RESULTS OF MONITORING OF THE 2020 CORRUPTION VERDICTS

"Corruption is everywhere, punishment never gives a deterrent effect"

" The average sentence for corruptors is only 3 years and 1 month imprisonment "

INDONESIA CORRUPTION WATCH
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TABLE OF CONTENT

1. INTRODUCTION

Judge's verdict against the defendants in corruption cases, is gradually moving away from providing a deterrent effect. This is not a nonsense sentence. Since 2005 Indonesian Corruption Watch (ICW) has been monitoring Judge's verdict at the Corruption Court, the High Court, and the Supreme Court, and the results are always disappointing. The average verdict given is always light. This situation raises the question: **"how seriously does the judiciary view the crime of corruption?"**

As a crime, corruption has emerge with various names, start with extraordinary crime, serious crime, white collar crime, transnational crime, up to financial crime. All of these terms described seriousness level of this crime, especially in the context of the impact on society. You can also imagine, how corruption damage all lines directly, for example: country's economy, democracy, human rights, and so on. This is why the corruption eradication must be carried out by various elements of the state, including the government, parliament, society, including law enforcement officers and judicial institutions.

Referring to the criminal justice system, then linked to the principle of functional differentiation in criminal law, therefore, every law enforcement agency has the responsibility to maximize the handling of cases. Starting from investigation by the police department, prosecution by the prosecutor, trials by judicial power institutions, and sentences in prisons under the authority of the Ministry of Law and Human Rights. For this reason, extraordinary measures must be taken and carried out at every level in order to achieve justice, certainty and legal expediency

As mentioned above, corruption is basically a crime in occupation that is intertwined with the economic sector. Therefore, the focal point of law enforcement cannot be placed just limited to imprisonment. This is because the theory of punishment must have moved to a restorative concept, no longer relying on classical ways such as retributive. Thus, state financial losses and criminal assets used, produced, or owned by the perpetrators must be combined with a sentence of imprisonment. If this is not done, surely it will be impossible to obtain a deterrent effect on corrupt perpetrators.

Otherwise, commitment from the government and the legislature is also an integral part of fighting corruption. Those two powers later will determine the direction of legal politics, especially regarding the legislation formation. But in fact, instead of strengthening, the opposite happens. So far, both the President and the DPR have often ignored the regulations completion that support the law enforcement performance in dealing with corruption cases. Of course, this has bad consequences, because the type and duration of sentencing is very dependent on the substance of the anti-corruption regulations.

Based on the results of ICW's monitoring of the trial, there are at least three important variables to ensure a deterrent effect for the defendant.

FIRST

First, determining the article type which will be included in the indictment. In this context, the public prosecutor should participate in combining the Corruption Eradication Law with the Anti-Money Laundering Law. Because, the relationship between the two is very close and those combination also believed to be an entry point for impoverishing the defendant.

SECOND

Second, the perspective of the public prosecutor when submitting a letter of Charge. From this section the public will see how serious the public prosecutor as a state representative is, in viewing committed corruption by the defendant.

Starting from the determination of the proven articles to sentencing the defendant, which are submitted to the panel of judges. Unfortunately, so far, the public prosecutor performance has not shown enough siding with the victims of crime (the community), because the majority of the sentence is still at the minimum of penalty.

THIRD

The judge's alignment when making a decision. As is known, until now the punishment application for corruption crimes is still using the premium remedial principle. This also gives a message to the judges' panel to be able to impose penalties that lead to a deterrent effect while at the same time recovering state financial losses. For this reason, the main punishments (imprisonment and fines) as well as additional (compensation money and revocation of certain rights) must always be attached to every sentence in order to adjudicate corruption cases.

The monitoring period that ICW carries out starts from January to December 2020, at the Corruption Courts throughout Indonesia. Starting from the first level, appeal, cassation, and review. The data sources referred to a combination of primary and secondary. For the primary itself, it is obtained from the Case Tracking Information System at each court and the directory of Supreme Court decisions, while the secondary is through searching media reports.

The results of this monitoring and analysis will be presented and given to stakeholders (Corruption Eradication Commission, Attorney General's Office, and Supreme Court). It is hoped that this document can later be used as material for evaluation and improvement to ensure a more objective handling of corruption cases and adhere to the value of justice. To that end, the following are the results of trends in corruption trial verdicts monitoring and analysis in 2020.

2. MONITORING AND ANALYSIS RESULTS

I. Court Administration Functions

One of the main sources of this monitoring is obtained from the Case Investigation Information System (SIPP) page in every court throughout Indonesia. However, unfortunately, not all information is listed in full on the page. Thus, this makes it difficult for public to see and observe the developments as well as the verdicts against defendants in corruption cases.

This finding is not the first time, practically every time ICW carry out monitoring, issues of court administration always arise. In fact, the presentation of information to the public is important, at least to ensure that the judiciary enforces the transparency and accountability values. Because based on the Decree of the Republic of Indonesia Supreme Court Chief Justice of the Number 1-144/KMA/SK/I/2011 it is explained that the court has six functions, namely adjudicating, developing, supervising, advising, administrative, and others.

Thus, with the issuance of the Republic of Indonesia Supreme Court Chief Justice, it becomes clear that each court does not only carry out its mandate to try, but must also ensure that administrative functions, especially information disclosure, can run well. In monitoring with SIPP sources, ICW refers to three parts, starting from general data, prosecution, and verdict. These sections are used as a reference for assessing the points of corruption cases trial.

General data itself often does not include indictments comprehensively. Simply put, if this channel is viewed as a summary of the indictment only, crucial points such as the defendant's personal data, brief descriptions of the case and articles of indictment should be included. As for the prosecution and decision, not infrequently there are still some things unlisted. So that it makes it difficult for the public or litigants to monitor the progress of the trial.

This finding should be followed up by the Supreme Court Chief Justice to ensure that the judicial reform agenda, particularly the issue of information disclosure, proceeds as expected. It is possible that Supreme Court Chief Justice may impose administrative sanctions on the Chief Justice who neglects and fails to manage SIPP.

No.	Court Name	Administration	
1.	PN Ambon	Complete	
2.	PN Tanjung Karang	Complete	
3.	PN Surabaya	Complete	
4.	PN Serang	Complete	
5.	PN Kendari	Complete	
6.	PN Makassar	Complete	
7.	PN Mamuju	Complete	
8.	PN Manado	Complete	
9.	PN Manokwari	Complete	
10.	PN Medan	Complete	
11.	PN Padang	Complete	
12.	PN Palangkaraya	Complete	
13.	PN Palembang	Complete	
14.	PN Palu	Complete	
15.	PN Pekanbaru	Complete	
16.	PN Pontianak	Complete	
17.	PN Yogyakarta	Complete	
18.	PN Gorontalo		Incomplete
19.	PN Denpasar		Incomplete
20.	PN Banjarmarsin		Incomplete
21.	PN Samarinda		Incomplete
22.	PN Banda Aceh		Incomplete
23.	PN Bandung		Incomplete
24.	PN Bengkulu		Incomplete
25.	PN Jakarta Pusat		Incomplete
26.	PN Jambi		Incomplete
27.	PN Jayapura		Incomplete
28.	PN Kupang		Incomplete
29.	PN Mataram		Incomplete
30.	PN Pangkal Pinang		Incomplete
31.	PN Tanjung Pinang		Incomplete
32.	PN Ternate		Incomplete

The above assessment is based on SIPP information fulfillment. Incomplete indicators are mentioned when the court neglects to present data related to charges, demands, or decisions comprehensively

II. General Notes

Number of cases and defendants

ICW monitoring was carried out in the period from January 1, 2020 to December 31, 2020. As a general note, the data collected this year was 1,218 cases with a total of 1,298 defendants. The case taken is a combination of first instance court, appeal, cassation and includes extraordinary legal remedies, namely reconsideration.

There is an increase in the case handling quantity, although it is not significant, when compared to 2019. In that year, ICW recorded at least 1,019 cases with a total of 1,125 defendants. This deserves to be appreciated since Indonesia is still struggling with the COVID-19 pandemic since February 2020, however turns out the trial process is still running, with various specific adjustments.

Comparison of Number of Cases and
Defendant Year 2019 - 2020

Chart: Comparison of Number of Cases and Defendant Year 2019 - 2020

- 2019: Cases 1019, Defendants 1125
- 2020: Cases 1218, Defendants 1298

Legend: Cases, Defendants

Female
9.9%

128
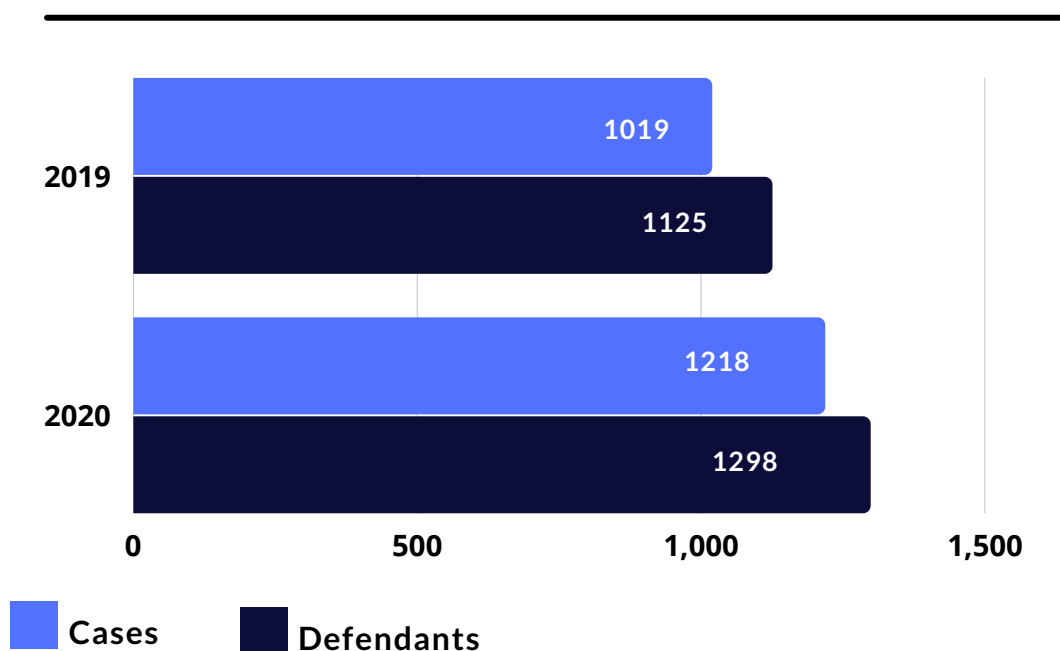
1170

Male
90.1%

Defendants based on Gender

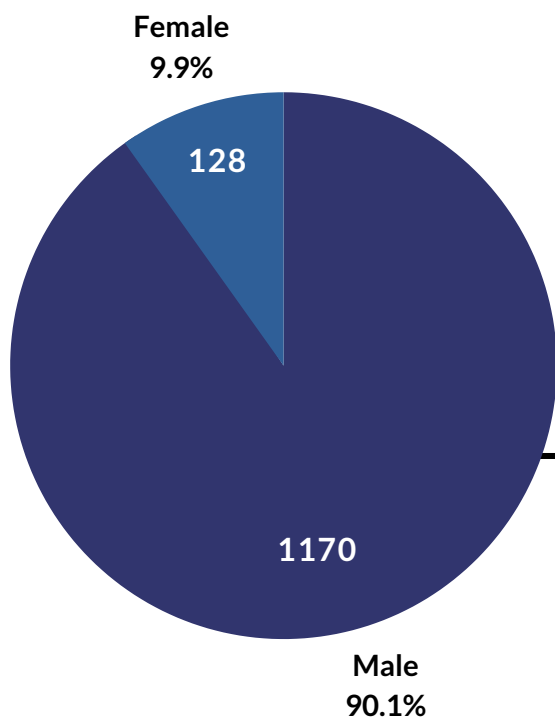From a total of 1,298 corruption defendants in 2020, ICW managed to identify them by gender. The data found, corrupt practices majority were carried out by male defendants (1,170 people). While women are less than ten percent, which is only 128 people.

