crime such as terrorism, money laundering, corruption, human trafficking, or other organized crime; (4) pleading guilty; (5) not be the main offender; (6) be willing to give testimony in the trial; and (7) providing significant evidence to expose the crime, suspect, or assets. The court could then grant the justice collaborator a parole or lenient imprisonment sentence. To ensure a coherent implementation among law enforcement agencies, the Ministry of Law and Human Rights coordinated with the National Police, Attorney General's Office, KPK, and the Victim and Witness Protection Agency to draft and sign a Joint Regulation in 2011. Article 4 of this Joint Regulation regulated similar criteria, such as determining that the offenders who requested to be a "justice collaborator" are not the main offenders in organized crime and are willing to provide significant testimony and evidence. Moreover, this Joint Regulation added two more requirements: (1) being willing to return the assets obtained from the crime, and (2) facing serious physical and mental threats to the defendant and their families.[765] The justice collaborator could receive parole, a lenient charge, a conditional release, or a combination of these sentences.

Based on these regulations, the defendant is required to meet more requirements to receive a lesser punishment, compared to just (1) pleading guilty and showing remorse, (2) giving straightforward testimony, and (3) returning the illegal gain. Even though the defendant must assist the prosecutor and judge by bringing significant evidence, the defendant does not get a more simplified procedure, because the Indonesian criminal justice system does not have a plea bargain procedure. In fact, the defendant has to take more procedural steps to prepare and submit the request to the investigator, prosecutor, and judge.

In law and practice, the prosecutor and judge have the discretion to accept or reject the justice collaborator status. During the period 2015-2016, Thalib, Rahman, & Semendawai found that 57 suspects had requested to become a JC to a KPK prosecutor, but the KPK approved only 12 of them.[766] One lawyer claimed that his clients had met all the requirements, including providing substantial testimony that could assist the investigation. However, the prosecutor and judge rejected the defendant's JC status; thus, they did not receive a more lenient sentence. Moreover, a psychological dilemma discourages the

[765] Menteri Hukum dan Hak Asasi Manusia Republik Indonesia et al., "Perlindungan Bagi Pelapor, Saksi Pelapor Dan Saksi Pelaku Yang Bekerjasama " (2011).
[766] Hambali Thalib, Sufirman Rahman, and Abdul Haris Semendawai, "The Role of Justice Collaborator In Uncovering Criminal Cases In Indonesia," Diponegoro Law Review 2, no. 1 (April 28, 2017): 27–39, https://doi.org/10.14710/DILREV.2.1.2017.27-39.

defendant from becoming a JC and providing substantial testimony, especially when this testimony will impact their closest relatives or colleagues.

> In practice, we have to look at the defendant's psychology, especially if the defendant were charged with other suspects or another defendant, it is likely that they know each other, or have a long-standing relationship, or are emotionally close. To become JC, he must turn his back on the people he is close to. . . This means that the defendant has made a sacrifice to do that, which is not visible in the court decision, or in the process, right? If he becomes a JC, he will give information [to the law enforcement officers] about people he has known for decades, or he has known well, like a brother, right? But if he has done that, do you think his goal [to get lesser sentence] would have been achieved or not? Would he get a JC status? Would he get more lenient punishment? That is not certain. …That is also a consideration for people to [not] become a JC. (Lawyer E)

The uncertainty of receiving a JC status and lesser punishment is also observed by the Indonesia Corruption Watch activists.[767] For instance, Yuntho highlighted two big cases where the judge did not grant the defendants JC status, and he argued these cases could discourage defendants in providing significant evidence to assist the prosecutor and judge.[768] Also, Ramadhan highlighted other cases where Supreme Court judges nullified defendants' JC status and sentenced them with more severe punishment.[769]

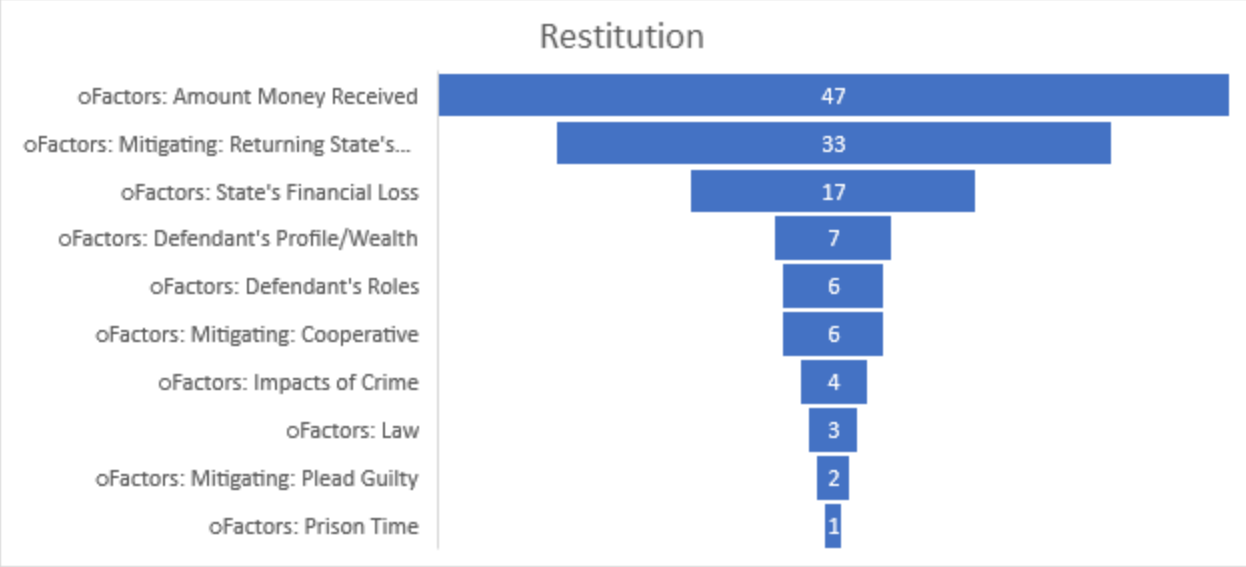
The Prosecutor Guideline, Sentencing Guideline, and interview data highlighted (1) pleading guilty and showing remorse, (2) giving straightforward testimony, and (3) returning the illegal gain as mitigating factors. However, four lawyer respondents expressed their concern and dilemma in advising their clients to do one or all of the mitigating factors because of the lack of incentives. From the lawyers' perspectives, they hope for better incentives such as avoiding the trial process and receiving alternatives to imprisonment and fines.[770] This idea resembles deferred prosecution so the defendant does not face trial and avoids a conviction.[771]

---

[767] Lalola Easter, "Perlunya Peneguhan Status Justice Collaborator Tindak Pidana," Indonesia Corruption Watch (ICW), May 8, 2023, https://antikorupsi.org/id/perlunya-peneguhan-status-justice-collaborator-tindak-pidana.
[768] Emerson Yuntho, "Nestapa 'Justice Collaborator,'" *Kompas*, June 28, 2016, https://antikorupsi.org/id/article/nestapa-justice-collaborator.
[769] Kurnia Ramadhana, "Justice Collaborator," *Kompas*, June 27, 2018.
[770] Lawyer Al, Lawyer I, Lawyer And, Lawyer L.
[771] Nicholas Lord, "Prosecution Deferred, Prosecution Exempt: On the Interests of (In)Justice in the Non-Trial Resolution of Transnational Corporate Bribery," *The British Journal of Criminology* 63, no. 4 (June 11, 2023): 848–66, https://doi.org/10.1093/BJC/AZAC059.

B. Restitution – Illegal Gain Received

Chart 6.2 Restitution Factors



A second type of monetary sanction is restitution, defined in the Indonesian system as an additional punishment that the crimes of corruption defendants should pay equivalent to the illegal gain obtained from the crimes.[772] In imposing restitution, criminal justice actors are heavily influenced by the severity of the crime, especially the illegal gain obtained by the defendant. The reason is that Article 18 of the Indonesian Anti-Corruption Law states that restitution shall be ordered and paid in as much as the amount obtained by the defendant from the crimes of corruption.[773] One prosecutor reported that the criteria to decide the restitution amount is "strict" based on the state's financial loss and the defendant's illegal gain.[774]

Restitution is an additional punishment if the defendant committed the crime of corruption in the form of embezzlement (articles 2 and 3 of Indonesian anti-corruption law). In order to prosecute embezzlement, prosecutors must prove whether the defendant's act violated their authority and resulted in the loss of the government budget. As proof, the prosecutors bring financial audit reports published by the State Audit Agency or other government auditor units. These audit reports are starting points before the prosecutor proves another element of the crime of embezzlement, "[illegally] enriching oneself, or another person, or corporation." In addition to an audit report, the prosecutor uses other financial documents as evidence to prove the element of illegal enrichment. Then, the prosecutor and judge use the facts and evidence regarding the illegal enrichment to impose the restitution amount to the defendant.

[772] *See* section about monetary sanctions in Chapter 4.
[773] Article 18 Corruption Eradication Law.
[774] Prosecutor Y.

> So, we need to distinguish between the state [financial] loss and the money obtained [by the defendant]. The restitution is only limited to how much the defendant [illegally] obtained. For example, there is a crime of corruption, … . based on BPK or BPKP audit, caused state financial losses of for example 100 billion. The 100 billion is the state [financial] loss, … the defendant turned out to obtain 10 billion. Therefore, the 10 billion is what we charge for restitution.... (Prosecutor A)

The prosecutor and judge first use the financial audit reports to know when the crime was committed and the loss resulting from the crime. Then, they check on the defendant's financial report after the time of the crime (*tempus delicti*) to verify the unjust enrichment as a basis to determine restitution.

Based on the Sentencing Guideline, case law, and interviews, the prosecutors and judges reduce the amount of restitution if the defendant returns some or all the money and assets they illegally obtained during the investigation or trial.[775] It is similar to the mitigating factor for fines. There was a debate whether returning the illegal money obtained by the defendant would eliminate one of the elements of the crimes mentioned above, "[illegally] enriching oneself, or another person, or corporation." Thus, this issue raised a legal question of whether the defendant who returned all the illegal money and assets could or should be acquitted. Article 4 of the anti-corruption law states that returning the government's financial loss and illegal gain does not abolish criminal responsibility.

A high court judge reported that two Supreme Court decisions resolved the issue.[776] Supreme Court Decision No. 420 and No. 431 Year 2015 set a rule that there is no criminal responsibility if the defendant returns the illegal gain before the investigation starts.[777] Despite this fact, some lawyers experience uncertainty about whether their clients would not be prosecuted and convicted after returning all illegal gains.[778] This situation arises because Article 4 mentioned above that returning illegal gain is not grounds for non-prosecution. One sure thing is that returning illegal gain is a mitigating factor in reducing punishment, as it influences the prosecutor and judge in determining fines. Moreover, one lawyer also had an experience in which his clients received a "convenient" and "fast" investigation

[775] Prosecutor P, Prosecutor S, Prosecutor A, Prosecutor H, Judge P, Judge K, Judge A, Judge S, Judge B Lawyer E.
[776] Judge S.
[777] Indonesian Supreme Court, Putusan Nomor: 431 K/PID.SUS/2015 (2015); Indonesian Supreme Court, Putusan Nomor: 420 K/PID.SUS/2015 (2015).
[778] Lawyer Al, Lawyer And, Lawyer F, and Lawyer L.

process.[779] This fast and convenient process occurred in the investigation, where it was discreet. As discussed in the previous subsection, the defendant still must face the trial process, which is more open with media exposure and more formal.

The prosecutors and judges also follow the Supreme Court Regulation Number 5 Year 2014.[780] This regulation determines that in a crime of corruption with two defendants or more, they are not jointly responsible for paying the total restitution based on their illegal gain. The prosecutor and judge, however, must examine the amount of illegal gain each defendant obtained; thus, they impose a restitution limit to the amount each defendant received.[781]

> The defendants are not jointly responsible for restitution because each defendant has his/her responsibility. For example, the loss is IDR 1 billion. Defendant one obtained IDR 500 million, defendant two obtained IDR 300 million, and defendant three obtained IDR 200 million. They will be sentenced based on the amount they obtained. (Prosecutor S)

Therefore, each defendant is only responsible for paying restitution equal to the illegal gain they obtained from the crime of corruption.

C. Asset Forfeiture

A third type of monetary sanction found in the Indonesian system is asset forfeiture, defined as an additional punishment by forfeiting a convicted defendant's assets with a court decision.[782] Indonesian law enforcement officers have the authority to seize and forfeit the defendant's property or assets used for and obtained from the criminal act.[783] To forfeit assets obtained from the criminal act, the criminal justice actors examine the defendant's assets that were illegally obtained after the crime was committed. The time when the crime was committed (*tempus delicti*) is a crucial point for asset forfeiture. One lawyer illustrated how important this *tempus delicti* is in defending the defendant's assets from forfeiture:

> If the assets were obtained legally, it is easy to defend. For example, the defendant was accused of corruption in 2017-2018, but the defendant bought the land and house in early 2017. Moreover, he can prove the defendant bought it with inheritance money. (Lawyer And)

[779] Lawyer E.
[780] Article 4 Supreme Court Regulation Number 5 Year 2014 regarding Restitution on Crime of Corruption.
[781] Prosecutor S
[782] Criminal Law.
[783] Criminal Procedure Law.

The time of crime (*tempus delicti*) is a starting point for the prosecutor and judge to review the defendant's assets that can be seized and forfeited. These assets, however, must be the assets that the defendant used to commit the crime and, or obtained from the crime.

In addition, the prosecutor can forfeit the defendant's assets if they do not pay the imposed restitution.[784] As discussed earlier, restitution is an additional punishment for defendants who commit the crime of corruption in the form of embezzlement. Unlike the asset forfeiture discussed in the paragraph above, which has to be related to the crime or obtained after the crime was committed, the prosecutor can forfeit the defendant's assets for unpaid restitution in an amount as high as the amount equal to it.[785]

Interview data indicated the prosecutor and judge rely on institutional support in seizing and forfeiting the defendant's assets. First, the prosecutor and judge have an institutional regulation that provides guidelines to seize and forfeit assets. Some respondents (six prosecutors and three judges) reported that this guideline effectively supports their asset seizure and forfeiture work.[786] The AGO guideline dictates that the prosecutor traces and identifies the defendant's assets since the beginning of the investigation.[787] Therefore, the prosecutor could easily find, seize, and forfeit the defendant's assets if the defendant does not pay restitution at the end of the criminal proceeding.

Three judges answered guidelines when they were asked about their experience in seizing and forfeiting the third-party assets.[788] The Supreme Court issued guidelines for examining the illegal gain or asset possessed by the third party and the third-party lawsuit regarding the asset forfeiture.[789] This Supreme Court guideline gives judges a legal basis and procedure to seize and forfeit third-party assets related to the crime. One judge shared his experience using the guideline to forfeit third-party assets.[790]

> I had one [experience] in Central Jakarta, at Mandiri Bank at the time. There was an account with a huge amount of money under someone's name at address X. After the police checked the address, there were no people with

[784] Corruption Eradication Law.
[785] Article 18, Prosecutor M "We do not see where the property comes from, the property owned by the defendant will be confiscated, this is the prosecutor's authority to enforce the court's decision [if the defendant does not pay the imposed restitution).
[786] Prosecutor H, N, Hd, P, O, M, Judge St, Id, F.
[787] Prosecutor M, Pk, Pj.
[788] Judge St, Judge F, Judge Id
[789] Indonesian Supreme Court, "Tata Cara Penyelesaian Keberatan Pihak Ketiga Yang Beritikad Baik Terhadap Putusan Perampasan Barang Bukan Kepunyaan Terdakwa Dalam Perkara Tindak Pidana Korupsi," Pub. L. No. 2 (2022); Indonesian Supreme Court, "Tata Cara Penyelesaian Permohonan Penanganan Harta Kekayaan Dalam Tindak Pidana Pencucian Uang Atau Tindak Pidana Lain," Pub. L. No. 1 (2013), https://peraturan.bpk.go.id/Details/209467/perma-no-1-tahun-2013.
[790] Judge St.

> that name. They used a fake ID to open the account. Then, police filed a request to seize the assets to the Central Jakarta Court. (Judge St)

The Supreme Court guideline assisted the judge in handling such a request and then forfeiting the third-party assets that the prosecutor could not bring to the court in the example above. The AGO's and Supreme Court guidelines support the seizure and forfeiture of assets by providing a uniform procedure and legal framework for prosecutors and judges.

Second, the prosecutor receives support from other institutions to check and verify the defendant's property and assets, including the Land Office, financial institutions such as banks, the Financial Intelligence Unit, and the motor and vehicle unit at the National Police.[791] These agencies also help the prosecutor to suspend all related transactions, such as property or car sales.[792] In rural areas, interview data relayed that it is essential to foster a good relationship between the District Attorney's office and these agencies so they can provide prompt support when the prosecutor requests information about the defendant's assets.[793] In a particular situation, a prosecutor told me that because of the good relationship between his office and these agencies, he could quickly check the defendant's assets with these agencies without a formal request letter.

Third, both KPK and AGO prosecutors receive great support from the institution where they work. KPK and AGO each have an "asset tracing unit" that helps the prosecutor verify the defendant's assets from other agencies. The KPK asset tracing unit consists of staff with various areas of expertise, such as accounting, forensics, and banking.[794] With this expertise, tracing, compiling, and analyzing the defendant's financial transactions and assets are reportedly faster and more accurate. The AGO has comparable institutional support to KPK; it has had its asset tracing unit since 2014.[795] This unit has technology assisting the prosecutor in tracing the defendant's assets.[796] In KPK and AGO, these asset tracing units support the prosecutor's work in tracing and seizing the defendant's assets by providing extra people, expertise, and technology. Therefore, the prosecutor can seize more assets faster and more accurately. Moreover, the prosecutor can be more focused on preparing evidence such as witness testimony and gathering related documents.

[791] 7 prosecutors mentioned the support from other agencies (Prosecutor Pj, N, H, Hd, P, O and Z).
[792] Prosectuor Pj.
[793] Prosecutor O.
[794] Prosecutor A.
[795] Prosecutor S.
[796] Prosecutor Hd.

The intelligence unit is in charge of asset tracing and seizure in the AGO's District Attorney and Provincial Attorney's office.[797] This unit supports the special crime unit that focuses on interviewing suspects and witnesses, collecting evidence, and preparing the indictment for the crime of corruption defendant.[798] However, the AGO's District and Provincial Attorney's offices do not have comparable technology, expertise, and sufficient human resources as the AGO and KPK. Therefore, they do not have the same capacity to trace and seize the defendant's assets compared to the AGO and KPK.

Four prosecutors who work in rural areas asserted that the guideline, inter-agency, and institutional supports transform their work to prioritize assets tracing and seizure in the investigation stage by taking more time with the available support from the internal and external institutions.[799] Thus, the prosecutor can forfeit and sell the assets when the defendant fails to pay the restitution. If the seized assets are less than the restitution sentenced by the judges, the prosecutor must retrace the defendant's asset after the conviction to pay the shortfall.[800] Some respondents (two lawyers and two judges) have also noticed an improvement, especially with the recent cases prosecuted by the AGO in the Jakarta Anti-Corruption Court.[801] One prosecutor who used to work at the asset tracing unit at the AGO claimed that the Covid-19 pandemic significantly pushed the asset forfeiture reform in the AGO:

> It is related to the current economic situation. There was Covid-19, which undoubtedly resulted in economic fallout. What is the easiest way to find [collect government revenue]? …. It is the non-tax revenue from fines, restitution, and asset forfeiture. (Prosecutor S)

The Covid-19 pandemic triggered the government and AGO to transform the prosecutor's work in tracing, seizing, and forfeiting defendants' assets. In May 2020, the Attorney General issued the revised guidelines for prosecutors to trace, seize, and forfeit assets from the defendants. In reviewing the 2020-2022 Government Working Plan, I found that the government paid little attention to asset forfeiture as one of the government sources of revenue in its 2020 plan. In the 2021-2022 plan, the government planned to optimize its revenue from its assets, including the assets that could be and had been forfeited. In doing so,

[797] Prosecutor O.
[798] Attorney General, "Organization and Work Procedure of the Indonesian Prosecutor's Office," Pub. L. No. 6 (2017).
[799] Prosecutor Pk, Prosecutor H, Prosecutor O, Prosecutor Pj.
[800] "It's different from the old days. In the past, if the defendant didn't pay [restitution], we [prosecutor] could immediately issue a warrant of execution [to imprison defendant], then issue statement of inability to pay. But now, ... we have to trace, seize and forfeit the assets first". (Prosecutor O)
[801] Lawyer Al, Lawyer And, Judge Id, Judge F.

the government allocated a special budget to train and improve the AGO prosecutor work in tracing, seizing, and forfeiting assets. Moreover, the AGO developed the Asset Recovery Integrated System (ARSSYS) to facilitate them in managing forfeited assets from every prosecutor office in Indonesia.[802] This system also connects the assets database with the relevant agencies, such as the Land Office, Financial Intelligence Unit, and Ministry of Finance.[803] Table 6.1. below shows an increase of total forfeited assets managed by the AGO, that is, the assets that had been forfeited but had not been auctioned or sold by the AGO, after Covid-19, which was a crucial event that transformed prosecutor's focus, priority, and effort to trace, seize, and forfeit more defendants' assets.

Table 6.1. Assets Forfeiture at the AGO in Billion IDR

Forfeited Assets	**2018**	**2019**	**2020 (Covid-19)**	**2021**	**2022**
Total Amount (in billions)	IDR 454	IDR 448	IDR 548	IDR 10,507	IDR 10,607

Despite some factors reported by interviewees that support asset seizure and forfeiture, some challenges hinder its progress. I will discuss the challenges in the section below to pinpoint and stimulate possible reform and future research.

III. Factors Contributing to the Low Collection of Monetary Sanctions

Analysis of the interview data reveals factors that contribute to the low collection of monetary sanctions in Indonesia's anti-corruption policies.[804] These factors are (1) imprisonment preference among judges, prosecutors, and the public; (2) unpaid fines and restitutions from defendants with a low socio-economic background and those who rationally choose additional imprisonment; and (3) inadequate resources and administrative hurdles to seize and forfeit the defendant's assets. I will discuss each factor in sequence order. Interview data indicated that a key theme emerged in these factors, which is that the individuals involved in the collection of monetary sanctions act in their best interest given the constraints

[802] The Attorney General reported ARSSYS development in the meeting with the Law Committee of Indonesian House Parliament in August 2022.
[803] Indonesian Parliament, "Laporan Singkat Rapat Kerja Dan Rapat Dengar Pendapat Komisi III DPR RI Dengan Menteri Hukum Dan Hak Asasi Manusia, Jaksa Agung, Keua Komisi Pemberantasan Korupsi Dan Kepala Pusat Pelaporan Dan Analisis Transaksi Keuangan" (Indonesian Parliament, January 16, 2013).
[804] This analysis is supported by triangulating with other sources such as public survey result, Non-Government Organizations reports, government agencies' reports, court decision, and news.

(options, resources, or incentives/disincentives) they face. Scholars from various disciplines define this reasoning as a "rational choice theory" that is heavily influenced by an economic perspective.[805]

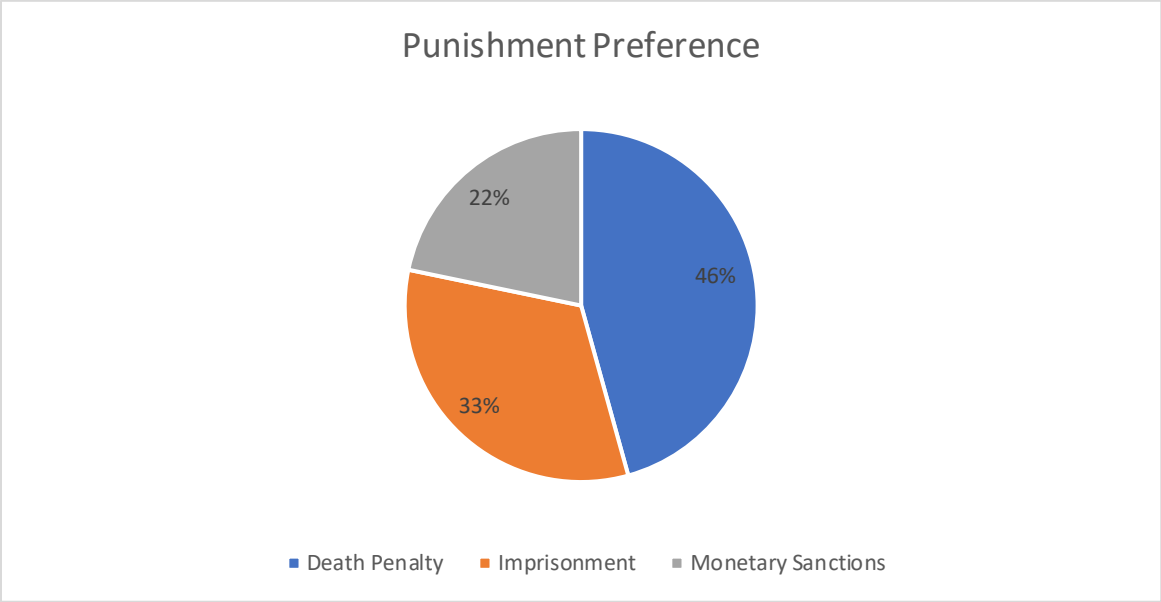
A. Imprisonment over Monetary Sanctions Preference

Three judges and five prosecutors reported that retributive and deterrence goals in the form of imprisonment are still dominant in determining punishment to the crime of corruption defendant because the public views corruption as an "extraordinary crime."[806] Seven lawyers also observed this practice where the judge and prosecutor tend to prioritize imprisonment over the monetary sanctions.[807] One prosecutor claimed that the public anger to eradicate corruption has manifested in the anti-corruption law with a focus on the retributive principle.[808] The public does not pay much attention to asset forfeiture and recovering the loss resulting from the crime; however, they will scrutinize the prosecutor and judge if the defendant is sentenced with shorter imprisonment.[809]

This interview data corroborates my public survey (N=2,114), which can be generalized to the Indonesian population. As discussed in the previous chapter with details on the BCA conducted for this dissertation, I added the "punishment preference" question as part of my contingent valuation survey to measure the societal benefit.[810] This survey finds that the public considers monetary sanctions as the last priority in a list of punishments (21.7%), with the top priority being the death penalty (45.7%), followed by imprisonment (32.5%) (see Chart 6.3 below).

[805] Bill McCarthy and Ali Chaudhary, "Rational Choice Theory," in *Encyclopedia of Criminology and Criminal Justice*, ed. Gerben Bruinsma and David Weisburd (New York, NY: Springer New York, 2014), 4307–15, https://doi.org/10.1007/978-1-4614-5690-2_396; Ross L Matsueda, Derek A Kreager, and David Huizinga, "A Rational Choice Model of Theft and Violence," *American Sociological Review* 71 (2006): 95–122; Thomas A. Loughran et al., "Can Rational Choice Be Considered a General Theory of Crime? Evidence from Individual-Level Panel Data," *Criminology* 54, no. 1 (2016): 86–112, https://doi.org/10.1111/1745-9125.12097; Catherine Herfeld, "Revisiting the Criticisms of Rational Choice Theories," *Philosophy Compass* 17, no. 1 (January 1, 2022): 1–20, https://doi.org/10.1111/PHC3.12774.
[806] Judge J, Judge Id, Judge St, Prosecutor Z, Prosecutor N, Prosecutor Y, Prosecutor P, Prosecutor A.
[807] Lawyer Ar, Lawyer, F, Lawyer E, Lawyer Ma, Lawyer And, Lawyer Lu, Lawyer Mq.
[808] Prosecutor Y.
[809] Prosecutor P & Lawyer E.
[810] See Chapter 2 Research Methodology and Methods.

Chart 6.3 Punishment Preference



One judge told me that he received complaints from his son, then a law school student, after his son read in a newspaper that the Indonesia Corruption Watch (ICW) criticized his court decision as being "pro-corruption."[811] This bad press from the ICW was published after the judge sentenced a defendant to just one year of imprisonment.[812] One lawyer described cases where his clients did not obtain any illegal gain but received considerably longer imprisonments (9 years).[813] These examples illustrate how public pressure and preference for imprisonment as punishment for corruption defendants work to influence prosecutors and judges to keep their focus on imprisonment, and thus perhaps less on imposing and ultimately following through on collecting monetary sanctions.

This type of behavior—deciding cases by taking into account public preference—has also occurred in other jurisdictions, such as the Indonesian Constitutional Court, U.S. Supreme Court, and Czech Constitutional Court. [814] The court's goal is to get public support and legitimacy by considering public opinion.[815] Some scholars use rational choice theory to

[811] Judge St. ICW releases an annual report criticizing how short or low the imprisonment sentence made by the anti-corruption judges.
[812] Kurnia Ramadhana and Wana Alamsyah, "Trends in Corruption Court Trials During 2019 Verdict without Deterrent Effects 'Average Sentence for Corruptors Is Only 2 Years and 7 Months in Prison'" (Jakarta, January 8, 2020); Alamsyah, Abid, and Sunaryanto, "Laporan Tren Penindakan Kasus Korupsi Tahun 2018."
[813] Lawyer M.
[814] Dominic Nardi Jr, "Embedded Judicial Autonomy: How NGOs and Public Opinion Influence Indonesia's Court" (University of Michigan, 2018), http://deepblue.lib.umich.edu/handle/2027.42/144040.
[815] Alex Badas, "The Chief Justice and Judicial Legitimacy Evidence from the Influence of Public Opinion," *The Justice System Journal* 37, no. 4 (October 1, 2016): 318–30, https://doi.org/10.1080/0098261X.2016.1184110; Barry Friedman, *The Will of the People : How Public Opinion Has Influenced the Supreme Court and Shaped the Meaning of the Constitution* (New York: Farrar, Straus and Giroux, 2010).

analyze judges' strategic behavior in some jurisdictions.[816] As a rational actor, judges make a strategic decision by realizing that "… their ability to achieve their goals depends on the preferences of other actors, the choices they expect others to make, and the institutional context in which they interact."[817] The findings from interview data and the survey give nuance to the Indonesian prosecutor and judges' strategic decisions to prioritize a punishment to the crimes of corruption preferred by the public.

B. Unpaid Fines and Restitution

When the defendant is sentenced to fines and restitution, interview data from 27 criminal justice actors (nine prosecutors, eight defense lawyers, and nine judges) reported that defendants tend not to pay the imposed fines and restitution. These unpaid fines and restitution correspond to the low collection of monetary sanctions.

Table 6.2. Paid & Unpaid Monetary Sanctions

	●**Monetary Sanctions: Fines**	●**Monetary Sanctions: Restitution**
●**Not Paying**	54	46
●**Paying**	41	23

Table 6.2. presents the number of co-occurrences of interviewees mentioning the phrase of words that I coded as "Fines", "Restitution", "Paying", and "Not Paying". The table above shows that there are 54 co-occurrences of interviewees answering the defendant not paying fines, and 46 co-occurrences of interviewees answering the defendant not paying restitution. These "not-paying" co-occurrences are more than "paying" for both fines (41) and restitution (23). In those instances when the defendant does pay toward monetary sanctions,

[816] Lee Epstein, "Some Thoughts on the Study of Judicial Behavior," vol. 57, 2015, https://scholarship.law.wm.edu/wmlr; Lee Epstein and Jack Knight, "Reconsidering Judicial Preferences," *Annual Review of Political Science* 16 (May 11, 2013): 11–31, https://doi.org/10.1146/ANNUREV-POLISCI-032211-214229/CITE/REFWORKS; Lee Epstein and Keren Weinshall, *The Strategic Analysis of Judicial Behavior: A Comparative Perspective*, *The Strategic Analysis of Judicial Behavior* (Cambridge: Cambridge University Press, 2021), https://doi.org/10.1017/9781009049030; Lee Epstein, Olga Shvetsova, and Jack Knight, "The Role of Constitutional Courts in the Establishment and Maintenance of Democratic Systems of Government," *Law & Society Review* 35, no. 1 (2001): 117–63, https://doi.org/10.2307/3185388; Paul Brace and Brent D. Boyea, "State Public Opinion, the Death Penalty, and the Practice of Electing Judges," *American Journal of Political Science* 52, no. 2 (2008): 360–72, https://eji.org/files/state-public-opinion-death-penalty-and-electing-judges-07-24-08.pdf; Monika Hanych, Hubert Smekal, and Jaroslav Benák, "The Influence of Public Opinion and Media on Judicial Decision-Making: Elite Judges' Perceptions and Strategies," *International Journal for Court Administration* 14, no. 3 (2023): 1–19, https://doi.org/10.36745/IJCA.528.

[817] Lee J. Epstein and Jack Knight, *The Choices Justices Make*, 1st ed. (Washington, D. C.: CQ Press, 1997).

respondents reported that the defendant tends to pay fines as compared to the restitution. This answer is understandable, because fines are considerably smaller in value than the restitution. The anti-corruption law has a maximum amount for fines, which is IDR 1 billion ($ 63,250). In comparison, judges impose restitution amounts based on the defendant's illegal gain, which could easily be more than IDR 1 billion in some cases.[818]

Data from the AGO and KPK financial report 2018-2021 (see Charts 6.4 and 6.5 below) support the respondents' answer that most defendants tend not to pay fines and restitution. Chart 6.5. shows the unpaid fines at the KPK office, which are more than IDR 80 billion between 2018 and 2021.

Chart 6.4. Unpaid Restitution

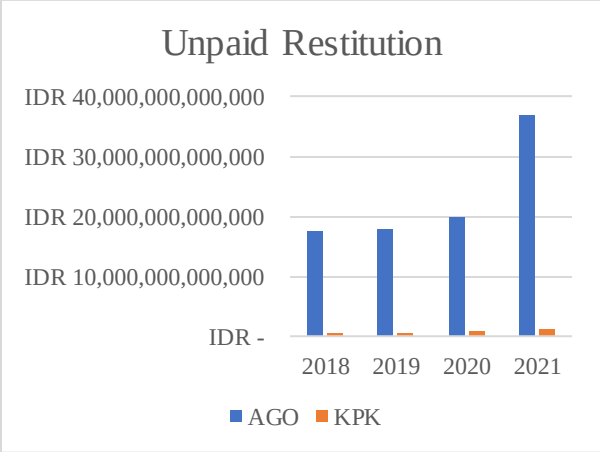
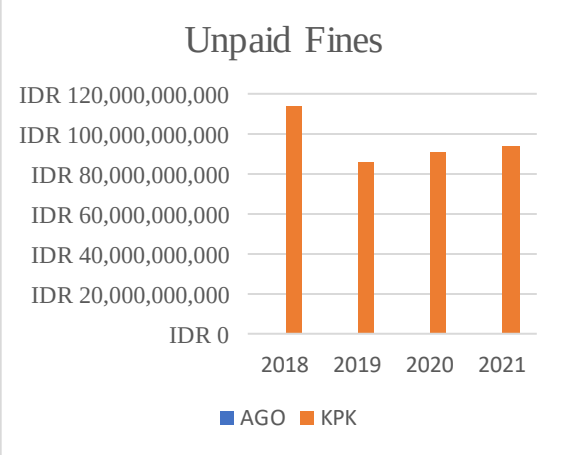


Chart 6.5. Unpaid Fines



Although exact amounts of unpaid fines from crimes of corruption are unavailable in the AGO's financial report,[819] the unpaid restitution data from both agencies (Chart 6.4.) provides more convincing evidence that defendants do not pay imposed restitutions. In KPK, unpaid restitution gradually rose from IDR 570 billion in 2019 to IDR 1.1 trillion in 2021. The unpaid restitution in the AGO office is even higher than the unpaid restitution in KPK. In the AGO office, there was a twofold increase in unpaid restitution from IDR 17 trillion in 2019 to IDR 36 trillion in 2021. The following section discusses the factors or reasons behind these unpaid fines and restitution.

I asked interview respondents a follow-up question, namely, why the defendant did not pay the monetary sanctions according to the respondents' knowledge, to better understand

[818] See section Monetary Sanctions in Chapter 4.
[819] It is because the AGO financial report only highlights the top-five unpaid fines (narcotics, tariff, children protection, environmental law, Banking).

the reasons behind these unpaid fines and restitution. Most respondents reported that the defendant did not pay fines and restitution because they would rather spend additional prison time than pay the monetary sanctions. Another reason offered for why defendants did not pay fines and restitution is that the monetary punishment was too high, and they did not have money to pay (see Table 6.3. below). More analysis of these reasons is covered in the subsections below.

