The State's Efforts to Realize Boum Publicum Through Preventing the Occurrence of Corruption Crimes

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Abstract

Recently. corruption in Indonesia has been rampant. announcements are often found in every media (television, news, or social media). One of the cases that attracted enough attention from the public is the corruption against COVID-19 social aid committed by The Minister Of Social Department, Juliari Batubara, for Rp 32.4 billion. In conclusion, corruption is spreading to most of the country and involving more actors, which describes the irony of decentralization and democracy. Therefore, most of the corruption in countries was done by placemen who citizens elected. This irony should be able to open Indonesian eyes to the deterioration of human resources. As a citizen and future generation who were desperately hoping for the progress of our beloved country, then we did a case study related to the corruption against COVID-19 social aid that was committed by The Minister of Social Department, which later we arranged in a simple journal, in the hope this journal able to provide readers' understanding that corruption can conduce not only state detriment but also a deterioration of human resources. This research is a juridical research. The problem approach uses a statutory approach and a conceptual approach. The technique of collecting legal materials uses library research.

Keywords: Bonum Publicum, Corruption, Pancasila-Democracy

Introduction

In early 2020, the world was shocked by the emergence of new pneumonia, which reportedly came from a market that sold various kinds of animals ranging from dead to even live ones in Wuhan, China, which then spread rapidly to more than 190 countries. This phenomenon was later given the name Coronavirus outbreak or what is commonly referred to as COVID-19 (Corona Virus Disease 2019). This virus, estimated to be born at the end of 2019, has dramatically impacted various aspects of human life worldwide, including Indonesia. Based on data obtained by the National Disaster Management Agency (BNPB), it is known

that the number of community members who tested positive for COVID-19 infection in Indonesia reached 6,575 people in April 2020¹. Because of this, the government implemented a large-scale social restrictions policy, also known as PSBB, which restricts community activities, including economic activities, teaching and learning activities (education), and other social activities. The limitations of these activities have a massive impact on society, especially on people in socio-economic conditions ranging from the middle class to the vulnerable or even people with low incomes. Remember that poverty was still a problem in Indonesia during Covid-19. This is proven by the following data from Kata Data for March 2019-March 2022².

Table: Percentage of Indonesia's Poor Population (March 2019-March 2022)

No	Nama	Persentase Penduduk Miskin / Persen
1	2019-03-31	9,41
2	2019-09-30	9,22
3	2020-03-31	9,78
4	2020-09-30	10,19
5	2021-03-31	10,14
6	2021-09-30	9,71
7	2022-03-31	9,54

Based on the table above, when COVID-19 broke out in 2020, in March 2020, the percentage of poor people was 9.78%. The percentage of poor people increased in September 2020 by 10.19% and in March 2021 by 10.14%. Seeing this, the

¹ Agus Wibowo, *Data Lebih Transparan Setelah Covid-19 Ditetapkan Menjadi Bencana Nasional*, 14 April 2020, Badan Nasional Penanggulangan Bencana, Diakses pada 26 Oktober 2022 pukul 18.00 WIB melalui: https://bnpb.go.id/berita/data-lebih-transparan-setelah-covid19-ditetapkan-menjadi-bencana-nasional

² Cindy Mutia Annur, *Angka Kemiskinan Indonesia Maret 2022 Terendah Semenjak Pandemi*, 21 Juli 2022, Databoks, Diakses pada 26 Oktober 2022 pukul 18.05 WIB melalui: https://databoks.katadata.co.id/datapublish/2022/07/21/angka-kemiskinan-indonesia-maret-2022-terendah-semenjak-pandemi

government has issued many kinds of policies to overcome the massive impact of the COVID-19 outbreak, regulations and policies aimed at overcoming the socioeconomic impact of this outbreak, one example of which is the provision of social assistance or what is often called social assistance.

The provision of social assistance by the government to the community is, of course, to fulfil the objectives of the Republic of Indonesia as stated in the Preamble to the 1945 Constitution (UUD 1945) paragraph IV, the objectives of which include:

- 1) Protecting the entire nation of Indonesia and all Indonesian bloodshed.
- 2) Promote general welfare.
- 3) Enlighten the nation's life.
- Participate in implementing a world order based on freedom, eternal peace and social justice.