Defendants based on Age

Based on monitoring, only 606 defendants were identified by age out of a total of 1,298 people. This happened due to the lack of personal data of the defendants listed in court SIPPs throughout Indonesia. In addition, as another primary source – the Directory of Supreme Court Decisions – is not much different, the search method based on "name" is still difficult to access. Thus, the supporting data uses a secondary source, which is the online media.

The results obtained, the average age of defendants in corruption cases is 47 years old. Then, if it refers to Article 1 number 1 of Law Number 40 of 2009 concerning Youth, only 18 people are included in the category of Youth (16-30 years) or less than two percent of the total. Meanwhile, the other 588 were over the age of 30 when they attended the trial as defendants.

<30
3%

18

588

>30
97%
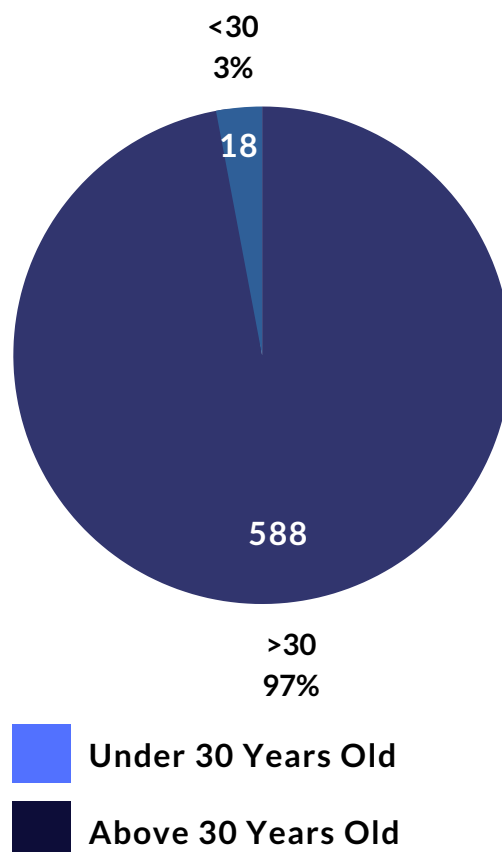
Under 30 Years Old

Above 30 Years Old

Defendants based on Occupation

During the past year, there were three occupations that dominated defendants in corruption cases, not much different from the previous period. There is practically an increase in the scope of the village apparatus, if previously it was in the second rank, now it actually rises and dominates corruption cases, with a total of 330 people. While in the scope of the state civil apparatus are 320 people and followed by the private sector as many as 286 people.

No.	Occupation	Quantity
1.	Village Apparatus	330
2.	Regional Government	321
3.	Private Sector	286
4.	BUMN/BUMD	47
5.	Bank Sector	46
6.	School/ University	45
7.	Others	41
8.	Ministry /Institution	39
9.	DPR/DPRD/DPD	33
10.	Hospital	20
11.	Law enforcer	15
12.	KPU	14
13.	District Head	10
14.	Bappeda	2
15.	Lawyer	1

Tahun	ASN	Private Sector	BUMN/ BUMD	University/ School	DPR/ DPRD	Village Apparatus	Ministry	District Head
2015	210	135	15	15	13	-	2	9
2016	217	150	34	17	39	-	8	32
2017	456	224	37	34	33	-	8	94
2018	319	242	27	34	53	158	52	28
2019	263	138	24	33	43	188	13	3
2020	321	286	47	45	33	330	39	10
Total	**1786**	**1175**	**184**	**178**	**214**	**676**	**122**	**176**

This monitoring also looks at and compares the background of the defendant's work since 2015. The findings are interesting, the defendants from the ASN and the private sector always dominate. The allegations can be divided into two analyses, criminal acts of bribery or conspiracy in the procurement of goods and services. Then followed by the BUMN or BUMD cluster. This proves that the government is not competent enough to implement a prevention system to minimize corrupt practices. In addition, it is also important to see the extent to which the principles of good governance exist in BUMN or BUMD.

In the next part, there is an increasing trend of defendants from village officials since 2018. The majority of cases involving this cluster are related to the management of village funds. Therefore, the government
Need to reformulate the village fund distribution strategy. In addition, the competence and integrity of village officials should receive more attention, while increasing participation in supervision by the community.

In addition, this monitoring also includes monitoring based on law enforcement agencies that are prosecutors in the trial, namely the KPK and the Attorney General's Office. Based on the following data, the public can see a distribution map of the defendant's occupation background handled by the two institutions. This is important, because, based on regulations, the two institutions both use the Corruption Eradication Act and should be able to actually take action against public officials as a manifestation of the meaning of corruption as a white collar crime.

KPK Prosecution – Occupation Backgrount

Occupation	Count
Privat Sector	37
Parlement	16
Civil Servants	16
BUMN/ BUMD	8
Law Enforcement Officials	4
Regional Heads	9
Ministry State Institution	2
Advokat	1

Prosecutor's Prosecution - Occupation Background

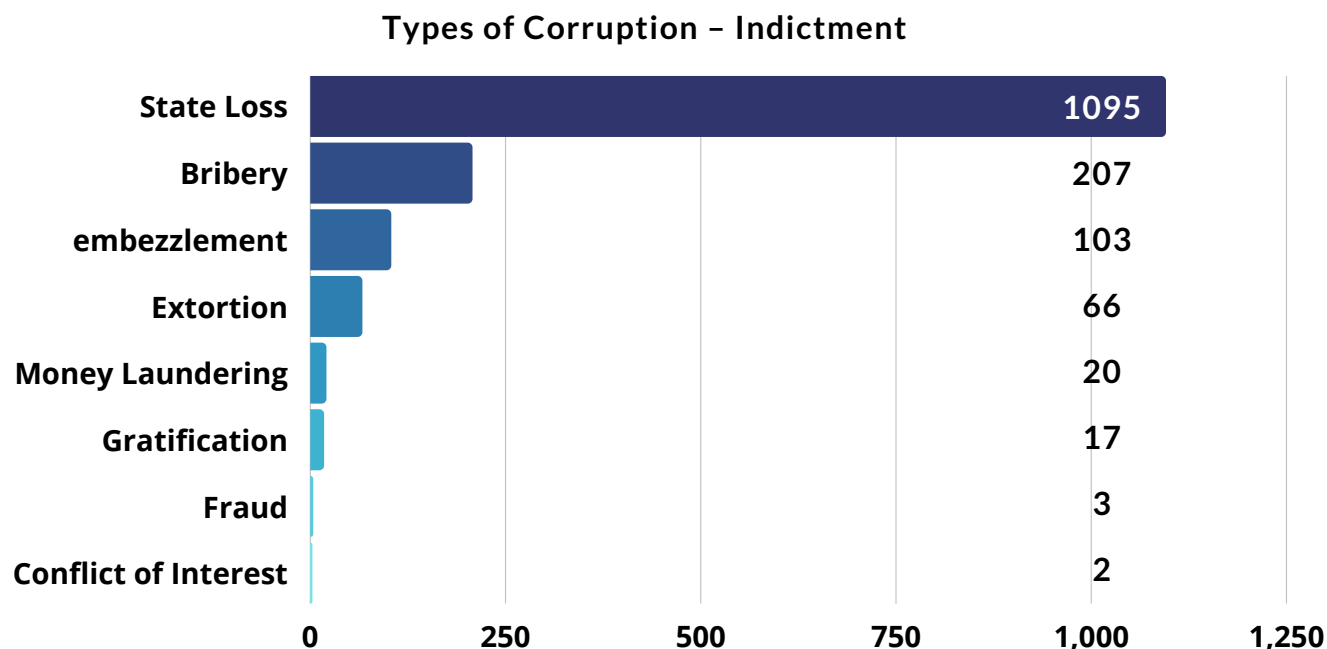| Occupation	Count
Village Officials	319
Civil Servants	303
Privat Sector	246
Bank	45
University/School	45
BUMN	39
Ministry State Ins	32
Household	20

The performance of the prosecution of the KPK in terms of quantity has decreased when compared to 2019. It is conceivable that in the previous year the number of KPK prosecutions reached 137, while in 2020 there were only 100 defendants. However, it is no longer surprising, based on the ICW and Transparency International Indonesia evaluation of the KPK's performance in 2020, all of the KPK's actions have indeed declined. This cannot be separated from the commissioner factor and institutional regulations that were revised in 2019.

As for the attorney general's office, the quantity figure that looks high and exceeds the KPK must be made a separate note. Because, when divided by the number of prosecutor's offices spread throughout Indonesia, the quantity of prosecution is very low. In addition, the prosecutor's office is still minimal in handling corruption cases with actors from the political dimension, such as members of the legislature and regional heads.

III. Types of Corruption Crimes based on the Indictment

Referring to the Anti-Corruption Law, there are 30 acts of corruption formulated and spread in the regulation. However, in general, the whole form of action can be grouped into seven parts. Therefore, in this monitoring, ICW tries to identify the types of corruption based on the indictment.

Types of Corruption – Indictment

| Type	Value
State Loss	1095
Bribery	207
embezzlement	103
Extortion	66
Money Laundering	20
Gratification	17
Fraud	3
Conflict of Interest	2

Practically the data above is always the same every year, articles related to state losses and bribes often dominate indictments. Therefore, regulatory reform is needed to increase the threat of imprisonment and fines for these two categories of corruption. This is important, to provide a deterrent effect for the perpetrators. Especially in Article number 2 and Article number 3 of the Anti-Corruption Law, in which the two regulations still have a prison sentence gap. Article number 3 should be heavier than Article number 2, because the legal subjects are specific to parties who have certain positions or positions.

Another thing that is also quite important to review is the recovery of state losses. With the rise of corruption cases involving state financial losses, as well as proving that this crime is included in the category of financial public crime, therefore additional criminal instruments through Article 18 of the Corruption Law related to replacement money must always be attached.

No.	Case	Defent Name	Occupation	Position	Article TPPU	General Presecutor
1.	122/Pid.Sus-TPK/2019/PN Jkt.Pst	Soetikno Soedarjo	Private Sector	President Director of PT Mugi Rekso Abadi	Article 3	KPK
2	121/Pid.Sus-TPK/2019/PN Jkt.Pst	Emirsyah Satar	Stateowned enterprises	Director PT Garuda Indonesia	Article 3	KPK
3.	29/Pid.Sus-TPK/2020/PN Jkt.Pst	Benny Tjokrosaputro	Private Sector	President Director PT Hanson International	Article 3	Supreme Court
4.	30/Pid.Sus-TPK/2020/PN Jkt.Pst	Heru Hidayat	Private Sector	Commisioner President of PT Trada Alam Mineral	Article 3	Attorney General's Office
5.	41/Pid.Sus-TPK/2020/PN Mdn	Maulana Akhyar Lubis	Bank	Head Division Tresuri Bank Sumut	Article 3	Medan State's Prosecutor Office
6.	42/Pid.Sus-TPK/2020/PN Mdn	Andri Irvandi	Bank	Director Market PT MNC Securitas	Article 3	Medan State's Prosecutor Office
7.	27/Pid.Sus-TPK/2020/PN Sby	Imansyah Sofyan	Private Sector	Entrepeneur	Article 3	Surabaya State's Prosecutor Office
8.	24/Pid.Sus-TPK/2020/PN Mks	Drs.Sabri	National Election Commission	Secretary of KPUKota Makassar	Article 3	Makassar State's Prosecutor Office
9.	13/Pid.Sus-TPK/2020/PN Amb	William Fred	Ba Sector	Employee PT BNI	Article 3	Maluku High Prosecutor's Office

IV. Financial State Loss

One of the bad effects of corrupt practices is touching the economic aspects of a country. This is also clearly seen in the monitoring of the trend in the trial of corruption cases in 2020. Based on ICW records, the total state losses reached IDR 56,739,425,557,246 (fifty six trillion seven hundred thirty-nine billion four hundred twenty-five million five hundred five twenty-seven thousand two hundred and forty-six rupiah). This figure is quite fantastic and has increased four times compared to last year 2019. In that year, the value of state financial losses was only IDR 12 trillion.

