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THE DANGERS OF UNREGULATED ECONOMIC IDEOLOGIES IN INDONESIA AND KAZAKHSTAN: LESSONS FROM THE TIMAH AND KAZATOMPROM CASES

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Abstract

Economic ideology plays a crucial role in shaping a country's economy, but its implementation often faces internal and external obstacles, leading to systems influenced by socialist or capitalist ideologies. In certain cases, such as the Timah case in Indonesia and Kazatomprom in Kazakhstan, the over-ideological nature of economic regulations harms both local communities and businesses. Corporations, too, become victims of these impractical and overly ideological frameworks. This article aims to analyze how the incomplete resolution of economic ideology in practical regulations has led to uncertainty in the business world, making it vulnerable to criminalization. It examines the historical development of Indonesia's economic identity, which traditionally viewed land, labor, and capital as sources of prosperity but has struggled to fully realize this vision. Through a comparative analysis of the Timah and Kazatomprom cases, the article highlights the dangers of unregulated economic ideologies and calls for reforms to create more effective legal frameworks that align with Indonesia's native economic principles and tackle corruption.

Keywords:* *Business criminalization; Economic ideology; Indigenous economy*; *Kazatomprom case; Pragmatic legal reforms; Timah case

Abstrak

Ideologi ekonomi memainkan peran penting dalam membentuk ekonomi suatu negara, tetapi implementasinya sering menghadapi hambatan internal dan eksternal, yang mengarah pada sistem yang dipengaruhi oleh ideologi sosialis atau kapitalis. Dalam kasus-kasus tertentu, seperti kasus Timah di Indonesia dan Kazatomprom di Kazakhstan, peraturan ekonomi yang terlalu ideologis telah merugikan masyarakat dan bisnis lokal. Korporasi juga menjadi korban dari kerangka kerja yang tidak praktis dan terlalu ideologis ini. Artikel ini bertujuan untuk menganalisis bagaimana penyelesaian ideologi ekonomi yang tidak lengkap dalam peraturan praktis telah menyebabkan ketidakpastian dalam dunia bisnis, sehingga rentan terhadap kriminalisasi. Artikel ini mengkaji perkembangan historis dari identitas ekonomi Indonesia, yang secara tradisional memandang tanah, tenaga kerja, dan modal sebagai sumber kemakmuran, tetapi telah berjuang untuk sepenuhnya mewujudkan visi ini. Melalui analisis komparatif terhadap kasus Timah dan

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Kazatomprom, artikel ini menyoroti bahaya ideologi ekonomi yang tidak diatur dan menyerukan reformasi untuk menciptakan kerangka hukum yang lebih efektif yang selaras dengan prinsip-prinsip ekonomi asli Indonesia dan mengatasi korupsi.

Kata Kunci: Ekonomi masyarakat adat; Ideologi ekonomi; Kasus Kazatomprom; Kasus Timah; Kriminalisasi bisnis; Reformasi hukum pragmatis

I. Introduction

One of the most vital components inseparable from the entire identity of a growing nation-state is its economy. As many understand it, the economy is a system for deciding how scarce resources are used so that goods and services can be produced and consumed. Resources themselves include land, people or labor, and raw materials that are necessary to produce goods and services. Such resources are commonly called means of production, that most basic elements include land, labor, and capital. To understand the interrelations between the means of production in the economic system, one can turn to ascertainable descriptions of relationships in the study of Economics. For example, in Classical Economics, land can be viewed as a finite resource upon which production of goods can be done.[4] While Capital includes money and capital goods[5] that help laborers to produce goods more effectively.[6] Classical Economics before Ricardo stated that fundamentally, the price of commodities is determined by the relative amounts of labor needed to produce them as in the case of hunting where the produce's value came from the hours of labor needed to catch it. While Wallerstein even defined that the heart of economy is on labor. He mentioned that a world system is a single division of labor and multiple cultural systems.[7] However, in the developed society where each of the means are owned separately, with the hunting grounds are owned by landlords who apply rent upon it, the free labor-hunters that needed to be paid, and the capital in the form of prepaid wages and hunting tools, the value of the produce is thought to be distributed among the costs of the three means of production.[8] Though, Ricardo further stated that the price of commodities truly and fundamentally relies on labor costs of production which include hours of labor and capital as capital goods measured in units

[4] Duncan K. Foley. 2003. *Unholy Trinity: Labor, Capital, and Land in the New Economy*, *The Graz Schumpeter Lectures*. London: Routledge, p. 6-7.
[5] Baier, S. L., Dwyer, G. P., & Tamura, R. 2003. *How important are capital and total factor productivity for economic growth?* Working Paper Series, Federal Reserve Bank of St. Louis, 85, 67-89. https://doi.org/10.20955/r.85.67
[6] Hennings, K. H. 1986. *Capital as a factor of production.* In J. Eatwell, M. Milgate, & P. Newman (Eds.), *The New Palgrave: A Dictionary of Economics* (p. 114). Macmillan Publishers.
[7] Wallerstein, I. M. 1974. *The modern world-system: Volume I.* New York: Academic Press.
[8] Sandmo, A. 2011. *Economics evolving: A history of economic thought*. Princeton University Press.

of labor also.[9]