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Almost all countries recognize that democracy is the benchmark for political legitimacy. The people's voice is considered the primary basis for implementing a solid democratic system. Democracy places society in an essential position. A democratic country upholds the principle that the people hold supreme power (sovereignty). Countries that choose to reject democracy are considered authoritarian states. Even authoritarian countries still show that they have little faith in democracy. This shows that democracy is crucial in the administration of the state and government. The choice of democracy as a system of state, national and social life is usually based on two rationales, which include: a) almost all countries in the world believe that democracy is a fundamental principle; b) democracy as a principle of statehood has essentially guided the position of society as the administrator of the state as its highest organization. Indonesia itself is known as a country that uses the Pancasila democratic system. What is meant by Pancasila democracy? Pancasila democracy can be defined as a democratic ideology that is based on the personality and philosophy of life of the Indonesian people, the form of implementation of which is stated in the provisions of the Preamble to the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia)³]. According to Pancasila democracy, individual freedom is not absolute but must be harmonized with social responsibility⁴.

Then, on 4 to December 5 2020, the Corruption Eradication Commission (KPK) carried out a Capture Operation (OTT) against Juliari Batubara, who at that time served as the Ministry of Social Affairs (KemenSos) for the 2019-2024 period, with the argument that the Indonesian Minister of Social Affairs has committed a criminal act of corruption⁵. It is known that the budget ceiling for Social Assistance

³ Agustam, Konsepsi Dan Implementasi Demokrasi Pancasila Dalam Sistem Perpolitikan Indonesia, Jurnal, Jakarta: Media Neliti, 2015, h. 82

⁴ Yudi Latif, *Negara Paripurna*, *Historistias*, *Rasionalitas Dan Aktualitas Pancasila*, Jakarta: Gramedia, 2011, h. 383.

⁵ Hendrik Khoirul Muhid, *Kronologi Korupsi Bansos Juliari Batubara*, *Nomor Vonis 6 Diringankan Karena Dihujat*, 6 Agustus 2022, Tempo, Diakses pada 26 Oktober 2022 pukul 18.23 WIB melalui:

for Handling COVID-19 in 2020, which was entrusted to Juliari Batubara, was for the JABODETABEK area (Jakarta – Bogor – Depok – Tanggerang – Bekasi) amounting to IDR 6.84 trillion, where this amount is based on the Revenue Budget and State Expenditure (APBN) in 2020. Social assistance is divided into 12 stages, from April 2020 to November 2020. In each stage, there are 1.9 million basic food packages, so the total social assistance the Indonesian government provides is 22.8 million basic food packages⁶. Then, on May 14 2020, Juliari Batubara issued Minister of Social Affairs Decree No. 64/HUK/2020 concerning Second Amendment to Minister of Social Affairs Decree No. 165/HUK/2019 concerning the Appointment of Budget User Powers for the Ministry of Social Affairs Headquarters Work Unit 2020, where the decision contains the appointment of Adi Wahyono as Budget User Power. After ratifying the decision above, Juliari Batubara ordered Adi Wahyono and his colleague Matheus to collect a fee from Jabodetabek social assistance amounting to IDR 10 thousand from each existing package. Not only that, Juliari also ordered his subordinate to withdraw IDR 10 thousand from the total operational costs of the social assistance provider. The total amount of withdrawals made by Adi Wahyono and Matheus, based on Juliari Batubara's directions, reached IDR 1.28 billion.

Not only the above corruption facts, Juliari Batubara is also suspected of being involved in a bribery case with PT Tiga Pilar Agro Utama. This fact became known through the trial, where the principal director of PT Tiga Pilar Agro Utama, Ardian Iskandar Maddanatja, bribed Juliari Batubara amounting to IDR 1.95 billion to appoint PT Tiga Pilar Agro Utama as the company providing Covid-19 social assistance for the Jabodetabek area⁷. Apart from Juliari Batubara, the principal

https://nasional.tempo.co/read/1619783/kronologi-korupsi-bansos-juliari-batubara-nomor-6-vonis-diringankan-karena-dihujat