Financial State Loss 2019-2020 (in billion)

|	
2019	12.000
2020	56.739

| 0 | 20,000 | 40,000 | 60,000 |
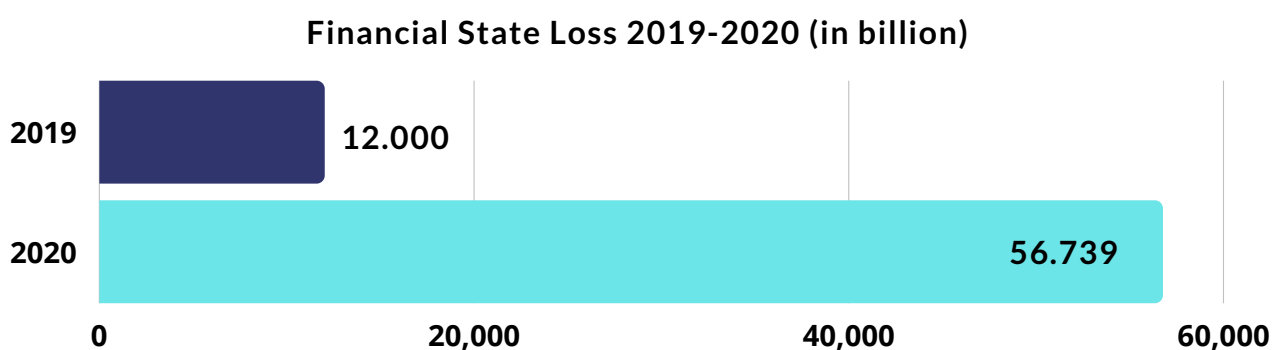
Of the total state financial losses, the economic value of cases handled by the prosecutor's office is greater than KPK. If added together, prosecutor's office tried cases with state losses amounting to IDR 56.7 trillion, while the KPK was only IDR 114.8 billion. The Prosecutor's action deserves appreciation, as well as criticism of the KPK so that it does not only deal with bribery, but also goes further into the issue of money laundering which is commonly done by corruption defendants.

The actions of the Prosecutor's Office can be imitated by the KPK when handling corruption cases involving an employee of the Directorate General of Taxes, Bahasyim Assifie. At that time Bahassyim was only charged with bribery and extortion for allegedly receiving IDR 1 billion from a taxpayer. However, in the middle of the investigation process, the prosecutor found a flow of funds suspected of being the result of money laundering worth IDR 64 billion. In the end, the prosecutor's allegations and charges were proven legally and convincingly, Bahassyim was sentenced to 10 years in prison and imposed a number of compensation payments.

No.	Case Number	Defendant	Case	Position	State Loss	Prosecutor
1.	7/Pid.Sus-TPK/2020/PNJkt.Pst	Raden Priyono	Condensat Sales by PT TPPI	Head of BP Migas	IDR 37,8 trillion	Attorney
2	29/Pid.Sus-TPK/2020/PNJkt.Pst	Benny Tjokrosaputro	Jiwasraya Corruption	Direktur PT Hanson International	IDR 16, 8 trillion	Attorney
3.	41/Pid.Sus-TPK/2020/PNMdn	Maulana Akhyar Lubis	Infestation Funds Corruption	Pemimpin Divisi Tresuri PT Bank Sumut	IDR 202 billion	Attorney
4.	103/Pid.Sus-TPK/2019/PNJkt.Pst	Andy Rikie Lam	Corruption Blok ADK Cepu	Direktur PT Alam Bersemi Sentosa	IDR 178 billion	Attorney
5.	94/Pid.Sus-TPK/2019/PNJkt.Pst	Nur Pamudji	Diesel Fuel Type Procurement	Direktur PT PLN	IDR 173 billion	Attorney

Apart from that, the imposition of criminal penalties - additional replacement money - as regulated in Article 18 of the Anti-Corruption Law is also not optimal. Based on monitoring, the replacement money granted by the panel of judges only in the range of IDR 19,696,446,686,630 (nineteen trillion six hundred ninety-six billion four hundred forty-six million six hundred eighty-six thousand six hundred and thirty rupiah). Practically the recovery of state financial losses has only reached thirty percent of the total. However, this has not been fully said to be a recovery, because the public prosecutor is still waiting for the execution of the court's decisions.

State Losses – Money Replacement (In Billion)

	Value
State Losses	56.700
Money Replacement	19.696

Axis: 0 — 20,000 — 40,000 — 60,000

- State Losses
- Money Replacement
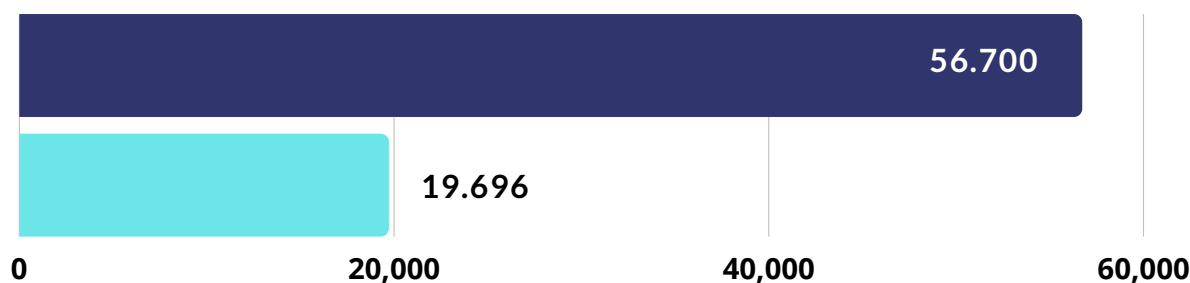
The following is data from the results of additional criminal sentences monitoring that are considered high enough to be imposed on the defendant

No	Case Number	Defendant	Occupation	Position	Money Replacement
1.	30/Pid.Sus-TPK/2020/PNJkt.Pst	Heru Hidayat	Private Sector	Commissioner President PT Trada Alam Mineral	IDR 10 trillion
2	29/Pid.Sus-TPK/2020/PNJkt.Pst	Benny Tjokrosaputro	Private Sector	Director PT Hanson International	IDR 6 trillion
3.	7/Pid.Sus-TPK/2020/PNJkt.Pst	Raden Priyono	BUMN	Head of BP Migas	IDR 1,7 trillion
4.	103/Pid.Sus-TPK/2019/PNJkt.Pst	Andy Rikie Lam	Private Sector	Director PT Alam Bersemi Sentosa	IDR 116,4 billion
5.	6/Pid.Sus-TPK/2020/PNTjk	Agung Ilmu Mangkunegara	Region Head	Region Head Lampung Utara	IDR 77,5 billion

ICW also looks at the amount of state losses based on the background of the defendant's work. In this section there are three clusters, namely politics, BUMN or BUMD, and village officials. The data for the political sector itself is taken from two jobs, namely: members of the legislature and regional heads. As a result, state losses for political clusters reached IDR 115,598,879,680 (one hundred and fifteen billion five hundred ninety-eight million eight hundred seventy-nine thousand six hundred and eighty rupiah).

Meanwhile, the village apparatus cluster resulted in a state financial loss of IDR 111,220,925,983 (one hundred and eleven billion two hundred twenty million nine hundred twenty five thousand nine hundred and eighty three rupiah). Then for BUMN or BUMD itself it reaches IDR 38,041,299,729,457 (thirty-eight trillion forty-one billion two hundred ninety-nine million seven hundred twenty-nine thousand four hundred and fifty-seven rupiah).

Seeing this huge gap, there should be a fundamental improvement in the Anti-Corruption Law, especially in the context of the criminal substance of additional compensation. The rules currently contained in Article 18 paragraph (1) letter b of the Anti-Corruption Law are still limited to "payment of replacement money in the maximum amount equal to the property obtained from the crime of corruption". If you still use a sentence like that, then the profits obtained by the perpetrators of the crime cannot be taken away by the state. Therefore, the article reads ideally "the payment of replacement money in the maximum amount equal to the property obtained from the criminal act of corruption along with all the profits obtained"

Another thing, ICW also recommends that the confiscation of guarantee arrangements as so far known in the civil law group can also be applied to the handling of corruption cases. So, in the future, during the investigation process, law enforcers can confiscate assets belonging to suspects that are not related to a crime, as a guarantee for payment of replacement money. If this not happening, then the convict can easily transfer assets or prefer to get imprisonment rather than pay replacement money.

V. Fine Penalty

The lack of changes and adjustments to the Anti-Corruption Law with the development of crime has caused the criminal law to still not provide a maximum deterrent effect to corruptor. This can be seen in the fine arrangement. As a special crime, the fines contained in the Anti-Corruption Law are still far behind when compared to other crime regulations. For example, for narcotics crimes, Article 113, Article 114, Article 116, Article 133, and Article 137 of the Narcotics Law state that the maximum fine can reach IDR 10 billion. Likewise for the money laundering crime, the fine regulated in Article 3 of the Money Laundering Law is also IDR 10 billion.

This is different from the regulation of corruption. It is conceivable, crimes with extraordinary impacts such as corruption only accommodate a maximum fine of IDR 1 billion and that is only articles related to state financial losses, criminal acts of bribery, and gratification (Article 2, Article 3, Article 12, and Article 12 B of the Law). Corruption). Therefore, it is important for stakeholders to immediately revise the Anti-Corruption Law in order to adapt it to the development of corruption crimes.

From the results of ICW's monitoring of fines impositions throughout 2020, it reached IDR 156.355 million (one hundred fifty six billion three hundred fifty five million rupiah). So on average each case is subject to a fine of IDR 131,280,436 (one hundred and thirty one million two hundred eighty thousand four hundred and thirty six rupiah). Even if further investigated, only six defendants were sentenced to a maximum fine of IDR 1 billion.

No.	Case number	Defendant	Occupation	Position	Fine
1.	18/Pid.Sus-TPK/2020/PN Bgl	Erwan Todi	Village Apparatus	former village head Air Wundu	IDR 1 billion
2	5/Pid.Sus-TPK/2020/PNAmb	Farahdiba Jusuf	Bank Sector	Vice Chairman of Bank BNI	IDR 1 billion
3.	122/Pid.Sus-TPK/2019/PNJkt.Pst	Soetikno Soedarjo	Private Sector	PresDIr of PT Mugi Rekso Abadi	IDR 1 billion
4.	121/Pid.Sus-TPK/2019/PNJkt.Pst	Emirsyah Satar	BUMN	Director of PT Garuda Indonesia	IDR 1 billion
5.	6/Pid.Sus-TPK/2020/PNJkt.Pst	Honggo Hendratno	Private Sector	Founder of PT TPPI	IDR 1 billion
6.	149/Pid.Sus-TPK/2019/PNSby	Adri Siwu	Private Sector	Sales Marketing PT A & C Trading Network	IDR 1 billion

VI. Prosecution Mapping

As a representative of the state and representing the public interestin the trial, the role of public prosecutor is very crucial. Why so? Starting from indictment preparation, followed by the process of showing evidence, until the charges reading, became one of the determinants to convince the panel of judges that the defendant had committed a criminal act of corruption. However, unfortunately, it has not run optimally in Indonesia, especially throughout 2020.

In monitoring, particularly in this section, ICW will divide into four clusters: 1) prosecution based on articles in the Anti-Corruption Law and the Money Laundering Law; 2) averageprosecution; 3) the severity of the prosecution; 4) prosecution disparity. From this data, at least public can see the effectiveness of the prosecution's performance, both the AttorneyGeneral's Office and KPK.