Despite this dialectic, the means of production is vital in the realm of public consumption as the production and price of commodities affect the livelihood of a society greatly based on the fact that societal life cannot be divorced from consumption of commodities in all stages. As control over the means is of paramount importance, it is a logical continuity that economic ideologies have flourished with differing perspectives on how such a control, in the form of ownership, should be exercised.[10]

For example, in the capitalist system, the means of production are owned by a small group of individuals. In this mode, private owners receive all profits generated from production and control all the decisions related to the production process.[11] The roles assumed by the production inputs are determined by the invisible hands of the market, which bring technological advancement and capital accumulation. In Capitalism's defense, private capital accumulation engendered by private ownership of the means will eventually result in a maximized national income that would provide the society with the largest possible amount of resources for consumption and greater investments of capitalists that will lead to the creation of more economic opportunities for the rest of the society.[12] In contrast, in the communist system, factors of production are collectively owned and regulated by the proletariat society or by the society through the government. All production related decision-making is determined collectively with strict government or the collective's supervision in production processes. In this system, production activities follow a plan of certain social or economic objectives and not the will of the market. Communist Economy posited that collective ownership and governance of the means is the best as it leads to the deletion of unjust capital accumulation accrued from unpaid portions of labor wages and fair distribution of goods.[13]

Such ideologies were or are adopted by states (such as the United States with its capitalism and North Korea with its command-communist economy), as is the case with Indonesia that seemingly espoused capitalism as of late. However, the point of departure from this simple elaboration of economic systems created in a pursuit of the best model

[9] Sandmo, 75-6.
[10] Haider, M., Shannon, R., & Moschis, G. P. 2022. Sustainable consumption research and the role of marketing: A review of the literature. 1976–2021. *Sustainability, 14*(7), 3999.
[11] Manning, A. 2021. *The elusive employment effect of the minimum wage. Journal of Economic Perspectives, 35*(1), 3–26.
[12] Global Development Policy Center. 2021. *Comparative economic systems: Capitalism and socialism in the 21st century, an ECI tea.* Boston, MA: Boston University.
[13] Global Development Policy Center, 10-12.

of economy is the fact that beyond all doubt, each society from which all countries originated, usually engendered a native economic system that is aligned with their own beliefs and values. And this article argues that the adoption of an economic system should not reflect what some taught as the best based on theoretical understanding but whether it aligns with the characteristics of the people that it will govern.[14]

This notion is the main entry point with Indonesia. As what will be clear later, there is an ideal predetermined economic system in Indonesia that emerged in its pre-colonial times. One that is aligned with its people's ancestral values of cooperativeness and togetherness. An economic system that continues to persist in some form throughout its history up to the present day and one that Mohammad Hatta, Indonesia's father of economy, called *ekonomi rakyat* (people's economy). In short, Hatta propounded that Indonesia's genuine economic system is neither capitalist nor socialist. But one that is an amalgamation of both. It is an economy of cooperation and joint effort where one's own interests align with the public's and where the aims of the collective and the individual are complementary.[15] In this system, the means of production are used to realize both individual and common prosperity.

Hatta believed that this is the economy that Indonesia must adopt, and in the wake of independent Indonesia and the adoption of a national constitution, this belief was embedded in state thinking not as theoretical foundations like those of David Ricardo or Karl Marx, but as a constitutional mandate in the form of Article 33 of the 1945 Indonesian Constitution. The place of the means of production in this economic system is apparent in this very article. For example, the article's paragraph 3[16] recognized the importance of land to the economy and mandated it to be used, first and foremost, for the populace's benefit.[17] While Paragraph 4[18] ruled that the economy must be done in togetherness and

[14] Faryna, O., Pham, T., Talavera, O., & Tsapin, A. .2022. *Wage and unemployment: Evidence from online job vacancy data. Journal of Comparative Economics, 50*(1), 52–70.
[15] Meliala, A. J. 2022. *Melawan dinamika kapitalisme dengan hukum ekonomi kerakyatan.* PT RajaGrafindo Persada.
[16] Republic of Indonesia. 1945. *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* [The 1945 Constitution of the Republic of Indonesia].
[17] Suparto, S. 2020. *Interpreting the state's right to control in the provisions of Article 33 Paragraph (3), The Constitution of 1945 Republic of Indonesia. UIR Law Review, 4*(2), 1–8.
[18] 2022. Paragraph 4 of Article 33 has been used in recent years to assess the soundness of economic policies the government enacted by the Constitutional Court of the Republic of Indonesia. Several rulings of the Court considered that an economic democracy is a democracy that does not render economic undertakings, especially in vital sectors, fully into the hands of market mechanisms and considers the needs of the public as its primary beneficiary. Thus, the price of oil and gas must be regulated by the government and not the market. Another ruling declared that according to the article, the amount of payment that must be paid by citizens for basic necessities such as water must be commensurate to their financial capabilities and not to market rates. Therefore, basic commodities can be utilized by the public as a whole. Aurora Jillena Meliala, *Melawan Dinamika Kapitalisme Dengan Hukum Ekonomi Kerakyatan*, First Edit. Depok: Rajawali

mutual assistance, and thus, labor should always be collective-communal in nature and not commodified. Furthermore, Paragraph 1 meant that capital must be used for and by the people and shall not be corporatist and purely profit-oriented in nature.[19] However, as what will be apparent later on in this study, this constitutionally-mandated economic system was never realized in a substantial way by the Indonesian government. In an unfortunate flow of events, the state subjected the society, in an abrupt manner, either to the communist-command[20] or capitalist[21] economies in pursuit of the most effective economic system, thereby ignoring the inherent socio-economic values found within the society, how the means of production should be governed according to Indonesian characteristics, and callings of the constitution itself.