⁶ Mutiara Nabila, *Kronologi Mensos Juliari Kena OTT KPK Akibat Korupsi Dana Bansos Covid-19*, 6 Desember 2020, Ekonomibisnis.com, Diakses pada 26 Oktober 2022 pukul 18.30 WIB melalui: https://ekonomi.bisnis.com/read/20201206/12/1326944/kronologi-mensos-juliari-kena-ott-kpk-akibat-korupsi-dana-bansos-covid-19

⁷ Devina Halim, *Dirut PT Tiga Pilar Agro Utama Didakwa Suap Juliari Batubara dan Pejabat Kemensos Rp 1.95 Miliar*, 24 Februari 2021, Kompas, Diakses pada 26 Oktober 2022 pukul 18.33 WIB melalui: https://nasional.kompas.com/read/2021/02/24/18043901/dirut-pt-tigapilar-agro-utama-didakwa-suap-juliari-batubara-dan-pejabat

director of PT Tiga Pilar Agro Utama, Ardian Iskandar Maddanatja, also bribed Adi Wahyono, who at that time served as Authorized User of the 2020 Ministry of Social Affairs Headquarters Work Unit Budget and Commitment Making Officer for the Procurement of Covid-19 Basic Food Assistance in the Directorate of Social Protection Victims of Social Disasters at the Ministry of Social Affairs for the period October 2020 to December 2020, and bribed Matheus Joko Santoso, who at that time served as Commitment Making Officer for the Procurement of Covid-19 Basic Food Assistance at the Directorate of Social Protection for Social Disaster Victims at the Ministry of Social Affairs for the period April 2020 to October 2020. The Corona social assistance corruption case involving the Minister of Social Affairs is an example of a deviation from the character of responsibility.

Looking at the facts above, what Juliari Batubara is doing reflects that the Indonesian government is worrying. The reason is that the COVID-19 pandemic has had a devastating negative impact throughout the world, especially in Indonesia, a country that is still developing. We all also know that during the pandemic at its worst level to date, the government issued various policies regarding restrictions on community activities and even at the beginning of the emergence of COVID-19 in Indonesia, the government implemented a lockdown policy, where people were not allowed to carry out activities outside the home, especially in the aspects of education, worship, holiday travel, and so on. Apart from feeling pressured by the emergence of a deadly virus which could infect them at any time, people also feel pressured by the government's policy regarding activity restrictions, as explained above, because this policy has a significant influence on their economic condition, which is getting thinner day by day. So apart from hoping to God Almighty for the safety of their daily lives, people must ultimately surrender their lives to the government with a bonum publicum obligation, which means the state's goal is to bring happiness to the people. However, what happened was the opposite; the bonum public was not realized at all; there was only the government with all its

⁸ Oktavia, B. 2020. Kasus Korupsi Bansos Corona Yang Melibatkan Menteri Sosial Ditinjau Dari Keutamaan Moral, h.1.

greed, which wanted to make Indonesia's homeland an authoritarian country or a country where there was general poverty as a result of the government only wanted to enrich themselves. Whatever people fight for their rights, the government remains itself, namely people who only think about themselves.

This research was carried out with differences and updates compared to research carried out by other researchers in the form of legal writing, namely research by Febriyana et al. regarding the implementation of Pancasila in corruption cases. This research discusses the meaning of Pancasila as the basis of the state and the implementation of Pancasila in dealing with corruption⁹. This research will examine the appropriate solution to overcome corruption cases in Indonesia with a deeper understanding of the government's goal of realizing the highest levels of people's happiness or Bonum Publicum and Pancasila Democracy. So, what is the right solution to overcome this mushrooming corruption case in Indonesia? To gain a deeper understanding regarding the government's goal of realizing the highest possible happiness of the people or Bonum Publicum and Pancasila Democracy, as well as with the hope of being able to provide insight to the country regarding the problem of corruption which has mushroomed in Indonesia. It is within that framework that this article was written.

Research methods

This research is juridical research. Juridical research is research guided by the provisions of positive law using research methods from library materials¹⁰]. If you look at the aim, it is normative legal research or doctrinal legal research. Doctrinal legal research is research that aims to carry out an inventory of positive law, discover the principles and philosophical basis of positive law, as well as in concreto legal discoveries that are implemented in certain legal cases¹¹.