Table 6.3. Reasons for Unpaid Fines and Restitution

	●**Monetary Sanctions: Fines**	●**Monetary Sanctions: Restitution**
●**Not Paying-Reasons: Not Having Money/Too High**	30	22
●**Not Paying-Reasons: Would Rather Spend Additional Prison Time**	**39**	**24**

i. *Defendants Would Rather Spend Additional Prison Time than Pay Monetary Sanctions*

Under the Indonesian criminal law system, defendants can substitute custodial punishment for unpaid fines and additional imprisonment for unpaid restitution.[820] Both custodial punishment and imprisonment limit the defendant's liberty and place them inside the penitentiary system. Custodial punishment is shorter than imprisonment, with a maximum of one year, providing more rights to the defendant. In contrast, additional imprisonment for unpaid restitution is usually more than one year. Defendants convicted of the crime of corruption in the form of embezzlement could be punished with imprisonment, fines, and restitution. However, if the defendant is convicted of bribery, they could only be punished with imprisonment and fines without restitution. For simplicity, the following discussion will occasionally use the term "additional imprisonment time" for both custodial punishment (unpaid fines) and additional imprisonment (unpaid restitution). This term means that the defendants spend more time in prison because they have to serve custodial punishment (unpaid fines) and/or additional imprisonment (unpaid restitution) in addition to their primary imprisonment sentence.

Based on interview data, 23 respondents from all professions (defense lawyers, prosecutors, and judges) reported that defendants did not pay fines and restitution because

[820] See section on Monetary Sanction in Chapter 4.

they would instead prefer to substitute those monetary sanctions with custodial punishment and additional imprisonment. The 2021 AGO financial report also supports this answer. In explaining more than 14 trillion in unpaid fines from the defendants for all crimes, including crimes of corruption, the AGO report describes that most defendants would rather serve subsidiary imprisonment than pay a fine because they still have to spend years of imprisonment as their primary sentence. One lawyer explained the defendant's thinking to be as follows: "What is the point in paying fines and restitution if I still have to be imprisoned [for the primary sentence]?"[821]

It is worthwhile and interesting to look at some of the respondents' answers to better understand why defendants would rather spend additional imprisonment time instead of paying fines or restitution. The defendant chooses to not pay fines and restitution so they can spare the money and assets for the family's needs, such as housing, living, and education costs.[822] One prosecutor explained the defendant's thinking to be as follows: "Better to be imprisoned with their assets remaining the same … so the family will have more assets to spare."[823]

This reasoning is because defendants are more likely to lose their jobs and income from the time the criminal proceedings start, so they would rather save money and assets than pay fines or restitution.[824] Some respondents mentioned and elaborated upon the reasons with "economic rationales," as one judge reported:

> When the fine is so large, there will be a logical economic calculation. For instance, for six months' custodial sentence, the standard income in Indonesia per month, is IDR 20 million a month. The defendant is sentenced to IDR 500 million fines … the defendant could only get IDR 120 million after working for six months,… so the defendant just lives in prison [takes a custodial sentence]. (Judge Ans)

Similar to the economic reasoning above, one lawyer advised his client to refuse to pay the restitution with the economic rationale.

> In 10 years of business, can you have assets worth 14 billion? Or in one year can you have 1 billion?... So, it would be better for you to spend additional prison time than pay fines or restitution. (Lawyer F)

[821] Lawyer Al.
[822] Lawyer F.
[823] Prosecutor H.
[824] Prosecutor P.

These answers reflect the rational choice theory in the criminal justice area.[825] This theory, which is heavily influenced by the economic rationale, claims defendants are rational actors who weigh the gains from committing a crime, the chances of being punished, and the severity of punishment.[826] Some scholars have also developed this theory to analyze corporate crime and corruption, especially bribery and extortion.[827]

In the process of analyzing the reasons mentioned above, I reread all 23 interview transcripts under the "Spend Additional Prison Time" code. I then added an "Economic Rationales" code when I encountered answers choosing not to pay fines and restitution because it is economically beneficial for the defendant. Then, I created a network to see the pattern of an economic rationale influence on the defendant's decision to spend additional prison time rather than pay fines and restitution. Atlas.TI 24 allowed me to visualize the network where the respondents' answers consisted of the above codes. Charts 6.6 and 6.7 illustrate this analysis.

[825] Historically, the root of this theory can be traced back the Utilitarianism scholars such as Mill (1863) and Bentham (1781) that argue that argues people's happiness (or utility) comprises maximum pleasure and minimum pain. Bentham claims that when the "value" of the pain exceeds the "value" of the pleasure, a person will prevent from committing a crime (Bentham, 1830). Punishment is a form to inflict pain, and the value of if consists of (1) intensity, (2) proximity, (3) certainty, and (4) duration. See Jeremy Bentham, The Rationale of Punishment (London: R. Heward, 1830); John Stuart Mill, Utilitarianism (London: Parker, Son, and Bourn, 1863).

[826] Becker, "Crime and Punishment: An Economic Approach."

[827] Raymond Paternoster and Sally Simpson, "Sanction Threats and Appeals to Morality: Testing a Rational Choice Model of Corporate Crime," *Law & Society Review* 30, no. 3 (1996): 549–83, https://doi.org/10.2307/3054128; Carson, "Deterring Corruption: Beyond Rational Choice Theory"; Rose-Ackerman, "The Law and Economics of Bribery and Extortion."

Chart 6.6. Economic Rationale Network Model

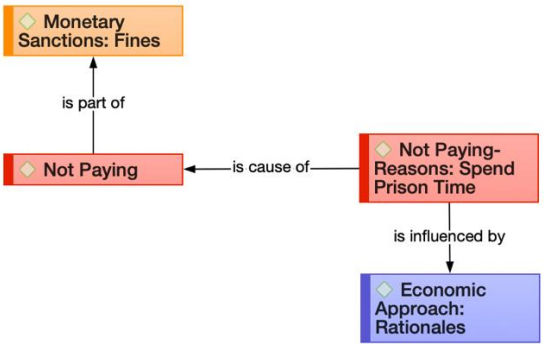
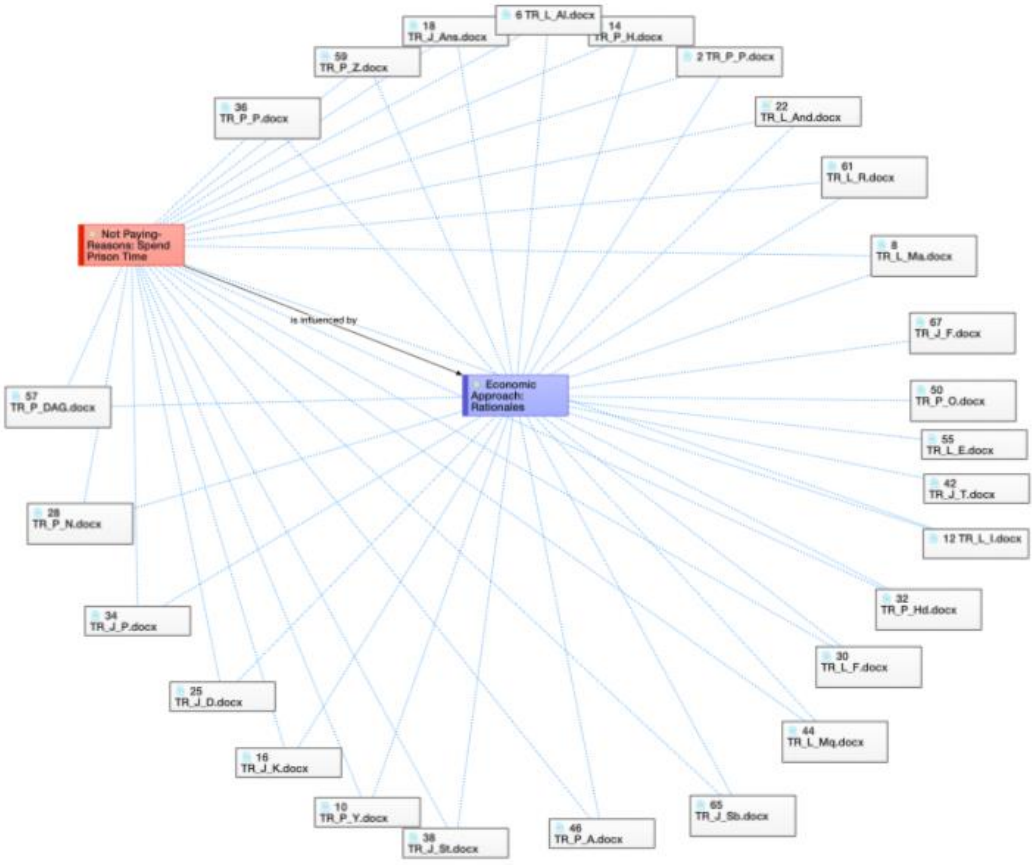


Chart 6.7. Economic Rationale Network Result



In Chart 6.7. above, 22 respondents elaborated on economic reasoning as the underlying reason defendants prefer to spend longer imprisonment.[828] These 22 respondents were shown with two lines directed to two codes: "Spend Additional Prison Time" and "Economic Rationale."[829] This finding is arguably a strong pattern among respondents that

[828] One (Judge J) out of 23 respondents did not elaborate the defendant's reasoning to choose addition prison time over paying fines.

[829] The respondents with one line to "Economic Rationale" code answered topics other than the reason not paying fines. For instances, Prosecutor O discussed the Attorney General's proposal on the out of court

helps us better understand the factors that contributed to the low collection of fines and restitution from the crimes of corruption defendant. This pattern suggests that rational choice theory helps understand the crimes of corruption defendants' preference to spend additional imprisonment time instead of paying the fines and restitution in Indonesia.

Corruption is an economic crime or a crime for economic gain, where the defendants commit the crime to obtain illegal monetary gain.[830] Based on the interview data, the defendants would rather retain their money for themselves and their families, instead of paying fines and restitution. They are also in a situation facing years of imprisonment even though they pay fines and restitution; thus, their probability of being imprisoned is very high.[831] The additional imprisonment time for failure to pay fines and restitution is shorter, and the defendant would probably view this as less severe than the primary imprisonment.

Another thing worth exploring is whether shortening imprisonment time incentivizes the defendants to pay fines and restitution. As noted above, under Indonesian law, paying fines and restitution shortens imprisonment time because the defendant does not get a custodial sentence and additional imprisonment, and the defendant receives conditional release/parole and commutation. Even so, and despite this shortened imprisonment time, a prosecutor reported that these offers do not give the defendant a "strong incentive" to pay the fines and restitution.[832] In practice, defendants could receive conditional release or a commutation by doing something other than paying the fines and restitution, such as exhibiting good behavior while incarcerated.[833] Some inmates bribed prison officers to obtain more decent and humane prison facilities and conditions.[834] One defense lawyer reported that bribery also aims to get a faster conditional release/parole decision.[835]

Many inmates could bribe [prison officer] to get parole. (lawyer Al)

---

settlement for corruption cases below IDR 50 million to reduce the cost. Judge F explained that the punishment for crimes of corruption defendant should recover the loss and the criminal justice cost.

[830] Nye, "Corruption and Political Development: A Cost-Benefit Analysis"; Klaveren, *Corruption as a Historical Phenomenon*; Nicholas Lord and Michael Levi, "Economic Crime, Economic Criminology, and Serious Crimes for Economic Gain: On the Conceptual and Disciplinary (Dis)Order of the Object of Study," *Journal of Economic Criminology* 1, no. 100014 (September 1, 2023), https://doi.org/10.1016/J.JECONC.2023.100014.

[831] Imprisonment is a primary sentence under the Indonesian anti-corruption law (1999 and 2001); thus, the defendant who convicted guilty will get imprisonment as a punishment. Moreover, I have discussed the public, prosecutor, and judge's preference to prioritize and focus on imprisonment over other punishments in the previous section.

[832] Prosecutor Y.

[833] Prosecutor Y, Lawyer M.

[834] Prosecutor Y, Lawyer M.

[835] Lawyer Al.

Bribing prison officers to reduce imprisonment time is not a new phenomenon in Indonesia. Indeed, corruption inside the prison system is a big issue.[836] In 2018, the KPK arrested the head of *Sukamiskin prison,* where hundreds of defendants sentenced for crimes of corruption are imprisoned, because he accepted bribes from inmates.[837] Ombudsman Indonesia also found bribery practices to get commutation in some prisons.[838] This corrupt practice in prison offers the defendant an (unlawful) option to get their sentences reduced other than paying fines and restitution.

ii. Small-Fish Defendants Can Not Afford to Pay Fines and Restitution

Another reason offered for unpaid fines and restitution is that defendants could not afford to pay them because the imposed monetary sanctions are too high, and defendants do not have enough money to pay them. This reasoning seems intuitive, so I analyzed the co-occurrences between "case profile" and "not having money/too high" codes to better understand the type of case and defendants who tend not to pay the monetary sanctions.[839] Based on interview data, I found that "low defendants" (19 co-occurrences) tend not to pay the monetary sanctions because the imposed monetary sanctions are too high, and the defendant does not have money to pay (see Table 6.4. below).

Table 6.4. Case Profiles

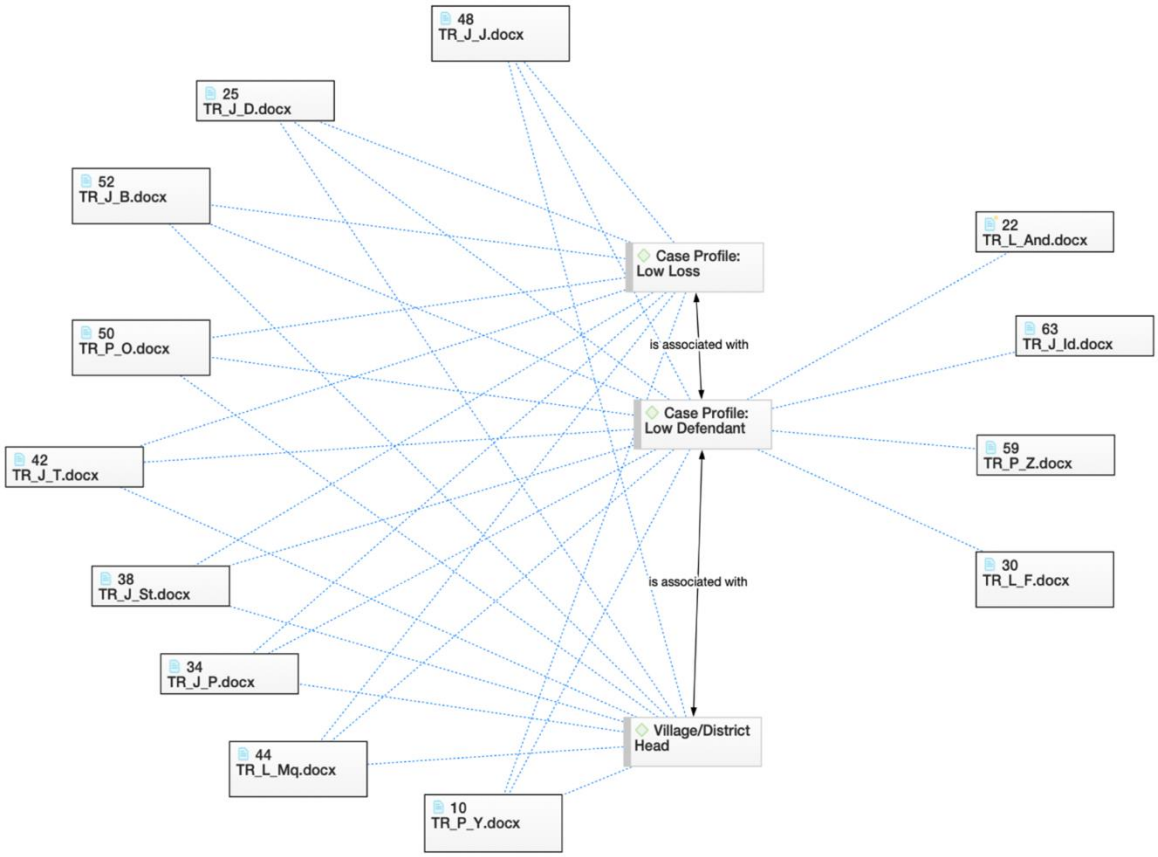
	Case Profile: High Defendant	**Case Profile: High Impact**	**Case Profile: High Loss**	**Case Profile: Low Defendant**	**Case Profile: Low Impact**	**Case Profile: Low Loss**
Not Paying-Reasons: Not Having Money/Too High	2	0	0	19	0	0

[836] Laywer M, and Lawyer And.
[837] Ramadhan, "Using Rational Choice Theory to Understand Corruption in Indonesia."
[838] Adrianus Meliala, "Ombudsman Usut Dugaan Jual Beli Kamar Hingga Remisi Di Lapas Cipinang," Ombudsman, May 10, 2019, https://www.ombudsman.go.id/pengumuman/r/ombudsman-usut-dugaan-jual-beli-kamar-hingga-remisi-di-lapas-cipinang--; Heyder Affan, "Remisi Napi Di Empat Lapas 'harus Membayar' Petugas, Kata Ombudsman," BBC News, August 22, 2017, https://www.bbc.com/indonesia/indonesia-41001319.
[839] There are several codes under case profile code group such as "high defendant", "low defendant", " high loss", "low loss", "high impact", and "low impact".

This finding is intriguing, because many scholars, anti-corruption activists, and law enforcement officers claim that people with high socio-economic status commit corruption. Rimawan, an economist from Gadjah Mada University, said in the International Short Course on Psychology (ISCP) that defendants with high income and education dominate crimes of corruption.[840] Indonesian Attorney General, ST Burhanuddin, claimed in the Prosecutor Day event that defendants with high education and financial status usually commit corruption.[841]

In order to further analyze these results, I reread and recoded the transcripts to include the occupation details of these "low defendant" and found "village head" as the most coded occupations. Next, I created a network to see the connection between "low defendant", "low loss", and "village head". Atlas.TI 24 allowed me to visualize the network and connection of these codes.

Chart 6.8. Small-Fish Network Result



[840] Economic and Business Faculty. Gadjah Mada University, "Pelaku Korupsi Didominasi Lulusan Pendidikan Tinggi," October 17, 2017, https://feb.ugm.ac.id/id/berita/1967-pelaku-korupsi-didominasi-lulusan-pendidikan-tinggi.

[841] Muhammad Isnen Suhanda, "Jaksa Agung: Korupsi Dilakukan Orang Kaya Dan Berpendidikan," RRI.co.id, July 13, 2023, https://www.rri.co.id/hukum/285487/jaksa-agung-korupsi-dilakukan-orang-kaya-dan-berpendidikan.

In Chart 6.8. above, there is a connection between corruption cases that resulted in the low loss of government budget and those committed by defendants from a low socio-economic background, especially those with the occupation as a village/district head. There are nine respondents from various backgrounds whose answers have the connection as explained above.[842] Four respondents only mentioned "low defendant," and two gave examples of low-rank public officials who followed their leadership's command to mark up public procurement or embezzle a public project budget.[843] It is possible that corruption in the public procurement sector would result in a loss exceeding IDR 1 billion (USD 62,931).[844] However, the village fund has a limit of not more than IDR 1 billion (USD 62,931).[845]

The other two respondents who answered "low defendant" and did not mention "low loss" reported their cases related to the corruption in financial institutions. One judge described how she had presided over a trial with a defendant of a low socio-economic background who was a low-level employee at a state-owned enterprise.[846] The defendant was a teller at a state-owned bank who embezzled IDR 9.5 billion (USD 597,800).[847] Additionally, a defense lawyer (And) had a client who worked as a "puppet CEO" in a bank created and run by the "puppeteers."[848] His client was convicted alongside the "puppeteers," but they remained fugitives for crimes of corruption that resulted in an IDR 2 trillion loss (USD 125,875,200).[849]

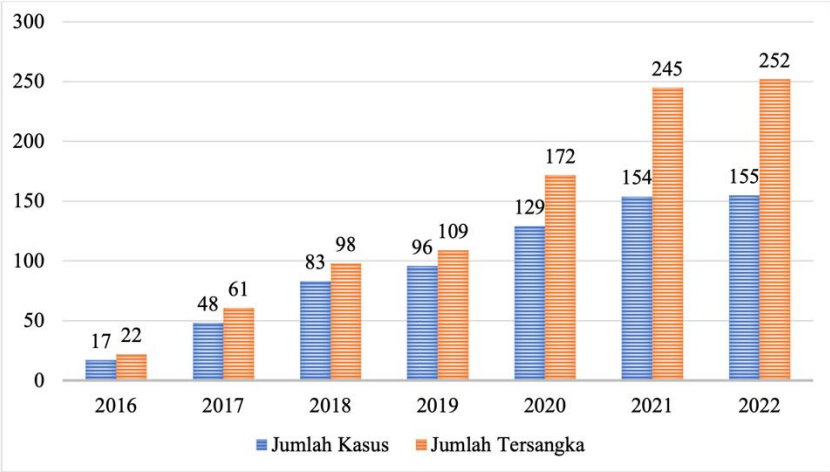
In these cases, both respondents acknowledged the defendant could not pay fines and restitution due to the defendant's low financial status. Moreover, neither of the respondents mentioned the low financial loss resulting from such cases. From the court decision and news triangulation above, the financial loss resulting from such cases was high. Therefore, data suggests that corruption crimes that resulted in low financial loss correlate to corruption in the village fund committed by the village head.

---

[842] Judge J, D, B, St, P, Lawyer Mq, and Prosecutor Y, P, and O.
[843] Lawyer F and Prosecutor Z.
[844] For instance, public procurement to build a campus building resulted in IDR 19,7 billion financial loss, See Komisi Pemberantasan Korupsi (KPK), "KPK Tahan Tersangka Korupsi Proyek Pembangunan Kampus IPDN Di Minahasa," Press Release, November 10, 2021, https://www.kpk.go.id/id/berita/siaran-pers/2382-kpk-tahan-tersangka-korupsi-proyek-pembangunan-kampus-ipdn-di-minahasa.
[845] Village Fund increases from IDR 672 million in 2019 to IDR 947 million in 2024, See Ministry of Finance Directorate General of Taxes, "Rincian Dana Desa Menurut Kabupaten/Kota T.A. 2019," n.d., accessed August 12, 2024.
[846] Judge Id, see the box number 63 in Chart 6.8.
[847] Central Jakarta District Court Decision Number 74/Pid.Sus-TPK/2023/PN Jkt.Pst
[848] Lawyer And, see the box number 22 in Chart 6.8.
[849] One of them were died in 2003, See Liputan 6, "Hendra Rahardja Meninggal Di Australia," Liputan6.com, January 27, 2003, https://www.liputan6.com/news/read/48600/hendra-rahardja-meninggal-di-australia.

Indonesia Corruption Watch (ICW) also reported that corruption cases involving village funds with village heads as defendants have gradually increased since 2015 (see graph below).[850] Since 2015, the Indonesian government has distributed funds to village subdistricts in rural areas, namely, approximately IDR 1 billion per year for village development.[851] In 2021, ICW reported that this village fund was the most corrupt case handled by law enforcement agencies.[852]

Chart 6.9. The Number of Village Head Defendants



These small-fish defendants with the village-head backgrounds contributed to the low collection of monetary sanctions because they tended not to pay fines and restitution. One prosecutor reported that "it is hard [for village head] to pay, for example, up to 500 million. They must have chosen imprisonment."[853] One judge also reported that the defendants are less likely to pay the fines and restitution, even though the judge imposes the defendant with minimum fines.[854] Judges and prosecutors also face a justice dilemma when seizing and forfeiting the assets of the small-fish defendant. The law gives them authority to forfeit the defendant's assets for unpaid restitution, but some judges and prosecutors reported cases where they could not stand seizing and forfeiting the defendant's assets. One judge said that

[850] Diky Anandya and Lalola Easter, "Laporan Hasil Pemantauan Tren Penindakan Kasus Korupsi Tahun 2022 'Korupsi Lintas Trias Politika'" (Jakarta, 2023).
[851] Egi Primayogha, "Lessons from Indonesia: Rampant Corruption in Village Governance," Institute of Development Studies Alumni Network, May 15, 2023, https://alumni.ids.ac.uk/news/blogs-perspectives-provocations-initiatives/701/701-Lessons-from-Indonesia-Rampant-Corruption-in-Village-Governance.
[852] Anandya and Easter, "Laporan Hasil Pemantauan Tren Penindakan Kasus Korupsi Tahun 2022 'Korupsi Lintas Trias Politika.'"
[853] Prosecutor P.
[854] Judge D.

he decided not to forfeit the defendant's house because that was the only house he and his family have.[855]

> I still have a heart not forfeiting defendant's house, because that's his only asset. (Judge P)

Therefore, prosecuting the small fish defendant resulted in a low collection of monetary sanctions because the prosecutors' and judges' sense of justice made them reluctant to seize and forfeit the defendants' assets. Both prosecutor and judge have discretion to weigh the sense of justice in society according to the Prosecutor Law (2004)[856] and Judicial Power Law (2009).[857] This indicates that prosecutors and judges consider an overall sense of justice as they use their discretion to not seize and forfeit small fish defendants' assets.

Prosecuting small fish defendants with a low collection rate on the monetary sanctions imposed is not beneficial according to the benefit-cost analysis from the fiscal or government perspective. The AGO's district attorney's offices or KPK prosecutors spend more than IDR 500 million (USD 31,600) to investigate and prosecute each case; however, these defendants tend to not be able to pay fines and restitution. Also, the prosecutor and judge are reluctant to seize and forfeit the defendants' assets from this low background. This situation makes prosecuting small-fish defendants not beneficial from the fiscal impact analysis standpoint.[858]

Even so, one plausible explanation for the prevalence of nonetheless prosecuting small-fish cases is the target that each district attorney's office has.[859] A prosecutor in a rural area told me that each district attorney's office has two budget lines for prosecuting crime of corruption cases.[860] Specifically, each district attorney must investigate and prosecute at least one corruption case annually.[861] If the head of the district attorney and the head of the special crime unit cannot achieve the target, they will face punishment such as demotion or transfer to more rural areas.[862]

---

[855] Judge P.
[856] Consideration of "Prosecutor Law," Pub. L. No. 16 (2004).
[857] Article 5 (1) "Judicial Power Law," Pub. L. No. 48 (2009).
[858] I acknowledge the equality before the law principle; thus, the selective prosecution targeted only the big-fish defendants might violate this principle. However, this dissertation focusses on the economic analysis of the law and the actors' practices towards the law. Because of its limitation, there is a need for further discussion and research to explore on the issue of selective prosecution for big-fish corruptors.
[859] Prosecutor H, Prosecutor O, and Prosecutor Pj.
[860] Prosecutor H.
[861] Prosecutor O.
[862] Prosecutor O.

Interview data from two judges and four lawyers revealed how this budget incentive and demotion disincentive influence the prosecutor's work.[863] Two rural judges realized that the AGO's district office head faces demotion pressure if they do not achieve the target.[864] A judge claimed the current incentive influenced the AGO's district office to "force" investigation and prosecution.[865] Another judge reported the prosecutor tends to investigate and prosecute "small cases with small low state's financial loss such as village fund corruption" to meet their target.[866]

Although prosecuting small-fish defendants is not beneficial from the fiscal perspective, this practice is understandably beneficial from the prosecutor's point of view. The prosecutor could use the allocated budget, meet the institutional target, and avoid punishment by prosecuting any crime of corruption regardless of the amount of loss and socio-economic level of the defendant. These qualitative findings interpreted how the current incentive influences Indonesian prosecutors in rural areas to prosecute small-fish defendants to meet their target. These findings add more nuance and support the previous literature on the influence of incentive/disincentive, evaluation metric, and case/conviction targets on the police and prosecutor's work in investigating and prosecuting cases.[867]

C. Resources and Administrative Challenges to Seize and Forfeit Assets

In addition to the unpaid fines and restitution, interview data revealed two challenges that contributed to the low collection of assets through the process of asset seizure and forfeiture, despite the institutional supports that are discussed in the previous chapter. Identifying key supporting factors (first section) and challenges (second section) is valuable and crucial in evaluating the existing performance, particularly regarding asset seizure and forfeiture.[868] The two challenges from the interview data are: (1) the lack of human and

---

[863] Judge K, Judge J, Lawyer And, Lawyer Al, Lawyer Ma, and Lawyer R.
[864] Judge J and Judge K.
[865] Judge K.
[866] Judge J.
[867] Daniel C Richman, "Prosecutors and Their Agents, Agents and Their Prosecutors," *Columbia Law Review* 103, no. 4 (May 2003): 745–832, https://scholarship.law.columbia.edu/faculty_scholarshipAvailableat:https://scholarship.law.columbia.edu/faculty_scholarship/2490; Richard F. Wright, "Prosecutor Institutions and Incentives," *Criminology, Criminal Justice, Law & Society* 18, no. 3 (2017): 85–100, https://ccjls.scholasticahq.com/article/2728-prosecutor-institutions-and-incentives; Stephanos Bibas, "Rewarding Prosecutors for Performance," *Ohio State Journal of Criminal Law* 6 (February 28, 2009): 441–51, https://scholarship.law.upenn.edu/faculty_scholarship/245; Ekaterina Travova, "Under Pressure? Performance Evaluation of Police Officers as an Incentive to Cheat," *Journal of Economic Behavior & Organization* 212 (August 1, 2023): 1143–72, https://doi.org/10.1016/J.JEBO.2023.05.021.
[868] Joel K. Leidecker and Albert V. Bruno, "Identifying and Using Critical Success Factors," *Long Range Planning* 17, no. 1 (February 1, 1984): 23–32, https://doi.org/10.1016/0024-6301(84)90163-8; Daniel S. Lawrence et al., "Prosecutor Priorities, Challenges, and Solutions," *Prosecutor Priorities, Challenges, and*

financial resources to support them in tracing, seizing, and forfeiting assets, and (2) administrative and legal hurdles that hinder the process and progress of seizing and forfeiting assets.

The first challenge is prosecutors' limited budget and human resources to trace, seize, and forfeit assets. The AGO's office often complains about the limited number of prosecutors that do not meet its needs.[869] There is also another significant and related issue that has been identified in recruiting, retaining, and rewarding law graduates to become prosecutors in Indonesia that needs to be addressed.[870] The limited number of prosecutors, especially in rural areas, hinders them from doing extra work such as asset tracing, seizure, and forfeiture.[871] The prosecutors must have skills to trace the defendant's assets, analyze financial reports, and work with related agencies such as financial institutions, the Land/Agrarian Office, and the DMV.[872] Even though the prosecutor received substantial support from these agencies to check and verify the paperwork of the defendant's assets, the prosecutor must conduct an onsite inspection to seize assets and, in some cases, to protect them, such as installing a gate or a sign onto seized land, house(s), and building(s).

Moreover, prosecutors in the intelligence unit who support the asset seizure have other tasks, such as gathering information to maintain public order and carry out potentially momentous assignments (i.e., destroying illicit goods).[873] Another issue regarding the quality of prosecutors is the corruption found among them.[874] One judge reported a case where the defendant received a tip from the prosecutor about the assets about to be seized. The defendant then sold the assets before the seizure took place.[875] In other cases, the defendants used the tip to destroy or conceal the evidence.[876]

Solutions (Santa Monica: RAND Corporation, April 18, 2019), https://doi.org/10.7249/RR2892; Marquay Edmondson et al., "Exploring Critical Success Factors for Data Integration and Decision-Making in Law Enforcement," *International Journal of Applied Management and Technology* 18, no. 1 (January 1, 2019): 1–16, https://doi.org/10.5590/IJAMT.2019.18.1.01.

[869] Zunita Putri, "Sebut 10 Ribu Jaksa Masih Kurang, Jaksa Agung: Kita Minta Terus Ke MenPAN," DetikNews, June 17, 2019, https://news.detik.com/berita/d-4588671/sebut-10-ribu-jaksa-masih-kurang-jaksa-agung-kita-minta-terus-ke-menpan.

[870] Adriaan Bedner and Jacqueline Vel, "Legal Education in Indonesia," *The Indonesian Journal of Socio-Legal Studies* 1, no. 6 (September 1, 2021): 1–30, https://doi.org/10.54828/ijsls.2021v1n1.6.

[871] Prosecutor Pj.

[872] Prosecutor Hd.

[873] "Every supporting tasks will be assigned to the intelligence unit, but they [sometimes] only have 2 prosecutor" (Prosecutor Pj).

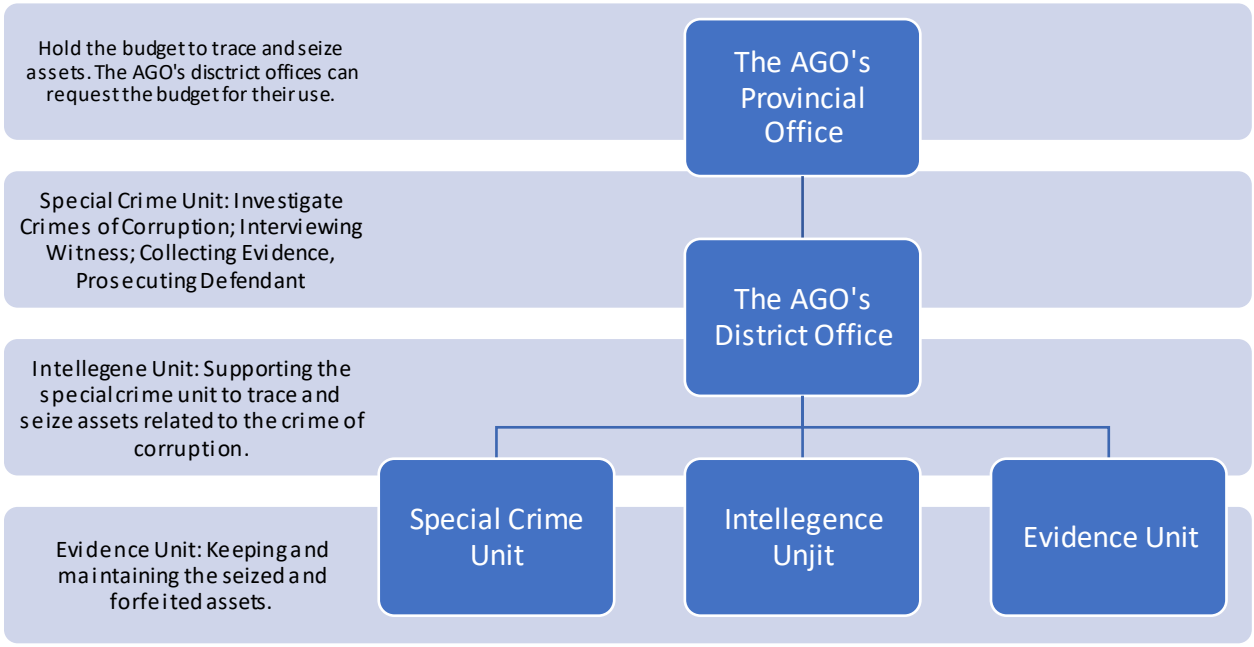
[874] Judge Ans, Lawyer LMPP, and Lawyer Ar.

[875] Judge Ans.

[876] In 2021, KPK failed to seize documents and evidence from a company that bribed a Tax office, See Tito Dirhantoro, "Penggeledahan KPK Diduga Bocor, Barang Bukti Kasus Korupsi Dibawa Kabur Pakai Truk," Kompas.tv, April 13, 2021, https://www.kompas.tv/nasional/163908/penggeledahan-kpk-diduga-bocor-barang-bukti-kasus-korupsi-dibawa-kabur-pakai-truk?page=all.