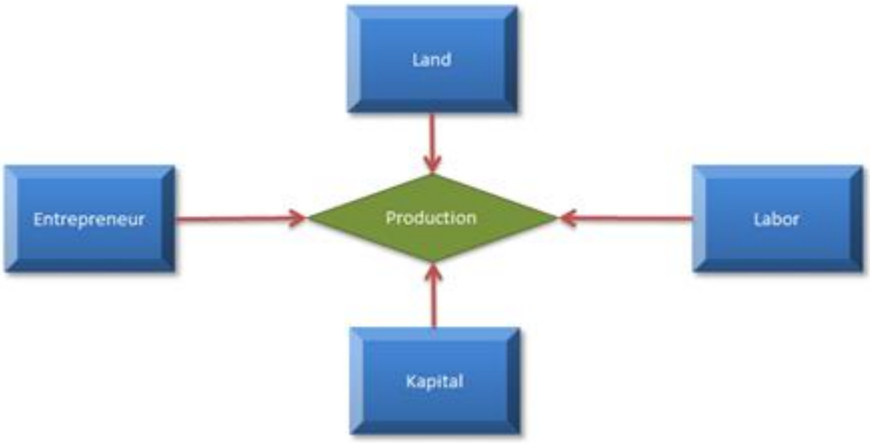

Image 1. Correlation Capital, Land, Labor in Production Process

Hatta envisioned an economic system that transcended the binary of capitalism and socialism, promoting cooperation where individual interests align with the public good. Yet, without pragmatic rules and regulations to operationalize these ideals, the potential of *ekonomi rakyat* remains largely unfulfilled. The lack of clarity in regulations, especially concerning land use and business operations, has stifled the growth of cooperative enterprises and left many communities vulnerable to economic instability

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Press: 233-40.

[19] Such a meaning can also be inferred from the article's paragraph 4, which, in regulations such as Law No. 25 of 2007 on Investment, was interpreted to mean that capital-related activities shall first advance the economy of the entire society and not the wealth and profit of individuals.

[20] 2018. Guided democracy is a concept where the president, in this case, Soekarno, is the center of all political and economic thoughts. See Gili Argenti and Dini Sri Istining Dias, "Soekarno's Political Thingking About Guided Democracy," *Jurnal Politikom Indonesiana* 3(2):51-57.

[21] Hong Lan Oei. 1969. "Implications of Indonesia's New Foreign Investment Policy for Economic Development," *Indonesia* 7 : 33.

(Suyono, 2023).As a result, while the principles of *ekonomi rakyat* resonate with the need for social justice and economic equity, they require robust implementation through clear legal frameworks. This would not only empower local economies but also ensure that the benefits of economic activities are equitably distributed among the populace. A more structured approach to policy making is essential for realizing Hatta's vision of an economy that serves both individual and communal prosperity (Bung Hatta, 2023).

This phenomenon becomes increasingly evident when we examine corruption cases whose prosecutions frequently criminalize the practice of people's economy *(ekonomi kerakyatan*). Moreover, the value of cooperation, collaboration, or mutual assistance (*gotong royong*) is increasingly vulnerable to being interpreted as a form of collusion or nepotism. This shift in interpretation can undermine community-based economic practices, which are essential for social cohesion and local development, and inadvertently stifle the spirit of mutual help and trust that underpins many economic activities in Indonesia.

Moreover, the above-mentioned research objectives aim to provide a clearer understanding of Indonesia's economic landscape, particularly in relation to the impact of corruption on national development. By addressing these issues, the research seeks to shed light on systemic vulnerabilities and propose solutions for fostering transparency and accountability.

In the context of law enforcement practices related to corruption, the definition of *kerugian negara* (state financial losses) becomes critical. *Kerugian negara* refers to the actual or potential reduction in state assets, income, or financial capacity caused by unlawful acts, including corruption. This concept plays a central role in corruption cases, as its determination often serves as the basis for prosecuting offenders. However, ambiguity in defining and calculating state financial losses frequently leads to challenges in legal proceedings, raising questions about fairness, accuracy, and the potential for misuse in targeting individuals or entities.

II. Method

This article utilized qualitative research, which is an approach used for exploring and understanding the meaning individuals or groups ascribe to a social or human problem. The process of research involves emerging questions and procedures and data typically collected in the participant’s setting, with the researcher making interpretations based on said data.[22] Essentially, this method of research, in its process, hypothesis, analysis, and conclusion, among others, up to its writing, utilizes aspects that are non-numerical, descriptive-situational, and analytical.[23] Therefore, it is clear that in this mode of research, the researcher is deeply involved in the examination of sources and data. In such a style of data gathering and examination, the researcher is to scrutinize all questions and problems posed by the dilemma at hand.

This article gathered data from established sources such as articles, books, theses, and any other relevant sources. All data are used to support the three qualitative approaches used in the study. The first is a conceptual approach. Through analysis of the pre-colonial economy and the philosophy of the Constitution, the Indonesian ideal economic system can be clearly conceptualized.[24] The historical approach uses data to explain the chronological evolution of the Indonesian economy and its implications. While the analytical approach uses sources to examine policy changes, their application and impacts, and their adherence to the Indonesian ideal system.