⁹ Diyah Febriyana, Nagita Octaviani, 2022, Thania Anggraeni, Riska Andi Fitriono, IMPLEMENTASI PANCASILA TERHADAP KASUS KORUPSI YANG TERJADI DI INDONESIA, Jurnal Gema Keadilan, Volume 9, h. 2

¹⁰ Soerjono Soekanto & Sri Mamudja, *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)*, Jakarta: Rajawali Press, 2001, h. 13-14

¹¹ Ibid,

The problem approach used in this legal research is the statutory approach and the conceptual approach. The sources of legal materials used in this research are divided into 2 (two), namely primary legal materials consisting of statutory regulations, minutes and judge's decisions. Then, secondary legal materials consist of collections of written works and literature related to the problem being studied. The technique for collecting legal materials is carried out through literature studies consisting of statutory regulations and other documents related to this research. Meanwhile, analysing legal materials is the final step in research before conclusions are reached. This step is essential in research because, with analysis, it will be possible to determine whether the stated conclusion is proper.

The legal materials that have been obtained are first grouped and classified into legal materials that are aligned with the media being researched. Then, the legal material that has been collected is processed and studied in depth, so that it can be used to paint a clear picture and provide a definitive answer to the problem being studied.

Results and Discussion

Bonum Publicum and Pancasila Democracy and the Government's Obligation to Make It Happen

In simple terms, bonum public is one of the state's goals to achieve happiness for the people. The bonum public is an essential and concrete goal in realizing a state. This is in line with the concept of the state according to Prof. Mr Dr. L.J. van Apeldoorn, among others, are ¹²:

- 1) The state is seen as the authority to declare the person or people who exercise supreme power over the association of people living in a territory.
- 2) The state is defined as an association of people to express a nation that lives in an area under the highest authority according to the same legal rules.

¹² Van Apeldoorn, *Inleiding tot de studie van het Nederlandse Recht*, Zwolle: W.E.J. Tjeenk Willink, 1937-1955, h. 203

- 3) A state is defined as a certain territory; in this case, the term state denotes an area in which a nation resides under supreme authority.
- 4) The state is defined as the state treasury (fiscus), where this definition is to express assets held by the authorities for public purposes, for example, in terms of state domain, state income, etc.

Indonesia is a country that believes in democracy-Pancasila. Pancasila democracy can be interpreted as a system of government with supreme sovereignty in the hands of the people while still upholding the ideology of Pancasila as a guideline for national and state life. Indonesia, in its efforts to realize a democratic-Pancasila system, has 4 (four) objectives as written in the IVth Paragraph of the Preamble to the 1945 Law (UUD 1945), which include:

- 1) Protecting the entire Indonesian nation and all of Indonesia's bloodshed.
- 2) Promote general welfare.
- 3) Enlighten the nation's life.
- 4) Participate in implementing a world order based on freedom, eternal peace and social justice.

The above explanation of the goals to be achieved by the Republic of Indonesia suggests that one of the main goals is the promotion of general welfare, or, in this case, the bonum public.

The Corruption Crime of the Minister of Social Affairs Is a Form of Failure to Realize Bonum Publicum and Democracy-Pancasila

As explained in the previous discussion, a conclusion can be drawn that one of the main goals to be achieved by the Indonesian state is the promotion of general welfare or bonum public. Promoting general welfare or bonum publicum also embodies Indonesia as a Pancasila democracy. The facilities and infrastructure that can be used to realize the bonum publicum and Pancasila democracy mentioned above are the implementation of government as well as possible. Before we can discuss what good government looks like, it is necessary to understand what is meant by government and why its existence is essential in the administration and enforcement of a country. Government by C.F. Strong is defined as all forms of

public activities or actions, including executive activities, legislative activities, and judicial activities, as an effort to achieve state goals ¹³. Then I Gedhe Pantja Astawa defined government as a relationship of power, authority and function between two or more state or government organs that reciprocate, especially in the relationship between legislative institutions or bodies that create laws, regulations and institutions. Executives or institutions that perform their functions based on statutory regulations ¹⁴. R. Mac Iver added that, in essence, the government is an organization of people with power, as those with that power can govern humans ¹⁵. R. Mac Iver also sees that government can be understood as an enterprise of all existing human enterprises.