In addition to the human resource problem, AGO prosecutors often complain about their limited budget.[877] There is no allocated budget to trace and seize assets for the prosecutor of the special crime unit that investigates and prosecutes the crimes of corruption. The budget and personnel to trace and seize assets are under the intelligence unit, while the evidence and asset seizure unit is in charge of the personnel and budget to manage and keep the seized assets. Moreover, the budget to trace and seize assets has been shifted from the District Attorney's office (city/town) to the Provincial Attorney's office.[878]

Chart 6.10. The District AGO's Division of Duty



At all locations and units, interviews suggest that the budget is insufficient to support the prosecutor in tracing, seizing, and managing assets.[879] This complex budget and duty arrangement (see Chart 6.10 above) makes it difficult for the special crime unit prosecutor in charge of investigating and prosecuting a corruption case to utilize the limited budget and people in seizing and forfeiting the defendant's assets. The same is not necessarily true for prosecutors working at KPK. A prosecutor who used to work at KPK compared the budget between KPK and units at the AGO's office:

> There is a budget [to manage and maintain seized assets] but not as much as in the KPK. So, the seized cars' value is sometimes getting lower and lower over the years because there is no maintenance. [prosecutor Z]

[877] See Chapter 4 about the lack of resources problem faced by the law enforcement agencies, including the AGO.
[878] Prosecutor O.
[879] Prosecutor O, and prosecutor Pj.

These interview data corroborate reports claiming that the AGO's office, especially AGO's district office, has a limited budget for tracing, seizing, and managing assets.[880] Moreover, these data reiterate the AGO complaint of having less budget compared to KPK.[881]

The second challenge reported in the interview data is rooted in the Indonesian legal and administrative system. Indonesian law considers government revenue only in monetary value; thus, the forfeited assets are not reported as revenue in the financial report. Article 1 number 9 Law Year 2003 regarding State Finances describes that the state/government revenue is money that is entered/deposited into the state/government cash.[882] The only way to transform these assets into revenue accounting is to sell them through auction. Selling the forfeited asset through auction is not easy and takes years. Several respondents—seven prosecutors and three judges—reported that selling forfeited assets could take more than one auction. Two prosecutors complained that their work in seizing and forfeiting assets was not considered an achievement because those assets had not been sold yet.[883]

> The only performance that is recorded is in the form of money. So, I'm working hard [to seize and forfeit assets], but it's not counted towards my performance progress. (Prosecutor N)

> The forfeited assets should also be included as government revenue in the form of assets [in kind]. If you settle it without using an auction [it does not count as an achievement of the work unit]. (Prosecutor S)

These legal and administrative hurdles do not give adequate incentives for the prosecutor to seize and forfeit assets. In addition, these hurdles underestimate the government revenue from the asset forfeiture because the prosecutor is unable to sell every forfeited asset through auction.

One reason offered as an explanation for this is that the appraisal from State Assets and Auction Service Office (*Kantor Pelayanan Kekayaan Negara dan Lelang* or KPKNL), a unit within the Ministry of Finance, puts a higher price on the assets, making it difficult to attract buyers.[884] As described by Prosecutor Z above, the actual valuation of the seized

---

[880] Guevarrato et al., "Transformasi Anggaran Kejaksaan RI: Menimbang Efektivitas Implementasi Penganggaran Berbasis Kinerja (PBK)"; Irianto Irianto et al., "Eksekusi Barang Bukti Yang Dirampas Untuk Negara," *Locus Journal of Academic Literature Review* 1, no. 2 (June 1, 2022): 71–78, https://doi.org/10.56128/LJOALR.V1I2.53.
[881] Tempo.co, "Kejaksaan Merasa Dianaktirikan," Tempo.co, September 5, 2017, https://dpr.tempo.co/index.php/dpr/konten/4768/Kejaksaan-Merasa-Dianaktirikan; Riza Harahap, "Jaksa Agung Keluhkan Kecilnya Anggaran Kejaksaan Agung," ANTARA News Bangka Belitung, January 22, 2015, https://babel.antaranews.com/berita/17776/jaksa-agung-keluhkan-kecilnya-anggaran-kejaksaan-agung.
[882] Article 1 (1) (j) "Indonesian Government Regulation Regarding Types and Tariffs Non-Tax Income in the Indonesian Attorney General Office," Pub. L. No. 39 (2016).
[883] Prosecutor N, and Prosecutor S.
[884] Prosecutor P.

assets may become lower than the appraised price because the assets are not managed and maintained properly.

Nevertheless, the AGO and Ministry of Finance are in the process of resolving this matter by giving some forfeited assets to other government agencies or using those assets for government purposes.[885] Reforming the law and system to change the incentive might increase the assets forfeiture collection as in the U.S.; however, there are at least three problems that have been reported from U.S. assets forfeiture such as (1) profit-driven law enforcement;[886] (2) constitutional protection for the citizen;[887] and (3) discriminatory impact on disadvantaged groups.[888]The Indonesian government could consider these problems if it plans to implement administrative and civil asset forfeiture. Therefore, they could anticipate and prevent some of these problems.

IV. Policy Implications

Revising the anti-corruption law to optimize monetary sanctions is one solution to raising the monetary collection, thus allowing the Indonesian government to better recoup the costs of anti-corruption enforcement. Below I briefly discuss three legal reforms that could potentially increase monetary sanctions collected by the government related to crimes of corruption: (1) day-fines or structured fines that adjust the number of fines imposed on offenders based on the seriousness of the offense and the offenders' profile such as wealth or income; (2) non-conviction-based asset forfeiture that allows the government to seize assets, properties, or objects that had been obtained from or used in illegal activities; (3) deferred prosecution agreements that could reduce enforcement costs and increase the collection of monetary sanctions.

---

[885] Prosecutor N, and Prosecutor S.

[886] Lisa Knepper et al., *Policing for Profit: The Abuse of Civil Asset Forfeiture*, 3rd ed. (Arlington: Institute for Justice, 2020); David W. Rasmussen, "Documented Abuses and Uncertain Benefits of Civil Asset Forfeiture," *Criminology & Public Policy* 17, no. 1 (February 1, 2018): 97–100, https://doi.org/10.1111/1745-9133.12356; Dee R. Edgeworth, *Asset Forfeiture: Practice and Procedure in State and Federal Courts*, 3rd ed. (Chicago: American Bar Association, 2014), https://www.americanbar.org/products/inv/book/214109/.

[887] Rasmussen, "Documented Abuses and Uncertain Benefits of Civil Asset Forfeiture"; "How Crime Pays: The Unconstitutionality of Modern Civil Asset Forfeiture As a Tool of Criminal Law Enforcement," Harvard Law Review 131, no. 8 (June 2009): 2387–2408.

[888] Shamena Anwar and Hanming Fang, "An Alternative Test of Racial Prejudice in Motor Vehicle Searches: Theory and Evidence," The American Economic Review 96, no. 1 (June 2006): 127–51; John Knowles, Nicola Persico, and Petra Todd, "Racial Bias in Motor Vehicle Searches: Theory and Evidence," Journal of Political Economy 109, no. 1 (2001): 203–29, https://doi.org/10.1086/318603; Michael H. Tonry, Punishing Race: A Continuing American Dilemma (New York: Oxford University Press, 2012), https://global.oup.com/academic/product/punishing-race-9780199926466.

First, the day-fines system or structured fines is an imposition of fines that is designed to be proportionate to offenders' wealth and the severity of the offense.[889] Two offenders who committed the same offense—for instance, bribery—could be imposed fines differently by the court depending on each offender's wealth. In another scenario, the same offense such as bribery in an example mentioned above could be more severe when it committed to the judiciary, or in an emergency and natural disaster situation.[890] The day-fines system also could address the disproportionality of monetary sanctions. Based on the interview findings in Chapter 6, 23 of 33 respondents from all professions (lawyers, prosecutors, and judges) claimed that defendants convicted of crimes of corruption do not pay fines and restitution, because these defendants with low socio-economic backgrounds would rather substitute them with custodial punishment and additional imprisonment. Moreover, the day-fines system could increase the collection rate. In 1988, the Vera Institute of Justice experimented with the implementation of day-fines in the Richmond Criminal Court based on Staten Island, New York.[891] One year later, the Milwaukee Municipal Court replicated the experiment.[892] In both experiments, Douglas summarized findings that a day-fines system (1) was feasible and usable for U.S. courts, and (2) improved the collection rate of the fines.[893]

Second, non-conviction-based (NCB) asset forfeiture has been utilized globally as a tool to combat corruption.[894] NCB asset forfeiture, or Civil Asset Forfeiture in common law jurisdictions, is one legal tool that could be utilized to optimize the collection of monetary sanctions from offenders of crimes of corruption. The UNCAC states that parties, including Indonesia, do not have the obligation to regulate the NCB asset forfeiture into their legislation. However, UNCAC categorizes NCB as an "obligation to consider" because it can be effective "in divesting the corruption of the proceeds of their crimes and restoring those

---

[889] Jakub Drápal, "Day Fines," in *Criminology* (Oxford: Oxford University Press, August 25, 2021), https://doi.org/10.1093/OBO/9780195396607-0303.

[890] In Indonesia, the Corruption Eradication Law imposes longer imprisonment if the crime committed in that situation.

[891] Peter G Farrell, "The Day-Fine Comes to America The Day-Fine Comes to America The Day-Fine Comes to America," Buffalo Law Review 38, no. 2 (1990): 591–617, https://digitalcommons.law.buffalo.edu/buffalolawreview/vol38/iss2/7.

[892] Charles Worzella, The Milwaukee Municipal Court Day-Fine Project, in Douglas C. McDonlad (ed), Day Fines in America.n Courts: The Staten Island and Milwaukee Experiments, U.S. Department of Justice National Institute of Justice, 1992

[893] Judith Greene and Charles Worzella, *Day Fines in American Courts: The Staten Island and Milwaukee Experiments*, ed. Douglas C McDonald (Washington, D. C.: U.S. Department of Justice, National Institute of Justice, 1969).

[894] Mat Tromme, "Waging War Against Corruption in Developing Countries: How Asset Recovery Can Be Compliant with the Rule of Law," *Duke Journal of Comparative & International Law* 29, no. 2 (February 11, 2019): 165–233, https://scholarship.law.duke.edu/djcil/vol29/iss2/2.

funds to the victim state."[895] This tool is useful especially when law enforcement is not able to convict the offender because they are either a fugitive, deceased, immune from criminal prosecution, or politically powerful.[896] Moreover, there might be some cases where the suspicious assets were found, but the owners were not detected or bona fide parties who own assets and could not be prosecuted under criminal law.[897]

Third, Indonesian legal scholars have written and proposed deferred prosecution agreements (DPA) to make the enforcement process more cost-effective and focus more on the recovering financial loss from the corruption.[898] DPA could reduce resources and time needed to prosecute the crime of corruption defendant and sentenced defendant with sanctions other than imprisonment, mostly with monetary sanctions.[899] This procedure that prioritizing monetary sanctions as a form of punishment could also help the chronic problem of prison corruption and overcrowding in Indonesia.[900]

Having made these suggestions, it is worth noting that none of these reforms is put forth as ideal. Indeed, scholars and practitioners having engaged in these reforms in jurisdictions around the world have already identified strengths and weaknesses found in all three. Prior to adoption, comparative socio-legal research on these reforms in jurisdictions is crucial to tailor them effectively to the Indonesian legal system and mitigate potential pitfalls observed elsewhere.

V. Conclusion

The qualitative analysis of interview data and other documents provides nuance to understand factors determining monetary sanctions, and contributing to the low collection of

---

[895] United Nations Conference of the States Parties to the United Nations Convention against Corruption, "Report of the Conference of the States Parties to the United Nations Convention against Corruption on Its Eighth Session, Held in Abu Dhabi from 16 to 20 December 2019" (Abu Dhabi, March 19, 2020), https://documents.un.org/doc/undoc/gen/v20/019/11/pdf/v2001911.pdf.

[896] Theodore S Greenberg et al., *A Good Practices Guide For Non-Conviction Based Asset Forfeiture* (Washington, D. C.: The World Bank, 2009).

[897] Greenberg et al.

[898] Febby Mutiara Nelson, "In Search of a Deferred Prosecution Agreement Model for Effective Anti-Corruption Framework in Indonesia," *Hasanuddin Law Review* 8, no. 2 (July 30, 2022): 122–38, https://doi.org/10.20956/HALREV.V8I2.3292; Ahmad Iqbal, "Penerapan Deferred Prosecution Agreement Di Indonesia Sebagai Alternatif Penyelesaian Tindak Pidana Ekonomi Yang Dilakukan Oleh Korporasi," *Jurnal Yuridis* 7, no. 1 (June 28, 2020): 191–208, https://doi.org/10.35586/JYUR.V7I1.1867.

[899] Kristine Artello and Jay S Albanese, "Addressing White Collar and Corporate Crime: Prosecution, Nonprosecution, or Deferred Prosecution?," *Journal of Criminal Justice and Law* 7, no. 2 (May 31, 2024): 1–26, https://jcjl.pubpub.org/pub/addressing-white-collar-crime/release/1.

[900] Ramadhan, "Using Rational Choice Theory to Understand Corruption in Indonesia"; Choky R Ramadhan, "Penjara Kembali Rusuh Di Langkat Dan Siak. Solusinya Bukan Bangun Penjara Baru Tapi Kurangi Tahanan Dan Perbaiki Manajemen Penjara," The Conversation, June 16, 2019, https://theconversation.com/penjara-kembali-rusuh-di-langkat-dan-siak-solusinya-bukan-bangun-penjara-baru-tapi-kurangi-tahanan-dan-perbaiki-manajemen-penjara-118769.

monetary sanctions in Indonesia's anti-corruption enforcement policies. The first section discussed factors Indonesian prosecutors and judges used to determine fines and restitution and factors that support their works in seizing and forfeiting the defendant's assets. In determining fines, interview data revealed the prosecutor and judge considered the seriousness of the offense and the defendant's profile. Interview data also revealed nuance and some underlying subfactors when the prosecutor and the judge consider these two factors. According to the interview data, the seriousness of the offense related to the state's financial loss resulting from the crime, the defendant's role in the crime, and the impact of crime. Moreover, the interview data indicated that prosecutors and judges consider the defendant's profiles by evaluating subfactors such as the defendant's job and wealth and the defendant's cooperation during the criminal proceeding. To determine restitution, the interview data confirmed that prosecutors and judges strictly rely on the amount of illegal gain obtained by the defendant from the crime. These findings suggest that the prosecutors and judges considered factors regulated in the Prosecutorial and Sentencing Guidelines in determining fines and restitution.

The second section discussed the factors contributing to the payment and collection of fines and restitution. Interview data and triangulation from documents revealed that the factors contributing to the low collection of monetary sanctions are (1) imprisonment preference among judges, prosecutors, and the public; (2) unpaid fines and restitutions from defendants who rationally choose additional imprisonment, and low socio-economic background. Interview data indicated that the individuals involved in collecting monetary sanctions act in their best interest, given the constraints (options, resources, or incentives/disincentives) they face. Interview data revealed that the defendant would rather not pay fines and restitution, substituting them with additional imprisonment to retain the obtained illicit gain. This finding supports the rational choice theory in the criminal justice area: the defendant would rather keep their illicit gain for future expenses and their families, given the fact that they are in any case likely to be imprisoned when the prosecutor charges them with crimes of corruption.

From the prosecutor and judge's perspective, interview data indicated they strategically prioritize imprisonment over monetary sanction when sentencing the crime of corruption defendants to reflect public opinion on punishment. This practice prevents them from receiving public scrutiny or criticism. Interview data also suggested that prosecutors in rural areas tend to prosecute small-fish defendants, mostly village heads with village fund corruption, to achieve their target and avoid institutional sanction. As a result, these small-

fish defendants do not have the ability to pay the fines and restitution, and the prosecutor and judge rarely seize and forfeit their assets.

The first section explored three factors that support the prosecutor in seizing and forfeiting the defendant's assets: institutional guidelines, asset tracing units, and inter-agency support. However, the second section highlighted some factors or challenges that contributed to the low collection of asset forfeiture. These factors are (1) inadequate financial and human resources and (2) legal and administrative hurdles to seize and forfeit the defendant's assets. These key supporting factors (first section) and challenges (second section) revealed the constraints and incentives that influence the prosecutor's process and outcome in seizing and forfeiting the defendant's assets. These findings suggest and complement previous literature that argues how paying attention to the incentive and resource constraints surrounding the prosecutors' work is crucial and helpful to understanding their practice in enforcing the law.[901]

[901] Richman, "Prosecutors and Their Agents, Agents and Their Prosecutors"; Wright, "Prosecutor Institutions and Incentives"; Bibas, "Rewarding Prosecutors for Performance"; Travova, "Under Pressure? Performance Evaluation of Police Officers as an Incentive to Cheat."

Chapter 7: Conclusion

I. Introduction

The Indonesian government, with the support of IDOs, has been developing and implementing anti-corruption policies as part of a law and development agenda since 1998.[902] Since then, a lack of resources problem, such as financial and human resources, has always been referred to as one of the challenges in implementing anti-corruption policies in Indonesia.[903] This could be seen as symbolic endorsement of an ideal policy without adequate resources or capacity for full implementation.[904] Moreover, during the Joko Widodo administration or Post-*Reformasi* period, the anti-corruption efforts faced frequent setbacks threatening Indonesia's progress to escape the middle-income trap and achieve the Indonesia Golden 2045 vision.[905] What truth is there to the lack of resources problem so often cited as a challenge to implementing anti-corruption policies?

The main purpose of this dissertation is to gain insight about the efficiency of implementing Indonesian anti-corruption policies during the period of 2014-2021. Three high-order questions were asked to achieve this purpose: (1) How efficient is the allocation of budgets in implementing the Indonesian anti-corruption policies? (Chapter 5); (2) What role does the collection of monetary sanctions from defendants convicted of crimes of corruption play in financing the implementation of Indonesian anti-corruption policies? (Chapter 6); and (3) What does a cost-benefit analysis of corruption crime enforcement suggest about more efficient and effective ways to use anti-corruption efforts for economic and social gains in Indonesia? (Chapter 7)

I answered those three high-order questions mentioned above using a mixed-methods research approach with different data collection methods (collecting official documents, surveying the public, and interviewing criminal justice actors) and analysis techniques (quantitative and qualitative).[906] To answer the first higher-order question, I gathered dozens of government documents such as Financial Audits, Government Working Plans, Supreme

[902] See Chapter 4 for more detailed discussion on the laws and institutions were enacted and created by the Indonesian government with the support from IDOs to fight against corruption.
[903] See Chapter 4 for more detailed discussion of the lack of resources problems.
[904] Andrews et al. have called this "isomorphic mimicry", that is "the adoption of the forms of other functional states and organizations which camouflages a persistent lack of function, See Pritchett, Woolcock, and Andrews, "Capability Traps? The Mechanisms of Persistent Implementation Failure"; Andrews, Pritchett, and Woolcock, Building State Capability: Evidence, Analysis, Action.
[905] Warburton, "Jokowi and the New Developmentalism"; Kementerian Perencanaan Pembangunan Nasional/ Badan Perencanaan Pembangunan Nasional, "Indonesia Emas 2045: Negara Nusantara Berdaulat, Maju, Dan Berkelanjutan."
[906] Johnson, Onwuegbuzie, and Turner, "Toward a Definition of Mixed Methods Research."

Court Action Plans, and Financial Reports through public information requests and the internet, where the data is publicly accessible. In addition to document collection, I conducted a contingent valuation survey with 2,114 Indonesian adults from every province (34 provinces) in Indonesia to measure the social benefit.

To answer the second higher-order research question, I interviewed 33 Indonesian criminal justice actors who have direct experience and knowledge about the process and factors that contribute to the collection of monetary sanctions from defendants convicted of crimes of corruption. I employed mixed approaches in coding (closed and open) and analyzing the interview data (content and thematic analysis) by using Atlas.TI24. Also, I triangulated the interview data with document analysis to improve the validity. I examined such documents as the Attorney General Office and KPK reports, the Attorney General and Supreme Court Guidelines in handling the crimes of corruption cases, and laws.

To answer the third question, I reviewed literature and documents on the related topics: (1) benefit and cost analysis of the law and development or rule of law agenda, especially the Indonesian anti-corruption reforms, and (2) comparative criminal justice studies, particularly regarding sentencing and imposing the monetary sanctions to the convicted defendants. I discuss the answer for this third question in the sections below (Contribution and Policy and Future Research Recommendations).

II. Research Findings

A. The Benefit-Cost Analysis (BCA) to Assess Efficiency in Implementing Indonesian Anti-Corruption Policies

Before answering two higher order research question, Chapter 3 answers the lower-order questions: What is the method to assess the efficiency of law and development projects, including the implementation of Indonesian anti-corruption policies? What are the functions and limitations of this method? Chapter 3 explained the use of Benefit Cost Analysis (BCA) to review donors' idealistic and "one size fits all" blueprint on good governance, the rule of law, or anti-corruption projects.[907] BCA could offer input about the efficiency of such projects. Law and development practitioners and comparative law scholars rarely use BCA to assess the success or failure of the legal transplant agenda.[908] This technique is anchored in economic analysis, which has also been developed theoretically in the comparative legal

[907] Santos, "The World Bank's Uses of the 'Rule of Law' Promise in Economic Development"; Grindle, "Good Enough Governance Revisited."
[908] Wathne, "Effectively Evaluating Anti-Corruption Interventions"; Peerenboom, Zürn, and Nollkaemper, "Conclusion."

research literature (comparative law and economics).[909] Chapter 3 has addressed criticism based on the protection of rights and the variety of values arguments.[910] These values answer a question different from what the BCA tries to answer. Combining every value and various techniques to measure them is needed in public deliberation to promote deliberative democracy. This information about benefits and costs enhances public reasoning in a democratic process. The proponents of efficiency and utilitarianism could use BCA to support their reasons, while other participants with other philosophical values could support their arguments with different types of study. Therefore, a target country could be "good enough," or at least slightly better than before, by implementing a more realistic and achievable development policy.[911]

B. The Resourcing Challenge to Implement Indonesian Anti-Corruption Policies in the *Reformasi* and Post-*Reformasi* Periods

Chapter 4 answers the question: What is the resourcing challenge created by the multilateral push for anti-corruption measures in Indonesia after 1998? How do we assess the current state of resourcing for Indonesian Anti-Corruption policies? Chapter 4 described the features of the Indonesian anti-corruption policies during the *Reformasi* and post-*Reformasi* period. This description included the IDOs' or donors' involvement as part of a law and development project in supporting the creation of several institutions to prevent and enforce crimes of corruption.[912] These institutions are the Anti-Corruption Agency (KPK), Anti-Corruption Court, Judicial Commission (K.Y.), Ombudsman, and many others. Of note is that the Indonesian citizens bear all the operational costs after the CSO and IDO stop supporting this institution. Chapter 4 also discussed the challenges, mainly the lack of resources, including infrastructure, human, and financial resources, to implement these policies based on secondary sources or previous publications regarding the Indonesian anti-

[909] Mattei, *Comparative Law and Economics*; Mattei, "Efficiency in Legal Transplants: An Essay in Comparative Law and Economics."
[910] Rawls, *A Theory of Justice*; Kelman, "Cost-Benefit Analysis: An Ethical Critique Steven Kelman A"; Dworkin, "Is Wealth a Value?"
[911] Grindle, "Good Enough Governance Revisited."
[912] Budi Setiyono and Ross H. McLeod, "Civil Society Organisations' Contribution to the Anti-Corruption Movement in Indonesia," *Bulletin of Indonesian Economic Studies* 46, no. 3 (2010): 347–70, https://doi.org/10.1080/00074918.2010.522504; Setiyono and McLeod, "Civil Society Organisations' Contribution to the Anti-Corruption Movement in Indonesia," 2010; Juwono, "Berantas Korupsi: A Political History of Governance Reform and Anti-Corruption Initiatives in Indonesia 1945-2014"; Juwono, "The Partner in Prosecuting Crime: The Role of International Organization in Setting Up Corruption Eradication Commission in Indonesia."

corruption policies.[913] This discussion elaborates on one of the challenges in implementing and maintaining development projects using the Indonesian anti-corruption projects as a case study. Most of these anti-corruption institutions and programs faced the lack of resources problem. Scholars and donors have highlighted the limited resources as one of the problems that hamper the Indonesian government in achieving these goals. Chapter 4 set the background and rationales for conducting a benefit-cost analysis of the Indonesian anti-corruption policies.

C. The Efficiency of Budget Allocation to Implement Indonesian Anti-Corruption Policies in the Post-*Reformasi* Period

The first higher order research question asked: How efficient is the allocation of budgets in implementing Indonesian anti-corruption policies? In answering this question, this dissertation used the benefit-cost analysis (BCA) technique to measure the benefit and costs from both fiscal or government and societal perspectives. To conduct the BCA, this dissertation measured: (1) how much the Indonesian government allocated for the budget to implement anti-corruption policies, (2) how much the Indonesian government collected in monetary sanctions from defendants convicted of crimes of corruption while enforcing anti-corruption laws, and (3) to what extent the public were willing to allocate their taxes to fund the implementation of anti-corruption policies. As discussed in Chapter 5, the main finding and answer for the first research question is that the implementation of Indonesian anti-corruption policies under the Jokowi administration during the period of 2014-2021 is efficient, so the government should stay the course.

Chapter 5 also elaborates the finding mentioned above with the BCA from both government or fiscal perspective and societal perspectives. First, based on the government's financial documents, the Indonesian government spent more on enforcing and preventing corruption than collecting monetary sanctions such as fines, restitution, and asset forfeiture from the crimes of corruption. The government spent approximately IDR 125 trillion to implement anti-corruption policies and programs during the 2014-2021 period, while they received only IDR 6.8 trillion in monetary sanctions from defendants convicted of crimes of corruption. The value from this fiscal perspective is negative: IDR 118 trillion (IDR

[913] Ramadhan, "Reviewing the Indonesian Anticorruption Court: A Cost-Effective Analysis"; Harijanti, "The Evolution of the Indonesian Ombudsman System"; Suyatmiko, Nicola, and Fajrin, "Laporan Pemantauan Mandiri Kelompok Masyarakat Sipil Terhadap Pelaksanaan Strategi Nasional Pencegahan Korupsi Tahun 2019"; Harun, "Beberapa Kendala Implementasi Tugas Dan Fungsi Komisi Informasi Provinsi Kalimantan Selatan."

118,209,425,711,143.00) between 2014 and 2021. I also adjusted this result with 10% and 15% social discount rates to reflect the net present value (NPV). Using the 10% discount rate as the lower bound, I found that the net future value to enforce and prevent corruption (NFV) is negative IDR 224 trillion (IDR 224,283,496,018,946.00) from the fiscal or government perspective. When I used the 15% discount rate as the upper bound, the NFV is negative 306 trillion (IDR 306,840,150,728,827.00). At both discount rates, the results show that the government spent more to enforce and prevent corruption than they collected in revenue from the monetary sanctions. The cost to implement both anti-corruption enforcement and prevention strategies is 18 times higher than the revenue collected. Therefore, this analysis finds that enforcing and preventing the crime of corruption have substantially adverse fiscal effects, as the government cannot recoup its expenses.

Nevertheless, enforcing Indonesian anti-corruption laws is beneficial for Indonesia from the societal perspective. I measured how much of their taxes the public is willing to allocate by modifying Cohen's survey.[914] In 2021, I asked 2,114 respondents from all 34 provinces in Indonesia and found that the majority (54.4%) did not want to allocate their taxes to enforce and prevent corruption. However, the aggregate social benefit is still higher (IDR 73 trillion for weighted and IDR 74 trillion for unweighted sample) than the cost that Indonesian government allocated to enforce and prevent corruption in 2021 (IDR 15.9 trillion). Thus, the net benefit of implementing Indonesian anti-corruption policies is IDR 58,724,624,137,212.80 for the unweighted sample and IDR 57,535,436,207,479.90 for the weighted sample in 2021. In terms of the benefit and ratio, there were no significant differences between when the weighted sample (1:4.5) and unweighted sample (1:5) were used. I also measured the net present value of implementing Indonesian anti-corruption policies during the period of 2014-2021 by taking into account the social discount rates. Using the 10% discount rate, I found that the net present value (NPV) is IDR 881 trillion (IDR 881,041,416,811,330.00) to enforce the Indonesian anti-corruption laws, as shown in Table 5. When I used the 15% discount rate, the NPV is IDR 1,209 trillion (IDR 1,209,219,475,304,100.00).

Both NPVs show that the Indonesian anti-corruption policies provided a great net benefit to Indonesian society; thus, the Indonesian government should keep implementing these policies. The Indonesian government has invested few resources to enforce anti-corruption policies, yet they receive a great social benefit. In this case, some might argue that the

[914] Cohen (2015)

Indonesian government has allocated those few resources efficiently to achieve a large social benefit. Moreover, the social benefit result from the CV survey was conditional on the existing outcome, which has been criticized by the Indonesian Corruption Watch (ICW) as "far from the ideal expectation" and reported by international organizations such as Transparency International and the World Justice Project as a country with a high level of corruption.[915] It is highly possible that the public might be in favor of increased spending for implementing anti-corruption policies because their valuation to the policies was high. If the government spends more resources for anti-corruption policies, it is possible to address the lack of resources problem experienced by the institutions that enforce (the AGO, KPK, and Anti-Corruption Court) and prevent (Ombudsman, Information Commission, etc.) corruption.[916]

D. The Suboptimal Collection of Monetary Sanctions from Defendants Convicted of Crimes of Corruption

The second higher order research question asked: What role does the collection of monetary sanctions from defendants convicted of crimes of corruption play in financing the implementation of Indonesian anti-corruption policies? In answering this question, this dissertation used data from semi-structured interviews with 33 criminal justice actors (defense lawyers, prosecutors, and judges) who have direct experience and knowledge about the process and factors that contributed to the collection of monetary sanctions from defendants convicted of crimes of corruption. As discussed in Chapter 6, the main finding and answer for the second research question is that the collection of monetary sanctions is not optimal to finance the implementation of Indonesian anti-corruption policies.

First, this dissertation discussed factors that the prosecutor and judge use to determine how low or high monetary sanctions are that are imposed on defendants convicted of crimes of corruption such as bribery and extortion, unlawful enrichment that results in government financial loss, and illegal gratuity. These are three crimes of corruption that are prosecuted most frequently by the prosecutors from AGO and KPK, as discussed in Chapter 1. In determining fines, interview data revealed the prosecutors and judges considered (1) the seriousness of the offense and (2) the defendant's profile. Interview data also revealed nuances and some underlying subfactors when the prosecutor and the judge consider these two factors; they weighed the seriousness of the offense related to (1) the state's financial

[915] Wardah, "ICW: Pemberantasan Korupsi Di Era Jokowi Masih Jauh Dari Memuaskan"; Vrushi, "Global Corruption Barometer Asia 2020: Citizens' Views and Experiences of Corruption"; World Justice Project, "WJP Rule of Law Index | Indonesia Insights."
[916] See Chapter 4 for more detailed discussion on the institutions that enforce and prevent corruption in Indonesia.

loss resulting from the crime, (2) the defendant's role in the crime, and (3) the impact of crime.

Moreover, the interview data indicated that prosecutors and judges consider the defendant's profiles by considering subfactors such as (1) the defendant's job and wealth and (2) the defendant's cooperation during the criminal proceeding. To determine restitution, the interview data confirmed that prosecutors and judges rely strictly on the amount of illegal gain obtained by the defendant from the crime. These findings suggest that prosecutors and judges considered factors regulated in the Prosecutorial and Sentencing Guidelines in determining fines and restitution.

Second, to answer the second question, this dissertation explored factors contributing to the low collection of monetary sanctions. Interview data and triangulation from documents revealed that three factors contributed to the low collection of monetary sanctions: (1) imprisonment preference among judges, prosecutors, and the public; (2) unpaid fines and restitution from defendants convicted of crimes of corruption who rationally choose additional imprisonment, and low socio-economic background; and (3) the lack of institutional resources and administrative/legal hurdles hindering the prosecutor's effort to contribute more government revenue from asset forfeiture.

First, retributive and deterrence in the form of imprisonment are dominant views among prosecutors and judges when determining punishment of defendants convicted of crimes of corruption because the public views corruption as an "extraordinary crime." This interview data corroborates the public opinion, which finds that the public considers monetary sanctions as the last priority in a list of punishments (21.7%), with the top priority being the death penalty (45.7%), followed by imprisonment (32.5%). Public pressure and preference for imprisonment as punishment for corruption defendants work to influence prosecutors and judges to keep their focus on imprisonment, and thus perhaps less on imposing and ultimately following through on collecting monetary sanctions.

Second, there are two factors behind the unpaid fines and restitution from defendants convicted of crimes of corruption: (1) the defendants would rather spend additional prison time than pay fines and restitution, and (2) the prosecutors in rural areas tend to prosecute "small-fish" defendants, with low socio-economic backgrounds and lack of ability to pay monetary sanctions. The 2021 AGO financial report also supports this answer. In explaining more than 14 trillion unpaid fines from the defendant convicted for all crimes, including crimes of corruption, the AGO report describes that most defendants convicted of crimes would instead serve subsidiary imprisonment than pay a fine because they already have to

spend years of imprisonment as their primary sentence. Defendants convicted of crimes of corruption choose to not pay fines and restitution so they can spare the money and assets for family needs, such as housing, living, and education costs.

Another reason offered for unpaid fines and restitution is that defendants convicted of crimes of corruption could not afford to pay them because the imposed monetary sanctions are too high, and those with low socio-economic backgrounds do not have enough money to pay them. This dissertation found a connection between corruption cases that resulted in the low loss of government budget and those committed by defendants convicted of crimes of corruption from a low socio-economic background, especially those with the occupations of a village/district head. These small-fish defendants, with a village-head background, contributed to the low collection of monetary sanctions because they tend not to pay fines and restitution.

Third, regarding asset seizure and forfeiture, there are three factors that support the prosecutor in seizing and forfeiting the defendant's assets: institutional guidelines, asset tracing units, and inter-agency support. First, regarding the institutional guidelines, the AGO's and Supreme Court guidelines support the seizure and forfeiture of assets by providing a uniform procedure and legal framework for prosecutors and judges. Second, the prosecutor receives support from other institutions to check and verify the defendant's property and assets, including the Land Office, financial institutions such as banks, the Financial Intelligence Unit, and the motor vehicle unit of the National Police, to suspend all related transactions, such as property or car sales. Third, both KPK and AGO prosecutors receive great support from their "asset tracing unit" to verify the defendant's assets from other agencies so the prosecutor can seize more assets faster and more accurately and can be more focused on preparing evidence such as witness testimony and gathering related documents.

Despite these supports, there are some factors or challenges that contribute to the low collection of asset forfeiture: (1) inadequate financial and human resources and (2) legal and administrative hurdles to seize and forfeit the defendant's assets. First, there is no allocated budget to trace and seize assets for the prosecutor of the special crime unit that investigates and prosecutes the crimes of corruption. The budget and personnel to trace and seize assets are under the intelligence unit, while the evidence and asset seizure unit is in charge of the personnel and budget to manage and keep the seized assets. Moreover, the budget to trace and seize assets has been shifted from the District Attorney's office (city/town) to the Provincial Attorney's office. This complex budget and duty arrangement makes it difficult

for the special crime unit prosecutor in charge of investigating and prosecuting a corruption case to utilize the limited budget and people in seizing and forfeiting the defendant's assets. The same is not necessarily true for prosecutors working at KPK. This interview data corroborates reports claiming that the AGO's office, especially the AGO's district office, has a limited budget for tracing, seizing, and managing assets.[917] This data reiterates the AGO complaint of having less budget compared to KPK.[918] In addition to the budgetary problem, the AGO also faces human resources problems in quantity and quality. The limited number of prosecutors, especially in rural areas, hinders them from doing extra work such as asset tracing, seizure, and forfeiture. Moreover, these prosecutors also have numerous tasks such as gathering information to maintain public order and carry out potentially momentous assignments (i.e., destroying illicit goods). The quality of prosecutors in AGO to seize and forfeit assets is eroded due to corruption that results in suboptimal collection of monetary sanctions from the seized and forfeited assets.

The second challenge for achieving an optimal level of collecting monetary sanctions from the asset forfeiture is the administrative and legal hurdles within the Indonesian legal system. Indonesian law considers government revenue only in monetary value; thus, the forfeited assets are not reported as revenue in the financial report unless they were sold through auction. This is not easy and items take years to sell. One reason offered as an explanation for this is that the appraisal from State Assets and Auction Service Office (KPKNL), a unit within the Ministry of Finance, puts a higher price on the assets, making it difficult to attract buyers. These legal and administrative hurdles do not give adequate incentives for the prosecutor to seize and forfeit assets. In addition, these hurdles underestimate the government revenue from the asset forfeiture because the prosecutor is unable to sell every forfeited asset through auction.