III. Analysis and Discussion

A. PT Timah and the Collapse of Ekonomi Rakyat: When Idealism Goes Wrong

The concept of the people's economy (*ekonomi kerakyatan*) in Belitung is exemplified by the collaborative mechanisms that bring wealth to the region, particularly through the tin mining sector. This economic model emphasizes cooperation among various stakeholders, including PT Timah, private enterprises, and small-scale miners. Together, they contribute to a system that not only generates income but also fosters community engagement and shared prosperity. PT Timah, as the largest tin producer in Indonesia, plays a pivotal role in this ecosystem by providing employment opportunities and supporting local initiatives through its Corporate Social Responsibility (CSR) programs (Kompas, 2024). These initiatives are designed to enhance the quality of life for local residents while ensuring that the benefits of mining extend beyond mere profit.The collaborative efforts between PT Timah and small-scale miners are crucial for sustaining the local economy. Small-scale miners, often referred to as *tambang rakyat*, engage in mining activities that complement the operations of larger companies. These

[22] John W Creswell and J David Creswell. 2018. *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches*, Fifth Edition. Los Angeles: SAGE Publications, p. 41.
[23] Lukas Musianto. 2002. “Perbedaan Pendekatan Kuantitatif Dengan Pendekatan Kualitatif Dalam Metode Penelitian,” *Jurnal Manajemen Dan Kewirausahaan* 4(2) (2002): 123, 125.
[24] Anne Booth. 2016. “Traditional Economic Systems in Indonesia: Lessons for Modern Development,” *Journal of Southeast Asian Studies,* 47(1) : 1–20.

miners not only provide additional employment but also contribute significantly to the local economy by utilizing local resources and labor. In fact, approximately 500,000 to 600,000 residents rely on the tin mining sector for their livelihoods, which represents a substantial portion of the population in Bangka Belitung.[25] The synergy between large corporations and small-scale miners creates a dynamic economic environment where both parties can thrive. However, it is essential to ensure that this collaboration is managed sustainably to prevent environmental degradation and promote equitable wealth distribution.Despite these positive aspects, challenges remain in fully realizing the potential of *ekonomi kerakyatan* in Belitung. Issues such as regulatory uncertainty and corruption have hindered the growth of this economic model.

The Indonesian tin mining scandal involving PT Timah has been described as one of the largest corruption cases in the country's history. The Attorney General's Office (AGO) is investigating allegations that PT Timah facilitated illegal mining activities from 2015 to 2022, resulting in state losses estimated at Rp 332.6 trillion (approximately US$21 billion) due to corruption and environmental damage.

The AGO has named 22 suspects in connection with the case, including former executives of PT Timah and private sector individuals who allegedly established illegal mining operations on PT Timah's concessions.

This case highlights systemic issues within Indonesia's mining sector, particularly around regulatory oversight and corruption. The case might only represent "the tip of the iceberg," indicating widespread illicit practices across the industry. This case also highlights the risks posed by Indonesia's unclear regulations on land, capital, and labor. These regulatory ambiguities [26] create an environment prone to corruption and criminalization of businesspeople, particularly through allegations of misconduct.

1. *Unclear Land Regulations*

Indonesia's land-use policies are often inconsistent and poorly enforced, especially in the mining sector. In the PT Timah case, illegal mining operations were carried out on lands supposedly under PT Timah's concessions. The lack of clarity in land ownership and licensing allowed private actors to exploit these areas, often with tacit approval or negligence from authorities (Jakarta Globe, 2023).[27] This regulatory ambiguity creates

[25] The Jakarta Post .2024. *AGO uncovers massive corruption in Indonesia's tin sector*. Available at: https://www.thejakartapost.com/indonesia/2024/03/30/ago-uncovers-massive-corruption-in-indonesias-tin-sector.html (Accessed: 24 January 2025).
[26]Center for Sustainable Investment. 2023. "International Investment Law and Extractive Industries," *CCSI Research Paper*, 15-25.
[27] Amelia Santos & Ruslan Abayev. 2023. "Legal Frameworks for Extractive Industries: Lessons from

opportunities for corruption and exposes businesspeople to legal risks when disputes arise over land use.

2. *Capital Mismanagement and Corruption*

The misuse of company funds in PT Timah's operations—such as through fake transactions and unauthorized smelting services—was facilitated by weak oversight and unclear financial regulations. These gaps allowed illicit financial flows to occur without immediate detection.[28] For businesspeople operating within such a system, navigating these unclear rules often involves informal practices that can later be classified as corruption.

3. Labor Exploitation and Legal Risks

Labor regulations in Indonesia are also fraught with inconsistencies, particularly in industries like mining. In the PT Timah case, illegal miners were employed without proper contracts or protections. This not only violated labor laws but also implicated business operators in unlawful practices. When labor laws are unclear or unenforced, businesses risk being accused of exploitation or corruption when attempting to meet operational demands.

The combination of unclear regulations on land, capital, and labor creates a high-risk environment for criminalizing business activities. In the PT Timah case, executives and private actors were accused of corruption partly because they operated within a system that lacked transparency and accountability.[29] Such an environment forces businesspeople to rely on informal networks and practices that can later be weaponized against them through legal action.