Samuel E. Ward Finer believes that the government must have continuous activities (there is a process in it), a state territory where these activities can take place (state), officials who can govern (the duty), and methods or methods and systems (manner, method). , and system) from the government to its people 16. Based on the explanation of the definition of government above, it can be concluded that the system that exists in a government is the identity of a nation. Here, what is meant is that the identity of a country can not only be seen from the nation's ethnicity, customs, geographical conditions, language, religion and beliefs but can also be seen from the choice of ideology and system of government that the nation agrees to implement. Based on this thinking, the problem arises if there are irregularities in the government, such as the social assistance corruption case carried out by the Minister of Social Affairs for the 2019 – 2024 period in 2020; who is to blame? Is the Indonesian government truly neglected, or have the goals of the state stated in the Preamble to the 1945 Constitution of the Republic of Indonesia been wrong since its creation?

Muhadam Labolo, *Memahami Ilmu Pemerintahan: Suatu Kajian, Teori, Konsep, dan Pengembangannya*, Jakarta: PT Raja Grafindo Persada, 2014, h. 16

Monica Ayu Caesar Isabela, Pengertian Sistem Pemerintahan Menurut Ahli, 23 Februari 2022, Kompas, Diakses pada 26 Oktober 2022 pukul 18.17 WIB melalui: https://nasional.kompas.com/read/2022/03/24/04000011/pengertian-sistem-pemerintahan-menurut-ahli

¹⁵ Inu Kencana Syafiie, Sistem Pemerintahan Indonesia, Jakarta: Rineka Cipta, 2002, h. 135.
¹⁶ Ihid.

To answer the question above, it is necessary first to explore the existence of corruption in Indonesia itself. Corruption is nothing new in Indonesian society. The mentality of corruption or profiting and enriching oneself has long been inherent in Indonesian society and has even become part of the culture of Indonesian society. Corruption often comes from within each individual, namely the human nature of greed¹⁷. In a legal context, corruption is a product of weak law enforcement and public supervision of the practices of state power¹⁸. Corruption is a widespread global problem that adversely impacts economic performance, political stability, and community integration Corruption is a widespread global problem that adversely impacts economic performance, political stability and community integration¹⁹. Corruption is an action carried out to benefit oneself, another person, or even a group and usually also abuses the authority or means available to him because of a position or position. Corruption is an action that leads to goodness, so it deviates from the importance of responsibility²⁰. Corruption is an action carried out to benefit oneself, another person, or even a group and usually also abuses the authority or means available to him because of a position or position. Corruption is an action that leads to goodness, so it deviates from the importance of responsibility. This statement can be explained here not without reason because if we trace it historically, it is known that in the 17th to 18th centuries, high-ranking native noble officials often embezzled regional development budgets, proceeds from land cultivation, as well as taxes paid to the Dutch government. However, the corrupt mentality of high-ranking native aristocratic officials in the past differs from that of officials today. The corrupt mentality of high-ranking native noble officials in the

¹⁷ Ferico, S., Aryanti, EP, & Dalsabila, MH, 2020, *Peran Masyarakat dalam Pemberantasan Korupsi*. Jurnal Ilmu Hukum, Humaniora dan Politik, 1 (1), h. 2.

Launa, L., & Di Lusianawati, H. 2021, Potensi Korupsi Dana Bansos Di Masa Pandemi Covid
 Ruspiantoko, D., Fitriyani, L., & Di Kholidah, A. 2021, Analisis Framing Tentang Kasus Tersangka Korupsi Dana Bansos Covid-19 Juliari Peter Batubara Di Tempo. Jurnal Pendidikan Ilmu Pengetahuan Sosial, 13 (1), h. 1.

²⁰ Oktavia, B, 2020, Kasus Korupsi Bansos Corona Yang Melibatkan Menteri Sosial Ditinjau Dari Keutamaan Moral.

past was closely related to loyalty to family, village or group (religion, language, ethnicity, caste, etc.).