III. Contribution

A. Intellectual Merit

This dissertation filled an empirical gap with an economic assessment to better understand the "lack of resources" scapegoat in implementing anti-corruption projects in Indonesia. In Chapter 4, this dissertation discussed the lack of resources challenges for anti-corruption institutions that are task with prevention and enforcement from publications and

[917] Irianto et al., "Eksekusi Barang Bukti Yang Dirampas Untuk Negara"; Guevarrato et al., "Transformasi Anggaran Kejaksaan RI: Menimbang Efektivitas Implementasi Penganggaran Berbasis Kinerja (PBK)."
[918] Tempo.co, "Kejaksaan Merasa Dianaktirikan."

reports issued by the government agencies, scholars, CSOs, and presses. In Chapter 5, this dissertation estimated that the cost to implement both anti-corruption enforcement and prevention strategies have substantially adverse fiscal effects, that is 18 times higher than the monetary sanction collected from defendants convicted from the crimes of corruption. Chapter 6 of this dissertation identified and discussed some factors that have hindered the optimal collection of monetary sanctions to finance the implementation of anti-corruption policies in Indonesia. Chapter 6 also illustrated how lack of resources hindered the AGO to optimally seize and forfeit the defendant's assets. These resourcing challenges suggest a lack of sustained political will to sustain the anti-corruption efforts, which was initially supported by the multilateral push, and insufficiency of revenue from the collection of monetary sanctions due to legal loopholes. These insights provide further support for moderate or "good enough governance" reforms that are not too big, much, and fast, by paying more attention to the recipients country political will, capacity, and resources.[919]

This dissertation bridges the literature gaps on the economic analysis of law, particularly the BCA of law and development project and criminal justice policy, using the Indonesian anti-corruption policies as a case study. Moreover, the insights and findings from the inquiry discussed above contribute to the body of literature on comparative criminal justice, particularly the sentencing factors, legal transplants, and economic analysis of criminal law enforcement.

i. The Benefit-Cost Analysis, Law and Development, and Anti-Corruption Literature

Using the BCA method, this dissertation found that implementing Indonesian anti-corruption policies benefits the Indonesian citizen, so the Indonesian government should continue funding and implementing its anti-corruption policies. This study's findings suggest two potential interpretations. First, despite the Indonesian government's relatively modest investment in anti-corruption policies, there appears to be significant net benefit valued by the Indonesian adult population from the contingent valuation (CV) survey. This high net social benefit was a result from the CV survey conditional on the existing outcomes that fall short of expectations according to the Indonesian Corruption Watch (ICW) and various reports on corruption levels, such as the Global Corruption Barometer Asia 2020 and rankings by Transparency International and the World Justice Project.

[919] Grindle, "Good Enough Governance Revisited"; Grindle, "Good Enough Governance: Poverty Reduction and Reform in Developing Countries"; Hammergren, *Justice Reform and Development : Rethinking Donor Assistance to Developing and Transition Countries*.

Secondly, there is a strong indication that the public values anti-corruption policies highly and may support increased government spending in this area. Such investment could potentially address the resource constraints faced by institutions tasked with enforcing and preventing corruption (Chapter 4). Scholars in comparative anti-corruption literature often emphasize political will, including sufficient resource allocation, as critical for successful reform efforts. However, findings from this study suggest a perceived lack of sustained political will during the Joko Widodo administration. Moreover, scholars of Indonesian politics, society, and law have argued that the Joko Widodo administration has "no anti-corruption agenda" or has pushed back the anti-corruption efforts; however, their arguments tend to be normative or based on analysis of announced policy—this finding fills the gap in analysis by looking specifically at budget allocations to implement anti-corruption policies and whether these are adequate.[920] Furthermore, the reliance on international development organizations (IDOs) to support anti-corruption initiatives, as observed in Chapter 4, raises questions about the Indonesian government's commitment to long-term anti-corruption efforts. This approach may diminish local incentives for sustained reform and underscores the need for more robust governmental support.

This dissertation also contributes to a methodological gap in applying the BCA for law and development projects. Law and development practitioners and comparative legal scholars rarely use the BCA to assess the success or failure of the legal transplant agenda. This dissertation provides a case study in conducting BCA of the anti-corruption policy, particularly in Asian countries where many international development programs on anti-corruption have been adopted and implemented.[921] That gap can be explained in part by time lag—the inefficiencies of policy choices become more visible over time, while the resourcing for the donor-assisted policy intervention tends to be short-term.

Moreover, this research bridges the literature gaps on the economic analysis of law, particularly the BCA of criminal justice policy, using the Indonesian anti-corruption policy as a case study. There has also been limited literature on measuring the cost and benefit of anti-corruption policies. Most of the literature calculated the cost resulting from crimes of passion

[920] Warburton, "Jokowi and the New Developmentalism"; Baker, "Reformasi Reversal: Structural Drivers of Democratic Decline In Jokowi's Middle-Income Indonesia."
[921] Mattei, *Comparative Law and Economics*; Mattei, "Efficiency in Legal Transplants: An Essay in Comparative Law and Economics"; Gramcheva, "Comparative Institutional Law and Economics: Reclaiming Economics for Socio-Legal Research"; Cohen, "Willingness to Pay to Reduce White-Collar and Corporate Crime"; Cohen, *The Costs of Crime and Justice*.

(murder, rape, and assault) and white-collar crime, in developed countries like the U.S. and Norway.[922]

In addition, this dissertation combined the BCA with a qualitative inquiry to "… enrich the economic evaluations with detailed, context-specific information" to provide a meaningful explanation of the benefit-cost analysis result.[923] This qualitative inquiry serves as a case study that combines BCA with qualitative research to contextualize the BCA results, particularly the practice and factors that contributed to the low collection of monetary sanctions. This qualitative inquiry revealed how actors respond to the incentive and disincentive created by the laws and other circumstances related to the practice of determining and collection of monetary sanctions from the crimes of corruption defendants.

ii. Comparative Criminal Justice Studies

a. Sentencing Factors

The findings regarding factors that prosecutors and judges used to determine fines added more context and nuance regarding the literature on the aggravating and mitigating factors in sentencing. First, the Indonesian prosecutors and judges determine fines based on the seriousness or severity of the crimes of corruption committed by the defendant. Setting punishment proportionate to the seriousness of the offense is the basic principle of proportionality in punishment that has been commonly applied by criminal justice actors in most jurisdictions.[924] Second, in determining fines, Indonesian prosecutors and judges consider the defendant's profile such as (1) the defendant's job and wealth, and (2) the defendant's cooperation during the criminal proceedings. The defendant's behavior has been noted as a mitigating factor in several jurisdictions.[925] UNODC also recommends the countries that ratified UNCAC to consider "providing for the possibility . . . of mitigating punishment" for the defendant who cooperates and assists the investigation or prosecution.[926]

---

[922] Cohen, *The Costs of Crime and Justice*; Cohen, "Willingness to Pay to Reduce White-Collar and Corporate Crime."

[923] Dopp et al., "Mixed-Method Approaches to Strengthen Economic Evaluations in Implementation Research," 1.

[924] von Hirsch, "Proportionality in the Philosophy of Punishment"; Roberts, "Mitigation and Aggravation at Sentencing."

[925] Personal mitigation, such as response to the offense and prosecution, empirically influences the sentencing in the UK. In Canada, the defendant's remorse reduced the severity of the sentence for the Sexual Violence Crime defendant, See Joanna Amirault and Eric Beauregard, "The Impact of Aggravating and Mitigating Factors on the Sentence Severity of Sex Offenders," Criminal Justice Policy Review 25, no. 1 (October 19, 2012): 78–104, https://doi.org/10.1177/0887403412462234; Jessica Jacobson and Mike Hough, "Mitigation: The Role of Personal Factors in Sentencing" (London, 2007), https://eprints.bbk.ac.uk/policies.html.

[926] Article 37 (2) United Nations Office on Drugs and Crime, "United Nations Convention Against Corruption," United Nations Office on Drugs and Crime (New York: United Nations, 2004), www.unodc.org.

b. Transposing Sentencing Guidelines from Common Law to Civil Law Jurisdiction

Some comparative law scholars criticized the presumption of similarity and demanded a review of one country's legal system and culture before adopting a legal reform.[927] Failure to consider the cultural differences in the legal system could lead to the failure of legal transplant projects.[928] There was skepticism when the Indonesian Supreme Court and AGO adopted sentencing and prosecutorial guidelines, because these guidelines are known as a common law countries product. Interview data revealed several factors that judges and prosecutors consider when determining the fines according to the Prosecutorial and Sentencing Guidelines.[929] Therefore, these interview data indicated the prosecutor and judge determine the fines following their guidelines. This finding addresses a skepticism that such guidelines, transposed from the common law jurisdictions such as the U.S. and U.K., are not suitable with the Indonesian legal system as a civil law country.[930] Moreover, some scholars argued that these guidelines limit the prosecutor and judge's independence in determining sentencing and "seeking justice."[931] Despite this doubt, interview data indicated that prosecutors and judges use these guidelines.[932] From those who used the guidelines, judge and prosecutor respondents reported that the guidelines assisted them in determining fines. Also, some judges and prosecutors who applied the guidelines explicitly claimed that such guidelines do not limit their independence, because the guidelines still allow them to use their discretion in determining sentences.

c. Economic Analysis of Criminal Enforcement

Interview data on the collection of monetary sanctions indicated that the economic analysis of law, particularly the rational choice theory, is helpful to understand the individuals involved in collecting monetary sanctions because they act based on their best interest, given the constraints (options, resources, or incentives/disincentives) they have. [933]

---

[927] Michaels, "The Functional Method of Comparative Law"; Berkowitz, Pistor, and Richard, "The Transplant Effect"; Alkon, "Lost in Translation: Can Exporting ADR Harm Rule of Law Development"; Hoecke, "Methodology of Comparative Legal Research."

[928] Nelken and Feest, *Adapting Legal Cultures*; Brian Z Tamanaha, "The Primacy of Society and the Failures of Law and Development," *Cornell International Law Journal* 44, no. 2 (2011): 209–47, http://scholarship.law.cornell.edu/cilj Availableat:http://scholarship.law.cornell.edu/cilj/vol44/iss2/1.

[929] Attorney General Guideline regarding Prosecution Guideline on the Crimes of Corruption; Supreme Court Regulation regarding Sentencing Guideline on the Crimes of Corruption.

[930] Rizki, Saputro, and Marbun, *Studi Terhadap Praktik Pemidanaan Pada Tindak Pidana Korupsi*.

[931] Mardatillah, "Dua Profesor Ini Sebut Perma Pemidanaan Perkara Tipikor Batasi Kemandirian Hakim."

[932] Judge D, Judge Ans, Judge P, Judge St, Judge T, Judge J, Judge B, Judge Id, Judge Sb, Judge F, Prosecutor N, Prosecutor P, Prosecutor Hd, Prosecutor, Pk, Prosecutor O, Prosecutor Z

[933] Herfeld, "Revisiting the Criticisms of Rational Choice Theories"; Loughran et al., "Can Rational Choice Be Considered a General Theory of Crime? Evidence from Individual-Level Panel Data"; McCarthy and

Interview data revealed that defendants convicted of crimes of corruption preferred spend additional prison time to pay fines and restitution, because they would rather keep their illicit gain for future expenses and their families. From the prosecutor and judge's perspective, interview data indicated they behave under the existing incentive in the law and other circumstances. They made strategic decision to (1) prioritize imprisonment over monetary sanction when sentencing the crime of corruption defendants to be in line with the public preference on punishment; and (2) prosecute small-fish defendants, mostly village heads with village fund corruption, to achieve the reginal AGOs' target and avoid institutional sanction. Regarding the assets seizure and forfeiture, the findings underscore the influence of incentives and resource limitations that shape prosecutors' practices in enforcing the law. These findings add more nuance and support the previous literature on the influence of incentive/disincentive, evaluation metric, and case/conviction targets on the police and prosecutor's work in investigating and prosecuting cases.[934]

B. Broader Impact: Providing BCA Framework and Findings for Policy-Making Process in Indonesia

This dissertation also supports the policy evaluation and policy-making process in Indonesia. First, this dissertation provides a framework for conducting a benefit-cost analysis of criminal justice policy that would benefit Indonesian policymakers. There are limitations to benefit-cost analysis publications in Indonesia and criminal justice area, especially anti-corruption policies. This limitation allows this research to contribute theoretically and practically, particularly in the criminal justice policy area, through workshops with Indonesian policymakers and criminal justice scholars in the future.

Second, this research could support the Indonesian parliament in revising the anti-corruption law. Since ratifying the United Nations Convention Against Corruption (UNCAC) in 2006, Indonesia has not updated its anti-corruption laws accordingly. The qualitative part of this dissertation could enrich the legislation debate in reformulating the monetary sanctions for the crime of corruption defendant. The qualitative findings in Chapter 6 found that the economic rationales matter to understanding problems in collecting the monetary sanctions from defendants convicted of crimes of corruption. The government collected monetary sanctions less than the cost to prevent and enforce the crimes of corruption because

Chaudhary, "Rational Choice Theory"; Butler, Drahozal, and Shepherd, *Economic Analysis for Lawyers*; Kaplow and Shavell, "Economic Analysis of Law"; Cooter and Ulen, *Law and Economics*.

[934] Richman, "Prosecutors and Their Agents, Agents and Their Prosecutors"; Wright, "Prosecutor Institutions and Incentives"; Bibas, "Rewarding Prosecutors for Performance"; Travova, "Under Pressure? Performance Evaluation of Police Officers as an Incentive to Cheat."

(1) defendants convicted of crimes of corruption prefer to substitute the monetary sanctions with additional imprisonment, and (2) the prosecutors frequently prosecute the small/low-income defendants to meet their target. These decisions are economically rational as the actors (defendant and prosecutor) choose and act on the better option. The policymakers must consider the economic analysis of actors and institutions involved in collecting monetary sanctions to predict how the law and its system would influence the actor's behavior.

IV. Limitations

This dissertation limits the examination to (1) measuring the benefit and cost of enforcing Indonesian anti-corruption policies, and (2) understanding the practice and factors that contributed to the collection of monetary sanctions from defendants facing prosecution for crimes of corruption. Each examination has its own methodology and limitations as discussed below.

A. The Benefit-Cost Analysis: Macro Level Analysis in the Monetary Term

Posner has long claimed that " … an economic theory of law is certain not to capture the full complexity, richness, and confusion" of the problem that had been researched.[935] However, this limitation does not mean the economic analysis of law is useless or invalidated. Posner does not believe that economists and the economic analysis of law "holds all the keys" to explain, understand, and analyze laws and legal process.[936] Therefore, my goal with the (limited) findings in this dissertation could be a valuable starting point to design and conduct future research inquiry with various approaches to understand more about the phenomena. This goal aligns with what Dewey referred to as "the principle of the continuum of inquiry."[937] Dewey does not prefer the word "knowledge," because the outcome of research is not the end of the product; the "conclusions reached in one inquiry become means, material and procedural, of carrying on further inquiries."[938]

BCA is heavily influenced with the utilitarian concept of justice, resulting from both government and societal perspectives to provide a positive analysis of implementing the Indonesian anti-corruption policies in the economic, or specifically, the monetary, term. These results measure the overall welfare, instead of specifically the evaluated sector such as

[935] Richard A Posner, "The Economic Approach to Law," Texas Law Review 53 (1975): 757–82, 774.
[936] Krecké, "Economic Analysis and Legal Pragmatism."
[937] Dewey, *Logic: The Theory of Inquiry*.
[938] Dewey.

health, or in this dissertation, anti-corruption.[939] Thus, BCA may not fully capture other widely cited benefits of implementing anti-corruption policies such as improving governance, democracy, and public service. Policymakers and other scholars can complement the BCA with other types of analysis to scrutinize values other than utilitarian ideas such as equality or rights protection.[940]

The BCA finding enriches our understanding of implementing Indonesian anti-corruption policies that result in great net social benefit, and thus the policies need to be sustained.[941] However, this finding does not gauge explicitly how much the public wants the government ideally to spend on the resources to implement anti-corruption policies. This study also does not describe how interest groups, such as government agencies, local NGOs, IDOs, KPK, and parliament were interacting, negotiating, and making decisions about anti-corruption programs and their budget allocation. Scholars and researchers who are interested in political research or public choice theory could use the BCA finding to investigate the issues mentioned above.

In measuring social benefit, I used a contingent valuation survey. This is one of the methods to measure the intangible and existence values such as a clean environment and public safety.[942] However, the contingent valuation survey is not free from criticism, because the respondents' answers to a hypothetical situation might not reflect how they would actually act. One way to address this issue is to compare answers with the actual contribution to the tax authority or anti-corruption organization (ICW); however, I argued in Chapter 5 that such contribution is problematic to capture the overall benefit because of the free riding problem. A further study to compare the contingent valuation with the actual contribution to the tax authority and ICW could enrich the discussion.

B. Qualitative Research to Explore the Unexplored

The discussion on the qualitative findings section, determining factors and collecting factors, is limited to the interview answers with the triangulation from other documents such as government reports or regulations. I also limited the discussion to add understanding about

[939] Lisa A Robinson et al., "Reference Case Guidelines for Benefit-Cost Analysis in Global Health and Development" (Cambridge, Massachusetts, 2019), https://sites.sph.harvard.edu/bcaguidelines/methods-and-cases/.
[940] Sunstein, "Some Costs & Benefits of Cost-Benefit Analysis"; Nussbaum, "The Costs of Tragedy: Some Moral Limits of Cost-Benefit Analysis."
[941] See Chapter 5 for the BCA result and discussion.
[942] Boardman et al., *Cost-Benefit Analysis: Concepts and Practice*; Carson, "Contingent Valuation: A Practical Alternative When Prices Aren't Available"; Arrow et al., "Report of the NOAA Panel on Contingent Valuation"; Cohen, "Willingness to Pay to Reduce White-Collar and Corporate Crime."

the BCA result from this dissertation, namely the low collection of monetary sanctions. Further discussion on each section could relate and bring the findings to advance knowledge in some areas of study. For the determining factors, the fact that some exist in the sentencing and prosecutorial guideline would be an interesting discussion on how the civil-law countries prosecutor and judge react to the common-law style guideline. Whereas for the collecting factors, a deep dive discussion on the economic analysis of law could advance our understanding on why defendants convicted of crimes of corruption prefer not paying monetary sanctions and prosecutors tend to prosecute small-fish defendants.

In addition, the qualitative findings are derived from the interviews of 33 criminal justice actors such as prosecutors, defense lawyers, and judges. They have experience and proximity working with the defendant to answer whether those convicted of crimes of corruption pay the monetary sanctions; however, the defendant is the one who decides to pay (or not pay) the monetary sanctions. Further research could enrich our understanding and improve the validity about the factors and reasoning to pay (or not pay) the monetary sanctions by interviewing defendants convicted of crimes of corruption. Such interviews would be more challenging, as they pose the risk asking about uncomfortable experiences of the defendant.

V. Policy and Future Research Recommendations

Policymakers and donors could use the BCA and qualitative results to enrich public deliberation and seek better and more effective development projects and legal reforms.[943] This approach is valuable for policymakers and donors to review the most efficient policy that helps recipient countries like Indonesia anticipate the cost of burdening their taxpayers after donors stop supporting legal reform projects. Moreover, the findings are valuable for the Indonesian government and public to deliberately discuss the allocation of budget to implement anti-corruption policies as one of the strategies in achieving the Indonesia Golden Vision 2045. They also need to discuss deliberately where they will get the money to fund the policy, for instance, by raising taxes, asking for donor support, reducing funds from another program, or improving monetary sanctions' payment and collection rates.

[943] As I argued in Chapter 3, the BCA results is not the only tool in the decision-making process.

A. How Much Does the Public Want the Government to Allocate Resources for Implementing Anti-Corruption Policies?

As discussed in the limitations section above, the contingent valuation survey did not inquire about the amount the public expects the government to allocate for implementing anti-corruption policies, whether in terms of Indonesian rupiahs (IDR) or as a percentage of the annual budget. Unlike the mandatory allocations for education (20% of the annual budget) and health (10% of the annual budget), there is no legal requirement for the government to earmark a specific amount for anti-corruption efforts. Furthermore, the CV survey was conducted based on existing or status quo outcomes. If the government were to increase spending and budget allocations for anti-corruption policies, there is a potential for achieving higher levels of outcomes from these policies. Therefore, it remains uncertain how much more the public would be willing to contribute toward these efforts for incremental improvements in outcomes. This presents an avenue for future research to precisely determine the public's ideal valuation under varying levels of anticipated outcomes.

B. Impact Evaluation of Indonesian Anti-Corruption Policies

The implication of the BCA results suggests a need to evaluate the effectiveness of various anti-corruption policies and programs in Indonesia. Despite ongoing efforts, corruption remains pervasive within Indonesian government and society. This presents an opportunity for future inquiry into identifying which policies and programs are most impactful in preventing, reducing, and eradicating corruption. Evaluating these impacts can help the government allocate resources more effectively by prioritizing successful initiatives and reforming or discontinuing the less effective ones.

One specific anti-corruption program example is the "Corruption-Free Zone" (WBK) and "Clean and Serving Bureaucracy Zone" (WBBM) programs administered by the Ministry of Bureaucratic Reform. These programs assess agencies based on their anti-corruption plans, procedures, and public satisfaction surveys. However, criticisms include the formal nature of assessments and methodological flaws in surveys, such as using internal staff as respondents. Instances of corruption within agencies granted WBK and WBBM status further highlight the need for external evaluations to accurately assess program impacts.

While impact evaluations are common in sectors like education and health, they are less frequent in anti-corruption efforts. Organizations like CMI/U-4 emphasize the

importance of evaluating anti-corruption programs for their impact and sustainability.[944] Such evaluations not only inform resource allocation but also hold agencies accountable for effective implementation. Conducting impact evaluations in the realm of anti-corruption, however, presents challenges due to cost, complexity, and ethical considerations. Therefore, future research should begin with a review of existing literature to inform methodologies and frameworks for assessing the impact of Indonesian anti-corruption policies comprehensively.

C. Reforming the Less Costly Sanctions: Increasing Monetary Sanctions Collection and Implementing Deferred Prosecution Agreement

Before adopting day-fines, non-conviction based (NCB) asset forfeiture, and deferred prosecution agreement (DPA), there is a need for comparative socio-legal research on these systems to (1) review the development, features and challenges of these rules in some jurisdictions (i.e. Germany, Finland, the U.S.) and to (2) assess the Indonesian criminal justice actors' views and ideas to tailor the proposed reforms so it could prevent similar problems that occurred in foreign jurisdictions and adapt them to the Indonesian legal system. The first step mentioned above is the functionalist approach of comparative legal research, which is helpful, since the law is a normative discipline, to explore the functionally equivalent legal system or institution from other jurisdictions that could address domestic problems.[945] To achieve the first part, the comparative legal researched could conduct library research to learn about day-fines system, NCB asset forfeiture, and DPA, particularly about the historical and legal justification of the reforms, the impact and problem resulted from their implementation, and some important issues that need to be taken into consideration when Indonesian policy makers want to adopt these reforms. The second step is the socio-legal approach of comparative legal research to assess the demand for reforms and the Indonesian criminal justice actors and policymakers' views on the proposed reforms.

VI. Conclusion

Comparative legal research and law and development scholars have criticized the IDOs or donors' idealistic and "one size fits all" blueprint on good governance, the rule of law, or anti-corruption projects that give less attention to the long-term operating costs of anticorruption policies and institutions, and how to make them self-sustaining within a landscape of competing policy priorities for governments of developing or middle-income

[944] Wathne, "Effectively Evaluating Anti-Corruption Interventions."
[945] Frankenberg, *Comparative Law as Critique*; Michaels, "The Functional Method of Comparative Law."

countries.[946] They also argue that successful legal transplants will require a law-in-context method to assess and ensure the adherence of proposed legal reforms to the existing legal system and culture. Benefit-cost analysis (BCA) could help comparative law scholars, law and development practitioners, and recipient countries' policymakers assess legal transplant projects' efficiency. Therefore, the target country could be "good enough," or at least slightly better than before by implementing a more realistic and achievable development policy. This dissertation uses the Indonesian anti-corruption policies as a case study to explore how the social BCA is conducted and utilized for legal transplant projects.

The insight and findings from answering three research questions in this dissertation are valuable to: (1) understand the efficiency and inadequate budget problem that has impeded the implementation of Indonesian anti-corruption policies; (2) provide a more nuanced, comprehensive, and actionable explanation of the practice and factors that contributed to the (lack of) collection of monetary sanctions from defendants convicted of crimes of corruption as one of the government's revenue sources to finance the anti-corruption policies; and (3) map out future research and policy proposals to improve efficiency of implementing the anti-corruption policies to maximize social welfare and help Indonesia achieve the Indonesia Golden Vision 2045.

This dissertation first examined the efficiency of budget allocation in implementing the Indonesian anti-corruption policies. By using the BCA technique, this dissertation measured and found that: (1) the Indonesian government collected low monetary sanctions compared to the cost to enforce and prevent corruption from the fiscal perspective; and (2) implementing anti-corruption policies resulted in great net social benefit, thus the government needs to sustain the policies from the social perspective. From the fiscal perspective, the cost to implement both anti-corruption enforcement and prevention strategies is 18 times higher than the revenues collected from the monetary sanctions. Therefore, this analysis finds that enforcing and preventing the crime of corruption have substantially adverse fiscal effects, as the government cannot recoup its expenses.

The social BCA findings, that implementing anti-corruption policies is efficient, suggest two potential interpretations. First, despite the Indonesian government's relatively modest investment in anti-corruption policies, there appears to be significant net benefit valued by the Indonesian adult population from the contingent valuation (CV) survey. This

[946] Hammergren, *Justice Reform and Development : Rethinking Donor Assistance to Developing and Transition Countries*.

high net social benefit was a result from the CV survey conditional on the existing outcomes that fall short of expectations from national and international organizations. Secondly, there is a strong indication that the public values anti-corruption policies highly and may support increased government spending in this area. Such investment could potentially address the resource constraints faced by institutions tasked with enforcing and preventing corruption.

Following the first inquiry on the efficiency of implementing Indonesian anti-corruption policies, second, this dissertation examined the roles of the collection of monetary sanctions from defendants convicted of crimes of corruption play in financing the implementation of Indonesian anti-corruption policies. This was a qualitative inquiry with the goal to provide a more nuanced, comprehensive, and meaningful explanation of the practice and factors that contributed to the low collection of monetary sanctions, i.e., fines, restitutions, and asset forfeiture by interviewing 33 criminal justice actors such as prosecutors, defense lawyers, and judges, and triangulating these interview data with documents. Three factors contributed to the low collection of monetary sanctions: (1) imprisonment preference among judges, prosecutors, and the public; (2) unpaid fines and restitution from defendants convicted of crimes of corruption who rationally choose additional imprisonment, and low socio-economic background; and (3) the lack of institutional resources and administrative/legal hurdles hindering the prosecutor's effort to contribute more government revenue from asset forfeiture. All these factors are related to the economic rationality of individuals and institutions involved in the crimes of corruption enforcement to act in their best interest.

Findings from the first and second inquiries in this study mentioned above fills an empirical and methodological gap with an economic assessment to better understand the "lack of resources" scapegoat in implementing anti-corruption projects in Indonesia. Although benefit-cost analysis (BCA) is rarely employed to evaluate legal policies, its application here, alongside qualitative interviews, has provided valuable insights for Indonesian policymakers and anti-corruption practitioners in the law and development arena. These resourcing challenges suggest a lack of sustained political will to sustain the anti-corruption efforts, which was initially supported by the multilateral push, and insufficiency of revenue from the collection of monetary sanctions due to legal loopholes and misaligned incentives. These insights provide further support for moderate or "good enough governance" reforms that are not too big, much, and fast, by considering to the recipient country's political will, capacity, and resources. These findings suggest and complement previous literature that argues paying attention to the incentive and resource constraints surrounding the individuals

and institutions involved in criminal enforcement is crucial and helpful to understand their practice in enforcing the law.[947] Moreover, the government can be more efficient in allocating resources and optimal in collecting monetary sanctions by paying more attention to the incentive and resource structures surrounding the implementation of anti-corruption policies.

Last, this dissertation maps out some proposals for future research and policy that could improve efficiency in implementing the anti-corruption policies. Despite the fact that the social benefit from the contingent valuation survey is high, the public's ideal valuation and expectation regarding government spending on anti-corruption efforts are unclear. Increasing such spending could potentially improve outcomes, but the public's willingness to support this financially remains uncertain and warrants further research. Furthermore, the implication of the Benefit-Cost Analysis (BCA) suggests a need to evaluate the effectiveness of Indonesia's anti-corruption policies. Despite the Indonesian government's efforts in preventing and enforcing crimes of corruption, identifying and prioritizing impactful policies is essential because of persistent corruption issues withing the Indonesian government and society. While impact evaluations are common in sectors like education and health, they are less frequent in anti-corruption efforts. However, conducting such evaluations poses challenges due to cost, complexity, and ethical considerations. Thus, future research should draw from existing literature to develop robust methodologies for comprehensive assessments of Indonesian anti-corruption policies.

In addition, revising the anti-corruption law to optimize monetary sanctions is one solution to raising the monetary collection, thus allowing the Indonesian government to better recoup the costs of anti-corruption enforcement. Three possible reforms include: (1) day-fines or structured fines that adjusting the number of fines imposed to offenders based on the seriousness of offense and the offenders' profile such is wealth or income; (2) non-conviction-based (NCB) asset forfeiture that allowing government to seize assets, properties, or objects that had been obtained from or used in illegal activities; (3) deferred prosecution agreements (DPA) that could reduce enforcement costs and increase the collection of monetary sanctions. Before adopting any one of these three proposed reforms, however, there is a critical need for comparative socio-legal research on the day-fines system, NCB asset forfeiture, and DPA to tailor them effectively to the Indonesian legal system and mitigate potential pitfalls observed elsewhere.

[947] Richman, "Prosecutors and Their Agents, Agents and Their Prosecutors"; Bibas, "Rewarding Prosecutors for Performance"; Wright, "Prosecutor Institutions and Incentives"; Travova, "Under Pressure? Performance Evaluation of Police Officers as an Incentive to Cheat."

Bibliography

Abdillah, Abdillah, Nandang Alamsah Deliarnoor, Neneng Yani Yuningsih, and Fatmawati Fatmawati. "The Position of Auxiliary Organ in Government System of West Java Provincial Government." *Journal of Contemporary Governance and Public Policy* 1, no. 2 (October 27, 2020): 67–81. https://doi.org/10.46507/JCGPP.V1I2.11.

Abdurrachman, Sukri, ed. "Prociding [i.e. Prosiding] Seminar Nasional Demokrasi & Penegakan Supremasi Hukum : Jakarta, 10-11 Desember 2003." In *Prociding Seminar Nasional Demokrasi & Penegakan Supremasi Hukum*. Jakarta: Puslit Kemasyarakatan dan Kebudayaan-LIPI, 2003.

Affan, Heyder. "Remisi Napi Di Empat Lapas 'harus Membayar' Petugas, Kata Ombudsman." BBC News, August 22, 2017. https://www.bbc.com/indonesia/indonesia-41001319.

Afifa, Laila. "Another Tax Mega Scandal." Tempo.Co, March 10, 2021. https://en.tempo.co/read/1440952/another-tax-mega-scandal.

Afrida, Nani, and Pandaya. "Superficial Reform to Uphold Rule of Flaw." The Jakarta Post, November 28, 2016. https://www.thejakartapost.com/news/2016/11/28/superficial-reform-uphold-rule-flaw.html.

Agus Sahbani. "Sejak Berdiri, KY 'Produksi' 58 Hakim Agung." Hukumonline, August 13, 2018. https://www.hukumonline.com/berita/a/sejak-berdiri--ky-produksi-58-hakim-agung-lt5b721e79a9f70.

Agustina, Shinta, Roni Saputra, Alex Argo Hernowo, and Ariehta Eleison Sembiring. *Penafsiran Unsur Melawan Hukum Dalam Pasal 2 Undang-Undang Pemberantasan Tindak Pidana Korupsi*. Edited by Adriaan W. Bedner and Imam Nasima. Jakarta: Lembaga Kajian dan Advokasi Untuk Independensi Peradilan (LeIP). Accessed August 12, 2024. https://bldk.mahkamahagung.go.id/images/PDF/2018/PENJELASAN-HUKUM-UNSUR-MELAWAN-HUKUM.pdf.

Aharoni, Eyal, Heather M. Kleider-Offutt, Sarah F. Brosnan, and Julia Watzek. "Justice at Any Cost? The Impact of Cost–Benefit Salience on Criminal Punishment Judgments." *Behavioral Sciences & the Law* 37, no. 1 (November 18, 2019): 38–60. https://doi.org/10.1002/BSL.2388.

Ahmad, Rival, and Erni Setyowati. "Adaptasi Cost-Benefit Analysis Dalam Pembentukan Peraturan Di Indonesia." *Badan Pembinaan Hukum Nasional*, November 17, 2013. https://bphn.go.id/data/documents/materi_cle_7_rival_ahmad_ghulam,_sh.,ll.m.pdf.

Alamsyah, Wana, Lais Abid, and Agus Sunaryanto. "Laporan Tren Penindakan Kasus Korupsi Tahun 2018." Jakarta, February 25, 2018.

Alkon, Cynthia. "Lost in Translation: Can Exporting ADR Harm Rule of Law Development." *Journal of Dispute Resolution* 165, no. 1 (2011): 165–87. https://scholarship.law.tamu.edu/facscholarAvailableat:https://scholarship.law.tamu.edu/facscholar/132.

———. "The Cookie Cutter Syndrome: Legal Reform Assistance under Post-Communist Democratization Programs." *Journal of Dispute Resolution* 2002, no. 2 (July 1, 2002). https://scholarship.law.tamu.edu/facscholar/131.

Amendment to Law No 31/1999 on Corruption Eradication, Pub. L. No. 20 (2001).

Amirault, Joanna, and Eric Beauregard. "The Impact of Aggravating and Mitigating Factors on the Sentence Severity of Sex Offenders." *Criminal Justice Policy Review* 25, no. 1 (October 19, 2012): 78–104. https://doi.org/10.1177/0887403412462234.

Anandya, Diky, and Lalola Easter. "Laporan Hasil Pemantauan Tren Penindakan Kasus Korupsi Tahun 2022 'Korupsi Lintas Trias Politika.'" Jakarta, 2023.

Anandya, Diky, and Kurnia Ramdhana. “Laporan Hasil Pemantauan Tren Korupsi Tahun 2023.” Jakarta, May 2024. https://antikorupsi.org/sites/default/files/dokumen/Narasi%20Laporan%20Hasil%20Pemantauan%20Tren%20Korupsi%20Tahun%202023.pdf.

Andi Wibowo, Richo. “Mencegah Korupsi Pengadaan Barang Jasa (Apa Yang Sudah Dan Yang Masih Harus Dilakukan?).” *Integritas : Jurnal Antikorupsi* 1, no. 1 (April 19, 2015): 37–60. https://doi.org/10.32697/INTEGRITAS.V1I1.113.

Andrews, Matt, Lant Pritchett, and Michael Woolcock. *Building State Capability: Evidence, Analysis, Action*. *Building State Capability*. Oxford: Oxford University Press, 2017. https://doi.org/10.1093/ACPROF:OSO/9780198747482.001.0001.

Annur, Cindy Muti. “Ada 204,7 Juta Pengguna Internet Di Indonesia Awal 2022,” March 23, 2022. https://databoks.katadata.co.id/datapublish/2022/03/23/ada-2047-juta-pengguna-internet-di-indonesia-awal-2022.

Annur, Cindy Mutia. “KPK Tangani 1.500 Kasus Korupsi Dalam Dua Dekade,” March 6, 2024. https://databoks.katadata.co.id/datapublish/2024/03/06/kpk-tangani-1500-kasus-korupsi-dalam-dua-dekade.