One of the key elements in defining corruption offenses in practice is proving the existence of state financial losses. In Indonesia, this requirement is established under the Corruption Eradication Law, specifically in Articles 2 and 3 of Law No. 31 of 1999, which outlines the criteria for what constitutes a corrupt act. The presence of financial loss to the state is a fundamental component of corruption cases. According to Article 2 and Article 3 of the Corruption Eradication Law, actions that *enrich oneself or others at the expense of state finances* can be classified as corrupt practices (Undang-Undang No. 31 Tahun 1999 jo. Undang-Undang No. 20 Tahun 2001). This definition then

Indonesia and Kazakhstan," *Journal of Economic Policy Studies*,29(3) : 77-92.

[28] Tempo.co (2023). *Kerugian Negara Ratusan Triliun Rupiah Perlu Pendekatan Sistemik Mengatasi Korupsi*. Available at: https://www.tempo.co (Accessed: 24 January 2025)

[29] Global Initiative .2024. *Corruption at the heart of Indonesia's state-owned tin mining sector*. Available at: https://globalinitiative.net/analysis/corruption-indonesia-tin-mining/ (Accessed: 24 January 2025).

complicates legal proceedings. It is essential to demonstrate that a tangible financial loss has occurred as a result of corrupt activities. This requirement aims to establish a direct link between the accused's actions and the resulting harm to public finances (Jakarta Post, 2024). However, the definition of financial loss and the specific types of losses that fall within this scope remain a contentious issue, often leading to disputes and differing interpretations during legal processes. Various types of transactions can lead to state financial losses, including:

a. Procurement of goods at inflated prices.
b. Poor-quality goods leading to additional costs for repairs or replacements.
c. Mismanagement of state assets or funds, resulting in diminished state revenue.[30]

Inflated prices lead to the inefficient allocation of financial resources, diverting public funds from productive investments like infrastructure, education, or healthcare. This misallocation not only reduces the effectiveness of public spending but also exacerbates fiscal deficits, limiting the government's ability to fund essential services and developmental projects.[31] Poor-quality goods further compound this issue by necessitating repeated spending on repairs or replacements, resulting in capital wastage and diminishing the overall return on investment.[32] The mismanagement of state funds or assets erodes the financial capacity of the government and limits resources needed for economic growth and innovation. Such practices weaken public institutions and reduce their ability to deliver quality services. This inefficiency has broader implications for the business environment by reducing investor confidence. Businesses operating in such an environment face heightened risks due to a lack of transparency and accountability in public procurement processes. Investors may also perceive Kazakhstan as a high-risk destination for foreign direct investment, which can hinder economic development and deter private sector growth.[33] Ultimately, these corrupt practices increase the overall cost of doing business by inflating operational expenses and reducing competitiveness. Companies may struggle with higher procurement costs and

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[30] Azhar, M., Sujoko, A., & Suharso, P. 2019. State Financial Losses Due to Corruption in Goods and Service Procurement Systems by the Government. In *2nd International Conference on Indonesian Legal Studies (ICILS 2019)* Atlantis Press: 232-236..

[31] Vogel, D. 2009. The private regulation of global corporate conduct. In W. Mattli & N. Woods (Eds.), *The Politics of Global Regulation*. Princeton University Press, pp. 151-174.

[32] World Bank .2020. *World Development Report 2020: Data for Better Lives*. Available at: https://www.worldbank.org/en/publication/wdr2020 (Accessed: 24 January 2025).

[33] Simmons & Simmons .2021. *Employment Litigation in Review – 2021*. Available at: https://www.simmons-simmons.com/en/publications/ckwna7i45159w0a44yslrxyp1/employment-litigation-in-review-2021 (Accessed: 24 January 2025).

diminished profit margins, which can stifle innovation and productivity. Furthermore, corruption weakens the role of capital as a driver of sustainable development by diverting resources away from productive uses. Addressing these issues is vital to improving Kazakhstan's business environment, fostering economic growth, and ensuring that public spending contributes effectively to national development goals.[34]

However, proving financial loss is often challenging for law enforcement agencies. They must provide clear evidence that demonstrates not only the occurrence of corruption but also the specific financial impact on state resources.[35] The debate over state financial loss in Indonesian corruption cases focuses on its definition, measurement, and the authority responsible for determining it. A key issue is whether losses should include only actual, measurable losses, as defined by Article 1, Paragraph (22) of Law No. 1 of 2004 on State Treasury, or also potential losses. Broader interpretations often complicate legal proceedings.[36]Disagreements also arise over how to calculate losses—whether based on inflated procurement costs, lost benefits, or indirect impacts. These inconsistencies can lead to conflicting assessments during trials.[37]Additionally, while the Financial Audit Agency (BPK) is the primary authority to determine state losses, overlapping roles with the Financial and Development Supervisory Agency (BPKP) often result in discrepancies that affect case outcomes.[38]These ambiguities risk excessive criminalization of individuals who may not directly cause the losses, raising concerns about fairness and legal certainty in corruption cases. Clearer definitions and consistent methodologies are essential to ensure accountability and justice.

In the case of PT Timah, the repercussions of corruption extend beyond financial losses to the state, significantly impacting the livelihoods of the local population in Belitung. The corruption case has resulted in the dismantling of collaborative private sector initiatives that previously provided employment opportunities for residents.