This happened to Javanese society in the 17th to 18th centuries, where they thought that the values of solidarity should be given to relatives first and then distributed to a broader range of society. In the lives of high-ranking aristocratic officials at that time, many Indonesians who were below the poverty line depended on them for their livelihoods. Not only relatives but also servants depended for their lives on these high-ranking noble officials. For this reason, even though the nobles tried to live, their daily expenses were still endless and numerous. So, it is not surprising that they embezzled funds from the Netherlands. However, as time went by, many high-ranking noble officials committed corruption not to maintain noble ethics or not to be loyal to their family (relatives and family or their community) but because of the habit of following the lifestyle of a king. The king, who at that time had the status of the highest owner in the national bureaucracy, clearly had a higher position than the nobility. The king also has the right to all luxuries on his land, while the luxuries owned by the nobility are much more limited. Even so, many of the archipelago's nobility try to have a king-like lifestyle in their daily lives, which gives rise to the desire to continuously obtain wealth through various means, regardless of whether the methods they have used are dangerous, or harm other people.

This is undoubtedly very heartbreaking because even though Indonesia has been independent for a long time, the people of the country have not been able to be free from the corrupt mentality of the 18th century. Thus, Indonesia does not yet fully have the mindset of an independent country. In essence, independence is a matter of the country's status and what is within its people. What experiences a revolution should not only be the status of the country from being colonized to not being colonized but also the mentality of the people, from the mindset of a backward society to the mentality of a culture that continues to develop. I continually want to create and be better.

However, if you think about it more deeply, what actually causes this to happen? Yes, greed for wealth, social strata, power and recognition in society, poor

integrity of officials and distance between these officials and God Almighty are factors that make government officials continually desire to commit corruption. This sad fact is not only the government's fault but also the fault of the people who are not alert and passive towards state administration.

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By being passive, what is meant is that people often ignore their thoughts, feelings and beliefs about themselves but still hope that other people can understand them, or even, in the worst case, they make other people do the same things they have done for the reason of reducing and stay away from conflict. An example of a passive attitude often shown by the public is continuously creating humour regarding the government system's implementation process. The officials within it, who are still reluctant to supervise government administration or work in government institutions directly, have been criticized. Even in the worst situation, when asked what kind of government he wanted, he could only remain silent because he did not know about the government system.

With this passive attitude of society, government officials feel that their power is so broad that they think they have the right to oppress or act arbitrarily against people who do not have the same power as themselves. Nevertheless, the biggest mistake in the corruption case of COVID-19 social assistance funds by Juliari Batubara as the Ministry of Social Affairs from 2019 to 2024 lies within the government.

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2) Optimization of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes (UU Tipikor)

One form of resolution that is considered effective in overcoming the massive problem of corruption occurring in Indonesia is by optimizing Law Number 31 of 1999 concerning the Eradication of Corruption Crimes (UU Tipikor). Where in addition to increasing criminal firmness to ensuare perpetrators of corruption, the government also needs to introspect and remember that the orientation of government administration itself should be service to the community to create a state government with a philosophy of democracy-Pancasila and to realize the highest welfare or happiness of society (bonum publicum). If the government makes a regulation oriented towards society, the legal certainty that should be guaranteed is legal certainty for the entire community, not just legal certainty for a few members of society. So, its implementation should be applied to all Indonesian people, including all government officials, no matter how low or high their position (in this case, Juliari Batubara), for the sake of realizing a democratic state-Pancasila and realizing the state's goal of improving the welfare of society (bonum public). Thus, the concept of corruption must continue to be updated along with the dynamics of the times, especially when there is a catalyst for transfiguration, such as Law Number 31 of 1999 concerning the Eradication of Corruption Crimes (UU Tipikor). The concept contained in Law Number 31 of 1999 concerning the Eradication of Corruption Crimes (UU Tipikor) not only guarantees legal certainty for the entire community but is also an instrument or form of democracy-Pancasila to allocate the highest possible welfare for all Indonesian people.

Conclusion

Bonum publicum is one of the State's goals to create happiness for the people. The facilities and infrastructure that can be used to realize the bonum publicum and Pancasila democracy mentioned above are the implementation of government. However, the facts in the field are that the government does not pay attention to the bonum publicum and democracy Pancasila but instead commits many abuses of power, such as corruption. This is undoubtedly very heartbreaking because even though Indonesia has been independent for a long time, the people of the country have not been able to be free from the corrupt mentality of the 18th century. So far, to resolve the massive corruption that occurs in Indonesia, one of the ways is by holding much more difficult tests for people who wish to occupy positions in state institutions and by optimizing Law Number 31 of 1999 concerning the Eradication of Crime. Corruption (Tipikor Law).

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