Antlöv, Hans, Rustam Ibrahim, and Peter van Tuijl. “NGO Governance and Accountability in Indonesia: Challenges in a Newly Democratizing Country.” In *NGO Accountability Politics, Principles and Innovations*, edited by Lisa Jordan and Peter van Tuijl, 1st ed. London: Routledge, 2006. https://doi.org/10.4324/9781849772099.

Anwar, Shamena, and Hanming Fang. “An Alternative Test of Racial Prejudice in Motor Vehicle Searches: Theory and Evidence.” *The American Economic Review* 96, no. 1 (June 2006): 127–51.

Anw/Gun. “Mulai 2011, Anggaran Komisi Kejaksaan & Kompolnas Di Bawah Kemenko Polhukam.” DetikNews, March 9, 2011. https://news.detik.com/berita/d-1588217/mulai-2011-anggaran-komisi-kejaksaan-kompolnas-di-bawah-kemenko-polhukam.

Arifin, Johan, and Toni Hartadi. “The Implementation of Probity Audit to Prevent Fraud in Public Procurement of Goods and Services for Government Agencies.” *Jurnal Akuntansi Dan Auditing Indonesia* 24, no. 1 (September 4, 2020): 11–21. https://doi.org/10.20885/JAAI.VOL24.ISS1.ART2.

Arizal, Olina Rizki. “Komposisi Realisasi Penerimaan Pajak 2022: PPh Badan Dan PPN DN Mendominasi – TBrights Offices, Tax Consultant in Indonesia | TBrights Consulting l Tax Consultant in Indonesia.” TBrights. Accessed August 11, 2024. https://tbrights.com/komposisi-realisasi-penerimaan-pajak-2022-pph-badan-dan-ppn-dn-mendominasi/.

Arrow, Kenneth, Robert Solow, Paul R Portney, Edward E Leamer, Roy Radner, and Howard Schuman. “Report of the NOAA Panel on Contingent Valuation.” *Federal Register* 58, no. 10 (1993): 4601–14. http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.129.2114&amp.

Arsil, Astriyani, Dian Rositawati, and Muhammad Tanziel Aziezi. “Pengadilan Tindak Pidana Korupsi Di Indonesia Pasca-2009: Antara Harapan Dan Kenyataan.” Jakarta, 2021. https://leip.or.id/wp-content/uploads/2021/10/Ebook-Pengadilan-Tindak-Pidana-Korupsi-di-Indonesia-Pasca-2009-Antara-Harapan-dan-Kenyataan-1.pdf.

Artello, Kristine, and Jay S Albanese. “Addressing White Collar and Corporate Crime: Prosecution, Nonprosecution, or Deferred Prosecution?” *Journal of Criminal Justice and Law* 7, no. 2 (May 31, 2024): 1–26. https://jcjl.pubpub.org/pub/addressing-white-collar-crime/release/1.

Asian Development Bank. “Guidelines for the Economic Analysis of Projects.” Manila, 2017.

Assegaf, Rifqi, and Nur Syarifah. “Membandingkan Komisi-Komisi Pengawas Lembaga Peradilan Dan Penegak Hukum.” *Jentera: Jurnal Hukum*, no. 12 (2006). //catalog.danlevlibrary.net%2Findex.php%3Fp%3Dshow_detail%26id%3D8842.

Atmasasmita, Romli. *Reformasi Hukum Hak Asasi Manusia & Penegakan Hukum*. Bandung: Mandar Maju, 2001. https://lib.ui.ac.id.

Attorney General. Organization and Work Procedure of the Indonesian Prosecutor’s Office, Pub. L. No. 6 (2017).

Attorney General Guideline regarding Prosecution Guideline on the Crimes of Corruption , Pub. L. No. 1 (2019).

Australia Indonesia Partnership for Justice (AIPJ). “Dokumen Rancangan,” December 2010.

Australia-Indonesia Partnership for Justice 2 (AIPJ2). “Six Monthly Progress Report: 1July to 31 December 2018.” Jakarta, 2018.

Bächtiger, Andre, John S Dryzek, Jane Mansbridge, and Mark Warren. “The Oxford Handbook of Deliberative Democracy.” In *The Oxford Handbook of Deliberative Democracy*, edited by Andre Bächtiger, John S Dryzek, Jane Mansbridge, and Mark Warren, 1–32. Oxford: Oxford University Press, 2018. https://doi.org/10.1093/oxfordhb/9780198747369.001.0001.

Badan Pemeriksa Keuangan Republik Indonesia. “Laporan Hasil Pemeriksaan.” Accessed August 11, 2024. https://www.bpk.go.id/laporan_hasil_pemeriksaan.

Badan Perencanaan dan Pembangunan Nasional (Bappenas). “Snapshot Assessment of Indonesia’s Public Procurement System: Piloting OECD/DAC Procurement JV Baseline Indicator (BLI) Benchmarking Methodology Version 4,” June 2007.

Badas, Alex. “The Chief Justice and Judicial Legitimacy Evidence from the Influence of Public Opinion.” *The Justice System Journal* 37, no. 4 (October 1, 2016): 318–30. https://doi.org/10.1080/0098261X.2016.1184110.

Bai, Jie, and Naomi Akamine. “Cost-Benefit and Fiscal Impact Analysis of Hawai’i’s Film Tax Credit in 2020,” July 2022.

Baker, Jacqui. “Reformasi Reversal: Structural Drivers of Democratic Decline In Jokowi’s Middle-Income Indonesia.” *Bulletin of Indonesian Economic Studies* 59, no. 3 (September 2, 2023): 341–64. https://doi.org/10.1080/00074918.2023.2286020.

———. “Reversing Reformasi.” New Mandala, December 13, 2023. https://www.newmandala.org/reversing-reformasi/.

Banakar, Reza, and Max Travers. “Law, Sociology, and Method.” In *Theory and Method in Socio-Legal Research*, edited by Reza Banakar and Max Travers. Portland: Hart Publishing, 2005. https://www.bloomsbury.com/us/theory-and-method-in-sociolegal-research-9781841136257/.

Bangga et al, Arya. *Buku Panduan Penanganan Saran Dan Keluhan Masyarakat (SKM) Komisi Kepolisian Nasional (Kompolnas) /*. Jakarta: Komisi Kepolisian Nasional: Kemitraan, 2008.

Baris, Omer F., Colin Knox, and Riccardo Pelizzo. “‘Good Enough’ Governance in the Post-Soviet Eurasia.” *Journal of Comparative Policy Analysis: Research and Practice* 24, no. 4 (July 4, 2022): 329–99. https://doi.org/10.1080/13876988.2021.1893111.

Basri, M. Chatib. “Twenty Years after the Asian Financial Crisis.” In *Realizing Indonesia’s Economic Potential*, edited by Luis E Breuer, Jaime Guajardo, and Tidiane Kinda, 67–84. Washington, D.C.: International Monetary Fund, 2018. https://www.elibrary.imf.org/display/book/9781484337141/ch002.xml.

Basrief Arief. “Penanganan Perkara Tindak Pidana Korupsi Melalui Penerapan At Cost System Suatu Harapan.” *Paper Presented at the 3rd Anti-Corruption Forum Held by Transparency International Indonesia*. Jakarta, June 30, 2012.

BBC News Indonesia. "Kasus Dugaan Korupsi Menara BTS Kominfo: Anggota BPK Achsanul Qosasi Menjadi Tersangka Ke-16, BPK Didesak Berbenah - BBC News Indonesia." BBC News Indonesia, November 3, 2023. https://www.bbc.com/indonesia/articles/cw9vy4j5v8xo.

Beccaria, Cesare. *On Crimes and Punishments.* Library of Liberal Arts (Bobbs-Merrill) 107. Indianapolis: Bobbs-Merrill, 1963.

Becker, Gary S. "Crime and Punishment: An Economic Approach." *Journal of Political Economy* 76, no. 2 (March 1968): 169–217. https://about.jstor.org/terms.

Bedner, Adriaan. "Ombudspersons in Developing Countries: The Case of Indonesia." In *Research Handbook on the Ombudsman*, edited by Marc Hertogh and Richard Kirkham, 167–87. Cheltenham: Edward Elgar Publishing Ltd., 2018. https://doi.org/10.4337/9781786431257.00019.

Bedner, Adriaan, and Jacqueline Vel. "Legal Education in Indonesia." *The Indonesian Journal of Socio-Legal Studies* 1, no. 6 (September 1, 2021): 1–30. https://doi.org/10.54828/ijsls.2021v1n1.6.

Belarminus, Robertus, and Diamanty Meiliana. "LPSK Saat Ini Lindungi 148 Saksi Dan Korban Kasus Korupsi." Kompas.com, April 5, 2018. https://nasional.kompas.com/read/2018/04/05/20371611/lpsk-saat-ini-lindungi-148-saksi-dan-korban-kasus-korupsi#google_vignette.

Belton, Rachel Kleinfeld. "Competing Definitions of Rule of Law: Implications for Practitioners." Rule of Law Series. Washington, D.C., January 2005. www.CarnegieEndowment.org/pubs.

Bentham, Jeremy. *The Rationale of Punishment*. London: R. Heward, 1830.

Beqiraj, Julinda, and Lawrence Mcnamara. "The Rule of Law and Access to Justice in the Post-2015 Development Agenda: Moving Forward but Stepping Back." Bingham Centre Working Paper . London, August 2014. www.binghamcentre.biicl.org.

Berkowitz, Daniel, Katharina Pistor, and Jean Francois Richard. "The Transplant Effect." *The American Journal of Comparative Law* 51, no. 1 (January 1, 2003): 163–204. https://doi.org/10.2307/3649143.

Bibas, Stephanos. "Rewarding Prosecutors for Performance." *Ohio State Journal of Criminal Law* 6 (February 28, 2009): 441–51. https://scholarship.law.upenn.edu/faculty_scholarship/245.

Biro Hukum Kementerian PPN/Bappenas. "Sinergitas Perencanaan Pembangunan Dan Penganggaran," September 2011. https://jdihn.go.id/files/479/sinergitas_perencanaan_pembangunan.pdf.

Boardman, Anthony E., David H. Greenberg, Aidan R. Vining, and David L. Weimer. *Cost-Benefit Analysis: Concepts and Practice*. 5th ed. Cambridge: Cambridge University Press, 2018. https://assets.cambridge.org/97811084/15996/frontmatter/9781108415996_frontmatter.pdf.

Böckenförde, Markus, and Berihun A. Gebeye. "Law & Development." In *The Oxford Handbook of Law and Anthropology*, edited by Marie Claire Foblets, Mark Goodale, Maria Sapignoli, and Olaf Zenker, 400–419. Oxford: Oxford University Press, 2020. https://doi.org/10.1093/OXFORDHB/9780198840534.001.0001.

Bohara, Alok K., Michael McKee, Robert P. Berrens, Hank Jenkins-Smith, Carol L. Silva, and David S. Brookshire. "Effects of Total Cost and Group-Size Information on Willingness to Pay Responses: Open Ended vs. Dichotomous Choice." *Journal of Environmental Economics and Management* 35, no. 2 (March 1, 1998): 142–63. https://doi.org/10.1006/JEEM.1998.1022.

Bolongaita, Emil P. “An Exception to the Rule? Why Indonesia’s Anti-Corruption Commission Succeeds Where Others Don’t - a Comparison with the Philippines’ Ombudsman.” *U4 Issue*. Vol. 2010:4. U4 Issue. Bergen, 2010. https://www.cmi.no/publications/3765-an-exception-to-the-rule.

Bosch, Anna B. “Local Actors in Donor-Funded Rule of Law Assistance in Indonesia: Owners, Partners, Agents?” *Dissertation*. University of Washington, 2016. http://hdl.handle.net/1773/36734.

Bowles, Roger, Michael Faure, and Nuno Garoupa. “The Scope of Criminal Law and Criminal Sanctions : An Economic View and Policy Implications.” *Journal of Law and Society* 35, no. 3 (2008): 389–416.

Boyles, Deron R. “Dewey’s Epistemology: An Argument For Warranted Assertions, Knowing, And Meaningful Classroom Practice.” *Educational Theory* 56, no. 1 (February 1, 2006): 57–68. https://doi.org/10.1111/J.1741-5446.2006.00003.X.

Brace, Paul, and Brent D. Boyea. “State Public Opinion, the Death Penalty, and the Practice of Electing Judges.” *American Journal of Political Science* 52, no. 2 (2008): 360–72. https://eji.org/files/state-public-opinion-death-penalty-and-electing-judges-07-24-08.pdf.

Bramasta, Dandy Bayu, and Sari Hardiyanto. “Sederet Fakta Soal Ketua KPK Firli Bahuri, Dari Berharta 18 Miliar Hingga Pernah Sewa Helikopter.” Kompas.com, August 26, 2020. https://www.kompas.com/tren/read/2020/08/26/113100665/sederet-fakta-soal-ketua-kpk-firli-bahuri-dari-berharta-18-miliar-hingga?page=all.

Brata, Roby Arya. *Why Did Anticorruption Policy Fail?: A Study of Anticorruption Policy Implementation Failure in Indonesia*. North Carolina: Information Age Publishing, 2014. https://www.infoagepub.com/products/Why-did-Anticorruption-Policy-Fail.

Brinkerhoff, Derick W. “Assessing Political Will for Anti-corruption Efforts: An Analytic Framework.” *Public Administration and Development* 20, no. 3 (September 5, 2000): 239–52. https://onlinelibrary.wiley.com/doi/10.1002/1099-162X%28200008%2920%3A3%3C239%3A%3AAID-PAD138%3E3.0.CO%3B2-3.

———. “Unpacking the Concept of Political Will to Confront Corruption.” U4 Brief. Bergen, 2010. www.rti.org.

Brinkerhoff, Derick W, and Jennifer M Coston. “International Development Management in a Globalized World.” *Public Administration Review* 59, no. 4 (1999): 346–61. https://doi.org/10.2307/3110117.

Budsaratragoon, Pornanong, and Boonlert Jitmaneeroj. “A Critique on the Corruption Perceptions Index: An Interdisciplinary Approach.” *Socio-Economic Planning Sciences* 70 (2020): 100768. https://doi.org/https://doi.org/10.1016/j.seps.2019.100768.

Burchell, Robert W., and David Listokin. *The Fiscal Impact Handbook: Estimating Local Costs and Revenues of Land Development*. New Jersey: Transaction Publishers, 2012. https://www.google.com/books/edition/The_Fiscal_Impact_Handbook/zH6lslEBF0oC?hl=en&gbpv=1&printsec=frontcover.

Butler, Henry N., Christopher R. Drahozal, and Joanna Shepherd. *Economic Analysis for Lawyers*. 3rd ed. Durham: Carolina Academic Press, 2014.

Butt, Simon. “Freedom of Information Law and Its Application in Indonesia: A Preliminary Assessment.” *Asian Journal of Comparative Law* 8, no. 1 (2014): 113–54. https://doi.org/10.1515/asjcl-2013-0030.

———. “Indonesia’s Regional Anti-Corruption Cort: Should They Be Abolished?” *Indonesia Law Review* 2, no. 2 (2012): 145–62. http://ilrev.ui.ac.id/index.php/home/article/view/15/10.

Butt, Simon, and Sofie Arjon Schütte. “Assessing Judicial Performance in Indonesia: The Court for Corruption Crimes.” *Crime, Law and Social Change* 62, no. 5 (2014): 603–19. https://doi.org/10.1007/s10611-014-9547-1.

Cabinet Secretariat. “Survei Zona Integritas.” Accessed August 11, 2024. https://setkab.go.id/zona-integritas/survei/.
Campbell, Michael C. “Politics , Prisons , and Law Enforcement : An Examination of the Emergence of ‘Law and Order’’ Politics in Texas.’” *Law & Society Review* 45, no. 3 (2011): 631–65.
Carlsmith, Kevin M, John M Darley, and Paul H Robinson. “Why Do We Punish? Deterrence and Just Deserts as Motives for Punishment.” *Journal of Personality and Social Psychology* 83, no. 2 (2002): 284–99. https://doi.org/10.1037/0022-3514.83.2.284.
Carothers, Thomas, ed. *Promoting the Rule of Law Abroad*. *Promoting the Rule of Law Abroad*. Carnegie Endowment for International Peace, 2006. https://doi.org/10.2307/J.CTT6WPK74.
Carson, Lindsey. “Institutional Specialisation in the Battle against Corruption: Uganda’s Anti-Corruption Court.” *The Public Sphere: Journal of Public Policy* 3, no. 1 (2015): 13–25. https://psj.lse.ac.uk/articles/24.
Carson, Lindsey D. “Deterring Corruption: Beyond Rational Choice Theory.” *SSRN Electronic Journal*, no. December 2014 (2014). https://doi.org/10.2139/ssrn.2520280.
———. “Restoring Law in Comparative Law and Economics,” July 23, 2013. http://ssrn.com/abstract=2297660.
Carson, Richard T. “Contingent Valuation: A Practical Alternative When Prices Aren’t Available.” *Journal of Economic Perspectives* 26, no. 4 (2012): 27–42. https://doi.org/10.1257/jep.26.4.27.
———. “Contingent Valuation: A User’s Guide.” *Environmental Science and Technology* 34, no. 8 (April 15, 2000): 1413–18. https://doi.org/10.1021/es990728j.
Catherine, Rahel Narda, and Icha Rastika. “Kaleidoskop 2023: Kasus Korupsi BTS 4G Kominfo, 16 Orang Jadi Tersangka Sepanjang Tahun Ini Halaman All - Kompas.Com,” December 25, 2023. https://nasional.kompas.com/read/2023/12/25/20010471/kaleidoskop-2023-kasus-korupsi-bts-4g-kominfo-16-orang-jadi-tersangka?page=all.
Centers for Disease Control and Prevention (CDC). “Definition of Policy.” Retrieved February. from University Press, May 29, 2015. http://www.cdc.gov/od/ocphp/nphpsp/EssentialPHServices.htm.
Chambers, Robert. *Whose Reality Counts? Putting the First Last*. London: Intermediate Technology Publications, 1997. https://staff.washington.edu/jhannah/geog335aut07/readings/Chambers%20-%20WhoseReality%20Ch1&2.pdf.
Chandler, Redonna K., Bennett W. Fletcher, and Nora D. Volkow. “Treating Drug Abuse and Addiction in the Criminal Justice System: Improving Public Health and Safety.” *JAMA : The Journal of the American Medical Association* 301, no. 2 (January 1, 2009): 190. https://doi.org/10.1001/JAMA.2008.976.
Chenery, Hollis B., and Kenneth S. Kretschmer. “Resource Allocation for Economic Development.” *Econometrica* 24, no. 4 (October 1956): 399. https://doi.org/10.2307/1905490.
Chhina, Ramandeep. *Beneficial Ownership Transparency in Asia and the Pacific*. Manila: Asian Development Bank, 2022. https://doi.org/10.22617/TCS220565.
Choi, Jin Wook. “Measuring the Performance of an Anticorruption Agency: The Case of the KPK in Indonesia.” *International Review of Public Administration* 16, no. 3 (2011): 45–63. https://doi.org/10.1080/12294659.2011.10805207.
Cohen, Elin, Kevin J. Fandl, Amanda Perry-Kessaris, and Veronica L. Taylor. “Truth and Consequences in Rule of Law: Inferences, Attribution and Evaluation.” *Hague Journal*

on the Rule of Law 3, no. 1 (January 4, 2011): 106–29. https://doi.org/10.1017/S1876404511100068/METRICS.
Cohen, Mark A. *The Costs of Crime and Justice*. *The Costs of Crime and Justice*. 2nd ed. Routledge, 2020. https://doi.org/10.4324/9780429431562.
———. "Willingness to Pay to Reduce White-Collar and Corporate Crime." *Journal of Benefit-Cost Analysis* 6, no. 2 (2015): 305–24.
Conference of the States Parties to the United Nations Convention against Corruption, United Nations. "Report of the Conference of the States Parties to the United Nations Convention against Corruption on Its Eighth Session, Held in Abu Dhabi from 16 to 20 December 2019." Abu Dhabi, March 19, 2020. https://documents.un.org/doc/undoc/gen/v20/019/11/pdf/v2001911.pdf.
Cooter, Robert, and Thomas Ulen. *Law and Economics*. 6th ed. Boston: Pearson Education, 2016. http://scholarship.law.berkeley.edu/books/2.
Corruption Eradication Commission Law, Pub. L. No. 30 (2002). https://peraturan.bpk.go.id/Details/44493/uu-no-30-tahun-2002.
Corruption Eradication Law, Pub. L. No. 31 (1999).
Cownie, Fiona, and Anthony Bradney. "Socio-Legal Studies : A Challenge to the Doctrinal Approach." In *Research Methods in Law*, edited by Dawn Watkins and Mandy Burton, 2nd ed., 40–65. New York: Routledge, 2017. https://doi.org/10.4324/9781315386669-3.
Cox, Marcus, Emele Duituturaga, and Nur Sholikin. "Indonesia Case Study: Evaluation of Australian Law and Justice Assistance." Canberra, December 2012. www.ausaid.gov.au.
CR. "Efektivitas Pembentukan Komisi Kejaksaan Jadi Sorotan." Hukumonline, April 10, 2005. https://www.hukumonline.com/berita/a/efektivitas-pembentukan-komisi-kejaksaan-jadi-sorotan--hol12614/.
Creutzfeldt, Naomi, Agnieszka Kubal, and Fernanda Pirie. "Introduction: Exploring the Comparative in Socio-Legal Studies." *International Journal of Law in Context* 12, no. 4 (December 1, 2016): 377–89. https://doi.org/10.1017/S1744552316000173.
Criminal Law, Pub. L. No. 1 (1946).
Criminal Procedure Law, Pub. L. No. 8 (1981).
CRN. "KPK Rekrut Jaksa Baru." Hukumonline, June 6, 2007. https://www.hukumonline.com/berita/a/kpk-rekrut-jaksa-baru--hol16865/.
Crouch, Melissa. "The Challenges for Court Reform after Authoritarian Rule: The Role of Specialized Courts in Indonesia." *Constitutional Review* 7, no. 1 (May 31, 2021): 1–25. https://doi.org/10.31078/CONSREV711.
———. "The Judicial Reform Landscape in Indonesia: Innovation, Specialisation and the Legacy of Dan S. Lev." In *The Politics of Court Reform: Judicial Change and Legal Culture in Indonesia*, edited by Melissa Crouch, 1–28. Cambridge: Cambridge University Press, 2019. https://doi.org/10.1017/9781108636131.001.
Crouch, Melissa A. "The Yogyakarta Local Ombudsman: Promoting Good Governance through Local Support." *Asian Journal of Comparative Law* 2, no. 1 (2007): 1–30. https://ssrn.com/abstract=1551648Electroniccopyavailableat:https://ssrn.com/abstract=1551648Electroniccopyavailableat:https://ssrn.com/abstract=1551648Electroniccopyavailableat:https://ssrn.com/abstract=1551648.
DA, Ady Thea. "2 Guru Besar FHUI Beri Masukan Revisi UU Ombudsman." Hukumonline, April 5, 2023. https://www.hukumonline.com/berita/a/2-guru-besar-fhui-beri-masukan-revisi-uu-ombudsman-lt642d40b08956a/?page=1.
Damanik, Ali Said. "Evaluasi Kebijakan Pemberantasan Korupsi Pemerintahan SBY-Kalla (Oktober 2004 – Mei 2005)." Jakarta: The Indonesian Institute, June 2005. https://www.neliti.com/publications/45108/.

Dau-Schmidt, Kenneth G. “An Economic Analysis of the Criminal Law as a Preference-Shaping Policy.” *Duke Law Journal* 1990, no. 1 (February 1990): 1–38. https://www.repository.law.indiana.edu/facpub/729.

Davis, Kevin E. “Does the Globalization of Anticorruption Law Help Developing Countries?” *International Economic Law, Globalization and Developing Countries*, 2010, 283–306. https://doi.org/10.4337/9781849806671.00018.

Department of Economic and Social Affairs, United Nations. “Goal 16: Promote Peaceful and Inclusive Societies for Sustainable Development, Provide Access to Justice for All and Build Effective, Accountable and Inclusive Institutions at All Levels .” United Nations Sustainable Development. Accessed August 9, 2024. https://sdgs.un.org/goals/goal16.

Detikcom. “Uang Rp 477 Miliar Korupsi Kokos Jiang Akhirnya ‘Pulang,’” November 16, 2019. https://news.detik.com/berita/d-4786714/uang-rp-477-miliar-korupsi-kokos-jiang-akhirnya-pulang.

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). “Assistance in Preventing and Combating Corruption in Indonesia (APCC-KPK).” Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). Accessed August 9, 2024. https://www.giz.de/en/downloads/giz2020_en_apcc_factsheet.pdf.

Dewanto, Fadjar. “Pengguna Telepon Genggam 78,8%, Pengguna Fixed Line 1,65% - Business Lounge,” October 26, 2021. https://www.blj.co.id/index.php/2021/10/26/pengguna-telepon-genggam-788-pengguna-fixed-line-165/.

Dewey, John. *Logic: The Theory of Inquiry*. New York: Henry Holt and Company, 1941.

Diprose, Rachael, Dave McRae, and Vedi R. Hadiz. “Two Decades of Reformasi in Indonesia: Its Illiberal Turn.” *Journal of Contemporary Asia* 49, no. 5 (October 20, 2019): 691–712. https://doi.org/10.1080/00472336.2019.1637922.

Directorate General of Taxes, Ministry of Finance. “Rincian Dana Desa Menurut Kabupaten/Kota T.A. 2019,” n.d. Accessed August 12, 2024.

Directorate of Correction, Ministry of Law and Human Rights. “Data Statistik Pemasyarakatan Triwulan I Tahun.” Directorate of Correction, Ministry of Law and Human Rights, 2022. https://sdppublik.ditjenpas.go.id/artikel/data-statistik-pemasyarakatan-triwulan-i-tahun-2022.

Directorate of Social Welfare Statistic, BPS-Statistics Indonesia. “Ringkasan Eksekutif Pengeluaran Dan Konsumsi Penduduk Indonesia.” Jakarta, 2022. https://webapi.bps.go.id/download.php?f=ulxN+15nbvEGl4eNqDvkTU15ZERoSXRVVW9tMDVEcGtER2pVZW4xaFgvMUwzTTYrWCtSTms0bTUyTjU4Q2NzczJ6aWpiRzZGK2RYQVc5MWNyN0xXU2YxN211WHRPVVVuYVd0YUFlNkNQQ0pieXFOdkpIZFdBVXExS1NmTmFqMXZESEpiM2hFMjJhM3ArSDRDZ3pQK0hONzhDNmV2bjlYNHA5WTJVUXBBUmNxSmsxOUI0MisrZHRHVU5ROWoreTF2bXFDcnBUU0t3QWo2M21VVmlXbWdiclJyUFpFTERsY0h6bHVkVHJhZEVyV25seVhJMkRqeUJYY2dUT1EweUs0TEdnMFJJTUZhSnFEeE9uT3YwNkJQMlVVdHh4REtqSWFaNVphTE9sWXB4LzBUTnllUXBMenVSczFkWHpyOFVBdThBMjdJUG1sTEljc1F3NExz.

Direktorat Analisa Peraturan Perundang-undangan. “Background Study: Pengintegrasian Kerangka Regulasi Dalam RPJMN 2015 – 2019.” Jakarta, 2013.

Direktorat Jenderal Pemasyarakatan. “Informasi Data Pemasyarakatan.” Accessed August 10, 2024. https://sdppublik.ditjenpas.go.id/.

Dirhantoro, Tito. “Penggeledahan KPK Diduga Bocor, Barang Bukti Kasus Korupsi Dibawa Kabur Pakai Truk.” Kompas.tv, April 13, 2021. https://www.kompas.tv/nasional/163908/penggeledahan-kpk-diduga-bocor-barang-bukti-kasus-korupsi-dibawa-kabur-pakai-truk?page=all.

Djiwandono, J. Soedradjad. “Role of the IMF in Indonesia’s Financial Crisis.” In *Governance in Indonesia*, edited by Hadi Soesastro, Anthony L. Smith, and Han Mui Ling, 196–228. Singapore: ISEAS Publishing, 2002. https://doi.org/10.1355/9789812305213-012/HTML.

Djojosoekarto, Agung, ed. *E-Procurement Di Indonesia : Pengembangan Layanan Pengadaan Barang Dan Jasa Pemerintah Secara Elektronik . Kemitraan*. Jakarta: Kemitraan, 2009.

Doig, Alan, David Watt, and Robert Williams. “Measuring ‘Success’ in Five African Anti-Corruption Commissions: The Cases of Ghana, Malawi, Tanzania, Uganda & Zambia.” Bergen, May 2005. https://www.u4.no/publications/measuring-success-in-five-african-anti-corruption-commissions.pdf.

Doig, R. Alan, David Watt, and Robert Williams. “Why Do Developing Country Anti-Corruption Commissions Fail to Deal with Corruption? Understanding the Three Dilemmas of Organisational Development, Performance Expectation, and Donor and Government Cycles.” *Public Administration and Development* 27, no. 3 (August 1, 2007): 251–59. https://doi.org/10.1002/PAD.452.

Dopp, Alex R., Peter Mundey, Lana O. Beasley, Jane F. Silovsky, and Daniel Eisenberg. “Mixed-Method Approaches to Strengthen Economic Evaluations in Implementation Research.” *Implementation Science* 14, no. 2 (January 11, 2019): 1–9. https://doi.org/10.1186/S13012-018-0850-6/TABLES/2.

Drápal, Jakub. “Day Fines.” In *Criminology*. Oxford: Oxford University Press, August 25, 2021. https://doi.org/10.1093/OBO/9780195396607-0303.

Dryzek, John S., and Christian List. “Social Choice Theory and Deliberative Democracy: A Reconciliation.” *British Journal of Political Science* 33, no. 1 (2003): 1–28. https://ideas.repec.org/a/cup/bjposi/v33y2003i01p1-28_00.html.

Duri, Jorum. “Definitions of Grand Corruption.” U4 Helpdesk Answer, October 14, 2020. https://www.u4.no/publications/definitions-of-grand-corruption.pdf.

Dworkin, Ronald. “It Is Absurd to Calculate Human Rights According to a Cost-Benefit Analysis | Ronald Dworkin | The Guardian,” May 23, 2006. https://www.theguardian.com/commentisfree/2006/may/24/comment.politics.

Dworkin, Ronald M. “Is Wealth a Value?” *The Journal of Legal Studies* 9, no. 2 (March 1980): 191–226.

Easter, Lalola. “Perlunya Peneguhan Status Justice Collaborator Tindak Pidana.” Indonesia Corruption Watch (ICW), May 8, 2023. https://antikorupsi.org/id/perlunya-peneguhan-status-justice-collaborator-tindak-pidana.

Easterly, William. *The White Man’s Burden: Why the West’s Efforts to Aid the Rest Have Done So ...* New York: Penguin Books, 2007. http://books.google.com/books?id=Dcj_Ju1wICkC&pgis=1.

Economic and Business Faculty. Gadjah Mada University. “Pelaku Korupsi Didominasi Lulusan Pendidikan Tinggi,” October 17, 2017. https://feb.ugm.ac.id/id/berita/1967-pelaku-korupsi-didominasi-lulusan-pendidikan-tinggi.

Eddiyono et al, Supriadi Widodo. *Main Opinions on Drafting The Blue Print For Witness And Victim Protection Institution*. Jakarta: Indonesia Corruption Wacth (ICW), 2008.

Eddy, Jon. “Rule of Law in Afghanistan: The Intrusion of Reality.” *Journal of International Cooperation Studies* 17, no. 2 (December 2009). https://www.research.kobe-u.ac.jp/gsics-publication/jics/eddy_17-2.pdf.

Eddy, Jonathan A. “Legal Culture, Institutional Design Choices, and the Struggle to Implement an Effective Anti-Money Laundering Regime in Indonesia.” *Australian Journal of Asian Law* 7, no. 1 (2005): 1–24. https://doi.org/10.3316/agis_archive.20052622.

Edgeworth, Dee R. *Asset Forfeiture: Practice and Procedure in State and Federal Courts*. 3rd ed. Chicago: American Bar Association, 2014. https://www.americanbar.org/products/inv/book/214109/.

Edmondson, Marquay, Walter R. McCollum, Mary-Margaret Chantre, and Gregory Campbell. "Exploring Critical Success Factors for Data Integration and Decision-Making in Law Enforcement." *International Journal of Applied Management and Technology* 18, no. 1 (January 1, 2019): 1–16. https://doi.org/10.5590/IJAMT.2019.18.1.01.

EoF News. "Pemilik Grup Sawit Duta Palma Divonis 15 Tahun Dan Denda Kerugian | Eyes On The Forest." Eyes on the Forest, February 24, 2023. https://www.eyesontheforest.or.id/news/pemilik-grup-sawit-duta-palma-divonis-15-tahun-dan-denda-kerugian.

Epstein, Lee. "Some Thoughts on the Study of Judicial Behavior." Vol. 57, 2015. https://scholarship.law.wm.edu/wmlr.

Epstein, Lee J., and Jack Knight. *The Choices Justices Make*. 1st ed. Washington, D. C.: CQ Press, 1997.

Epstein, Lee, and Jack Knight. "Reconsidering Judicial Preferences." *Annual Review of Political Science* 16 (May 11, 2013): 11–31. https://doi.org/10.1146/ANNUREV-POLISCI-032211-214229/CITE/REFWORKS.

Epstein, Lee, Olga Shvetsova, and Jack Knight. "The Role of Constitutional Courts in the Establishment and Maintenance of Democratic Systems of Government." *Law & Society Review* 35, no. 1 (2001): 117–63. https://doi.org/10.2307/3185388.

Epstein, Lee, and Keren Weinshall. *The Strategic Analysis of Judicial Behavior: A Comparative Perspective*. *The Strategic Analysis of Judicial Behavior*. Cambridge: Cambridge University Press, 2021. https://doi.org/10.1017/9781009049030.

Erbeznik, Katherine. "Money Can't Buy You Law: The Effects of Foreign Aid on the Rule of Law in Developing Countries." *Indiana Journal of Global Legal Studies* 18, no. 2 (2011): 873–900.

Evans, Mark. "Beyond the Integrity Paradox – towards 'Good Enough' Governance?" *Policy Studies* 33, no. 1 (January 2012): 97–113. https://doi.org/10.1080/01442872.2011.637324.

Faiz, Elza, M. Muslih, Sahlul, Ikhsan Azhar, Zaid Mushafi, and Abdul Razaq. *Risalah Komisi Yudisial: Cikal Bakal, Pelembagaan, Dan Dinamika Wewenang*. Jakarta: Komisi Yudisial, 2013.

Falaakh, , Muhammad Fajrul. "Beberapa Pemikiran Untuk Revisi Undang-Undang Komisi Yudisial Republik Indonesia,." In *Konsep Pengawasan Kejakiman: Upaya Memperkuat Kewenangan Konstitusional Komisi Yudisial Dalam Pengawasan Peradilan*, edited by Imam Anshori Saleh. Malang: Intrans, 2014.

Fallon, Richard H. "'The Rule of Law' as a Concept in Constitutional Discourse." *Columbia Law Review* 97, no. 1 (January 1997): 56. https://doi.org/10.2307/1123446.

Fariz, Donal. "Saweran Gedung KPK." *Kompas*, June 28, 2012. https://www.antikorupsi.org/id/article/saweran-gedung-kpk.

Farnsworth, Ward. *The Legal Analyst : A Toolkit for Thinking about the Law*. Chicago: University of Chicago Press, 2007.

Farrell, Peter G. "The Day-Fine Comes to America The Day-Fine Comes to America The Day-Fine Comes to America*." *Buffalo Law Review* 38, no. 2 (1990): 591–617. https://digitalcommons.law.buffalo.edu/buffalolawreview/vol38/iss2/7.

Festy. " KY Rekomendasikan Sanksi Terhadap 85 Hakim." Komisi Yudisial, December 22, 2021. https://komisiyudisial.go.id/frontend/news_detail/15037/ky-rekomendasikan-sanksi-terhadap-hakim.

Fikri, Muhammad. “Penegak Hukum Riuh Minta Tambah Anggaran: KPK Hingga Polri - Nasional,” June 18, 2024. https://www.bloombergtechnoz.com/detail-news/41075/penegak-hukum-riuh-minta-tambah-anggaran-kpk-hingga-polri.