[34] International Monetary Fund (IMF) .2022. *Assessing Vulnerabilities to Corruption in Public Procurement*. Available at: https://www.imf.org/en/Publications/WP/Issues/2022/03/24/Assessing-Vulnerabilities-to-Corruption-in-Public-Procurement (Accessed: 24 January 2025).

[35] Tempo.co 2023. *Kerugian Negara Ratusan Triliun Rupiah Perlu Pendekatan Sistemik Mengatasi Korupsi*. Available at: https://www.tempo.co (Accessed: 24 January 2025).

[36] Husein, Y. 2024. *Kerugian Negara Dalam Tindak Pidana Korupsi*. Available at: https://aclc.kpk.go.id (Accessed: 24 January 2025).

[37] Indonesia Corruption Watch (ICW) .2023. *Laporan Tren Penindakan Korupsi 2022*. Available at: https://www.icw.or.id (Accessed: 24 January 2025).

[38] BPK .2019.. *Keuangan Negara dan Kerugian Negara dalam Perspektif Hukum*. Available at: https://kepri.bpk.go.id/wp-content/uploads/2019/08/TLHK-1-Keuangan-Negara-dan-Kerugian-Negara-dalam-Perspektif-Hukum.pdf (Accessed: 24 January 2025).

Therefore, many individuals who relied on these collaborations for their livelihoods have been thrust into poverty, highlighting the broader social implications of corruption. The legal actions taken against the executives involved in the corruption have not only targeted those directly responsible but have inadvertently punished the community dependent on the mining industry. The collapse of legitimate business operations due to legal restrictions and investigations has deprived local workers of their income sources, exacerbating economic hardship in an area already vulnerable to fluctuations in employment. This situation illustrates a critical flaw in how corruption cases are handled, where the consequences ripple through communities, affecting innocent parties who are not directly involved in corrupt practices. As the legal system addresses these issues, it is essential to consider the socio-economic impacts on local populations and seek solutions that do not disproportionately harm those who are already struggling.

Indeed, the repercussions of corruption cases extend far beyond immediate financial losses to the state. The legal decisions made in corruption cases can lead to significant long-term consequences, including increased unemployment and a rise in criminal activity. When local businesses are forced to shut down or operate inefficiently due to regulatory uncertainties and corruption allegations, the resulting job losses can create a cycle of poverty and desperation within communities. Unemployment often correlates with higher rates of crime, as individuals seek alternative means to support themselves and their families. This situation highlights the need for a more nuanced approach to addressing corruption that goes beyond punitive measures. Instead of solely focusing on criminal penalties, it is crucial to implement clearer regulatory frameworks, particularly regarding land use permits and business operations. By establishing transparent and efficient licensing processes, the government can create an environment conducive to business growth while simultaneously reducing opportunities for corruption. In essence, the treatment of corruption should involve not only legal accountability but also proactive measures aimed at improving regulatory clarity and fostering economic opportunities. By addressing the root causes of unemployment and crime through better governance and regulation, Indonesia can mitigate the broader social impacts of corruption and promote sustainable development.

B. The Fall of Kazakhstan's Uranium Magnate

Unlike Indonesia, the basic principles related to the economy and cooperation between the public and private sectors can be found in Articles 6 and 7 of the Constitution of Kazakhstan.

Article 6: States that "private property rights are protected by the state", which provides guarantees for the private sector to engage in various economic activities, including cooperation with the government.

Article 7: States that "the economy of the Republic of Kazakhstan is a market economy" which means that the country adopts an economic system that is open to investment, trade, and private sector development.

Kazakhstan applies an economic ideology oriented towards an open market with a focus on strengthening public-private partnerships (PPP) to accelerate economic development. In this model, the government acts as a facilitator, while the private sector is leveraged to bring investment and innovation into large-scale development projects. By involving private companies in critical projects such as infrastructure and energy sectors, Kazakhstan aims to reduce the fiscal burden on the state and improve the efficient use of resources. This public-private partnership approach allows for better risk allocation and speeds up the achievement of development goals without over-relying on limited state budgets.

Through PPPs, Kazakhstan seeks to create a more dynamic business environment and encourage private sector involvement in economic development. This partnership also aims to introduce advanced technologies, improve the quality of public services, and ensure that development projects are carried out with high efficiency and sustainability. Within this economic ideology framework, Kazakhstan not only focuses on privatization but also fosters synergy between the state and the private sector, which is seen as essential for supporting long-term economic transformation. This represents a commitment to fostering a more inclusive and market-oriented economy.

Despite Kazakhstan's efforts to foster a synergistic relationship between the state and private sector through PPPs, the role of private entities in managing state budgets and resources remains vague and susceptible to manipulation. While these partnerships are designed to stimulate economic growth [39]and improve public services, the lack of clear regulatory frameworks around private sector involvement often leads to mismanagement and corruption. The Kazatomprom case exemplifies how the private sector's participation, when not tightly regulated, can result in significant financial losses for the state, as seen in the embezzlement and misallocation of resources by corporate

[39] United Nations Economic Commission For Europe (UNECE). 2020. *Kazakhstan Public-Private Partnership development, Geneva.*

leaders. This highlights the critical gap in accountability and oversight that undermines the intended benefits of public-private collaboration.[40]