Prosecution based on Articles of the Anti-Corruption Law and the Money Laundering Law
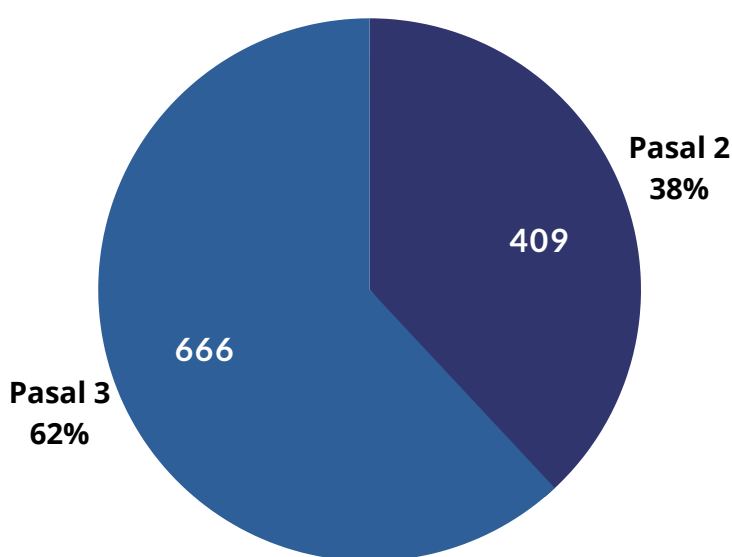
When there are provisions in a regulation with relatively the same elements, the prosecutor should be able to use articles that are more incriminating for the defendant. Unfortunately, in many cases, throughout 2020, this was not the case. As a consequence, many defendants were instead prosecuted with light sentences by the public prosecutor.

In this first cluster, ICW will look at the article on state financial losses application in the framework of a letter of warrant. As it is known between the two Articles on State Loss (Article 2 and Article 3 of the Anti- Corruption Law) there is a wide range of punishments. For Article 2 itself, the minimum sentence is four years in prison, while Article 3 is only one year in prison. In order to severely punish the perpetrators, the public prosecutor should use Article 2 of the Anti-Corruption Law.

Charges based on State Financial Losses Article

Pasal 2
38%
409

Pasal 3
62%
666

The data above shows that the public prosecutor is still dominant in using Article 3 when formulating the warrant. Of course this is disastrous, especially for those whose interests are represented by the public prosecutor at trial. Looking at the data, it is natural that the average charges in the trial of corruption cases are relatively light.

Not only that, as an effort to maximize the recovery of state financiallosses and seize assets resulting from crimes, the public prosecutor is also expected to include the Money Laundering Law in the letter of demand. However, unfortunately, it is still rarely implemented. Of the total defendants, practically only 19 people were charged with the Money Laundering Law.

Average Charges

One of the core parts of a trial is the indictment reading by the public prosecutor. Because, from these charges public will see the extent public prosecutor perspective's in viewing defendant's corruption crimes. Not only focusing on the defendant, but the public prosecutor must also act on behalf of the public whose position as victims of crime.

For this reason, from a total of 1,298 defendants who faced trials throughout 2020, ICW tried to average imprisonment charge from the public prosecutor. The result is indeed better than the previous year (3 years 7 months in prison), but still relatively light, which is 4 years and 1 month in prison.

Average Charges (in month)

Year	Value
2017	38
2018	36
2019	43
2020	49
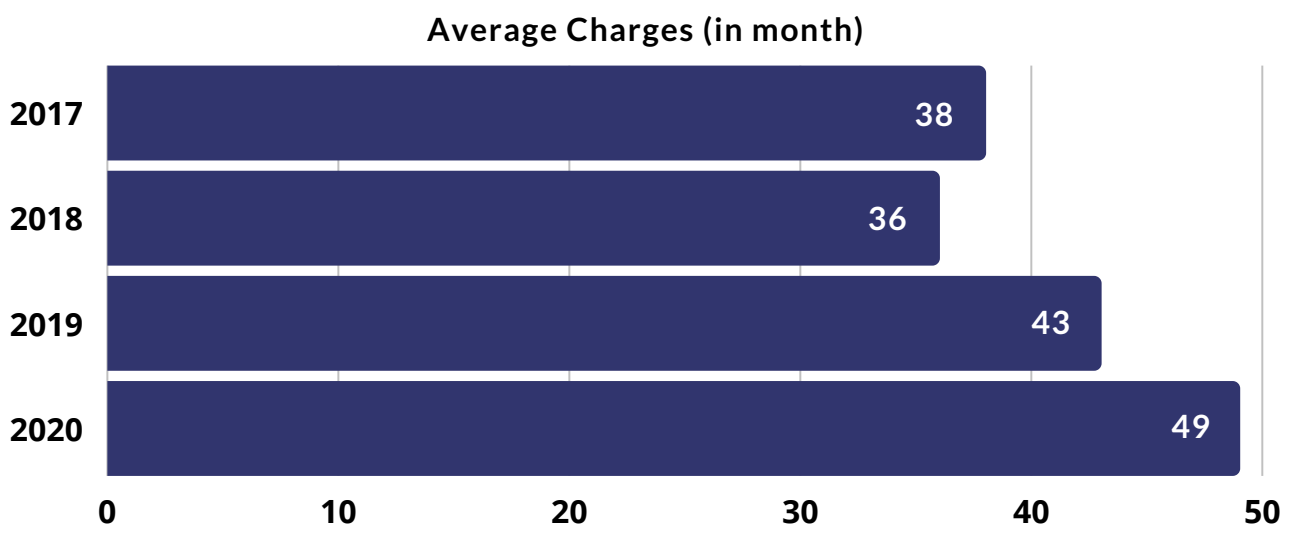
Another thing, in monitoring prosecutions, ICW also looks specifically at two law enforcer performances, namely the Attorney General's Office and the KPK.
Later on, these results can be used as a Law Enforcement performance assessment indicator in the trial of corruption cases.

As in findings duringprevious year, the KPK is superior to the Prosecutor's Office in imposing imprisonment charges against defendants. This explains that the KPK has more of a deterrence perspective against defendant than the Prosecutor's Office. However, there is a downward trend when compared to 2019. In that year the average of KPK Charges reached 5 years and 2 months in prison. This should be a concern for the Commissioner to also pay attention to the performance of the public prosecutor at trial.

20

**The Average of Law Enforcer Charges (in month)**
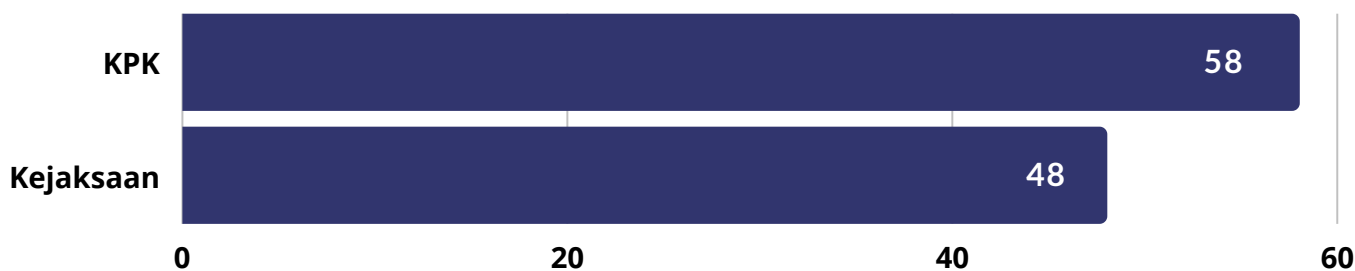
Finally, from this monitoring, the average charges based on the defendant's work background were also obtained. For example, the defendant whose work is included in the category of state civil servants. It turns out that the average charge is only 3 years and 6 months in prison. In fact, based on Article 52 of the Criminal Code, it is explained that if someone holds a strategic position, the sentence must be increased

Charge Severities

In this section, ICW will share the details of KPK and the Attorney General's Office Charges. It is divided into three categories: 1) light charges (0-4 years in prison); 2) moderate charges (under 10 years in prison); 3) heavy charges (above 10 years in prison). In this classification, the public can see two things, starting from the prosecution defendant numbers based on that category and the classification types of public prosecutor imprisonment.

The first part, ICW sees the trend of light charges still dominating the monitoring every year. In 2020, around 736 defendants were given light charges, then 512 were in the moderatecategory, and only 36 people were given heavy sentences. This is certainly a sad fact and shows the public prosecutor performance is still far from public expectations.

Charge Severities - Yearly
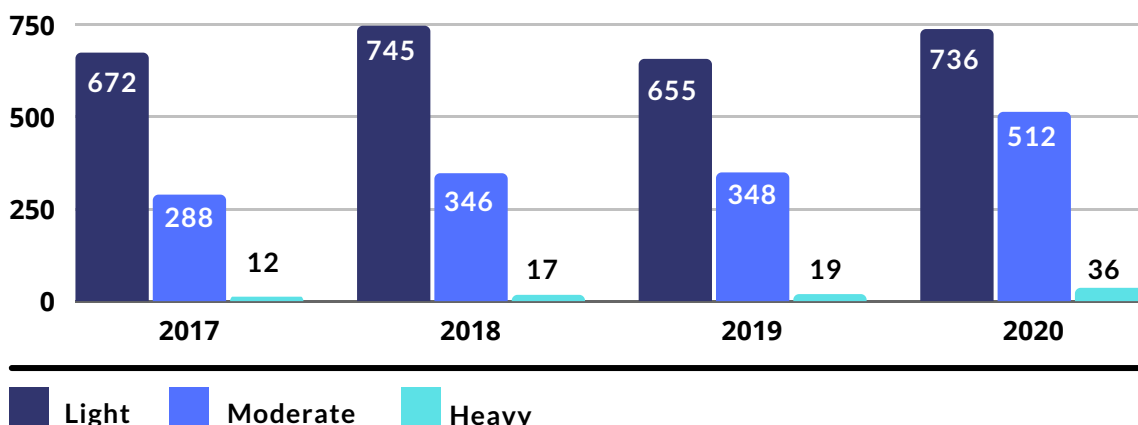
Then, if the data is examinedfurther, it can be dividedbased on which law enforcement carry out the prosecution clusters. Based on the data that ICW found,the KPK is still dominatedby moderate categoryprosecutions, while the Prosecutor's Office itself is more than fifty percent of those who have light charges.

Charge Severities Prosecutor's Office - KPK 2020

	Kejaksaan	KPK
Light	680	41
Moderate	446	58
Heavy	35	1
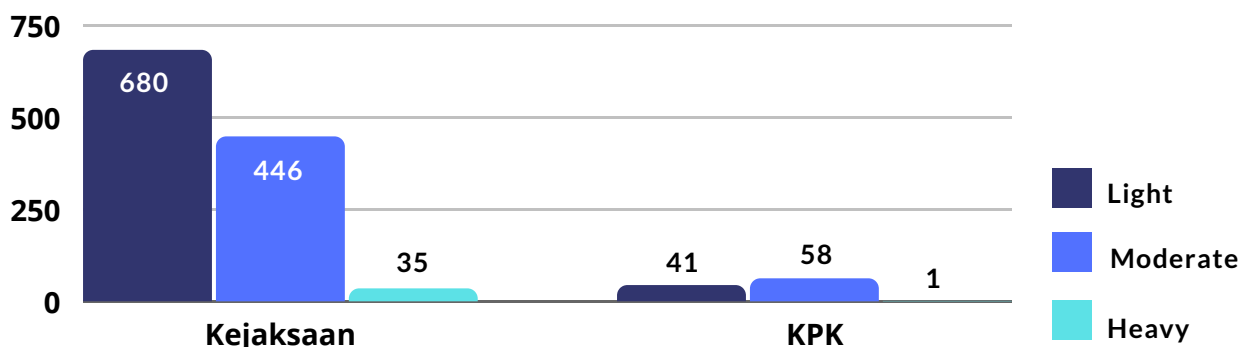
In addition, ICW also took part in sampling and investigating lightly prosecuted defendants' work background, both by the KPK and the Attorney General's Office. The findings, the majority with ASN background, followed by village officials, and the private sector. Here's the complete amount.