F.Marks, David, and Lucy Yardley. “Research Methods for Clinical and Health Psychology.” *Research Methods for Clinical and Health Psychology*, July 15, 2004, 56–68. https://doi.org/10.4135/9781849209793.

Frankenberg, Günter. *Comparative Law as Critique*. Cheltenham: Edward Elgar Publishing, 2019. https://www.e-elgar.com/shop/usd/comparative-law-as-critique-9781789902174.html.

French Anti-Corruption Agency. “Global Mapping of Anti-Corruption Authorities,” May 2020.

Friedman, Barry. *The Will of the People : How Public Opinion Has Influenced the Supreme Court and Shaped the Meaning of the Constitution*. New York: Farrar, Straus and Giroux, 2010.

Gandhi, Grace. “Kata Denny, Sukamiskin Untuk Koruptor Kelas Kakap.” Tempo.co, December 28, 2012. https://nasional.tempo.co/read/450782/kata-denny-sukamiskin-untuk-koruptor-kelas-kakap.

Garoupa, Nuno. “An Economic Viewpoint of Criminal Systems in Civil Law Countries.” In *Law and Economics in Civil Law Countries*, edited by Bruno Deffains and Thierry Kirat, 199–215. Amsterdam: JAI Press, 2001. https://doi.org/10.4324/9780203505656.

———. “Trends in Comparative Law and Economics.” In *Trends in Comparative Law and Economics*. Anthem Press, 2022. https://doi.org/10.2307/J.CTV2SVJXWN.

Garoupa, Nuno, and Tom Ginsburg. “Economic Analysis and Comparative Law.” In *The Cambridge Companion to Comparative Law*, edited by Mauro Bussani and Ugo Mattei, 57–72. Cambridge: Cambridge University Press, 2012. https://doi.org/10.1017/CBO9781139017206.005.

General Directorate of Correction, Ministry of Law and Human Rights. “Data Statistik Pemasyarakatan Tahun 2022 Triwulan IV.” Jakarta, December 2022. https://sdppublik.ditjenpas.go.id/artikel/data-statistik-pemasyarakatan-triwulan-iv-tahun-2022.

Gillespie, Alex, Vlad Glăveanu, and Constance de Saint Laurent. *Pragmatism and Methodology: Doing Research That Matters with Mixed Methods*. *Pragmatism and Methodology*. Boston, Massachusetts: Cambridge University Press, 2024. https://doi.org/10.1017/9781009031066.

Glaser, Stefan. “Nullum Crimen Sine Lege.” *Source: Journal of Comparative Legislation and International Law* 24, no. 1 (1942): 29–37.

Government, Indonesian. “Indonesia Letter of Intent and Memorandum of Economic and Financial Policies, March 16, 1999.” *International Monetary Fund*, 1999. https://www.imf.org/external/np/loi/1999/031699.htm.

Gramcheva, Lyubomira. “Comparative Institutional Law and Economics: Reclaiming Economics for Socio-Legal Research.” *Maastricht Journal of European and Comparative Law* 26, no. 3 (June 26, 2019): 372–93. https://doi.org/10.1177/1023263X19840522.

Graycar, Adam. “Corruption: Classification and Analysis.” *Policy and Society* 34, no. 2 (June 1, 2015): 87–96. https://doi.org/10.1016/J.POLSOC.2015.04.001.

Graziadei, Michele. “The Oxford Handbook of Comparative Law.” In *The Oxford Handbook of Comparative Law*, edited by Mathias Reimann and Reinhard Zimmermann, 2nd ed., 442–73. Oxford: Oxford University Press, 2019. https://doi.org/10.1093/OXFORDHB/9780198810230.001.0001.

Greenberg, Theodore S, Linda M Samuel, Wingate Grant, and Larissa Gray. *A Good Practices Guide For Non-Conviction Based Asset Forfeiture*. Washington, D. C.: The World Bank, 2009.

Greene, Judith, and Charles Worzella. *Day Fines in American Courts: The Staten Island and Milwaukee Experiments*. Edited by Douglas C McDonald. Washington, D. C.: U.S. Department of Justice, National Institute of Justice, 1969.

Grindle, Merilee S. "Good Enough Governance: Poverty Reduction and Reform in Developing Countries." *Governance* 17, no. 4 (2004): 525–48. https://doi.org/10.1111/j.0952-1895.2004.00256.x.

Grindle, Merilee S. "Good Enough Governance Revisited." *Development Policy Review* 25, no. 5 (2007): 553–74. https://doi.org/10.1111/j.1467-7679.2011.00526.x.

———. "Social Policy in Development: Coherence and Cooperation in the Real World by Merilee S. Grindle :: Center for International Development at Harvard University Working Paper No. 203 :: October 2010." CID Working Paper. Cambridge, Massachusetts , October 2010. www.hks.harvard.edu.

Guevarrato, Gufino Ameilia, M. Iqbal Damanik, Josua Satria Collins, and Gunadi Ridwan. "Transformasi Anggaran Kejaksaan RI: Menimbang Efektivitas Implementasi Penganggaran Berbasis Kinerja (PBK)." Jakarta, 2019. https://seknasfitra.org/wp-content/uploads/2022/03/Buku-TransformasiI-Anggaran-Kejaksaan.pdf.

Gutmann, Amy, and Dennis Thompson. *Why Deliberstive Democracy? Issues in Science and Technology*. Princeton University Press, 2004.

Guzman, Tatyana. "Cost-Benefit and Fiscal Impact Analysis of Ohio Historic Preservation Tax Credit (OHPTC)." *Journal of Benefit-Cost Analysis* 9, no. 2 (June 1, 2018): 342–73. https://doi.org/10.1017/BCA.2018.8.

Hadi, Fadjar, Aprilandika Pratama, and Ananda Teresia. "ICW: Pengembalian Kerugian Negara Oleh Terdakwa Kasus Korupsi Masih Tak Sebading | Kumparan.Com," October 11, 2020. https://kumparan.com/kumparannews/icw-pengembalian-kerugian-negara-oleh-terdakwa-kasus-korupsi-masih-tak-sebading-1uN5hONN1zo/full.

Hainsworth, Geoffrey, Sarah Turner, and David Webster. "Introduction: Indonesia's Democratic Struggle: Reformasi, Otonomi and Participasi." *Asia Pacific Viewpoint* 48, no. 1 (April 1, 2007): 41–46. https://doi.org/10.1111/J.1467-8373.2007.00328.X.

Haley, John O., and Daniel H. Foote. "Judicial Lawmaking and the Creation of Legal Norms in Japan: A Dialogue." In *Legal Innovations in Asia: Judicial Lawmaking and the Influence of Comparative Law*, edited by John O. Haley and Toshiko Takenaka, 77–122. Cheltenham: Edward Elgar Publishing Ltd., 2014. https://doi.org/10.4337/9781783472796.00014.

Hall, Jerome. "Nulla Poena Sine Lege." *The Yale Law Journal* 47, no. 2 (1937): 165–93.

Hammergren, Linn A. *Justice Reform and Development : Rethinking Donor Assistance to Developing and Transition Countries*. Abingdon, Oxon ; Routledge, 2014.

Hammitt, James K. "Positive versus Normative Justifications for Benefit-Cost Analysis: Implications for Interpretation and Policy." *Review of Environmental Economics and Policy* 7, no. 2 (2013): 199–218. https://doi.org/10.1093/reep/ret009.

Hampton, Jean. "Free-Rider Problems in the Production of Collective Goods." *Economics and Philosophy* 3, no. 2 (1987): 245–73. https://doi.org/10.1017/S0266267100002911.

Hananta, Dwi. "Pertimbangan Keadaan-Keadaan Meringankan Dan Memberatkan Dalam Penjatuhan Pidana ." *Jurnal Hukum Dan Peradilan* 7, no. 1 (March 21, 2018): 87–108. https://doi.org/10.25216/JHP.7.1.2018.87-108.

Hanley, Natalia, Bianca Fileborn, Wendy Larcombe, Nicola Henry, and Anastasia Powell. "Improving the Law Reform Process: Opportunities for Empirical Qualitative

Research?" *Journal of Criminology* 49, no. 4 (September 10, 2015): 546–63. https://doi.org/10.1177/0004865815604195.
Hansson, Sven Ove. "Philosophical Problems in Cost-Benefit Analysis." *Economics and Philosophy* 23, no. 2 (July 2007): 163–83. https://doi.org/10.1017/S0266267107001356.
Hanych, Monika, Hubert Smekal, and Jaroslav Benák. "The Influence of Public Opinion and Media on Judicial Decision-Making: Elite Judges' Perceptions and Strategies." *International Journal for Court Administration* 14, no. 3 (2023): 1–19. https://doi.org/10.36745/IJCA.528.
Harahap, Riza. "Jaksa Agung Keluhkan Kecilnya Anggaran Kejaksaan Agung." ANTARA News Bangka Belitung, January 22, 2015. https://babel.antaranews.com/berita/17776/jaksa-agung-keluhkan-kecilnya-anggaran-kejaksaan-agung.
Hari, Bambang. "KY Laporkan 6 Hakim Terduga Terima Suap Ke KPK." KBR, January 9, 2014. https://kbr.id/berita/nasional/ky-laporkan-6-hakim-terduga-terima-suap-ke-kpk.
Harijanti, Susi Dwi. "Complaint Handling Systems In The Public Sector: A Comparative Analysis Between Indonesia and Australia." *Indonesian Comparative Law Review* 3, no. 1 (December 31, 2020): 1–24. https://doi.org/10.18196/iclr.v3i1.11454.
———. "The Evolution of the Indonesian Ombudsman System." *International Journal of Public Law and Policy* 4, no. 1 (December 2, 2013): 37–52. https://doi.org/10.1504/IJPLAP.2014.057885.
Harley, Georgia, Irina Capita, Milos Markovic, Elaine Rene Elizabeth Panter, and Lucy Scott-Moncrieff. "A Tool for Justice : The Cost Benefit Analysis of Legal Aid." Washington D. C., September 23, 2019.
Harun, Tamliha. "Beberapa Kendala Implementasi Tugas Dan Fungsi Komisi Informasi Provinsi Kalimantan Selatan." *AS-SIYASAH : Jurnal Ilmu Sosial Dan Ilmu Politik* 1, no. 1 (June 1, 2016): 1–11. https://ojs.uniska-bjm.ac.id/index.php/Asy/article/view/585.
Haryati, Dwi, Anugrah Anditya, and Richo Andi Wibowo. "Pelaksanaan Pengadaan Barang/Jasa Secara Elektronik (E-Procurement) Pada Pemerintah Kota Yogyakarta." *Mimbar Hukum* 23, no. 2 (June 7, 2011): 328–42. https://doi.org/10.22146/JMH.16192.
Head, Brian W. "The Contribution of Integrity Agencies to Good Governance." *Policy Studies* 33, no. 1 (January 2012): 7–20. https://doi.org/10.1080/01442872.2011.601200.
Hennink, Monique, and Bonnie N. Kaiser. "Sample Sizes for Saturation in Qualitative Research: A Systematic Review of Empirical Tests." *Social Science & Medicine* 292, no. 114523 (January 1, 2022). https://doi.org/10.1016/J.SOCSCIMED.2021.114523.
Henok, Adrianus Herman. "Konstruksi Motif Dalam Pembuktian Perkara Pidana." *Honeste Vivere* 33, no. 2 (July 24, 2023): 113–29. https://doi.org/10.55809/HV.V33I2.242.
Henrichson, Christian, and Joshua Rinaldi. "Cost-Benefit Analysis and Justice Policy Toolkit." *VERA- Institute of Justice*, no. December (2014). https://www.bja.gov/Publications/Vera-cba-justice-policy-toolkit.pdf.
Herdiana, Imam. "Tak Dapat Tunjangan, Panitera Pengadilan Tipikor Malas Bekerja : Okezone News." Okezone News, November 12, 2011. https://news.okezone.com/read/2011/11/12/340/528375/tak-dapat-tunjangan-panitera-pengadilan-tipikor-malas-bekerja.
Herfeld, Catherine. "Revisiting the Criticisms of Rational Choice Theories." *Philosophy Compass* 17, no. 1 (January 1, 2022): 1–20. https://doi.org/10.1111/PHC3.12774.
Hidayat, Faiq, and Haris Fadhil. "Terbukti Korupsi E-KTP, Setya Novanto Divonis 15 Tahun Penjara," April 24, 2018. https://news.detik.com/berita/d-3987879/terbukti-korupsi-e-ktp-setya-novanto-divonis-15-tahun-penjara.

Hiola, Rommy Y. “Pelaksanaan Sanksi Pidana Denda Dan Uang Pengganti Dalam Perkara Tindak Pidana Korupsi Di Gorontalo.” *Jurnal To Ciung* 2, no. 2 (2022): 30–46. https://www.mendeley.com/catalogue/3b8db018-3f1c-320e-9834-16291eda6f46/.
Hirsch, Andrew von. “Proportionality in the Philosophy of Punishment.” *Crime and Justice* 16 (1992): 55–98. https://doi.org/10.1086/449204.
Hoecke, Mark Van. “Methodology of Comparative Legal Research.” *Law and Method*, December 1, 2015. https://doi.org/10.5553/REM/.000010.
Hoft, Joseph. “Anonymity and Confidentiality.” In *The Encyclopedia of Research Methods in Criminology and Criminal Justice*, 223–27, 2021. https://doi.org/https://doi.org/10.1002/9781119111931.ch41.
Hothersall, Steve J. “Epistemology and Social Work: Enhancing the Integration of Theory, Practice and Research through Philosophical Pragmatism.” *European Journal of Social Work* 22, no. 5 (September 3, 2019): 860–70. https://doi.org/10.1080/13691457.2018.1499613.
“How Crime Pays: The Unconstitutionality of Modern Civil Asset Forfeiture As a Tool of Criminal Law Enforcement .” *Harvard Law Review* 131, no. 8 (June 2009): 2387–2408.
Hsieh, Hsiu Fang, and Sarah E. Shannon. “Three Approaches to Qualitative Content Analysis.” *Qualitative Health Research* 15, no. 9 (November 2005): 1277–88. https://doi.org/10.1177/1049732305276687.
Hudson, Bob, David Hunter, and Stephen Peckham. “Policy Failure and the Policy-Implementation Gap: Can Policy Support Programs Help?” *Policy Design and Practice* 2, no. 1 (2019): 1–14. https://doi.org/10.1080/25741292.2018.1540378.
Husein, Yunus. “Tindak Pidana Pencucian Uang (Money Laundering) Dalam Perspektif Hukum Internasional.” *Indonesian Journal of International Law* 1, no. 2 (2004): 342–63. https://doi.org/10.17304/ijil.vol1.2.409.
Huther, Jeff, and Anwar Shah. “Anti-Corruption Policies: A Framework for Evaluation.” Policy Research Working Paper. Washington, D. C., December 2000. www.worldbank.org/research/workingpapers.
“ICW Catat 11 Upaya Pelemahan KPK - ANTARA News.” Accessed July 23, 2024. https://www.antaranews.com/berita/471414/icw-catat-11-upaya-pelemahan-kpk.
“IMF Conditionality.” Accessed July 23, 2024. https://www.imf.org/en/About/Factsheets/Sheets/2023/IMF-Conditionality.
Indonesia Corruption Watch. “Catatan Akhir Tahun Pemberantasan Korupsi Indonesia Corruption Watch: Pandemi, Kemunduran Demokrasi, Dan Redupnya Spirit Pemberantasan Korupsi.” Jakarta, December 16, 2015. https://www.antikorupsi.org/sites/default/files/dokumen/Catatan%20Akhir%20Tahun%20Pemberantasan%20Korupsi%20ICW_2020.pdf.
———. “Guru Besar Menolak Revisi UU KPK Yang Lemahkan KPK,” 2016. https://antikorupsi.org/id/article/guru-besar-menolak-revisi-uu-kpk-yang-lemahkan-kpk.
———. “Hasil Pemantauan Persidangan Perkara Tindak Pidana Korupsi Tahun 2020.” Jakarta, March 22, 2020.
———. “The Corruptor’s Prison,” March 13, 2018. https://antikorupsi.org/en/article/corruptors-prison#.
Indonesian Constitution 1945 (1945).
Indonesian Constitutional Court. *Cetak Biru Membangun Mahkamah Konstitusi Sebagai Institusi Peradilan Konstitusi Yang Modern Dan Terpercaya*. *Indonesian Constitutional Court* . Jakarta: Indonesian Constitutional Court, 2004. https://search.library.wisc.edu/catalog/9910010405402121.
Indonesian Government Regulation regarding Types and Tariffs Non-Tax Income in the Indonesian Attorney General Office, Pub. L. No. 39 (2016).

Indonesian Parliament. “Laporan Singkat Rapat Kerja Dan Rapat Dengar Pendapat Komisi III DPR RI Dengan Menteri Hukum Dan Hak Asasi Manusia, Jaksa Agung, Keua Komisi Pemberantasan Korupsi Dan Kepala Pusat Pelaporan Dan Analisis Transaksi Keuangan.” January 16, 2013.

Indonesian President. “Lampiran Peraturan Presiden Republik Indonesia Nomor 18 Tahun 2020: Rencana Pembangunan Jangka Menengah Nasional 2020-204.” Jakarta, 2020. https://bappeda.bondowosokab.go.id/uploads/image/Lampiran_1__Narasi_RPJMN_2020-2024.pdf.

Indonesian Supreme Court. “Data Hakim Pengadilan Negeri Yang Sudah Bersertifikasi Per Januari 2020.” Indonesian Supreme Court, January 2020. https://badilum.mahkamahagung.go.id/index.php?option=com_attachments&task=download&id=563.

———. “Data Hakim Pengadilan Negeri Yang Sudah Bersertifikasi Tipikor Per-Januari 2020,” January 2020. https://badilum.mahkamahagung.go.id/index.php?option=com_attachments&task=download&id=564.

———. Putusan Nomor: 420 K/PID.SUS/2015 (2015).

———. Putusan Nomor: 431 K/PID.SUS/2015 (2015).

———. “Rencana Aksi Mahkamah Agung 2022.” Indonesian Supreme Court, 2022. https://www.mahkamahagung.go.id/media/10314.

———. Tata Cara Penyelesaian Keberatan Pihak Ketiga yang Beritikad Baik terhadap Putusan Perampasan Barang Bukan Kepunyaan Terdakwa dalam Perkara Tindak Pidana Korupsi, Pub. L. No. 2 (2022).

———. Tata Cara Penyelesaian Permohonan Penanganan Harta Kekayaan dalam Tindak Pidana Pencucian Uang atau Tindak Pidana Lain, Pub. L. No. 1 (2013). https://peraturan.bpk.go.id/Details/209467/perma-no-1-tahun-2013.

Inter American Development Bank, and Organization for Economic Cooperation and Development (OECD). *A Beneficial Ownership Implementation Toolkit*. *A Beneficial Ownership Implementation Toolkit*. Inter-American Development Bank and Inter American Development Bank Organization for Economic Cooperation and Development (OECD), 2019. https://doi.org/10.18235/0001711.

International Monetary Fund, and World Bank. *Financial Intelligence Units: An Overview*. Edited by Paul Gleason and Glenn Gottselig. Washington, D. C.: International Monetary Fund, 2004.

IOM Indonesia. “IOM Backs Police Reform Process | International Organization for Migration.” International Organization for Migrant (IOM), September 13, 2007. https://www.iom.int/news/iom-backs-police-reform-process.

Iqbal, Ahmad. “Penerapan Deferred Prosecution Agreement Di Indonesia Sebagai Alternatif Penyelesaian Tindak Pidana Ekonomi Yang Dilakukan Oleh Korporasi.” *Jurnal Yuridis* 7, no. 1 (June 28, 2020): 191–208. https://doi.org/10.35586/JYUR.V7I1.1867.

Irianto, Irianto, Kalo Syafruddin, Muhammad Hamdan, and Mohammad Ekaputra. “Eksekusi Barang Bukti Yang Dirampas Untuk Negara.” *Locus Journal of Academic Literature Review* 1, no. 2 (June 1, 2022): 71–78. https://doi.org/10.56128/LJOALR.V1I2.53.

Itsnaini, Faqihah Muharroroh, and Hilda B. Alexander. “Kerugian Kerusakan Lingkungan Rp 271 Triliun Dari Kasus Korupsi Timah Halaman All - Kompas.Com.” Kompas.com, February 20, 2024. https://lestari.kompas.com/read/2024/02/20/190000086/kerugian-kerusakan-lingkungan-rp-271-triliun-dari-kasus-korupsi-timah?page=all.

Jacobson, Jessica, and Mike Hough. “Mitigation: The Role of Personal Factors in Sentencing.” London, 2007. https://eprints.bbk.ac.uk/policies.html.

Jakarta Globe. “All Eyes on Jokowi as KPK, National Police Kerfuffle Continues.” Jakarta Globe, January 27, 2015. https://jakartaglobe.id/news/all-eyes-on-jokowi-as-kpk-national-police-kerfuffle-continues.
Jakarta High Court. 22/Pid.B/TPK/2011/PT.DKI (July 2011).
James, William. *Pragmatism : A New Name for Some Old Ways of Thinking*. Auckland, NEW ZEALAND: Floating Press, The, 2008. http://ebookcentral.proquest.com/lib/washington/detail.action?docID=563856.
Jeaffreson, D G. “The Importance of a Three-Pronged Attack on Corruption and an Assessment of Its Effectiveness.” *Police Studies: The International Review of Police Development* 12, no. 4 (1989): 150–53. https://heinonline.org/HOL/P?h=hein.journals/polic12&i=163.
Johnsøn, Jesper. “Cost-Effectiveness and Cost-Benefit Analysis of Governance and Anti-Corruption Activities.” U4 Issue. Bergen, December 2014. www.U4.no.
Johnson, R. Burke, Anthony J. Onwuegbuzie, and Lisa A. Turner. “Toward a Definition of Mixed Methods Research.” *Journal of Mixed Methods Research* 1, no. 2 (April 1, 2007): 112–33. https://doi.org/10.1177/1558689806298224.
Johnston, Michael. “It Takes a Whole Society: Why Hong Kong’s ICAC Cannot Succeed Alone.” *Public Administration and Policy* 25, no. 2 (August 16, 2022): 109–23. https://doi.org/10.1108/PAP-05-2022-0042/FULL/PDF.
Judicial Power Law, Pub. L. No. 48 (2009).
Juwono, Vishnu. “Berantas Korupsi: A Political History of Governance Reform and Anti-Corruption Initiatives in Indonesia 1945-2014.” The London School of Economics and Political Science, 2016.
———. “The Partner in Prosecuting Crime: The Role of International Organization in Setting Up Corruption Eradication Commission in Indonesia.” *Global: Jurnal Politik Internasional* 16, no. 1 (2014): 1–18. https://doi.org/10.7454/global.v16i1.6.
Kaag, John Jacob. “Pragmatism & the Lessons of Experience.” *Daedalus* 138, no. 2 (2009): 63–72.
Kamil, Harkrisyati. “The Role and Initiatives of NGOs in Indonesia in Empowering Freedom of Information.” In *CONSAL XIII*. Manila, Phillipines, 2006.
Kamri, Thalany. “Willingness to Pay for Conservation of Natural Resources in the Gunung Gading National Park, Sarawak.” *Procedia - Social and Behavioral Sciences* 101 (November 2013): 506–15. https://doi.org/10.1016/j.sbspro.2013.07.224.
Kantorowicz-Reznichenko, Elena. “Day-Fines: Should the Rich Pay More?” *Review of Law & Economics* 11, no. 3 (November 1, 2015): 481–501. https://doi.org/10.1515/RLE-2014-0045.
Kaplow, Louis, and Steven Shavell. “Economic Analysis of Law.” In *Handbook of Public Economics*, edited by Alan Auerbach and Martin Feldstein, 3:1661–1784. Elsevier, 2002. https://doi.org/10.1016/S1573-4420(02)80029-5.
Kashala, Mrs Martha. “Specialised Anti-Corruption Courts: What Lessons for Zambia.” *The International Journal of Multi-Disciplinary Research* CFP, no. 326 (2017): 1–14. www.ijmdr.net.
Kasim, Ifdhal. “Berjalan Ke Arah Mana Reformasi Hukum? .” In *Wacana Pembaharuan Hukum Di Indonesia*, edited by Donny Danardono. Jakarta: HuMa, 2007.
Kaufman, Julia, Amanda Glassman, Ruth Levine, and Janeen Madan Keller. “Breakthrough to Policy Use: Reinvigorating Impact Evaluation for Global Development.” Washington, D. C., 2022. www.CGDev.org/evidence-to-impact.
Kaushik, Vibha, and Christine A. Walsh. “Pragmatism as a Research Paradigm and Its Implications for Social Work Research.” *Social Sciences* 8, no. 9 (September 1, 2019). https://doi.org/10.3390/socsci8090255.

Kelman, Steven. “Cost-Benefit Analysis: An Ethical Critique Steven Kelman A.” *Regulation* 5, no. 1 (1981): 33–40.

Kembaren, Lidya Julita Sembiring. “Sri Mulyani: Dulu PNS Korupsi Karena Gaji Kecil.” CNBC Indonesia, December 9, 2019. https://www.cnbcindonesia.com/news/20191209145559-4-121536/sri-mulyani-dulu-pns-korupsi-karena-gaji-kecil.

Kementerian PANRB Cabut Predikat WBK Empat Instansi Pemerintah. “Ministry of State Apparatus Utilization and Bureaucratic Reform,” July 5, 2022. https://www.menpan.go.id/site/berita-terkini/kementerian-panrb-cabut-predikat-wbk-empat-instansi-pemerintah.

Kementerian Perencanaan Pembangunan Nasional/ Badan Perencanaan Pembangunan Nasional. “Indonesia Emas 2045: Negara Nusantara Berdaulat, Maju, Dan Berkelanjutan.” Jakarta, January 2024. https://drive.google.com/file/d/1JSZp1Oz37KWktxi-hi0okVXxEsKuaU-I/view.

Kemitraan (Partnership). “Indonesia’s Corruption Perception Index Stagnates in 2023, Ranked 115th .” Press Release, January 31, 2024. https://kemitraan.or.id/en/press-release/indonesias-corruption-perception-index-stagnates-in-2023-ranked-115th/.

Kepala Badan Pembinaan Hukum Nasional, Kementerian Hukum dan HAM RI. “PEDOMAN EVALUASI PERATURAN PERUNDANG-UNDANGAN NOMOR PHN-HN.01.03-07.” Jakarta, December 31, 2019. https://bphn.go.id/data/documents/bphn_pedoman_evaluasi_puu_2020.pdf.pdf.

Khairi, Halilul. “Evaluation of Non-Structural Institution Establishment Policy In Indonesia: Cases on National Police Commission and Prosecutor’s Commission.” *Sosiohumaniora: Jurnal Ilmu-Ilmu Sosial Dan Humaniora* 24, no. 1 (March 2022): 1–7. https://doi.org/10.24198/sosiohumaniora.v24i1.37757.

Khan, Irene. “Shifting the Paradigm: Rule of Law and the 2030 Agenda for Sustainable Development.” In *The World Bank Legal Review: Financing and Implementing the Post-2015 Development Agenda: The Role of Law and Justice Systems*, edited by Frank Fariello, Laurence Boisson de Chazournes, and Kevin E. Davis, 7:221–40. Washington, D.C.: The World Bank, 2016.

Khan, Mushtaq H. “Governance and Anti-Corruption Reforms in Developing Countries: Policies, Evidence and Ways Forward.” G-24 Discussion Paper Series. New York, November 2006.

Klaveren, Jacob van. *Corruption as a Historical Phenomenon*. Edited by Arnold J. Heidenheimer and Michael Johnston. *Political Corruption: Concepts and Contexts: Third Edition*. New York: Taylor and Francis, 2017. https://doi.org/10.4324/9781315126647-8/CORRUPTION-HISTORICAL-PHENOMENON-JACOB-VAN-KLAVEREN.

Knack, Stephen. “Aid Dependence and the Quality of Governance: Cross-Country Empirical Tests.” *Southern Economic Journal* 68, no. 2 (October 2001): 329. https://doi.org/10.2307/1061596.

Knepper, Lisa, Jennifer Mcdonald, Kathy Sanchez, and Elyse Smith Pohl. *Policing for Profit: The Abuse of Civil Asset Forfeiture*. 3rd ed. Arlington: Institute for Justice, 2020.

Knowles, John, Nicola Persico, and Petra Todd. “Racial Bias in Motor Vehicle Searches: Theory and Evidence.” *Journal of Political Economy* 109, no. 1 (2001): 203–29. https://doi.org/10.1086/318603.

Komisi Hukum Nasional. *Kebijakan Reformasi Hukum (Suatu Rekomendasi)* . Jakarta: Komisi Hukum Nasional, 2003. https://perpustakaan.komnasperempuan.go.id/web/index.php?p=show_detail&id=296.

Komisi Kejaksaan. *Kompilasi Peraturan Organisasi Dan Tata Kerja Komisi Kejaksaan*. Jakarta: Komisi Kejaksaan, 2012.
Komisi Kejaksaan Republik Indonesia. "Laporan Tahunan 2019." Jakarta, January 2020. www.komisi-kejaksaan.go.id.
———. "Penyusunan Naskah Akademik: Peningkatan Hak-Hak Komisioner Komisi Kejaksaan RI Tahun Anggaran 2021." Jakarta, 2021. https://komisi-kejaksaan.go.id/komjak/wp-content/uploads/2021/10/Peningkatan-Hak-Hak-Komisioner-Komisi-Kejaksaan-RI.pdf.
Komisi Kepolisian Republik Indonesia. "Naskah Akademik Dan RUU Kompolnas ." Jakarta, December 2013.
Komisi Pemberantasan Korupsi. "Laporan Tahunan Komisi Pemberantasan Korupsi (KPK) Tahun 2005." Jakarta, 1991. https://www.kpk.go.id/images/pdf/laptah/KPK_LAPTAH_2005.pdf.
Komisi Pemberantasan Korupsi (KPK). "KPK Tahan Tersangka Korupsi Proyek Pembangunan Kampus IPDN Di Minahasa." Press Release, November 10, 2021. https://www.kpk.go.id/id/berita/siaran-pers/2382-kpk-tahan-tersangka-korupsi-proyek-pembangunan-kampus-ipdn-di-minahasa.
———. *Pengantar Laporan Harta Kekayaan Penyelenggara Negara(LHKPN)*. Jakarta, 2015.
Komisi Yudisial. "KY | Sejarah Pembentukan." Accessed August 10, 2024. https://www.komisiyudisial.go.id/frontend/static_content/history/about_ky.
Komisi Yudisial Republik Indonesia. *Cetak Biru Pembaruan Komisi Yudisial, 2010-2025*. Jakarta: Komisi Yudisial Republik Indonesia, 2010.
Koran Tempo. "Komisi Yudisial Kekurangan Tenaga Penyidik." Koran Tempo, April 15, 2013. https://koran.tempo.co/read/nasional/307005/komisi-yudisial-kekurangan-tenaga-penyidik.
———. "Sejumlah Tokoh Terima Uang Korupsi Bekas Bupati Jember - Nusa - Koran.Tempo.Co." Koran Tempo, May 31, 2007. https://koran.tempo.co/read/nusa/102684/sejumlah-tokoh-terima-uang-korupsi-bekas-bupati-jember.
Korlantas Kepolisian Republik Indonesia. "Sepanjang Tahun 2021, Polri Telah Tangani 247 Kasus Korupsi - Korlantas Polri," January 27, 2022. https://korlantas.polri.go.id/news/sepanjang-tahun-2021-polri-telah-tangani-247-kasus-korupsi/.
Kornhauser, Lewis A. "On Justifying Cost-Benefit Analysis." *Journal of Legal Studies* 29, no. S2 (2000): 1057. https://doi.org/10.1086/468104.
Kotval, Zenia, and John Mullin. "Fiscal Impact Analysis: Methods, Cases, and Intellectual Debate." Cambridge, Massachusetts, 2006.
Krecké, Elisabeth. "Economic Analysis and Legal Pragmatism." *International Review of Law & Economics* 4, no. 23 (December 2003): 421–37. https://doi.org/10.1016/J.IRLE.2003.07.005.
Kroncke, Jedidiah. "Law and Development as Anti-Comparative Law." *Vanderbilt Journal of Transnational Law* 45, no. 2 (March 2012): 477–555.
Kuncoro, Ari. "Corruption and Business Uncertainty in Indonesia." *ASEAN Economic Bulletin* 23, no. 1 (2006): 11–30. https://doi.org/10.1355/ae23-lb.
Kurnia, Dadang. "Penyadapan KPK Dinilai Sudah Terbukti Memuaskan | Republika Online," February 19, 2016. https://news.republika.co.id/berita/o2s8j0361/penyadapan-kpk-dinilai-sudah-terbukti-memuaskan.

Kuvvet, Emre. “Anti-Corruption Courts and Foreign Direct Investments.” *International Review of Economics & Finance* 72 (March 1, 2021): 573–82. https://doi.org/10.1016/J.IREF.2020.12.019.

Laird, J. “Positivism, Empiricism, and Metaphysics.” *Roceedings of the Aristotelian Society* 39 (1938): 207–24.

Lawrence, Daniel S., Camille Gourdet, Duren Banks, Michael G. Planty, Dulani Woods, and Brian A. Jackson. “Prosecutor Priorities, Challenges, and Solutions.” *Prosecutor Priorities, Challenges, and Solutions*. Santa Monica: RAND Corporation, April 18, 2019. https://doi.org/10.7249/RR2892.

Lee, Yong Shik. “General Theory of Law and Development: An Overview.” *The Law and Development Review* 12, no. 2 (May 27, 2019): 351–75. https://doi.org/10.1515/LDR-2019-0024.

Leidecker, Joel K., and Albert V. Bruno. “Identifying and Using Critical Success Factors.” *Long Range Planning* 17, no. 1 (February 1, 1984): 23–32. https://doi.org/10.1016/0024-6301(84)90163-8.

Lembaga Perlindungan Saksi dan Korban (LPSK). *Potret Saksi Dan Korban Dalam Media Massa Tahun 2011*. Jakarta: Lembaga Perlindungan Saksi dan Korban (LPSK), 2012.

Lindsey, Tim. “Legal Infrastructure and Governance Reform in Post-Crisis Asia: The Case of Indonesia.” *Asian-Pacific Economic Literature* 18, no. 1 (May 2004): 12–40. https://doi.org/10.1111/J.1467-8411.2004.00142.X.

———. “Legal Infrastructure and Governance Reform in Post-Crisis Asia: The Case of Indonesia.” *Asian-Pacific Economic Literature* 18, no. 1 (May 1, 2004): 12–40. https://doi.org/10.1111/J.1467-8411.2004.00142.X.

———. “Post-Reformasi Indonesia: The Age of Uncertainty.” Indonesia at Melbourne, 2018. https://indonesiaatmelbourne.unimelb.edu.au/post-reformasi-indonesia-the-age-of-uncertainty/.

Lindsey, Tim, and Simon Butt. “The Judicial System.” In *Indonesian Law*, 1:73–99. Oxford: Oxford University Press, 2018. https://doi.org/10.1093/OSO/9780199677740.001.0001.

Liputan 6. “Hendra Rahardja Meninggal Di Australia.” Liputan6.com, January 27, 2003. https://www.liputan6.com/news/read/48600/hendra-rahardja-meninggal-di-australia.

Lomborg, Bjorn, ed. *Prioritizing Development: A Cost Benefit Analysis of the United Nations’ Sustainable Development Goals Edited by Bjorn Lomborg Frontmatter More Information Prioritizing Development*. Cambridge: Cambridge University Press, 2018. https://doi.org/10.1017/9781108233767.

Lord, Nicholas. “Prosecution Deferred, Prosecution Exempt: On the Interests of (In)Justice in the Non-Trial Resolution of Transnational Corporate Bribery.” *The British Journal of Criminology* 63, no. 4 (June 11, 2023): 848–66. https://doi.org/10.1093/BJC/AZAC059.

Lord, Nicholas, and Michael Levi. “Economic Crime, Economic Criminology, and Serious Crimes for Economic Gain: On the Conceptual and Disciplinary (Dis)Order of the Object of Study.” *Journal of Economic Criminology* 1, no. 100014 (September 1, 2023). https://doi.org/10.1016/J.JECONC.2023.100014.