The Kazatomprom corruption case highlights significant issues within Kazakhstan's public sector, particularly regarding the management of state resources and the integrity of high-ranking officials. Mukhtar Dzhakishev, the former president of Kazatomprom, was charged with embezzling approximately 100 million tenge (around $600,000) from the state-owned uranium company. The allegations included theft by way of misappropriating state property and accepting bribes for securing procurement contracts.[41] This case is emblematic of a broader pattern of corruption that has plagued Kazakhstan's political landscape, raising concerns about governance and accountability in a sector critical to the nation's economy.The verdicts in this case reflect the ongoing struggle within Kazakhstan's political elite to address corruption while navigating complex power dynamics. Following Dzhakishev's arrest in May 2009, several other Kazatomprom officials were implicated in similar wrongdoing, suggesting a systemic issue rather than isolated incidents.[42]The investigation revealed that Dzhakishev and his associates allegedly facilitated illegal transfers of mineral production licenses and disposed of shares in uranium companies to offshore entities for personal gain. This not only undermined state interests but also posed risks to foreign investments in Kazakhstan's uranium sector[43], which is vital given that the country holds a significant portion of the world's uranium reserves.[44] The implications of the Kazatomprom case extend beyond individual accountability; they highlight the need for comprehensive reforms in Kazakhstan's public sector. The government's commitment to combating corruption has been evident through various initiatives aimed at improving transparency and governance[45]. However, the effectiveness of these measures remains questionable as allegations of political motivations behind prosecutions persist.[46] As Kazakhstan

[40] Aisulu Omarova. 2023. "Corporate Governance Failures in State-Owned Enterprises: The Case of Kazatomprom," *Corporate Governance: An International Review* 31(3): 456–478.
[41] RFE/RL, Op.Cit.
[42] IntelliNews (2009). *Kazatomprom corruption probe engulfs head*. Available at: https://www.intellinews.com/kazatomprom-corruption-probe-engulfs-head-canada-s-uranium-one-500014614/?archive=bne (Accessed: 24 January 2025).
[43] Al Jazeera.2020 .*Kazakhstan's Uranium Industry and political Power Struggles.*
[44] Eurasianet .2009. *Kazakhstan: The Plot Thickens in Nuclear Industry Probe*. Available at: https://eurasianet.org/kazakhstan-the-plot-thickens-in-nuclear-industry-probe (Accessed: 24 January 2025).
[45]Transparency International, *Corruption Perception Index 2023*
[46] Reuters .2020. *Kazakh court frees ex-CEO of state nuclear firm*. Available at: https://www.reuters.com/article/world/kazakh-court-frees-ex-ceo-of-state-nuclear-firm-idUSKBN20Q0I7/ (Accessed: 24 January 2025).

continues to grapple with its corruption challenges, it is crucial for authorities to ensure that investigations are conducted transparently and fairly to restore public trust and enhance the investment climate.

In the Kazatomprom corruption[47] case, the definition of state financial loss (revolves around the mismanagement and illegal transfer of state-owned assets, particularly uranium mining rights, which caused measurable financial harm to Kazakhstan. The indicators of such losses include the undervaluation and sale of uranium field shares to offshore entities at prices far below market value, as well as the misuse of state property for personal gain by high-ranking officials.

1. *Definition and Indicators*

State financial loss in this case is defined by the illegal sale and transfer of state-owned uranium assets. For example, shares in Kyzylkum LLP, a major uranium field, were sold to offshore companies for only 15.6 million tenge (approximately $104,000), a fraction of their actual value. This transaction alone represents a direct loss to Kazakhstan's state treasury.[48]Additionally, bribes taken by Kazatomprom executives to secure procurement contracts further contributed to financial harm, as these actions undermined fair competition and inflated costs [49]

2. *Authority and Calculation*

The National Security Committee[50] (KNB) and the Prosecutor General's Office were responsible for investigating and calculating the losses. Their findings revealed that Mukhtar Dzhakishev and other top executives abused their authority by disposing of state assets for personal benefit. The total estimated loss included both the direct financial impact of undervalued sales and the broader economic consequences of reduced investor confidence in Kazakhstan's uranium sector.[51]

3. *Broader Implications*

Beyond direct monetary losses, the case highlighted systemic issues in governance and transparency. The undervaluation of assets not only deprived Kazakhstan of significant revenue but also damaged its reputation among international

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[47] Kazakhstan Anti-Corruption Bureau Report, 2021.
[48] IntelliNews, Op.cit
[49] RFE/RL 2009. *Kazakh Uranium Magnate Charged With Corruption*. Available at: https://www.rferl.org/a/Kazakh_Uranium_Magnate_Charged_With_Corruption/1900718.html (Accessed: 24 January 2025).
[50] Kazakhstan National Security Committe (KNB), *Report on Financial Irregularities in Kazatomprom,* Astana, 2010
[51] Eurasianet, Op.Cit

investors. This was particularly concerning given Kazakhstan's position as the world's largest uranium producer. The lack of transparency in handling state resources raised fears of expropriation among foreign stakeholders, further exacerbating economic risks.[52]

C. From Ideology to Incarceration: A Comparative Analysis of Corruption and Economic Governance in Kazakhstan and Indonesia