Light Charges – Occupation Background

Occupation	Count
Civil Servants	211
Village Officials	210
Private Sector	140
University/School	33
Ministry	20
BUMN/BUMD	19
Hospital	15
DPR/DPRD	13
Bank	11
Police	10
Election Commission	5
Regional Heads	2
BPN	2
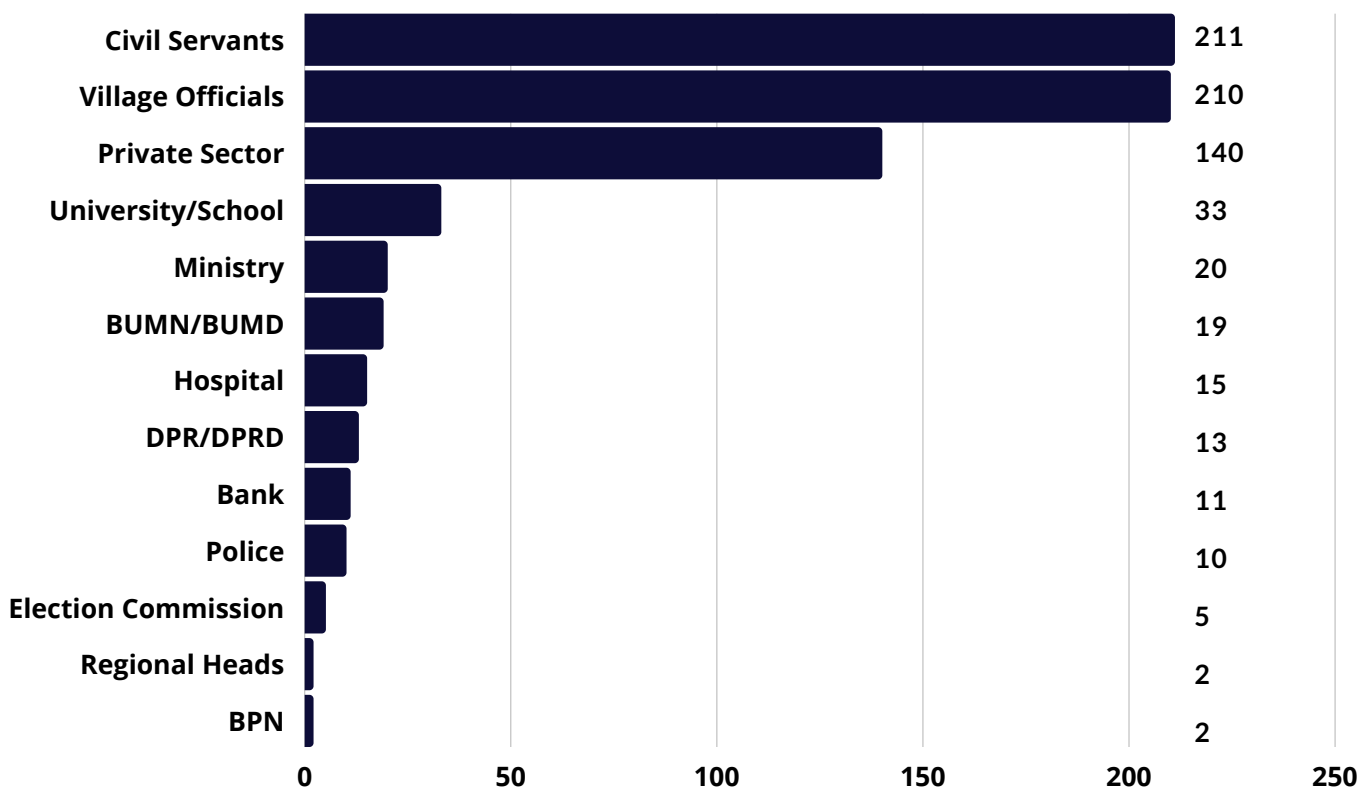
Prosecution Disparity

This monitoring also captures a trend that is becoming more and more common in courts. The injustice range in indictment letter is often pointed out by the public prosecutor. There's no exception. In year 2020, there are several charges, which when viewed from the articleare the same, but the sentences proposed by the public prosecutor are very much different. In simple terms, a person who commits a criminal act of corruption with a large scale of state losses should not have the samedemands as someone who causes small state losses. But what often happens is the opposite.

The table below will show the gap in charges between defendants with reference to two types of corruption, namely state financial losses (Article 2 and Article 3) and the crime of bribery (Article 5 and Article 11). The division of these two types of corruption is related to the sentence length. If the state's financial losses can be punished for life, but for the crime of bribery the maximum penalty is only five years in prison.

No	Case Number	Name	Occupation	State Losses	Charges	Article
1.	85/Pid.Sus-TPK/2019/PNMdn	Junaedi	Director of PT Rian Makmur Jaya	IDR 35.000.000	1 year 6 months	Article 3
2	5/Pid.Sus-TPK/2020/PNJmb	Nero Putra	Director of CV Rama Consultant Engineering	IDR 1.040.825.423	1 year 6 months	Article 3
3.	21/Pid.Sus-TPK/2020/PNBdg	Asep Mulyana	Chief Village Karang Asih	IDR 1.135.697.650	1 year 6 months	Article 3
4.	49/Pid.Sus-TPK/2020/PNSby	Edi Sujarwo	Chief Village	IDR 125.589.921	3 years	Article 3
5.	51/Pid.Sus-TPK/2019/PNPbr	Mulheri	Director CV Listra	IDR 68.857.000	1 year 6 months	Article 3
6.	32/Pid.Sus-TPK/2019/PNAmb	Johny Lucky	Supervising Consultant	IDR 3.039.364.155	1 year 6 months	Article 3

No	Case Number	Name	Occupation	Bribery	Charges	Article
1.	29/Pid.Sus-TPK/2019/PNPtk	Rodi	Entrepreneur	IDR 60.000.000	2 years	Article 5
2	24/Pid.Sus-TPK/2020/PNSmr	Aditya Maharani	Director PT Turangga Triditya Perkasa	IDR 5.000.000.000	2 years	Article 5
3.	105/Pid.Sus-TPK/2019/PNJkt.Pst	Pieko Njotosetiadi	Director PT Fajar Mulia	IDR 3.500.000.000	2 years	Article 5
4.	26/Pid.Sus-TPK/2019/PNPtk	Bun Si Fat	Director CV Menyala	IDR 120.000.000	2 years	Article 5
5.	5/Pid.Sus-TPK/2020/PNJkt.Pst	Darwin Maspolim	Commisioner PT Wahana Auto	IDR 1.782.000.000	4 years	Article 5
6.	26/Pid.Sus-TPK/2020/PNPbr	Suheri Terta	Manager Duta Palma Group	IDR 8.000.000.000	4 years	Article 5

3. CORRUPTOR IMPRISONMENT SENTENCES

In the criminal justice system, especially when using the point of view of functional differentiation principles, the court plays an important role in overcoming crime problem. Especially for corruption, in the midst of complicated situation lately, the court should be able to appear as an alternative way to provide a deterrent effectfor perpetrators. However,the fact is, until now, the verdict that was handed down did not as public's expected.In fact, it seems that these decisions only benefit the criminals, without considering the losses felt by the public.

As a consequence of corruption definition as an extraordinary crime, all series of legal actions have to be carried out with extraordinary measures, including defendants sentencing. With this condition, it is not wrong if the level of public trust will decrease in the judicial power institutions.

In this section, monitoring data explanation will be divided into seven parts, namely: 1) Article on state financial losses charges; 2) average prison sentence; 3) Penalty Severities; 4) Acquittal; 5) disparity and application of sentencing guidelines; 6) substitute imprisonment;7) Revocation of political rights;

Article on state financial lossescharges

It doesn't only happen in prosecution, it turns out that the panel of judges also often uses beneficial articles for defendant. This can be seen from the state financial loss case types. The tendency is the same, the panel of judges more often uses Article 3 of the Anti-Corruption Law to ensnare defendants.

Based on the monitoring, 749 defendants were convicted using Article 3, while those charged with Article 2 of the Anti-Corruption Law were only 273 defendants. Even though there is already a Supreme Court Circular Number 3 Year 2018 (SEMA 3/2018) which mentions the application regulation of Anti-Corruption Law Article 2 and Article3. In the regulation it is emphasized that if the valueof state lossesin a case is above IDR 200 million, the panel of judges must apply Article2, while those below that number can use Article 3.

Therefore, the table below will show the judges' verdicts that deviated from the SEMA 3/2018 regulations

No	Case Number	Name	State Losses	Article	Verdict
1.	6/Pid.Sus-TPK/2020/PNSrg	Franklin Paul	IDR 5.255.500.000	Article 3	2 years
2	131/Pid.Sus-TPK/2019/PNSby	Syaiful Aidy	IDR 4.900.000.000	Article 3	1 year 6 month
3.	7/Pid.Sus-TPK/2020/PNSmr	Abdul Yajid	IDR 11.000.000.000	Article 3	1 years
4.	29/Pid.Sus-TPK/2020/PNMdn	Zaharuddin Sinaga	IDR 9.984.000.000	Article 3	2 years
5.	45/Pid.Sus-TPK/2019/PNPtk	Abang Tambul Husin	IDR 1.782.580.000	Article 3	1 years

Meanwhile, the application of anti-money laundering regulations is still relatively minimal. Of the 1,298 defendants, the panel of judges only sentenced 19 people with the Money Laundering Law. However, this is reasonable, considering only a few public prosecutor indictments included the Anti-Money Laundering Law to trap the defendants. In fact, with Article 77 of the Money Laundering Law which accommodates the reversal of the proof burden, corruption cases prosecution can also lead to the context of impoverishing corruptors.

Average Imprisonment Sentence

This section will describe the verdicts monitoring at each level of the court. Starting from judex factie (Corruption Court and High Court) to judex jurist (Supreme Court). Later, after that, the data is added up to get the averageof prison sentencehanded down by the panel of judges throughout Indonesia.

Average Verdict in Court Level (in month)

Court	Months
Corruption Court	36
High Court	44
Supreme Court	71
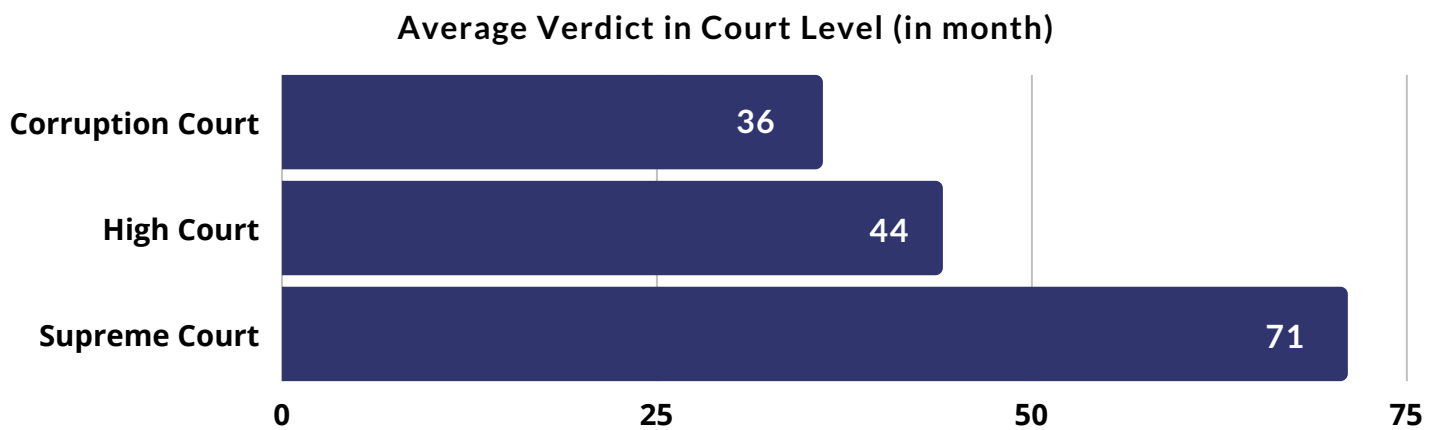
The light verdict above should be seen as a signal of the court's weakening commitment to eradicating corruption, If corruption is seen as an extraordinary crime, the punishment for the perpetrators must be severe. Seeing the reality of the existing verdicts, it becomes natural that corruption will continue to be rampant.