Loughran, Thomas A., Ray Paternoster, Aaron Chalfin, and Theodore Wilson. “Can Rational Choice Be Considered a General Theory of Crime? Evidence from Individual-Level Panel Data.” *Criminology* 54, no. 1 (2016): 86–112. https://doi.org/10.1111/1745-9125.12097.

Lupo, Nicola, and Lucia Scaffardi, eds. *Comparative Law in Legislative Drafting : The Increasing Importance of Dialogue amongst Parliaments*. *Published in **2014 - 2014** in Den Haag by Eleven International Publishing*. Den Haag: Eleven international publishing, 2014. https://lib.ugent.be/catalog/rug01:002177615.

Lyons, David. *Forms and Limits of Utilitarianism*. *Forms and Limits of Utilitarianism*. Oxford: Oxford University Press, 1965. https://doi.org/10.1093/ACPROF:OSO/9780198241973.001.0001.

Mackie, J. A.C. "The Commission of Four Report on Corruption." *Bulletin of Indonesian Economic Studies* 6, no. 3 (November 1, 1970): 87–101. https://doi.org/10.1080/00074917012331331728/ASSET//CMS/ASSET/C7FB0079-08A5-4994-9031-5274629AD5BF/00074917012331331728.FP.PNG.

MacMillan, Joanna. "Reformasi and Public Corruption: Why Indonesia's Anti-Corruption Agency Strategy Should Be Reformed to Effectively Combat Public Corruption." *Emory International Law Review* 25, no. 1 (January 13, 2011): 587–630. https://scholarlycommons.law.emory.edu/eilr/vol25/iss1/13.

Madariaga, Bruce, and Kenneth E. McConnell. "Exploring Existence Value." *Water Resources Research* 23, no. 5 (May 1, 1987): 936–42. https://doi.org/10.1029/WR023I005P00936.

Mahkamah Agung Republik Indonesia. "Melalui Perma Nomor 1 Tahun 2020, Mahkamah Agung Intens Berupaya Dalam Menyusun Pedoman Pemidanaan," April 29, 2021. https://www.mahkamahagung.go.id/id/berita/4626/melalui-perma-nomor-1-tahun-2020-mahkamah-agung-intens-berupaya-dalam-menyusun-pedoman-pemidanaan.

———. "Rencana Aksi Mahkamah Agung 2022." Jakarta, 2022.

Malena, Carmen Celeste. "Good Governance and Civil Society." In *International Encyclopedia of Civil Society*, edited by Helmut K. Anheier and Stefan Toepler, 783–88. New York: Springer, December 2009. https://doi.org/10.1007/978-0-387-93996-4_554.

Mardatillah, Aida. "Dua Profesor Ini Sebut Perma Pemidanaan Perkara Tipikor Batasi Kemandirian Hakim." Hukumonline, August 6, 2020. https://www.hukumonline.com/berita/a/dua-profesor-ini-sebut-perma-pemidanaan-perkara-tipikor-batasi-kemandirian-hakim-lt5f2bfe025dc90/?page=3.

Martin, Karin D. "Monetary Myopia: An Examination of Institutional Response to Revenue From Monetary Sanctions for Misdemeanors." *Criminal Justice Policy Review* 29, no. 6–7 (July 1, 2018): 630–62. https://doi.org/10.1177/0887403418761099/ASSET/IMAGES/LARGE/10.1177_0887403418761099-FIG2.JPEG.

Martin, Karin D., Bryan L. Sykes, Sarah Shannon, Frank Edwards, and Alexes Harris. "Monetary Sanctions: Legal Financial Obligations in US Systems of Justice." *Annual Review of Criminology* 1 (January 13, 2018): 497–515. https://doi.org/10.1146/ANNUREV-CRIMINOL-032317-091915/CITE/REFWORKS.

Martinez-Diaz, Leonardo. "Pathways Through Financial Crisis: Indonesia." *Global Governance* 12, no. 4 (1972): 395–412.

Masduki. "Keterbukaan Informasi Publik: Pengalaman Beberapa Negara." *Jurnal Penelitian IIlmu Pengetahuan Dan Teknologi Komunikasi* 12, no. 1 (June 2010): 17–28. https://fpscs.uii.ac.id/wp-content/uploads/Jurnal%20FPSB/Karya%20Ilmiah%20Dosen/Prodi%20Ilmu%20Komunikasi/Masduki,%20S.Ag.,%20MA/Keterbukaan-Informasi-Publik-Pengalaman-Beberapa-Negara.PDF.

Masyarakat Peduli Pelayanan Publik (MP3). "Hasil Studi Evaluasi Kinerja Ombudsman Republik Indonesia (ORI)." Jakarta, 2000.

Masyarakat Pemantau Peradilan Indonesia (MaPPI FHUI) & Komisi Hukum Nasional (KHN). *Lembaga Pengawas Sistem Peradilan (Pidana) Terpadu*. Jakarta: Masyarakat Pemantau Peradilan Indonesia (MaPPI FHUI) & Komisi Hukum Nasional (KHN), 2002.

Matsueda, Ross L, Derek A Kreager, and David Huizinga. "A Rational Choice Model of Theft and Violence." *American Sociological Review* 71 (2006): 95–122.

Mattei, Ugo. *Comparative Law and Economics*. *Comparative Law and Economics*. Michigan: University of Michigan Press, 1998. https://doi.org/10.3998/MPUB.11209.
———. "Efficiency in Legal Transplants: An Essay in Comparative Law and Economics." *International Review of Law and Economics* 14, no. 1 (March 1, 1994): 3–19. https://doi.org/10.1016/0144-8188(94)90032-9.
Mauro, Paolo. "Corruption and Growth." *Quarterly Journal of Economics* 110, no. 3 (1995): 681–712. https://doi.org/10.2307/2946696.
McCarthy, Bill, and Ali Chaudhary. "Rational Choice Theory." In *Encyclopedia of Criminology and Criminal Justice*, edited by Gerben Bruinsma and David Weisburd, 4307–15. New York, NY: Springer New York, 2014. https://doi.org/10.1007/978-1-4614-5690-2_396.
Mccusker, Rob. "Review of Anti-Corruption Strategies: Technical and Background Paper." Canberra, 2006.
McGuire, Hannah. "INDONESIAN LAW REFORM AND THE PROMOTION OF JUSTICE: AN ANALYSIS OF LAW REFORM IN THE POST-SOEHARTO PERIOD." *Brawijaya Law Journal* 3, no. 1 (June 6, 2016): 60–78. https://doi.org/10.21776/UB.BLJ.2016.00301.04.
McLeod, Ross H. "Inadequate Budgets and Salaries as Instruments for Institutionalizing Public Sector Corruption in Indonesia." *South East Asia Research* 16, no. 2 (2008): 199–223. https://doi.org/10.5367/000000008785260464.
Meliala, Adrianus. "Ombudsman Usut Dugaan Jual Beli Kamar Hingga Remisi Di Lapas Cipinang." Ombudsman, May 10, 2019. https://www.ombudsman.go.id/pengumuman/r/ombudsman-usut-dugaan-jual-beli-kamar-hingga-remisi-di-lapas-cipinang--.
Menteri Hukum dan Hak Asasi Manusia Republik Indonesia, Jaksa Agung Republik Indonesia, Kepala Kepolisian Negara Republik Indonesia, and Kepala Perlindungan Saksi dan Korban. Perlindungan Bagi Pelapor, Saksi Pelapor dan Saksi Pelaku yang Bekerjasama (2011).
Menzies, Nicholas. "Are Impact Evaluations Useful for Justice Reforms in Developing Countries?" Governance for Development, World Bank Blogs, August 5, 2013. https://blogs.worldbank.org/en/governance/are-impact-evaluations-useful-justice-reforms-developing-countries.
Méon, Pierre-Guillaume, and Khalid Sekkat. "Does Corruption Grease or Sand the Wheels of Growth?" *Public Choice* 122, no. 1 (2005): 69–97.
Merryman, John Henry. "Comparative Law and Social Change: On the Origins, Style, Decline & Revival of the Law and Development Movement." *The American Journal of Comparative Law* 25, no. 3 (1977): 457–91.
Merryman, John Henry, and Rogelio Pérez-Perdomo. *The Civil Law Tradition : An Introduction to the Legal Systems of Europe and Latin America, Fourth Edition*. 4th ed. Stanford: Stanford University Press, 2018.
Miceli, Thomas J. "Economic Models of Law." In *The Oxford Handbook of Law and Economics: Volume 1: Methodology and Concepts*, edited by Francesco Parisi, 1:9–28. Oxford Handbooks in Economics. Oxford University Press, 2017. https://doi.org/10.1093/oxfordhb/9780199684267.013.003.
Michaels, Ralf. "The Functional Method of Comparative Law." In *The Oxford Handbook of Comparative Law* , edited by Mathias Reimann and Reinhard Zimmermann, 2nd ed., 345–89, 2019. https://doi.org/10.1093/oxfordhb/9780198810230.001.0001.
———. "The Second Wave of Comparative Law and Economics?" *Law Journal , Spring* 59, no. 2 (2009): 197–213. https://doi.org/10.3138/utlj.59.2.197.

Mill, John Stuart. *Utilitarianism*. London: Parker, Son, and Bourn, 1863. https://archive.org/details/a592840000milluoft/page/n3/mode/2up.
Miller, Jonathan M. "A Typology of Legal Transplants: Using Sociology, Legal History and Argentine Examples to Explain the Transplant Process." *The American Journal of Comparative Law* 51, no. 4 (October 1, 2003): 839–86. https://doi.org/10.2307/3649131.
Mitchell, Donald. "Advancing Grounded Theory: Using Theoretical Frameworks within Grounded Theory Studies." *The Qualitative Report* 19, no. 36 (2014): 1–11. https://doi.org/10.46743/2160-3715/2014.1014.
Mohr, Richard. "Local Court Reforms and 'global' Law." *Utrecht Law Review* 3, no. 1 (2007): 41–59. https://ro.uow.edu.au/lawpapershttps://ro.uow.edu.au/lawpapers/50.
Money Laundering Prevention and Eradication Law, Pub. L. No. 8 (2000). https://ppid.ppatk.go.id/wp-content/uploads/2020/08/UU-No-8-tahun-2010.pdf.
Morgan, David L. "Pragmatism as a Paradigm for Social Research." *Qualitative Inquiry* 20, no. 8 (October 1, 2014): 1045–53. https://doi.org/10.1177/1077800413513733.
Morse, Janice M. "Analytic Strategies and Sample Size." *Qualitative Health Research* 25, no. 10 (October 11, 2015): 1317–18. https://doi.org/10.1177/1049732315602867/FORMAT/EPUB.
Moss, Todd, Gunilla Pettersson, and Nicolas Van De Walle. "An Aid-Institutions Paradox? A Review Essay on Aid Dependency and State Building in Sub-Saharan Africa." Washington, D. C., 2006. www.cgdev.org.
MPR Decree on State Official Who are Free and Clean from Corruption, Collusion, and Nepotism, Pub. L. No. XI/MPR/1998 (1998).
Mudzakkir. "Laporan Akhir Tim Kompendium Hukum Tentang Lembaga Pemberantasan Korupsi." Jakarta, November 2011.
Muqoddas, Busyro. "Dinamika Kelembagaan Komisi Yudisial: Sebuah Pembelajaran." In *Seminar on Comparative Models of Judicial Commissions : Peran Komisi Yudisial Di Era Transisi Menuju Demokrasi.,* edited by Komisi Yudisial RI. Jakarta: Komisi Yudisial Republik Indonesia, 2010.
Mustami, Adinda Ade. "Anggaran Dua Kementerian Koordinator Dipangkas." Kontan, July 11, 2017. https://nasional.kontan.co.id/news/anggaran-dua-kementerian-koordinator-dipangkas.
———. "Urus 9 Pilkada, Akil Terima Rp 50,15 Miliar." Kontan, February 20, 2014. https://nasional.kontan.co.id/news/urus-9-pilkada-akil-terima-rp-5015-miliar.
Mys/Ali. "Komisi-Komisi Negara Minta Dukungan Nyata Pemerintah." Hukumonline, January 22, 2009. https://www.hukumonline.com/berita/a/komisikomisi-negara-minta-dukungan-nyata-pemerintah-hol20990/.
Nadzib, Abu. "Dari 11.070 Jaksa Hanya 345 Yang Perempuan." Solopos News, January 27, 2022. https://news.solopos.com/dari-11-070-jaksa-hanya-345-yang-perempuan-1244880.
Nardi Jr, Dominic. "Embedded Judicial Autonomy: How NGOs and Public Opinion Influence Indonesia's Court." University of Michigan, 2018. http://deepblue.lib.umich.edu/handle/2027.42/144040.
Nasrullah, Nasrullah. "Tinjauan Terhadap Independensi Komisi Polisi Nasional Dalam Perspektif Lembaga Negara Independen." *UNES Law Review* 5, no. 4 (June 30, 2023): 3581–92. https://doi.org/10.31933/UNESREV.V5I4.677.
Natalia, Desca Lidya. "Media Massa Dan Pemberitaan Pemberantasan Korupsi Di Indonesia." *Integritas : Jurnal Antikorupsi* 5, no. 2 (December 23, 2019): 57–73. https://doi.org/10.32697/INTEGRITAS.V5I2.472.
Nathanael, Matheus, Andreas Nathaniel Marbun, Nanda Oktaviani, Adery Ardhan Saputro, Gladys Nadya Arianto, Muhammad Ad'har Nasir, Maria I. Tarigan, Anugerah Rizki

Akbari, Maidina Rahmawati, and Erasmus A. T. Napitupulu. *Penelitian Disparitas Pemidanaan Dan Kebijakan Penanganan Perkara Tindak Pidana Narkotika Di Indonesia: Studi Perkara Tindak Pidana Narkotika Golongan 1 Tahun 2016-2020 (Pasal 111-116 Dan Pasal 127 UU Narkotika 35 Tahun 2009)*. Edited by Choky R. Ramadhan. Jakarta: Indonesia Judicial Research Society (IJRS) supported by Open Society Foundation (OSF), 2022. https://ijrs.or.id/wp-content/uploads/2022/08/Penelitian-Disparitas-Pemidanaan-dan-Kebijakan-Pidana-Narkotika.pdf.

National Procurement Agency. E-Tendering Procedure, Pub. L. No. 1 (2011). https://jdih.lkpp.go.id/regulation/peraturan-kepala-lkpp/peraturan-kepala-lkpp-nomor-1-tahun-2011.

———. "Laporan Monitoring & Evaluasi Kinerja Unit Organisasi Juni 2023." Jakarta, n.d.

———. "Sejarah Dan Latar Belakang." Accessed August 10, 2024. https://www.lkpp.go.id/tentang/sejarah.

———. "Tugas Dan Fungsi." Accessed August 10, 2024. https://www.lkpp.go.id/tentang/peran-dan-fungsi.

National Secretariat of Corruption Prevention (Sekretariat Nasional Pencegahan Korupsi/Setnas PK). "Laporan Pelaksanaan Stranas PK Triwulan VII Tahun 2020." Jakarta, November 2020. https://stranaspk.id/uploads/documents/63b3a5256d7dd-Laporan_Triwulan_VII_2020.pdf.

———. "Laporan Pelaksanaan Strategi Nasional Pencegahan Korupsi: Triwulan II Tahun 2023-2024." Jakarta, August 2023. https://stranaspk.id/uploads/documents/64ed4ac5844bf-Rev_Laporan_Triwulan_II_compressed_(1).pdf.

Nelken, David, and Johannes Feest, eds. *Adapting Legal Cultures*. *Adapting Legal Cultures*. Oxford and Portland, Oregon: Hart Publishing, 2001. https://doi.org/10.5040/9781472559166.

Nelson, Febby Mutiara. "In Search of a Deferred Prosecution Agreement Model for Effective Anti-Corruption Framework in Indonesia." *Hasanuddin Law Review* 8, no. 2 (July 30, 2022): 122–38. https://doi.org/10.20956/HALREV.V8I2.3292.

Neumann, Franz. *The Rule of Law: Political Theory and the Legal System in Modern Society*. Dover: Berg Publishers, 1986. https://philpapers.org/rec/NEUTRO-4.

Nicola, Alvin, Zaenur Rohman, Tanti Budi Suryani, and Rahmat. "Penguatan Strategi Nasional Pencegahan Korupsi (Stranas PK): Kajian Terhadap Tata Kelola Kelembagaan Dan Mekanisme Partisipasi Masyarakat Dalam Pelaksanaan Peraturan Presiden Nomor 54 Tahun 2018." Jakarta, 2003.

North, Douglass C. "Institutions and Economic Growth: An Historical Introduction." *World Development* 17, no. 9 (September 1, 1989): 1319–32. https://doi.org/10.1016/0305-750X(89)90075-2.

Nou, Jennifer. "Regulating the Rulemakers: A Proposal for Deliberative Cost-Benefit Analysis." *Yale Law & Policy Review* 26, no. 2 (2008): 601–44.

Nowell, Lorelli S., Jill M. Norris, Deborah E. White, and Nancy J. Moules. "Thematic Analysis: Striving to Meet the Trustworthiness Criteria." *International Journal of Qualitative Methods* 16, no. 1 (September 28, 2017): 1–13. https://doi.org/10.1177/1609406917733847.

Nugraha, Ricky Mohammad. "75 KPK Employees Fail Civic Knowledge Test to Become State Apparatus." Tempo.co, May 5, 2021. https://en.tempo.co/read/1459721/75-kpk-employees-fail-civic-knowledge-test-to-become-state-apparatus.

Nussbaum, Martha C. “The Costs of Tragedy: Some Moral Limits of Cost-Benefit Analysis.” *Journal of Legal Studies* 29, no. 2 PART II (June 2000): 1036. https://doi.org/10.1086/468103.

Nye, J. S. “Corruption and Political Development: A Cost-Benefit Analysis.” *American Political Science Review* 61, no. 2 (1967): 417–27. https://EconPapers.repec.org/RePEc:cup:apsrev:v:61:y:1967:i:02:p:417-427_13.

O’connor, Vivienne. “Understanding the International Rule of Law Community, Its History, and Its Practice,” August 2015. http://ssrn.com/abstract=2665672https://ssrn.com/abstract=2665672Electroniccopyavailableat:http://ssrn.com/abstract=2665672Electroniccopyavailableat:https://ssrn.com/abstract=2665672.

OECD. “Competitiveness in South East Europe: A Policy Outlook 2018, Competitiveness and Private Sector Development.” Competitiveness and Private Sector Development. Paris: OECD, April 24, 2018. https://doi.org/10.1787/9789264298576-EN.

O’Flynn, Ian. *Deliberative Democracy*. Cambridge: Polity Press, 2021. https://www.wiley.com/en-us/Deliberative+Democracy-p-9781509523450.

Ofosu-Amaah, W. “Legal and Judicial Reform in Developing Countries: Reflections on World Bank Experience.” *Law and Business Review of the Americas* 8, no. 4 (October 27, 2017): 551–81. https://scholar.smu.edu/lbra/vol8/iss4/4.

Ogus, Anthony. “Corruption and Regulatory Structures.” *Law & Policy* 26, no. 3–4 (October 1, 2004): 329–46. https://doi.org/10.1111/J.1467-9930.2004.00181.X.

Olken, Benjamin A. “Monitoring Corruption: Evidence from a Field Experiment in Indonesia.” *Journal of Political Economy* 115, no. 2 (2007): 200–249.

Olken, Benjamin A, and Patrick Barron. “The Simple Economics of Extortion: Evidence from Trucking in Aceh.” *Journal of Political Economy* 117, no. 3 (2009): 417–52. https://doi.org/10.1086/599707.

Ombudsman. “Perwakilan.” Accessed August 10, 2024. https://ombudsman.go.id/perwakilan/.

Ombudsman Law, Pub. L. No. 37 (2008). https://peraturan.bpk.go.id/Details/39708.

Oracle. “Crystal Ball.” Accessed August 8, 2024. https://www.oracle.com/applications/crystalball/.

Ormerod, R. “The History and Ideas of Pragmatism.” *Journal of the Operational Research Society* 57, no. 8 (August 31, 2006): 892–909. https://doi.org/10.1057/PALGRAVE.JORS.2602065.

Örücü, Esin. “Law as Transposition.” *International & Comparative Law Quarterly* 51, no. 2 (2002): 205–23. https://doi.org/10.1093/ICLQ/51.2.205.

Pacces, Alessio M, and Louis Visscher. “Methodology of Law and Economics.” In *Interdisciplinary Research into Law*, edited by Bart van Klink and Sanne Taekema, 85–107. Berlin: Mohr Siebeck, 2011.

Pandupraja, Adnan. “Independensi Komisi Kepolisian Nasional.” *Jurnal Studi Kepolisian*, no. 64 (2005): 29–45.

Pangestuti, Sisca, and Emmilia Rusdiana. “Penentuan Motif Sebagai Alat Bukti Petunjuk Dalam Tindak Pidana Pembunuhan Berencana (Studi Putusan Nomor 454/Pid.B/2019/PN.Kwg).” *NOVUM: JURNAL HUKUM* In Press-SPK, no. 17 (June 22, 2023): 84–90. https://doi.org/10.2674/NOVUM.V0I0.52815.

Papanicolas, I., and P. C. Smith. “Theory of System Level Efficiency in Health Care.” In *Encyclopedia of Health Economics*, edited by AJ Culyer, 386–94. Elsevier, January 1, 2014. https://doi.org/10.1016/B978-0-12-375678-7.00203-0.

Pappas, Gregory. “What Difference Can ‘Experience’ Make to Pragmatism?” *European Journal of Pragmatism and American Philosophy* VI, no. 2 (December 20, 2014): 200–227. https://doi.org/10.4000/EJPAP.322.

Parisi, Francesco. “The Multifaceted Method of Comparative Law and Economics.” *Comparative Law Review* 12 (January 1, 2023): 25–32. https://scholarship.law.umn.edu/faculty_articles/1027.

———. “The Perspective of Law.” In *Readings in Public Choice and Constitutional Political Economy*, edited by Charles K. Rowley and Friedrich G. Schneider, 227–63. Boston MA: Springer, 2008. https://doi.org/10.1007/978-0-387-75870-1_15.

Partington, Martin. “Empirical Legal Research and Policy-Making.” In *The Oxford Handbook of Empirical Legal Research*, edited by Peter Cane and Herbert M. Kritzer, 1002–24. Oxford University Press, 2012. https://doi.org/10.1093/OXFORDHB/9780199542475.001.0001.

Partnership for Governance Reform (Kemitraan). “Consolidating of the Rule of Law in Indonesia: Restoring Public Trust Through Institutional Reform.” Jakarta, April 2004.

Paternoster, Raymond, and Sally Simpson. “A Rational Choice Theory of Corporate Crime.” In *Routine Activity and Rational Choice.*, 37–58. Advances in Criminological Theory, Vol. 5. Piscataway, NJ, US: Transaction Publishers, 1993.

———. “Sanction Threats and Appeals to Morality: Testing a Rational Choice Model of Corporate Crime.” *Law & Society Review* 30, no. 3 (1996): 549–83. https://doi.org/10.2307/3054128.

Pearce, David, Giles Atkinson, and Susana Mourato. *Cost-Benefit Analysis and the Environment: Recent Developments*. *Cost-Benefit Analysis and the Environment: Recent Developments*. Organisation for Economic Cooperation and Development (OECD), 2006. https://doi.org/10.1787/9789264010055-EN.

Peerenboom, Randall. “Conclusion.” In *Law and Development of Middle-Income Countries: Avoiding the Middle-Income Trap*, edited by Tom Ginsburg and Randall Peerenboom, 335–66. Cambridge: Cambridge University Press, 2014. https://doi.org/10.1017/CBO9781139235730.021.

Peerenboom, Randall, Michael Zürn, and André Nollkaemper. “Conclusion.” In *Rule of Law Dynamics: In an Era of International and Transnational Governance*, edited by Michael Zürn, André Nollkaemper, and Randall Peerenboom, 305–24. Cambridge: Cambridge University Press, 2012. https://doi.org/10.1017/CBO9781139175937.017.

Perdana, Aditya. “The Politics of Civil Society Organizations (CSOs) Post-Reformation 1998.” *Masyarakat: Jurnal Sosiologi* 20, no. 1 (January 25, 2015): 23–42. https://doi.org/10.7454/MJS.v20i1.1090.

Perloff, Jeffrey M.. *Microeconomics*. 8th ed. New York: Pearson, 2018.

Peter, John. *Analyzing Public Policy*. *Analyzing Public Policy*. 2nd ed. London: Taylor and Francis, 2012. https://doi.org/10.4324/9780203136218.

———. *Analyzing Public Policy*. *Analyzing Public Policy*. London: Routledge, 2012. https://doi.org/10.4324/9780203136218.

Peters, B. Guy. *Advanced Introduction to Public Policy*. 2nd ed. Cheltenham: Edward Elgar Publishing, 2021. https://www.e-elgar.com/shop/usd/advanced-introduction-to-public-policy-9781789908268.html.

Pieth, Mark, ed. “FATF Special Recommendations on Terrorist Financing.” In *Financing Terrorism*, 131–45. Dordrecht: Springer, 2002. https://doi.org/10.1007/0-306-48044-1_9.

Pistrang, Nancy, and Chris Barker. “Varieties of Qualitative Research: A Pragmatic Approach to Selecting Methods.” In *APA Handbook of Research Methods in Psychology, Vol 2: Research Designs: Quantitative, Qualitative, Neuropsychological,*

and Biological., edited by Harris Cooper, Paul M. Camic, Debra L. Long, A. T. Panter, David Rindskopf, and Kenneth J. Sher, 5–18. American Psychological Association, 2012. https://doi.org/10.1037/13620-001.

Polinsky, A . Mitchell, and Steven Shavell. "Enforcement Costs and the Optimal Magnitude and Probability of Fines." *The Journal of Law & Economics* 35, no. 1 (1992): 133–48.

———. "Enforcement Costs and the Optimal Magnitude and Probability of Fines." *The Journal of Law & Economics* 35, no. 1 (1992): 133–48.

Polinsky, A. Mitchell, and Steven Shavell. "The Economic Theory of Public Enforcement of Law." *Journal of Economic Literature* 38, no. 1 (2000): 45–76. https://doi.org/10.1257/jel.38.1.45.

Polinsky, A Mitchell, and Steven Shavell. "The Optimal Use of Fines and Imprisonment." *Journal of Public Economics* 24, no. 1 (June 1, 1984): 89–99.

Pompe, Sebastian. *Foreword*. *The Indonesian Supreme Court: A Study of Institutional Collapse*. Ithaca, New York: Cornell University Press, 2005. https://doi.org/10.7591/9781501718861-002/MACHINEREADABLECITATION/RIS.

Posner, Richard A. *Law, Pragmatism, and Democracy*. *Law, Pragmatism, and Democracy*. Cambridge, Massachusetts: Harvard University Press, 2003. https://doi.org/10.4159/9780674042292/HTML.

Posner, Richard A. "The Economic Approach to Law." *Texas Law Review* 53 (1975): 757–82. https://chicagounbound.uchicago.edu/journal_articles.

———. "What Has Pragmatism to Offer Law?" *Southern California Law Review* 63 (1990): 1670. https://chicagounbound.uchicago.edu/journal_articles.

Poverty Reduction and Economic Management Unit, and The World Bank East Asia and Pacific Region. "Indonesia- Combating Corruption In Indonesia: Enhancing Accountability For Development," November 12, 2003.

Pradiptyo, Rimawan. " A Certain Uncertainty; Assessment of Court Decisions in Tackling Corruption in Indonesia A Certain Uncertainty; Assessment of Court Decisions in Tackling Corruption in Indonesia 1." MPRA Paper. Munich, 2011.

———. "Does Corruption Pay in Indonesia? If So, Who Are Benefited the Most?" MPRA PAper. Munich, September 17, 2012.

Prasetyo, Aji. "Ragam Tanggapan Atas Finalisasi Pedoman Pemidanaan Perkara Tipikor," May 1, 2020. https://www.hukumonline.com/berita/a/ragam-tanggapan-atas-finalisasi-pedoman-pemidanaan-perkara-tipikor-lt5eabc91c715d7/.

Presidential Decree on National Ombudsman, Pub. L. No. 44 (2000). https://peraturan.bpk.go.id/Details/57856/keppres-no-44-tahun-2000.

Presidential Decree on Public Procurement Guidelines, Pub. L. No. 18 (2000). https://peraturan.bpk.go.id/Details/57747/keppres-no-18-tahun-2000.

Presidential Instruction on Accelerating Corruption Eradication, Pub. L. No. 5 (2004).

Primayogha, Egi. "Lessons from Indonesia: Rampant Corruption in Village Governance." Institute of Development Studies Alumni Network, May 15, 2023. https://alumni.ids.ac.uk/news/blogs-perspectives-provocations-initiatives/701/701-Lessons-from-Indonesia-Rampant-Corruption-in-Village-Governance.

Priskilla, and Noer. "Optimalkan Kinerja Lembaga, Ketua KY Sambut Kunjungan Silaturahmi Menpan-RB." Komisi Yudisial, March 12, 2020. https://komisiyudisial.go.id/frontend/news_detail/1213/optimizing-performance-kys-chairman-hails-a-friendly-visit-of-the-ministerrb.

Pritchett, Lant, Michael Woolcock, and Matt Andrews. "Capability Traps? The Mechanisms of Persistent Implementation Failure." Washington, DC, December 2010. http://www.cgdev.org/content/publications/detail/1424651www.cgdev.org.

Prosecutor Law, Pub. L. No. 16 (2004).

Public Information Law, Pub. L. No. 14 (2018).
Purnamasari, Dian Dewi. “Anggaran KY Terbatas Untuk Rekrutmen Hakim Baru.” Kompas, July 8, 2021. https://www.kompas.id/baca/polhuk/2021/07/08/anggaran-ky-terbatas-untuk-rekrutmen-hakim-baru.
Purwadi, Didi. “ICW Desak Hakim ‘Kuburan Koruptor’ Dievaluasi .” Republika Online, November 7, 2011. https://news.republika.co.id/berita/lu9vga/icw-desak-hakim-kuburan-koruptor-dievaluasi.
Pusat Edukasi Anti Korupsi. “Trisula Strategi Pemberantasan Korupsi KPK Untuk Visi Indonesia Bebas Dari Korupsi - ACLC KPK.” Pusat Edukasi Anti Korupsi Komisi Pemberantasan Korupsi, May 11, 2022. https://aclc.kpk.go.id/aksi-informasi/Eksplorasi/20220511-trisula-strategi-pemberantasan-korupsi-kpk-untuk-visi-indonesia-bebas-dari-korupsi.
Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK). “Laporan Tahunan 2019.” Jakarta, August 2020. https://www.ppatk.go.id/publikasi/read/116/laporan-tahunan-2019.html.
———. “Laporan Tahunan 2020.” *Pusat Pelaporan Dan Analisis Transaksi Keuangan (PPATK)*. Jakarta, May 21, 2021. https://www.ppatk.go.id/publikasi/read/138/laporan-tahunan-2020.html.
Puspita, Anastasia Citra, and Yohanna M.L. Gultom. “The Effect of E-Procurement Policy on Corruption in Government Procurement: Evidence from Indonesia.” *International Journal of Public Administration* 47, no. 2 (January 25, 2024): 117–29. https://doi.org/10.1080/01900692.2022.2093900.
Putri, Zunita. “Sebut 10 Ribu Jaksa Masih Kurang, Jaksa Agung: Kita Minta Terus Ke MenPAN.” DetikNews, June 17, 2019. https://news.detik.com/berita/d-4588671/sebut-10-ribu-jaksa-masih-kurang-jaksa-agung-kita-minta-terus-ke-menpan.
Quah, Jon S.T. “Anti-Corruption Agencies in Asia Pacific Countries : An Evaluation of Their Performance and Challenges,” 2017.
———. “Combating Corruption in Asian Countries: Learning from Success & Failure.” *Daedalus* 147, no. 3 (July 1, 2018): 202–15. https://doi.org/10.1162/DAED_A_00511.
Rachman, Taufik. “Can the Indonesian Criminal Justice System Be Enhanced by Replacing the Mandatory Prosecution System with a Discretionary One, like That Used in Australia?” Victoria University, 2016. http://vuir.vu.edu.au/.
Ramadhan, Choky. “Contract Disclosure and Beneficial Ownership Transparency.” Jakarta, 2020.
———. “Kata Pengantar.” *Jurnal Peradilan Indonesia: Teropong* 6 (2017): iii–iv.
———. “Kedudukan, Tugas, Dan Kewenangan Komisi Kejaksaan.” *Teropong: Media Hukum Dan Keadilan* 1 (January 2013): 1–14.
———. “Konvergensi Civil Law Dan Common Law Di Indonesia Dalam Penemuan Dan Pembentukan Hukum.” *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 30, no. 2 (June 15, 2018): 213–29. https://doi.org/10.22146/JMH.31169.
———. “Korupsi Juga Soal Jumlah.” *Koran Sindo*, July 25, 2017. https://nasional.sindonews.com/berita/1223692/18/korupsi-juga-soal-jumlah.
Ramadhan, Choky R. “Penjara Kembali Rusuh Di Langkat Dan Siak. Solusinya Bukan Bangun Penjara Baru Tapi Kurangi Tahanan Dan Perbaiki Manajemen Penjara.” The Conversation, June 16, 2019. https://theconversation.com/penjara-kembali-rusuh-di-langkat-dan-siak-solusinya-bukan-bangun-penjara-baru-tapi-kurangi-tahanan-dan-perbaiki-manajemen-penjara-118769.
———. “Plead Guilty, Without Bargaining: Learning from China’s ‘Summary Procedure’ before Enacting Indonesia’s ‘Special Procedure’ in Criminal Procedure.” *UCLA Pacific Basin Law Journal* 32, no. 1 (2014).

Ramadhan, Choky R. “Using Rational Choice Theory to Understand Corruption in Indonesia.” *Integritas : Jurnal Antikorupsi* 9, no. 2 (November 30, 2023): 171–82. https://doi.org/10.32697/INTEGRITAS.V9I2.949.

Ramadhan, Choky Risda. “Reviewing the Indonesian Anticorruption Court: A Cost-Effective Analysis.” *Law and Development Review* 15, no. 1 (2022): 121–46. https://doi.org/doi:10.1515/ldr-2021-0107.

Ramadhana, Kurnia. “Justice Collaborator.” *Kompas*, June 27, 2018.

Ramadhana, Kurnia, and Wana Alamsyah. “Trends in Corruption Court Trials During 2019 Verdict without Deterrent Effects ‘Average Sentence for Corruptors Is Only 2 Years and 7 Months in Prison.’” Jakarta, January 8, 2020.

Ramiyanto. “Penghapusan Pidana Denda Dalam Perkara Tindak Pidana Korupsi Di Indonesia.” *Jurnal Legislasi Indonesia* 11, no. 3 (2014): 247–56.

Rasmussen, David W. “Documented Abuses and Uncertain Benefits of Civil Asset Forfeiture.” *Criminology & Public Policy* 17, no. 1 (February 1, 2018): 97–100. https://doi.org/10.1111/1745-9133.12356.

Rastika, Icha. “Meski Divonis Seumur Hidup, Akil Dibebaskan Membayar Denda Dan Uang Pengganti,” June 30, 2014. https://nasional.kompas.com/read/2014/06/30/2258129/Meski.Divonis.Seumur.Hidup.Akil.Dibebaskan.Membayar.Denda.dan.Uang.Pengganti.

Ratification of International Covenant on Civil and Political Rights Law, Pub. L. No. 12 (2005). https://peraturan.bpk.go.id/Details/40261/uu-no-12-tahun-2005.

Ratification of United Nations Convention Against Corruption, Pub. L. No. 7 (2006). https://peraturan.bpk.go.id/Details/40161.

Rawls, John. *A Theory of Justice*. *Advances in Applied Business Strategy*. Revised. Cambridge, Massachusetts: Belknap Press of Harvard University Press , 1999. https://www.hup.harvard.edu/books/9780674000780.

Richardson, Henry S. “The Stupidity of the Cost-Benefit Standard.” *Journal of Legal Studies* 29, no. S2 (June 2000): 1003. https://doi.org/10.1086/468102.