The PT Timah corruption case in Indonesia and the Kazatomprom corruption case in Kazakhstan both underscore the vulnerabilities within state-owned enterprises (SOEs) and the broader public-private partnerships (PPPs) in resource-rich sectors.[53] [54]Both cases reveal how weak regulations and oversight can lead to substantial state losses, corruption, and the exploitation of state resources for private gain. In the PT Timah case, the involvement of private entities and illegal miners in exploiting tin resources led to mismanagement and large-scale environmental damage, with allegations of state financial losses amounting to billions of dollars. Similarly, in the Kazatomprom case, executives at the state-owned uranium company were charged with embezzling state assets through undervalued sales of uranium shares to offshore entities, resulting in a direct financial loss and damage to Kazakhstan's international business reputation.[55] A comparative analysis of these two cases reveals common patterns of poor regulatory enforcement, misuse of state-owned assets, and challenges in proving financial losses, as well as the broader economic and social repercussions for the local economies.[56]

Aspect	PT Timah (Indonesia)	Kazatomprom (Kazakhstan)
Economic Ideology in Constitution	Indonesia's Constitution emphasizes a "people's economy" (ekonomi kerakyatan), focusing on state control and ensuring public welfare, with private sector	Kazakhstan's Constitution envisions a market economy (Article 7), promoting a mixed economy with significant private sector involvement. The state's role is to facilitate public-private partnerships (PPPs) and private

[52] IntelliNews,Op.Cit
[53] James R. McMillan & Igor Petrov. 2024 ."The Political Economy of State-Owned Enterprises in Resource-Rich Countries," *Global Economic Journal*, 32(1): 25-40.
[54] IMF, 2024. "Impact of Natural Resource Dependence on Democratic Institutions," *IMF Working Papers*, No. WP/2024/145,P. 12-19.
[55] H.Vanderbroek & Aliya Nursultan. 2025. "Corruption and Criminalization of Business in Developing Economies," *Global Law Review*, 18(2) : 101-120.
[56] ResearchGate. 2024. "State-Owned Enterprises and the Political Economy of State-State Relations in the Developing World," ResearchGate, P. 32-48.

Aspect	PT Timah (Indonesia)	Kazatomprom (Kazakhstan)
	participation limited by government oversight.	sector-led development.
Regulatory Issues	Unclear land-use policies, inconsistent mining regulations, lack of enforcement of labor and environmental laws.	Weak oversight in asset management, lack of transparency in asset valuation, inconsistent enforcement of corporate governance.
Role of Government	Government agencies often unclear in terms of authority over land use, mining activities, and enforcement of regulations.	Government's role in asset oversight and anti-corruption measures was weak, especially in terms of protecting state assets from mismanagement.
Verdict	Investigations resulted in criminal charges against executives for corruption and environmental violations; however, lack of transparency in proving state financial loss complicated the case.	Mukhtar Dzhakishev and other executives charged with embezzling funds, but the case was complicated by claims of political motivation and unclear loss calculations. Dzhakishev was convicted but later released.
Regulatory Response	There is a push for clearer mining laws, stronger enforcement mechanisms, and anti-corruption reforms in the mining sector.	Kazakhstan introduced anti-corruption measures, but the effectiveness was undermined by inconsistent application of laws and political interference.
Impact on Business Environment	Regulatory ambiguity and weak enforcement create a high-risk environment for	Corruption scandals reduced investor confidence, especially in the uranium sector, leading to economic and

Aspect	PT Timah (Indonesia)	Kazatomprom (Kazakhstan)
	businesses, leading to legal uncertainties and corruption charges.	reputational damage.
Repercussions for Local Economy	The local economy suffered due to the collapse of legitimate business operations, loss of employment, and poverty.	The corruption case raised concerns about foreign investment in Kazakhstan's uranium sector and had long-term economic implications for the country's public-private partnerships.
State Financial Loss Clause	In Indonesia, the Corruption Eradication Law (Law No. 31 of 1999) requires the proof of state financial loss to justify corruption charges, which complicates cases when the loss is not clearly measurable.	In Kazakhstan, the concept of state financial loss is defined as any loss to state assets or resources through embezzlement or mismanagement, as seen in the illegal transfer of uranium mining rights at undervalued prices, which was used to justify corruption charges.
Calculation of State Financial Loss	The loss is difficult to quantify in PT Timah's case due to unclear regulatory frameworks and the informal nature of some business practices, leading to challenges in proving specific financial damage.	State financial loss was more clearly defined in the Kazatomprom case with quantifiable losses such as undervalued sales of uranium shares and misappropriated funds, which directly harmed the state treasury.

The table reflects how each country defines and handles state financial losses in corruption cases, emphasizing the challenges faced in both jurisdictions regarding the clarity and calculation of such losses. In Indonesia, the law requires a tangible financial loss to the state for prosecution, which can complicate cases when the loss is difficult to measure. In Kazakhstan, the embezzlement of state assets and undervaluation of assets like uranium shares provided a clearer basis for calculating financial losses to the state.

IV. Conclusion

In conclusion, the comparison between the PT Timah and Kazatomprom corruption cases illustrates the complexities of interpreting state financial loss (kerugian negara) within the context of corruption. Both Indonesia and Kazakhstan face challenges in measuring financial loss, often limited to direct, tangible losses such as inflated prices or asset mismanagement. However, this narrow interpretation neglects the broader economic consequences of corruption, including potential long-term losses that may not be immediately quantifiable. A more comprehensive approach to defining state financial loss is necessary, one that accounts for future detriments arising from corrupt practices. Moreover, the inconsistency in the authority and methodology for calculating such losses further complicates the legal process, highlighting the need for clearer regulations to ensure fairness and accountability in corruption cases.

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