Yearly Verdict Average (in month)

| Year	Months
2017	26
2018	29
2019	31
2020	37
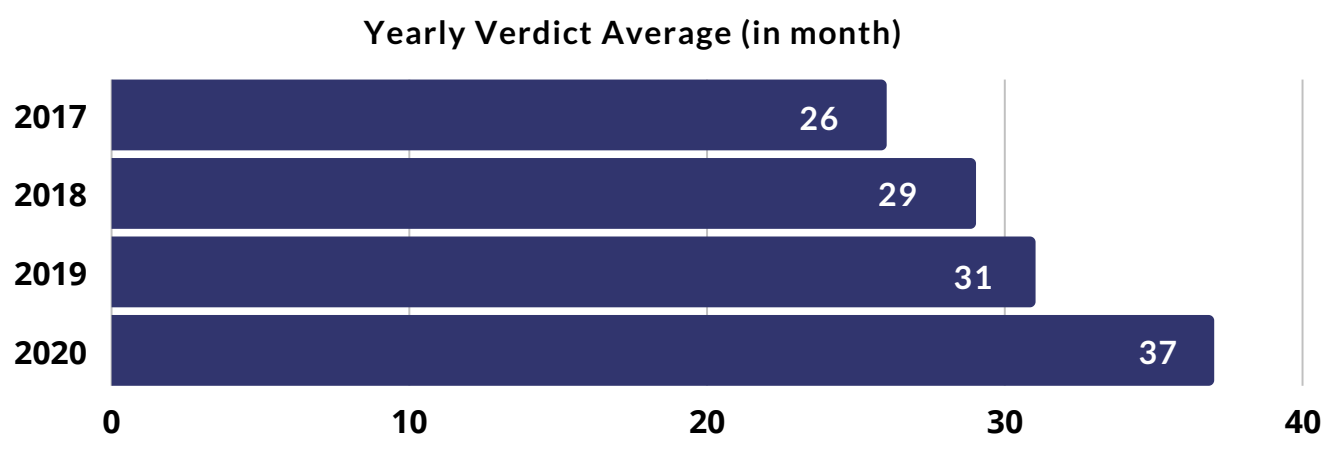
When compared to the previous year, there was an increaseof about 6 months in prison. However, the verdict against the defendant in the corruption case still in light categories. Seeing this reality, it is natural that corrupt practices will continue to occur.

26

Verdict Severities

The decisions monitored in this section will be divided into three categories, ranging from light (0 – 4 years in prison), moderate (under 10 years in prison), and severe (above 10 yearsin prison). This division is carried out on the basis of subjectivity to see corruption crimes that have a systemic impacton society. Thus,it must be interpreted that the perpetrators must be severely punished.

So far, judges'decisions have alwaysbeen based on independence and impartiality when deciding in corruption cases. On the one hand, it is true,but on the other hand, justice for the communityas parties affected by corrupt practices must also be considered by the panel of judges. This is clearly stated in Article 5 paragraph (1) of the Law on Judicial Power that judges are obliged to explore, follow, and understand the legal values and sense of justice that live in society.

Yearly Verdict Severities
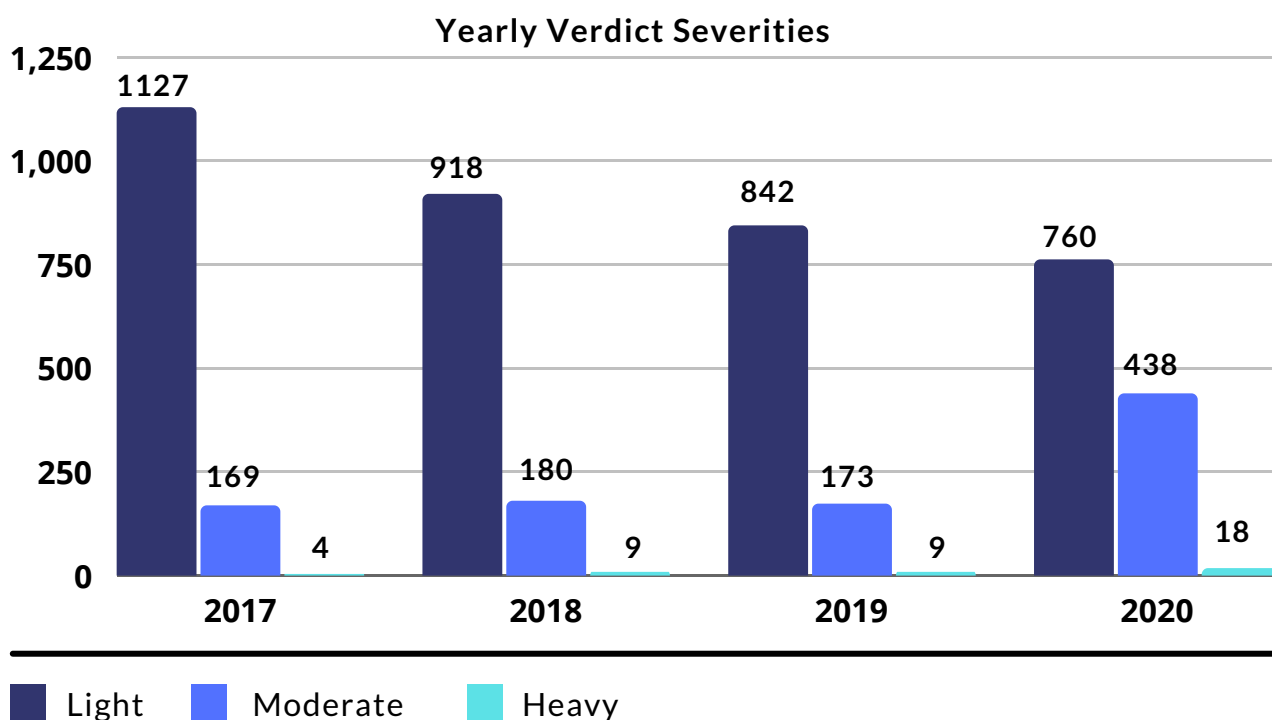
Looking at the graph above, it is interesting to investigate further, as with the demands, this monitoring also identifies the defendants work background who were given light sentences.

27

Light Sentences- Occupational Background

Occupation	Value
Village Aparatur	270
ASN	237
Private Sector	193
Univ/School	36
Ministry	31
BUMN.BUMD	26
DPRD	22
Bank	22
Hospital	12
Law Enforcer	10
KPU	6
Head Region	4
BPN/Bappeda	2
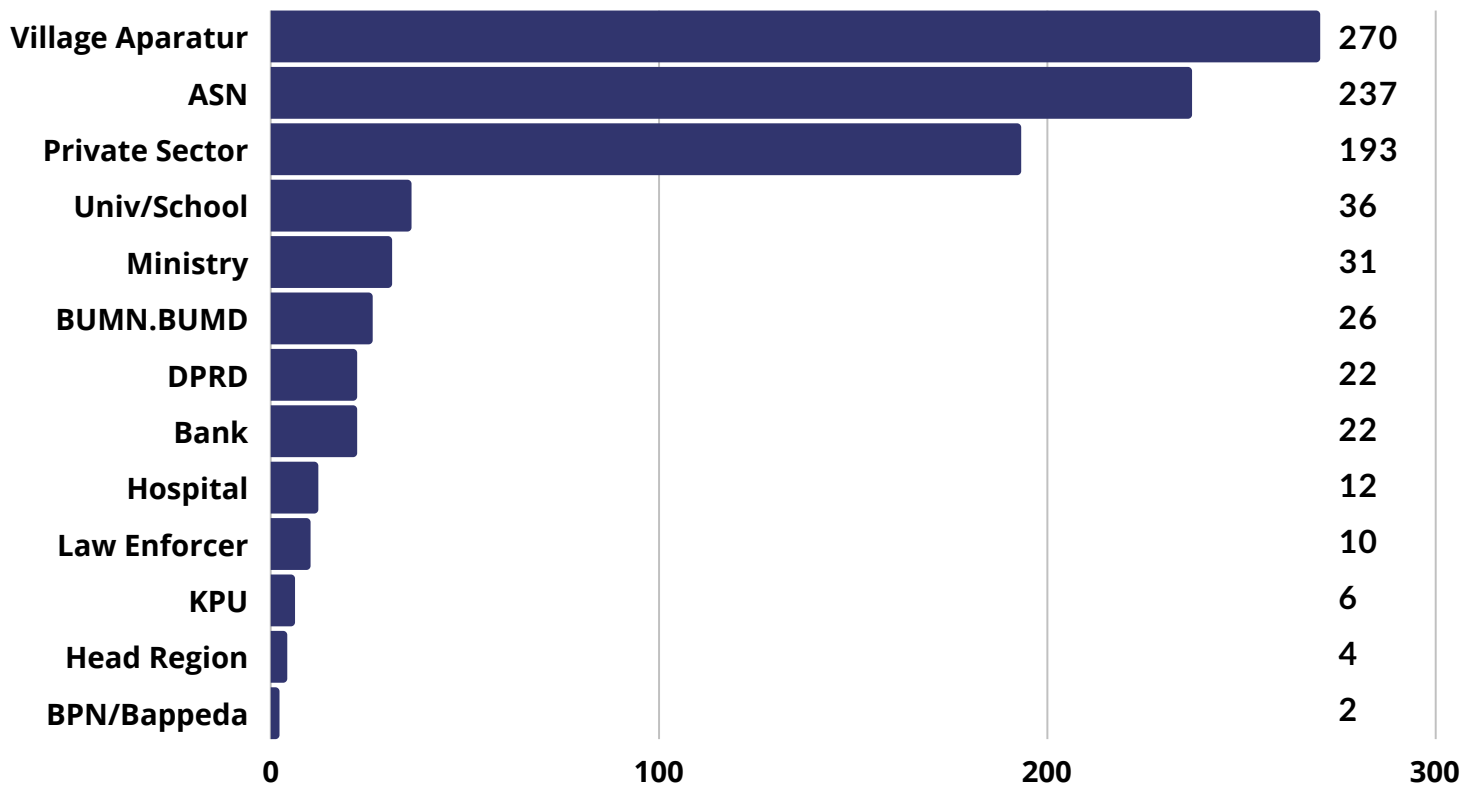
Village apparatus still dominate the panel of judges light sentences. Then followed by the defendant who has an ASN background. At this point, the light sentence against the ASN deserves to be regretted, because in the Criminal Code itself it is regulated that someone who occupies a public office must be subject to a heavier sentence.

Acquittal

Based on Article 183 of the Criminal Procedure Code, the panel of judges will only issue a sentencing decision when the objective conditions are met, namely two pieces of evidence and on the basis they believe that the defendant is the criminal. Departing from that regulation, when an acquittalhanded down, it is not impossible that this will happen because of the failed performance of the public prosecutor in the evidentiary forum.

However, apart from the objectivity factor, as well as considering the condition of Indonesian Judiciary it is possible that the verdict was also colored by corrupt practices. Therefore, the role of supervisory institutions such as the JudicialCommission or the KPK, is also required to observe the trials of corruption cases.

Yearly Acquittal

Year	Value
2017	35
2018	26
2019	54
2020	66
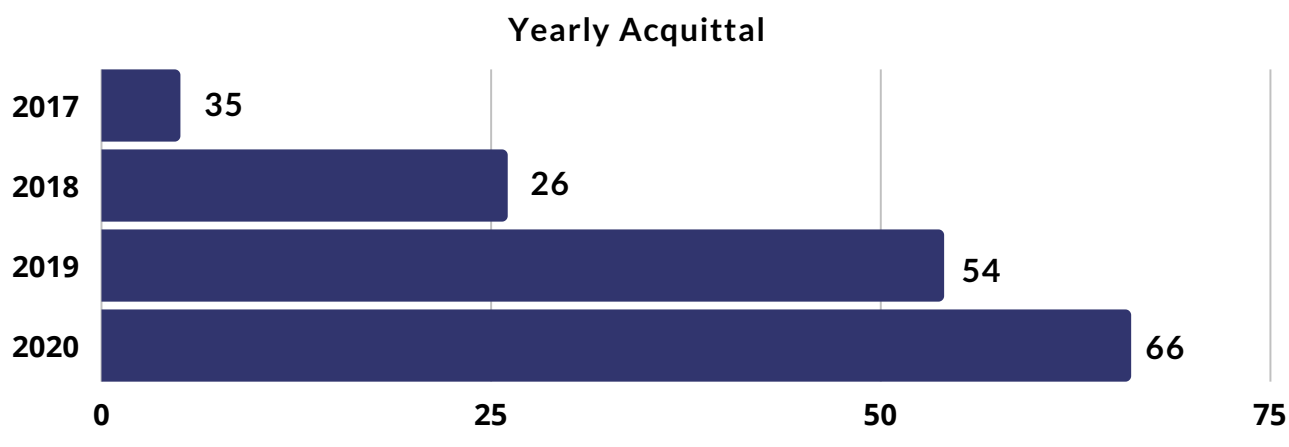
2020 Acquittal data is the highest in the last three years. It is conceivable that a total of 66 defendants were acquitted. It was different from last year, which only had 27 defendants. Then that number experienced a significant increase in 2019 to 54 defendants.