Richman, Daniel C. “Prosecutors and Their Agents, Agents and Their Prosecutors.” *Columbia Law Review* 103, no. 4 (May 2003): 745–832. https://scholarship.law.columbia.edu/faculty_scholarshipAvailableat:https://scholarship.law.columbia.edu/faculty_scholarship/2490.

Rizki, Anugerah Akbari, Adery Ardhan Saputro, and Andreas Nathaniel Marbun. *Studi Terhadap Praktik Pemidanaan Pada Tindak Pidana Korupsi*. Depok: Masyarakat Pemantau Peradilan Indonesia Fakultas Hukum Universitas Indonesia, 2017. www.mappifhui.org.

Roberts, Julian V. “Mitigation and Aggravation at Sentencing.” In *Encyclopedia of Criminology and Criminal Justice*, edited by Brian J Ostrom and Roger A Hanson, 3103–12. New York: Springer, 2014. https://doi.org/10.1007/978-1-4614-5690-2_491.

Robey, Jim, and Kathleen Bolter. “Fiscal Impacts: A Literature Review Fiscal Impacts: A Literature Review Citation Citation.” W.E. Upjohn Institute for Employment Research. Kalamazoo, January 31, 2020. https://orcid.org/0000-0002-4668-2567.

Robinson, Lisa A, James K Hammitt, Michele Cecchini, Kalipso Chalkidou, Karl Claxton, Maureen Cropper, Patrick Hoang-Vu Eozenou, et al. “Reference Case Guidelines for Benefit-Cost Analysis in Global Health and Development.” Cambridge, Massachusetts, 2019. https://sites.sph.harvard.edu/bcaguidelines/methods-and-cases/.

Robinson, Lisa A., James K. Hammitt, Dean T. Jamison, and Damian G. Walker. “Conducting Benefit-Cost Analysis in Low- and Middle-Income Countries: Introduction to the Special Issue.” *Journal of Benefit-Cost Analysis* 10, no. S1 (February 27, 2019): 1–14. https://doi.org/10.1017/BCA.2019.4.

Rodrik, Dani, Arvind Subramanian, and Francesco Trebbi. "Institutions Rule: The Primacy of Institutions over Geography and Integration in Economic Development." *Journal of Economic Growth* 9, no. 2 (June 2004): 131–65. https://doi.org/10.1023/B:JOEG.0000031425.72248.85/METRICS.

Rose-Ackerman, Susan. *International Handbook on the Economics of Corruption*. Cheltenham, UNITED KINGDOM: Edward Elgar Publishing Limited, 2006. http://ebookcentral.proquest.com/lib/washington/detail.action?docID=274918.

———. "The Law and Economics of Bribery and Extortion." *Annual Review of Law and Social Science* 6 (2010): 217–38. https://doi.org/10.1146/annurev-lawsocsci-102209-152942.

Rotberg, Robert I. "Accomplishing Anticorruption: Propositions & Methods." *Daedalus* 147, no. 3 (July 1, 2018): 5–18. https://doi.org/10.1162/DAED_A_00513.

———. *The Corruption Cure : How Citizens and Leaders Can Combat Graft*. New Jersey: Princeton University Press, 2017.

Rowley, Charles K. "Public Choice and Constitutional Political Economy." In *Readings in Public Choice and Constitutional Political Economy*, edited by Charles K. Rowley and Friedrich G. Schneider, 3–29. Boston, MA: Springer, 2008. https://doi.org/10.1007/978-0-387-75870-1_1.

Sagoff, Mark. "Should Preferences Count?" *Land Economics* 70, no. 2 (May 1994): 127–44. https://about.jstor.org/terms.

Sakumoto, Naoyuki, and Hikmahanto Juwana. "Reforming Laws and Institutions in Indonesia: An Assessment." ASEDP Series. Chiba-Shi, 2007. https://www.ide.go.jp/English/Publish/Reports/Asedp/074.html.

Salas, Luis. "From Law and Development to Rule of Law: New and Old Issues in Justice Reform in Latin America." In *Rule of Law in Latin America: The International Promotion of Judicial Reform*, edited by Pilar Domingo and Rachel Sieder. London: Institute of Latin American Studies, 2001. http://www.sas.ac.uk/ilas/publicat.htm.

Sambhi, Natalie. "Generals Gaining Ground: Civil-Military Relations and Democracy in Indonesia | Brookings." Brookings, 2021. https://www.brookings.edu/articles/generals-gaining-ground-civil-military-relations-and-democracy-in-indonesia/.

Sandgren, Claes. "Combating Corruption: The Misunderstood Role of Law." *International Lawyer* 39, no. 3 (2005): 717–31. https://scholar.smu.edu/til/vol39/iss3/5http://digitalrepository.smu.edu.

Santika, Erlina F. "Indonesia Masuk 3 Besar Negara Dengan Pengguna WhatsApp Terbanyak Di Dunia Pada 2022." Katadata, May 11, 2023. https://databoks.katadata.co.id/datapublish/2023/05/11/indonesia-masuk-3-besar-negara-dengan-pengguna-whatsapp-terbanyak-di-dunia-pada-2022.

Santos, Alvaro. "The World Bank's Uses of the 'Rule of Law' Promise in Economic Development." In *The New Law and Economic Development: A Critical Appraisal*, edited by David M. Trubek and Alvaro Santos, 253–300. Cambridge: Cambridge University Press, 2006. https://doi.org/10.1017/CBO9780511754425.007.

Schütte, Sofie Arjon. "Against the Odds: Anti-Corruption Reform in Indonesia." *Public Administration and Development* 32, no. 1 (February 2012): 38–48. https://doi.org/10.1002/pad.623.

———. "Appointing Top Officials in a Democratic Indonesia: The Corruption Eradication Commission." *Bulletin of Indonesian Economic Studies* 47, no. 3 (2011): 355–79. https://doi.org/10.1080/00074918.2011.619052.

Schütte, Sofie Arjon, Paavani Reddy, and Liviana Zorzi. *A Transparent and Accountable Judiciary to Deliver Justice For All*. Bangkok: United Nations Development Programme (UNDP), 2016.

Seligson, Mitchell A. “The Impact of Corruption on Regime Legitimacy: A Comparative Study of Four Latin American Countries.” *The Journal of Politics* 64, no. 2 (2002): 408–33. https://doi.org/10.1111/1468-2508.00132.
Sen, Amartya. “The Discipline of Cost-Benefit Analysis.” *Journal of Legal Studies* 29, no. S2 (June 2000): 952. https://doi.org/10.1086/468100.
———. *The Idea of Justice*. *German Law Journal*. Vol. 13. Cambridge, Massachusetts: The Belknap Press University of Harvard, 2009. https://www.hup.harvard.edu/books/9780674060470.
Setiyono, Budi. “Making a New Democracy Work: The Role of Civil Society Organisations (CSOs) in Combating Corruption during Democratic Transition in Indonesia.” Curtin University of Technology, 2010.
Setiyono, Budi, and Ross H McLeod. “Civil Society Organisations’ Contribution to the Anti-Corruption Movement in Indonesia.” *Bulletin of Indonesian Economic Studies* 46, no. 3 (2010): 347–70. https://doi.org/10.1080/00074918.2010.522504.
Setiyono, Budi, and Ross H. McLeod. “Civil Society Organisations’ Contribution to the Anti-Corruption Movement in Indonesia.” *Bulletin of Indonesian Economic Studies* 46, no. 3 (2010): 347–70. https://doi.org/10.1080/00074918.2010.522504.
Shavell, Steven. *Foundations of Economic Analysis of Law*. Cambridge, Massachusetts: The Belknap Press of Harvard University Press, 2004. https://www.hup.harvard.edu/books/9780674011557.
Sherlock, Stephen. “Combating Corruption in Indonesia? The Ombudsman and the Assets Auditing Commission.” *Bulletin of Indonesian Economic Studies* 38, no. 3 (December 2002): 367–83. https://doi.org/10.1080/00074910215532.
Shihab, Najwa. “Mata Najwa Part 7 - Pura-Pura Penjara: Penjara Tak Bikin Jera - YouTube.” Youtube, July 25, 2018. https://www.youtube.com/watch?v=N6LkxwqpONE.
Shook, John R. *Pragmatism*. Cambridge, Massachusetts: The MIT Press, 2023. https://doi.org/10.7551/MITPRESS/12402.001.0001.
Siems, Mathias. “Comparative Law.” In *Comparative Law*, 3rd ed. Cambridge: Cambridge University Press, 2022. https://doi.org/10.1017/9781108892766.
Siew, Mei Kuang, Mohd Rusli Yacob, Alias Radam, Abdullahi Adamu, and Emmy Farha Alias. “Estimating Willingness to Pay for Wetland Conservation: A Contingent Valuation Study of Paya Indah Wetland, Selangor Malaysia.” *Procedia Environmental Sciences* 30 (January 1, 2015): 268–72. https://doi.org/10.1016/J.PROENV.2015.10.048.
Silva-Leander, Annika. “The Role and Influence Of Nongovernmental Organisations on Anti-Corruption Policy Reform in Indonesia.” Lonon School of Economics and Political Science, 2015.
Sjarief, Rifqi. “Criminal Sentencing in Indonesia: Disparity, Disproportionality and Biases.” University of Melbourne, 2020. http://hdl.handle.net/11343/265784.
Sjoraida, D F, A Asmawi, and R K Anwar. “ The Spirit of Democracy in the Implementation of Public Information Policy at the Provincial Government of West Java .” *IOP Conference Series: Earth and Environmental Science* 126, no. 12054 (2018): 1–7. https://doi.org/10.1088/1755-1315/126/1/012054.
Smith, Kevin B., and Christopher W. Larimer. *The Public Policy Theory Primer*. *The Public Policy Theory Primer, Third Edition*. 3rd ed. New York: Taylor and Francis, 2017. https://doi.org/10.4324/9780429494352/PUBLIC-POLICY-THEORY-PRIMER-KEVIN-SMITH-CHRISTOPHER-LARIMER.
Smith, Kevin B.., and Christopher W.. Larimer. *The Public Policy Theory Primer*. 3rd ed. New York: Routledge, 2018.
Social Impact, Inc. “Final Evaluation Report: Final Performance Evaluation of USAID CEGAH.” Jakarta, January 13, 2009.

Soeriaatmadja, Wahyudi. “Indonesian Palm Oil Tycoon Fined Record $3.71b, First Graft Penalty Based on Losses to Economy | The Straits Times.” The Straits Time, February 28, 2023. https://www.straitstimes.com/world/indonesian-tycoon-fined-a-record-371b-the-first-corruption-penalty-based-on-losses-to-economy.

Soss, Joe. “Talking Our Way to Meaningful Explanations: A Practice-Centered View of Interviewing for Interpretive Research.” In *Interpretation and Method: Empirical Research Methods and the Interpretive Turn*, edited by Dvora Yanow and Peregrine Schwartz-Shea, 127–49. New York: Routledge, 2012. http://ebookcentral.proquest.com/lib/washington/detail.action?docID=302458.

Sousa, Luís de. “Anti-Corruption Agencies: Between Empowerment and Irrelevance.” *Crime, Law and Social Change* 53, no. 1 (2010): 5–22. https://doi.org/10.1007/S10611-009-9211-3/METRICS.

Sousa, Luís de, Barry Hindess, and Peter Larmour, eds. *Governments, Ngos and Anti-Corruption The New Integrity Warriors*. New York: Routledge, 2009.

Spence, Michael. “Some Thoughts on the Washington Consensus and Subsequent Global Development Experience.” *The Journal of Economic Perspectives* 35, no. 3 (2021): 67–82. https://doi.org/10.2307/27041215.

Staf Ahli Menteri bidang Hubungan Kelembagaan Bappenas. “ Laporan Kegiatan Reformasi Regulasi: Analisis Dampak Kebijakan UMKM Untuk Pembangunan Ekonomi .” Jakarta, 2018.

Stephenson, Matthew C., and Sofie Arjon Schütte. “Specialised Anti-Corruption Courts: A Comparative Mapping.” U4 Issue. Bergen, 2016. https://www.u4.no/publications/specialised-anti-corruption-courts-a-comparative-mapping.

Subarsono, AG. *Analisis Kebijakan Publik*. Yogyakarta: Pustaka Pelajar, 2012. https://pustakapelajar.co.id/buku/analisis-kebijakan-publik/.

Sudaryono, Leopold. “‘Holding Bears in Bamboo Cages’: The Irony of Indonesian Corruptors behind Bars.” The Conversation, July 27, 2018. https://theconversation.com/holding-bears-in-bamboo-cages-the-irony-of-indonesian-corruptors-behind-bars-100540.

Sudibyo, Agus. “Jangan Tunda Keterbukaan Informasi.” *Kompas*, April 30, 2010. https://antikorupsi.org/id/article/jangan-tunda-keterbukaan-informasi.

Suhanda, Muhammad Isnen. “ Jaksa Agung: Korupsi Dilakukan Orang Kaya Dan Berpendidikan.” RRI.co.id, July 13, 2023. https://www.rri.co.id/hukum/285487/jaksa-agung-korupsi-dilakukan-orang-kaya-dan-berpendidikan.

Suhendra, Nizar, Rifqi S. Assegaf, Dedet Hardiansyah, Dian Rositawati, Gita Putri Damayana, Hamid Chalid, Ibrahim Assegaf, Chandra M. Hamzah, and Sapto Waluyo. *Pengadilan Khusus Korupsi, Naskah Akademis Dan Rancangan Undang-Undang Pengadilan Tindak Pidana Korupsi*. Jakarta: LeIP, MTI, PSHK & TGTPK, 2002. https://perpustakaan.bldk.mahkamahagung.go.id/index.php?p=fstream-pdf&fid=1880&bid=1825.

Sunstein, Cass R. “Cognition and Cost-Benefit Analysis.” *Journal of Legal Studies* 29, no. s2 (2000): 1103. https://doi.org/10.1086/468105.

———. “Some Costs & Benefits of Cost-Benefit Analysis.” *Daedalus* 150, no. 3 (July 1, 2021): 208–19. https://doi.org/10.1162/DAED_A_01868.

———. *The Cost-Benefit Revolution*. Cambridge, Massachusetts: The MIT Press, 2019.

Supanca, Ida Bagus Rahmadi. *Sebuah Gagasan Tentang Grand Design Reformasi Regulasi Indonesia,*. Jakarta: Penerbit Universitas Katolik Indonesia Atma Jaya, 2017.

Supreme Court Regulation regarding Sentencing Guideline on the Crimes of Corruption, Pub. L. No. 1 (2020).

Suprihandoko, Rendradi, and Marhenia Woro Srikandi. “Faktor Faktor Penyebab Terpidana Korupsi Tidak Membayar Uang Pengganti Alam Perkara Korupsi Di Kota Yogyakarta.” In *Perkembangan Bidang Sosial Humaniora, Pertanian Dan Teknologi: Mendukung Sustainable Development Goals*, edited by Untoro Budi Surono and Bayu Megaprastio, 216–28. Yogyakarta: Kepel Press, 2020. https://doi.org/10.23887/JKH.V6I1.23441.

Susanti, Dwi Siska, Pauline Arifin, Puti Aulia Rahma, Mohamad Fami, Linda Julaeha, and Wibi Anska Putri. “Tackling Fraud and Corruption in Indonesia’s Health Insurance System.” U4 Issue. Bergen, 2022. https://www.u4.no/publications/tackling-fraud-and-corruption-in-indonesias-health-insurance-system.

Susanto, Mei. “Revitalisasi Peran Publik Dalam Pengangkatan Calon Hakim Agung.” *Jurnal Peradilan Indonesia: Teropong* 6 (2017): 1–15.

Suyanto, Heru, Andriyanto, and Adhi Nugroho. “Realizing Indonesia Prosecutors Commission Professional and Trustworthy.” *International Journal of Multicultural and Multireligious Understanding* 7, no. 5 (June 13, 2020): 52–60. https://doi.org/10.18415/IJMMU.V7I5.1597.

Suyatmiko, Wawan, Alvin Nicola, and Nur Fajrin. “Laporan Pemantauan Mandiri Kelompok Masyarakat Sipil Terhadap Pelaksanaan Strategi Nasional Pencegahan Korupsi Tahun 2019.” Jakarta, 2020. www.ti.or.id.

Swenson, Geoffrey. “Why U.S. Efforts to Promote the Rule of Law in Afghanistan Failed.” *International Security* 42, no. 1 (July 1, 2017): 114–51. https://doi.org/10.1162/ISEC_A_00285.

Swift, Adam. *Political Philosophy : A Beginners’ Guide for Students and Politicians*. 4th ed. Medford: Polity Press, 2019. https://www.wiley.com/en-ae/Political+Philosophy%3A+A+Beginners’+Guide+for+Students+and+Politicians%2C+4th+Edition-p-9781509533374.

Syahrial, Muhammad. “Sejarah Lapas Sukamiskin, Tempat Pemerintah Belanda Penjarakan Sang Proklamator, Kini Sel Untuk Koruptor.” Kompas.com, September 7, 2022. https://bandung.kompas.com/read/2022/09/07/102539578/sejarah-lapas-sukamiskin-tempat-pemerintah-belanda-penjarakan-sang.

Tamanaha, Brian Z. *Realistic Socio-Legal Theory : Pragmatism and a Social Theory of Law*. New York: Oxford University Press, 1997.

Tamanaha, Brian Z. “The Primacy of Society and the Failures of Law and Development.” *Cornell International Law Journal* 44, no. 2 (2011): 209–47. http://scholarship.law.cornell.edu/ciljAvailableat:http://scholarship.law.cornell.edu/cilj/vol44/iss2/1.

Tangri, Roger, and Andrew M. Mwenda. “Politics, Donors and the Ineffectiveness of Anti-Corruption Institutions in Uganda.” *The Journal of Modern African Studies* 44, no. 1 (March 2006): 101–24. https://doi.org/10.1017/S0022278X05001436.

Tanzi, Vito. “Corruption Around the World Causes, Consequences, Scope, and Cures.” *IMF Staff Papers* 45, no. 4 (1998).

Taylor, Veronica. “Rethinking Donor Intervention in Promoting the Rule of Law in Asia | East Asia Forum.” East Asia forum, June 22, 2011. https://eastasiaforum.org/2011/06/22/rethinking-donor-intervention-in-promoting-the-rule-of-law-in-asia/.

Taylor, Veronica L. “The Rule of Law Bazaar.” In *Rule of Law Promotion: Global Perspectives, Local Applications*, edited by Per Bergling, Jenny Ederlöf, and Veronica L. Taylor, 325–59. Uppsala: Iustus Förlag, 2009. https://openresearch-repository.anu.edu.au/server/api/core/bitstreams/985d5819-e70e-465f-9129-5f6f3a726f88/content.

Tempo. “Kontroversi Kewenangan Tim.” *Tempo*, May 6, 2005. https://koran.tempo.co/read/nasional/39649/kontroversi-kewenangan-tim.
Tempo.co. “Kejaksaan Merasa Dianaktirikan.” Tempo.co, September 5, 2017. https://dpr.tempo.co/index.php/dpr/konten/4768/Kejaksaan-Merasa-Dianaktirikan.
Thalib, Hambali, Sufirman Rahman, and Abdul Haris Semendawai. “TThe Role of Justice Collaborator In Uncovering Criminal Cases In Indonesia.” *Diponegoro Law Review* 2, no. 1 (April 28, 2017): 27–39. https://doi.org/10.14710/DILREV.2.1.2017.27-39.
The Directorate General of Taxes, Indonesian Ministry of Finance. “Laporan Tahunan 2021.” *The Directorate General of Taxes, Indonesian Ministry of Finance*. Jakarta, 2053. https://www.pajak.go.id/sites/default/files/2022-11/Laporan%20Tahunan%20DJP%202021%20-%20Bahasa.pdf.
The Hague Academy for Local Governance. “Tackling Illegal Gratuity in Indonesia .” Accessed July 27, 2024. https://thehagueacademy.com/story/alumni-story-tackling-illegal-gratuity-in-indonesia/.
The Jakarta Post. “Cut Your Costs Instead, Antigraft Body Tells BPJS - National - The Jakarta Post.” The Jakarta Post, March 20, 2020. https://www.thejakartapost.com/news/2020/03/20/cut-your-costs-instead-antigraft-body-tells-bpjs.html.
The World Bank. “Cost-Benefit Analysis in World Bank Projects.” Washington, D.C., 2010. https://ieg.worldbankgroup.org/sites/default/files/Data/Evaluation/files/cba_full_report1.pdf.
———. “Income and Asset Disclosure: Case Study Illustrations.” Directions in Development. Washington, D. C., 2043.
———. “Indonesia - Country Procurement Assessment Report : Reforming the Public Procurement System.” Washington, D. C., 2013.
———. “Legal and Judicial Reform: Strategic Directions.” Washington, D. C., 2003.
———. “The World Bank Group’s Sanctions Regime: Information Note.” The World Bank. Accessed August 8, 2024. https://www.worldbank.org/content/dam/documents/sanctions/other-documents/osd/The_World_Bank_Group_Sanctions_Regime.pdf.
———. “World Development Report 2017: Governance and the Law.” Washington, D.C., 2017.
Thomas C. Grey. “What Good Is Legal Pragmatism?” In *Pragmatism in Law and Society*, edited by Michael Brint and William Weaver. New Perspectives on Law, Culture, and Society. Boulder: Westview Press, 1991.
Tikhonravov, Evgeny. “Nulla Poena Sine Lege in Continental Criminal Law: Historical and Theoretical Analysis.” *Criminal Law and Philosophy* 13, no. 2 (June 1, 2019): 215–24. https://doi.org/10.1007/S11572-018-9466-9.
Tim Taskforce. *Naskah Akademis Dan Rancangan Undang-Undang Pengadilan Tindak Pidana Korupsi*. Jakarta: Konsorsium Reformasi Hukum Nasional (KRHN), 2008. //digilib.uki.ac.id%2Findex.php%3Fp%3Dshow_detail%26id%3D13684%26keywords%3D.
Tonry, Michael H.. *Punishing Race : A Continuing American Dilemma*. New York: Oxford University Press, 2012. https://global.oup.com/academic/product/punishing-race-9780199926466.
Transparency International. “2023 Corruption Perceptions Index: Indonesia.” Transparency International, 2023. https://www.transparency.org/en/cpi/2023/index/idn.
———. “Making Grand Corruption a Priority: Transparency International Submission to the 7th UNCAC COSP in Vienna,” 2017. http://www.fcpablog.com/blog/2012/8/22/should-grand-corruption-be-a-crime-against-humanity.html;

Transparency International Indonesia. “Pelemahan Jadi Nyata: Evaluation of the Corruption Eradication Commission 2019-2023.” Jakarta, 2023. https://ti.or.id/wp-content/uploads/2024/01/ENG-TII-ACA-Assessment-KPK-2023.pdf.

Travova, Ekaterina. “Under Pressure? Performance Evaluation of Police Officers as an Incentive to Cheat.” *Journal of Economic Behavior & Organization* 212 (August 1, 2023): 1143–72. https://doi.org/10.1016/J.JEBO.2023.05.021.

Treasury Office Branch Pelaihairi. “Survei Reformasi Birokrasi : Self Assestment Pembangunan Zona Integritas Menuju WBK/WBBM,” June 4, 2018. https://djpb.kemenkeu.go.id/kppn/pelaihari/id/data-publikasi/berita-terbaru/2833-survei-reformasi-birokrasi-self-assestment-pembangunan-zona-integritas-menuju-wbk-wbbm.html.

Trochim, William M, and James P Donnelly. *Research Methods: The Essential Knowledge Base*. *Research Methods: The Essential Knowledge Base*. 2nd ed. Boston: Cengage Learning, 2016.

Tromme, Mat. “Waging War Against Corruption in Developing Countries: How Asset Recovery Can Be Compliant with the Rule of Law.” *Duke Journal of Comparative & International Law* 29, no. 2 (February 11, 2019): 165–233. https://scholarship.law.duke.edu/djcil/vol29/iss2/2.

Trubek, David M. “Law and Development.” In *International Encyclopedia of the Social & Behavioral Sciences: Second Edition*, edited by James D. Wright, 443–47. Elsevier, January 1, 2015. https://doi.org/10.1016/B978-0-08-097086-8.86047-X.

———. “Law and Development: Then and Now.” *Proceedings of the ASIL Annual Meeting* 90 (1996): 223–26. https://doi.org/10.1017/S0272503700086195.

———. “The ‘Rule of Law’ in Development Assistance: Past, Present, and Future.” In *The New Law and Economic Development: A Critical Appraisal*, edited by David M. Trubek and Alvaro Santos, 74–94. Cambridge: Cambridge University Press, 2006. https://doi.org/10.1017/CBO9780511754425.003.

Trubek, David M. “Toward a Social Theory of Law: An Essay on the Study of Law and Development.” *The Yale Law Journal* 82, no. 1 (1972): 1–50.

Tung, Ko-Yung. “THE WORLD BANK’S INSTITUTIONAL FRAMEWORK FOR COMBATING FRAUD AND CORRUPTION: Remarks Delivered at Seminar on Monetary and Financial Law.” 2002. https://www.imf.org/external/np/leg/sem/2002/cdmfl/eng/tung.pdf.

Umam, Ahmad Khoirul, Gillian Whitehouse, Brian Head, and Mohammed Adil Khan. “Addressing Corruption in Post-Soeharto Indonesia: The Role of the Corruption Eradication Commission.” *Journal of Contemporary Asia* 50, no. 1 (2020): 125–43. https://doi.org/10.1080/00472336.2018.1552983.

Umar, Bambang W. “Komisi Kepolisian Nasional Dimasalahkan.” *Jurnal Studi Kepolisian*, no. 64 (2005): 79–83. http://library.stik-ptik.ac.id/file?file=digital/28696-064-jsk-73.pdf.

United Nations. “Corruption and the Sustainable Development Goals.” Press Release, December 2023. https://unis.unvienna.org/unis/en/pressrels/2023/uniscp1172.html.

United Nations Office on Drugs and Crime. “Corruption and Sustainable Development.” Fact Sheet. Accessed August 9, 2024. www.anticorruptionday.org.

———. “Final Independent Project Evaluation of Country Programme: Indonesia-Sub-Programme 1: Strengthening Criminal Justice Responses on Forest Crimes to Support REDD+ Implementation in Indonesia.” Vienna, September 2016. www.unodc.org.

———. “Indonesia: Anti-Corruption.” Accessed August 11, 2024. https://www.unodc.org/indonesia/en/issues/anti-corruption.html#.

———. “Press Release: Combating Corruption to Achieve the Sustainable Development Goals,” November 7, 2017.

https://www.unodc.org/unodc/en/press/releases/2017/November/combating-corruption-to-achieve-the-sustainable-development-goals.html.
———. “Promoting Beneficial Ownership Disclosure in Indonesia.” United Nations Office on Drugs and Crime, March 25, 2021. https://www.unodc.org/roseap/en/what-we-do/anti-corruption/topics/2021/05-beneficial-ownership-disclosure-indonesia.html.
———. “United Nations Convention Against Corruption.” *United Nations Office on Drugs and Crime*. New York: United Nations, 2004. www.unodc.org.
United Nations Office on Drugs and Crime (UNODC). “Petter Langseth.” United Nations Office on Drugs and Crime (UNODC), 2003. https://www.unodc.org/pdf/crime/corruption/UN_Guide.pdf.
———. “Public Procurement Reform in Indonesia.” United Nations Office on Drugs and Crime (UNODC), December 8, 2020. https://www.unodc.org/roseap/en/what-we-do/anti-corruption/topics/2020/public-procurement-reform-indonesia.html.
———. *The Global Programme Against Corruption Un Anti-Corruption Toolkit* . 2nd ed. Vienna: United Nations Office on Drugs and Crime (UNODC), 2004.
Untung S. “KPK Resmikan Gedung Pusat Edukasi Antikorupsi,” November 27, 2018. https://infopublik.id/kategori/nasional-politik-hukum/313568/kpk-resmikan-gedung-pusat-edukasi-antikorupsi?video=.
USAID. “Cost-Benefit Analysis.” USAID. Accessed August 9, 2024. https://www.usaid.gov/economic-growth-and-trade/cost-benefit-analysis.
Uslaner, Eric M. *Corruption, Inequality, and the Rule of Law: The Bulging Pocket Makes the Easy Life*. *Corruption, Inequality, and the Rule of Law: The Bulging Pocket Makes the Easy Life*. Cambridge: Cambridge University Press, 2008. https://doi.org/10.1017/CBO9780511510410.
Utami, Puji. “Divonis 15 Tahun, Terdakwa Korupsi Sudah Kabur Duluan.” Kompas.com, November 1, 2012. https://nasional.kompas.com/read/2012/11/01/20412220/~Regional~Jawa.
Valerian, Dion. “Meretas Konsep Baru Pidana Denda Terhadap Tindak Pidana Korupsi: Analisis Komparatif Dengan Foreign Corrupt Practices Act Amerika Serikat, Bribery Act Inggris, Dan Wetboek van Strafrecht Belanda.” *Integritas: Jurnal Antikorupsi* 5, no. 2 (2019): 87–116. https://doi.org/10.32697/integritas.v5i1.342.
Vargas Weil, Ernesto. “Map and Territory in Comparative Law and Economics.” *Global Journal of Comparative Law* 11, no. 1 (2022): 1–35. https://doi.org/10.1163/2211906X-11010001.
Varian, Hal R. *Intermediate Microeconomics: A Modern Approach*. Edited by Jack Repcheck. 8th ed. New York: W.W. Norton & Company, 2010. https://faculty.ksu.edu.sa/sites/default/files/microeco-_varian.pdf.
Vaughn, David, and Olha Nikolaieva. “Launching an Effective Anti-Corruption Court: Lessons from Ukraine.” U4 Practice Insight. Bergen, 2021. https://www.u4.no/publications/launching-an-effective-anti-corruption-court.
Vining, Aidan, and David L Weimer. “An Assessment of Important Issues Concerning the Application of Benefit-Cost Analysis to Social Policy.” *Journal of Benefit-Cost Analysis* 1, no. 1 (2010): 1–40. https://doi.org/10.2202/2152-2812.1013.
Vrushi, Jon. “Global Corruption Barometer Asia 2020: Citizens’ Views and Experiences of Corruption,” November 2020. https://images.transparencycdn.org/images/GCB_Asia_2020_Report_Web_final.pdf.
Warburton, Eve. “Jokowi and the New Developmentalism.” *Bulletin of Indonesian Economic Studies* 52, no. 3 (2016): 297–320. https://doi.org/10.1080/00074918.2016.1249262.

Wardah, Fathiyah. “ICW: Pemberantasan Korupsi Di Era Jokowi Masih Jauh Dari Memuaskan.” VOA, October 20, 2021. https://www.voaindonesia.com/a/icw-pemberantasan-korupsi-di-era-jokowi-masih-jauh-dari-memuaskan/6277944.html.
Warsyim, Yusuf. “Peran Komisi Kepolisian Nasional Dalam Penegakan Kode Etik Kepolisian Negara Republik Indonesia.” *Fundamental: Jurnal Ilmiah Hukum* 12, no. 1 (May 3, 2023): 130–52. https://doi.org/10.34304/JF.V12I1.108.
Wathne, Cecilie. “Effectively Evaluating Anti-Corruption Interventions.” U4 Issue. Bergen, July 17, 2022. https://www.u4.no/publications/effectively-evaluating-anti-corruption-interventions.
Wathne, Cecilie, and Matthew C. Stephenson. “The Credibility of Corruption Statistics: A Critical Review of Ten Global Estimates.” U4 Issue. Bergen, 2022. https://www.u4.no/publications/the-credibility-of-corruption-statistics.
Watson, Alan. “Comparative Law and Legal Change.” *The Cambridge Law Journal* 37, no. 2 (1978): 313–36. https://doi.org/10.1017/S0008197300093338.
Webley, Lisa. “Qualitative Approaches to Empirical Legal Research.” In *The Oxford Handbook of Empirical Legal Research*, edited by Peter Cane and Herbert M. Kritzer, 926–50. Oxford University Press, 2012. https://doi.org/10.1093/OXFORDHB/9780199542475.013.0039.
Whittington, Dale. “Ethical Issues with Contingent Valuation Surveys in Developing Countries: A Note on Informed Consent and Other Concerns.” *Environmental and Resource Economics* 28, no. 4 (August 2004): 507–15. https://doi.org/10.1023/B:EARE.0000036776.89379.4F/METRICS.
Wibisana, Andri Gunawan, and Andreas Nathaniel Marbun. “Corporate Criminal Liability in Indonesia Anti-Corruption Law: Does It Work Properly?” *Asian Journal of Law and Economics*, Asian Journal of Law and Economics, 9, no. 1 (2018). https://doi.org/doi:10.1515/ajle-2017-0029.
Wibowo, Richo Andi. “Preventing Maladministration in Indonesian Public Procurement (A Good Public Procurement Law Approach and Comparison with the Netherlands and the United Kingdom).” Utrecht University, 2017. https://www.researchgate.net/publication/315380059.
Widoyoko, Danang. “Laporan Evaluasi Penggunaan Swakelola Tipe III Tahun 2021,” December 2022.
Wijayanti, Anis, and Azhar Kasim. “Implementasi Strategi Nasional Pencegahan Korupsi Di Indonesia: Perspektif Collaborative Governance.” *Integritas : Jurnal Antikorupsi* 7, no. 2 (April 5, 2021): 291–310. https://doi.org/10.32697/INTEGRITAS.V7I2.858.
Williamson, John. “The Strange History of the Washington Consensus.” *Journal of Post Keynesian Economics* 27, no. 2 (2004): 195–206.
World Bank. “Indonesia | Data.” Accessed August 8, 2024. https://data.worldbank.org/country/indonesia?view=chart.
World Economic Forum. “The Global Competitiveness Index 2017-2018 Edition - Indonesia,” 2018. https://www3.weforum.org/docs/GCR2017-2018/03CountryProfiles/Standalone2-pagerprofiles/WEF_GCI_2017_2018_Profile_Indonesia.pdf.
World Justice Project. “WJP Rule of Law Index | Indonesia Insights.” World Justice Project, 2023. https://worldjusticeproject.org/rule-of-law-index/country/2023/Indonesia/Absence%20of%20Corruption/.
Wright, Richard F. “Prosecutor Institutions and Incentives.” *Criminology, Criminal Justice, Law & Society* 18, no. 3 (2017): 85–100. https://ccjls.scholasticahq.com/article/2728-prosecutor-institutions-and-incentives.

Yuntho, Emerson. “Nestapa ‘Justice Collaborator.’” *Kompas*, June 28, 2016. https://antikorupsi.org/id/article/nestapa-justice-collaborator.
Zabokrytskyy, Ihor. “Transnational Civil Society Influence on Anti-Corruption Courts: Ukraine’s Experience.” *Global Jurist* 20, no. 1 (April 1, 2020): 1–12. https://doi.org/10.1515/GJ-2019-0010/MACHINEREADABLECITATION/RIS.
Zae. “MAPPI Usul Bentuk Lembaga Pengawas Baru Untuk Sistem Peradilan.” Hukumonline, July 16, 2002. https://www.hukumonline.com/berita/a/mappi-usul-bentuk-lembaga-pengawas-baru-untuk-sistem-peradilan--hol6021/?page=all.
Zerbe Jr., Richard O. “Ethical Benefit Cost Analysis As Art And Science: Ten Rules For Benefit-Cost Analysis.” *University of Pennsylvania Journal of Law and Social Change* 12 (2008): 73.
———. “The Legal Foundation of Cost-Benefit Analysis.” *Charleston Law Review* 2 (2007): 93–171.
Zerbe, Richard O. “Introduction: Economic Welfare Applied to Law with Costly Markets.” In *Efficiency in Law and Economics*, edited by Richard O. Zerbe, ix–xxx. Cheltenham: Edward Elgar Publishing, 2014. https://papers.ssrn.com/abstract=4028023.
Zulaiha, Aida Ratna, and Sari Angraeni. “Menerapkan Biaya Sosial Korupsi Sebagai Hukuman Finansial Dalam Kasus Korupsi Kehutanan.” *Integritas : Jurnal Antikorupsi* 2, no. 1 (April 23, 2016): 1–24. https://doi.org/10.32697/integritas.v2i1.136.
Zweigert, Konrad, and Hein Kötz. *Introduction to Comparative Law*. Clarendon Press ; Oxford University Press, 1998.