In this monitoring, more than fifty percent of the defendants who were sentenced to acquittal have a work background as a state civil servant. Of the total defendants, the total loss resulting from their actions amounted to IDR 80.9 billion and for bribes themselves amounted to IDR 8.8 billion. Practically all of the defendants were acquitted, the prosecution generallycame from the Prosecutor's Office,while the KPK only had one defendant.

No	Court	Acquitted Defendant
1	PN Banda Aceh	10
2	PN Medan	6
3	PN Makassar	7
4	PN Pekanbaru	5
5	PN Palu	5
6	PN Kendari	4
7	PN Manado	4
8	PN Semarang	3
9	PN Jambi	3
10	PN Bandung	2
11	PN Banjarmasin	2
12	PN Mataram	2
13	PN Bengkulu	1
14	PN Denpasar	1
15	PN Palangkaraya	1
16	PN Palembang	1
17	PN Tanjung Karang	1

Disparity and Implementation of Criminal Guidelines

Disparity Decisions are a classicissue that oftencolor the monitoring of corruption case verdicts. Although it is undeniable that each case has its own characteristics, starting from the mode, the role of each crime party, and the state financial losses value or amount prepared. However, when the Articles that are indicted are similar and the value of state losses are also not much different, the gap between decisions should be minimized.

This monitoring also sampled several cases that had many similarities, but when the verdict was handed down, there was a very significant difference. So this will disturb the sense of justice, both from the side of the accused and the community as victims of corrupt practices.

No	Case Number	Name	Occupation	State Losses	Verdict	Article
1.	116/Pid.Sus-TPK/2019/PNSby	Abdul Ghaffar	Village Secretary of Sumber Rejo	IDR 75.670.000	4 years	Article 2
2	32/Pid.Sus-TPK/2020/PNMks	Yunus M Noor	Chief Village Laringgi	IDR 931.446.557	1 year	Article3
3.	7/Pid.Sus-TPK/2020/PNDps	Tumari	Village Apparatus	IDR 18.200.000	1 year	Article 3
4.	97/Pid.Sus-TPK/2019/PNMks	Aulia Rahman	Treasurer of Madello Village	IDR 554.248.694	1 year	Article 3
5.	84/Pid.Sus-TPK/2019/PNSmg	Suparno	Chief Village of Girimulyo	IDR 21.000.000	4 years	Article 3
6.	21/Pid.Sus-TPK/2020/PNBdg	Asep Mulyana	Village Apparatus of Karang Asih	IDR 1.135.697.650	1 year 6 months	Article 3

No.	No. Perkara	Nama	Pekerjaan	Kerugian Negara	Vonis	Pasal
1.	52/Pid.Sus-TPK/2019/PN Pbr	Subandi	Civil Servant	IDR 35.000.000	1 year	Article 3
2	54/Pid.Sus-TPK/2020/PN Sby	Didik Pancaning	Civil Servant	IDR 1.030.135.995	1 year	Article 3
3.	117/Pid.Sus-TPK/2019/PN Sby	Uni Suroyo	Civil Servant	IDR 89.000.000	4 years	Article 2
4.	49/Pid.Sus-TPK/2020/PN Mdn	Ahmad Fuad Lubis	Civil Servant	IDR 937.384.612	1 year	Article 3
5.	6/Pid.Sus-TPK/2020/PN Gto	Danar Bata	Civil Servant	IDR 146.050.000	2 years	Article 3
6.	48/Pid.Sus-TPK/2020/PN Mdn	Faizal Irwan	Civil Servant	IDR 2.100.000.000	1 year	Article 3

No	Case Number	Name	Occupation	Bribe Value	Verdict	Article
1.	27/Pid.Sus-TPK/2019/PN Ptk	Pandus	Director CV Tajur Rasak	IDR 160.000.000	1 year 6 months	Article 5
2	105/Pid.Sus-TPK/2019/PN Jkt.Pst	Pieko Njotosetiad	Director PT Fajar Mulia	IDR 3.500.000.000	1 year 6 months	Article 5
3.	8/Pid.Sus-TPK/2020/PN Bdg	Bartholomeus Toto	PresDir PT Lippo Cikarang	IDR 10.500.000.000	2 years	Article 5
4.	25/Pid.Sus-TPK/2020/PN Mks	Sudirman Nongko	Private Sector	IDR 200.000.000	2 years 6 months	Article 5
5.	26/Pid.Sus-TPK/2019/PN Tjk	Cecep Ahmad	Private Sector	IDR 70.000.000	1 year 2 months	Article 11
6.	37/Pid.Sus-TPK/2020/PN Jkt.Pst	Taufik Agustono	Director PT Humpus	IDR 2.700.000.000	1 year 5 months	Article 5

In the middle of 2020, the Supreme Court's steps to overcome the decision disparity problem deserve to be appreciated. At that time, the Supreme Court issued Supreme CourtRegulation Number 1 Year 2020 concerning Guidelines for Criminalization Article 2 and Article 3 of the Anti-CorruptionLaw.

But unfortunately, the Supreme Court seems to have localized the problem only on the state financial losses article. In fact, the disparity also touches many other articles, one of which is most often related to bribery.

However, what is expected in PerMa 1/2020 is in fact still not widely implemented. Based on the Matrix of Criminal Sentences in PerMA 1/2020, ICW tries to look at decisions that are contrary to these rules. The indicator used is the amount of state financial losses.

This matrix lists five categories, starting from the heaviest (state losses above IDR 100 billion, imprisonment for a minimumof 10 years), severe (state losses above IDR 25 billion, imprisonment for at least 8 years), moderate (state losses above IDR 1 billion, the threat of imprisonment for a minimum of 6 years), light (state losses above IDR 200 million, imprisonment for a minimum of 4 years), and the lightest (maximum state losses of IDR 200 million, imprisonment for a minimum of 1 year).

Light Category

No	Case Number	Name	Occupation	State Losses	Verdict
1.	28/Pid.Sus-TPK/2020/PN Pbr	H Syamsuri	Secretary of Local Parliament Rokan Hilir District	IDR 892.875.000	2 years 2 months
2	15/Pid.Sus-TPK/2020/PN Mnk	Ahmad Afit	Local Parlia ment Member Fak-Fak	IDR 542.725.000	1 year
3.	14/Pid.Sus-TPK/2020/PN Kpg	Anderias Lofa	Village Head Lakamola	IDR 400.036.812	3 years

Moderate Category

No	Case Number	Name	Occupation	State Losses	Verdict
1.	6/Pid.Sus-TPK/2020/PN Srg	Franklin Paul	Director PT Banten Global	IDR 5.255.500.000	2 years
2	18/Pid.Sus-TPK/2020/PN Sby	Chandra Heri	Private Sector	IDR 3.500.000.000	1 year
3.	29/Pid.Sus-TPK/2020/PN Mdn	Zaharuddin Sinaga	Director PDAM Tanjung Balai	IDR 9.984.000.000	2 years

Heavy Category

No	No Perkara	Name	Occupation	State Losses	Verdict
1.	27/Pid.Sus-TPK/2020/PN Sby	Imansyah Sofyan Hadi	Private Sector	IDR 28.217.810.582	6 year
2	19/Pid.Sus-TPK/2020/PN Mks	Hamri Haiya	Subdistrict head of Rappocini	IDR 26.993.804.083	3 year

Therefore, it is important for the Supreme Court to be more aggressive in socializing the PerMA. In addition, the PerMA also does not explain the sanctions faced by judges when they ignore the regulation. Practically, just aborted at a higher level.

Substitute Imprisonment

The purpose of corruption conviction in addition to sending corruptors to correctional institutions, is also to confiscate crimes assets. However, not often the prisoners prefer to get additional punishment Imprisonment instead of paying replacement money. This arrangement is explained in Article 18 paragraph (3) of the Anti-Corruption Law which reads "In the event that the convicted persondoes not have sufficient propertyto pay the replacement money, he is sentenced to imprisonment for a length of time that does not exceed the maximum threat of the principal sentence".

However, when looking at the existing reality, the substitute prison sentence contained in the v is still very low. In addition, the practice of disparity between decisions also occurred. For example, a decision relatedto the imposition of a high replacement money was instead given an alternative to a low substitute imprisonment. On the other hand, there are cases where the amount of replacement money is relatively small,but the substitute imprisonment is high.

This monitoring also looks at the extent to which judges put a substitute imprisonment sentence in a sentencing decision. The fact is very sad, from a total of 549 defendants who were sentenced to a substitute prison sentence, the average sentence was only 1 year and 1 month in prison. Therefore, it is natural that the Defendant, apart from having transferred assets to another party, prefers to undergoimprisonment rather than paying replacement money.

No	Case number	Name	Occupation	Money Replacement	Imprisonment Substitute
1.	86/Pid.Sus-TPK/2019/PN Mks	Hedar	Head Master of SMAN 2 Watampona	IDR 484.626.494	1 month
2	11/Pid.Sus-TPK/2020/PN Kpg	Lasarus Krisbeni	Private Sector	IDR 750.000	1 month
3.	1/Pid.Sus-TPK/2020/PN Jap	Madri Prasongko	Head of BPD Papua	IDR 16.161.678.505	3 months
4.	11/Pid.Sus-TPK/2020/PN Gto	Yurika S Rauf	Panwaslih Boalemo	IDR 17.500.000	3 months
5.	106/Pid.Sus-TPK/2019/PN Jkt.Pst	Nurdin Basirun	Governor of Kepulauan Riau	IDR 4.228.500.000	6 months
6.	4/Pid.Sus-TPK/2020/PN.Bn A	M Tahar	Village Apparatus	IDR 15.900.000	6 months

Revocation of political rights

ICW's monitoring of the corruption cases trial in 2020 also included the element of revocation of political rights in the decision. This becomes important, especially in political clusters,for example: regional heads, members of the legislature, and other public positions. Apart from being regulated in Article 10 of the CriminalCode in conjunction with Article 18 of the Corruption Act, actually someone who has been given a mandate by the community but has betrayed by committing corruptpractices is not eligible to be giventhe opportunity to participate in political contestations.

Because SIPP is not comprehensive enough in presenting decision data, for this section ICW uses secondary data through online news searches. The results were quite disappointing, from 43 defendants and prisoners who came from political clusters, practically only 22 people were deprived of their right to vote and were elected by the panel of judges. This shows that the court has not considered the urgency of revocation of political rights for perpetrators of corruption

No	Name	Occupation	Position	Date	Level	Verdict
1	Dirwan Mahmud	District Head	Regent of Bengkulu Selatan	14/1/20	JR	36
2	Zainal Abidin	Parliament	Local Parliament Member in Jambi	27/2/20	District Court	60
3	Effendi Hatta	Parliament	Local Parliament Member in Jambi	27/2/20	District Court	60
4	Muhammadiyah	Parliament	Local Parliament Member in Jambi	27/2/20	District Court	60
5	Zainudin Hasan	District Head	Regent of Lampung Selatan	29/8/20	Cassation	36
6	Irwandi Yusuf	District Head	Governor of Aceh	14/2/20	Cassation	60
7	Nurdin Basirun	District Head	Governor of Riau Island	9/4/20	District Court	60
8	Tamzil	District Head	Regent of Kudus	6/4/20	District Court	36
9	Sukiman	Parliament	Local Parliament Member	29/4/20	District Court	60
10	I Nyoman Dhamantra	Parliament	Local Parliament Member	6/5/20	District Court	48
11	Muzni Zakaria	District Head	Regent of Solok Selatan	22/10/20	District Court	48
12	Dzulmi Eldin	District Head	Mayor of Medan	11/6/20	District Court	48
13	Imam Nahrawi	Ministry	Minister of Youth and Sport	29/6/20	District Court	48
14	Supendi	District Head	Regent of Indramayu	7/7/20	District Court	24
15.	Agung Ilmu	District Head	Regent of Lampung Utara	2/7/20	District Court	48
16.	Supriyono	Parliament	Head of Local Parliament in Tulungagung	4/8/20	District Court	48
17.	Anas Urbaningrum	**DPR**	Parliament Member	30/9/20	JR	60
18.	Musa Zainuddin	Parliament	Parliament member	18/9/20	JR	36
19.	Markus Nari	Parliament	Parliament member	27/2/20	Appeal	60
20.	Amril Mukminin	Regional Head	Regent of Bengkalis	9/11/20	District Court	36
21.	Taufik Kurniawan	Parliament	Parliament member	30/11/20	JR	36
22.	Ahmad Yantenglie	Regional Head	Regent of Katingan	20/1/20	Cassati on	60

4. RECONSIDERATION PHENOMENON

Article 263 paragraph (2) of the Criminal Procedure Code has clearly limited the conditions for a prisoner who wishes to file an extraordinary legal remedy in the form of a review. The regulation states three conditions to be able to take the PK, including: 1) there are new conditions; 2) conflict between decisions; and 3) judge's error. But what happened was the opposite. Many corruptors seem to use PK as a shortcut to get a reduced sentence.

It is undeniable, one of the factors that can be read to see this phenomenon is very intertwined with the retired Supreme Court Justice, the late Artidjo Alkostar in 2018. This condition was immediately used by inmates to apply for PK in droves. The result may also be in accordance with previous assumptions, many PK decisions have granted the corruptorsrequest.

This monitoring will clarify the names of prisoners whose PK requests were granted by the Supreme Court.

No	Name	Occupation	Criminal Case	Verdict Dates	Judicial Review
1.	Dirwan Mahmud	Regent of Bengkulu Selatan	Infrastructure project bribes	14/1/2020	Accepted (6 years become 4 years and 6 months)
2	Rohadi	Clerk of Jakarta Utara District Court	Accepting bribes related to the handling of the Saiful case Jamil	19/6/2020	Accepted (7 years become 5 years)
3.	Sri Wahyuni Maria	Regent of Talaud Island	Bribe market revival	28/8/2020	Accepted (4 years and 6 months become 2 years)
4.	Tubagus Iman Ariyadi	Mayor of Cilegon	Bribery of Environmental Impact	7/9/2020	Accepted (6 years become 4 years)
5.	Musa Zainudin	Member of Parliament	Analysis permission Bribery case infrastructure project	17/9/2020	Accepted (9 years become 6 years)
6.	Irman	Director at Directorate General of population and civil registration Ministry of Internal Affairs	E-KTP	24/9/2020	Accepted (15 years become 12 years)

No	Name	Occupation	Criminal Case	Verdict Dates	Judicial Review
7.	Sugiharto	Ministry of Internal Affairs official	E-KTP	24/9/2020	Accepted (15 years become 10 years)
8.	Anas Urbaningrum	Member of Parliament	Hambalang project Corruption	30/9/2020	Accepted (14 years become 8 years)
9.	Hidayat Abdul Rahman	Directorate Officer Food Crops ministry of agriculture	Directaid procurement Benih Unggul	28/9/2020	Accepted (9 years become 5 years)
10.	Adriatma Dwi Putra	Former Mayor of Kendari	Bribery of street development work	16/9/2020	Accepted (5 years 6 months become 4 years)
11.	Asrun	Former Myor of Kendari	Bribery of street development work	16/9/2020	Accepted (5 years and 6 months become 4 years)
12.	Sudarto	Director PT Hakayo Kridanusa	Family Planning Tool corruption at BKKBN	28/12/2020	Accepted (10 years become 5 years)
13.	Novi Harianti	Branch head of Bank Syariah BUMN Cimahi	Corruption of People's Business Credit	9/12/2020	Accepted (3 years become 1 year)
14.	Jefri Sitindaon	Bank Sumut	Vehicle Service procurement	28/12/2020	Accepted (7 years become 3 years)

5. CONCLUSION

General Information

- Throughout year of 2020, Defendants with a male gender dominated. This monitoring data shows that out of a totalof 1,298 defendants, 1,170 of them are male, while only 128 are female
- Of the total 606 defendants who were identified in terms of age, 588 people were over 30 years old. While 18 other people are under 30 years old. The age division uses the legal basis of the Youth Law
- Throughout the year 2020, the most defendants with village apparatus work backgrounds. Data shows that 330 people or about twenty-five percent of cases in court are dominated by village officials
- Total state losses caused by corruptpractices in 2020 reached IDR 56.7 trillion
- Defendants who come from political clusters, both regional heads and members of the legislature, have caused large amounts of state losses when comparedto other work backgrounds. Throughout the year 2020, the cluster resulted in state losses of IDR 115 billion

Attorney General's Office and KPK

- -The Attorney General's Office is still relatively minimal in taking action against corrupt actors who come from state administrator elements. Practically throughout the year 2020, the prosecutor's office only processed the law for perpetrators of corruption who came from village officials. Considering the number of employees and representatives of Prosecutor's Office spread throughout Indonesia
- it should be a supplement to focus on public officials element prosecutions. In addition, case handling fees should be allocated to handle major cases
- Based on the indictment, the most corruption cases that occurred in 2020 were the same as in the previous periods, namely state financial losses and bribery
- Law enforcers still use the 'follow the suspect' approach, rather than applying 'follow the money' model. This can be seen from the lack of charges using the anti-money laundering law

- -In the prosecution phase, especially cases related to state financial losses, public prosecutors, both the KPK and the Prosecutor's Office, still use Articles that benefit the defendant. Evidently, from all these cases, as many as 666 defendants were charged with using Article 3, while Article 2 was only 408 people. In order to apply the deterrent effect, the public prosecutor should no longeruse Article 3, because this regulation opens the opportunity for the defendant sentenced to light charges or below 4 years in prison

- Demands are still minimal using money laundering instruments. Practically only 19 defendants were charged with the law

- The averageclaims made by public prosecutors showed improvement when compared to the previous years. In 2020, the average demands reached 4 years and 1 month in prison. However, linking corruption as an extraordinary crime, these demands have not provided a deterrent effect

- The KPK's demands at trial are relatively higher. On average, the demands of the anti-racism agencyare 4 years and 10 months in prison. While the Prosecutor's Office is still lagging behind with an average of 4 years in prison

- Law enforcers, both the KPK and the Prosecutor's Office, are still lightly demanding the defendants from the state civil apparatus. This monitoring shows that the average demands for this work background are only 3 years and 6 months inprison

- Minor demands still dominate the trial process. ICW data shows that 736 of the 1,298 defendants were lightly prosecuted by the public prosecutor. This number has increased compared to the previous year which amounted to 699 defendants. While the number of defendants who were given heavy charges was only 36 people. For law enforcement agencies, light charges are dominated by defendants who are prosecuted by the Prosecutor's Office. Throughout the year 2020, the Prosecutor's Office have lightly prosecuted 680 defendants. Meanwhile, the Corruption Eradication Commission (KPK) demands many defendants who fall into the moderate category

Supreme Court

- The SupremeCourt failed to ensure that the courtsof corruption in the regions comply with their administrative functions, especially with regard to the disclosure of information to the public. This is proofed by the lack of information available in the Case Investigation Information System at 15 Corruption Courts

- In the midst of a complicated situation due to the Covid-19 pandemic, the court continuesto carry out the functionof examining and adjudicating cases. It is proven that throughout the year 2020, the number of cases being tried is fixed running as usual. There is even an upward trend when compared to last year's 2019

- The additional punishment in the form of replacement money has not yet been maximally imposed on the defendant. With IDR 56 trillion state losses, the replacement money is only around IDR 19.6 trillion

- As one of the main punishments based on Article 10 of the Criminal Code, however, the judges are still minimally imposing fines on corruption defendants. This monitoring shows that the total fines generated are only around IDR 156 billion.Not only that, practically only six defendants were subject to a maximum fine of IDR 1 billion

- Portraits of disparity are still coloring the trial throughout 2020. This monitoring also captures various disparities that are narrowed down to two types of corruption, namely state financial losses and bribery

- Not much different from the previousconclusion, the judge'sverdict also often uses Article 3 compared to Article 2 of the Anti-Corruption Law. Data shows as many as 749 defendants were sentenced to Article 3, while Article 2 was only 273 defendants, Supreme Court Circular Letter Number 3 Year 2018 has not been widely applied in formulating prison sentences

- The average corruption verdict has increased compared to last year 2019. From a total of 1,219 cases that were tried, the average sentence for corruption defendants was 3 years and 1 month in prison

- Throughout the year 2020, light sentences still dominate the trial of corruption cases. It is proven, this monitoring data shows as many as 760 defendants were sentenced to under four years in prison. Meanwhile, the heavy sentences were only imposed on 18 defendants

- Acquittal sentences in this period are the highestcompared to the last four years. A total of 66 defendants were acquitted. Whereas in the previous year there were practically only 54 people (2019), 26 people (2018), and 35 people (2017). The Aceh courts are the most frequent places to acquit defendants in corruption cases. Of the total, 10 defendants were acquitted or released at the Court

- Portraits of disparity in decisions still often occur in 2020. However, since the issuance of Supreme Court Regulation Number 1 Year 2020 concerning Guidelines for Criminalizing Article 2 and Article 3 of the Anti-Corruption Law, the quantity of decision disparities relating to the type of corruption in state financial losses has decreased. However, at the same time, other types of corruption cases, such as bribery, disparities are still often seen

- This monitoring also sampled several decisions that still deviate from PerMA 1/2020. This proves the failure of the Supreme Court in disseminating the internal regulations

- Additional penalties in the form of revocation of political rights are still minimally imposed by the panel of judges againstdefendants who have dimensions or intersections with political areas

- The imposition of a substitute prison sentence still benefits the defendant in a corruption case. This monitoring shows that the average replacement prison sentencein 2020 is only around1 year and 1 month in prison. Not only that, there are still many disparities in this additional crime

- Throughout the year 2020, ICW recorded at least 14 prisoners having their sentences reduced at the level of review. This practice actually started when Supreme Court Justice Artidjo Alkostar officially retired. This seems to be directly used by defendant to apply for a JR so that his sentence can be reduced

6. RECOMMENDATION

Attorney General's Office and KPK

- Law enforcersmust embed the Law on the Prevention and Eradication of Money Laundering Crime when processing the law on corruption cases defendants to provide a deterrent effect and at the same time accommodate the issue of recovering state financial losses
- The Attorney General's Office and the KPK must immediately revise or issue guidelines for prosecuting corruption cases to minimize the practice of disparity indemands
- The demandfor the revocation of the right to vote and be electedmust always be imposed on the defendant who has a wedge or contact with the political area

Supreme Court

- The SupremeCourt must pay attention to the disclosure of information regarding cases handling in court. Even if possible, the Supreme Court Chief Justice must impose sanctions on the Chief Justice who ignores the availability of information in SIPP
- Socialization of Supreme Court Regulation Number 1 Year 2020 concerning Guidelines for Criminalizing Article2 and Article 3 of the Law on the Eradication of Corruption Crimes must be carried out massively. In addition, the evaluation stage must also be carried out periodically
- At the same time giving a warning to judges who ignore the provisions of this Perma 1/2020
- The Supreme Court must also immediately initiate the formation of criminalguidelines related to two things.Starting from briberyarticle and the substitute imprisonment imposition;
- The Chief Justice of the Supreme Court must pay more attention to the increasing number of defendant's phenomena submitting extraordinary legal remedies in the form of reconsideration. If it does not meet the requirements as stated in Article 263 paragraph (2) of the Criminal Procedure Code, then the application should be rejected

Government and DPR

- The legislators, either the President or the Parliament, must revise the Law on the Eradication of Corruption Crimes. Because, the substance of the problem will weaken the agenda of eradicating corruption. For example, the prison sentence gap that exists in Article 2 and Article 3 of the Anti-Corruption Law, as well as reforming the penalty of fines, reinterpreting the definition of replacement money, and implementing bail confiscation. In addition, it is also important to immediately enact asset confiscation laws and restrictions on currencytransactions

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Indonesia Corruption Watch