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Corruption of the Local Leaders in Indonesia: An Expository Study

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ABSTRACT

Corruption in Indonesia takes various forms and involves various parties including the local leaders. The aim of this study is to analyze various forms of bribery involving the heads of regencies/Mayors. This study employs qualitative method and focuses on corruption cases in four regencies namely Bangkalan, Karawang, Tegal and Madiun. The research is supported by the Nvivo12 software package that enable researcher to categorize and homogeneous the enormous data. The study found that there are various types of bribery committed by the heads of regencies that include either direct bribery, levies, forced bribery (extortion), or tribute. The type of bribery depends on the specific conditions of each area. The types of corruptions can also be distinguished into hidden and open corruption. Open corruption refers to corruption that involves local governmental units.

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1. Introduction

Corruption has been going on for a long time and will continue as long as the country has not found an effective way to eradicate it. Although many scholars have conducted studies on corruption, causes of corruption have been identified, and the amount of loss has been estimated, still, so far, it turns out that eradicating corruption is not easy. In contrast to other criminal acts, almost all acts of corruption are secretive, and it makes the crime challenging to eliminate. According to a report from the Indonesian Corruption Eradication Commission (KPK)¹, during 2016, the institute has held 17 Sting Operation (OTT). While the number of cases solved during 2016 was 96 cases and 140 cases of investigation, 77 cases of prosecution, both are new and previous year's

¹ KPK (Corruption Eradication Commision) Republic of Indonesai, Annual Report 2016, p 71.

cases. In the same year, the KPK also executed 81 court decisions that had permanent legal force. In terms of cases handled by the KPK in 2016, the type of case was 80% of bribery cases.

This research seeks to answer how the form, process, and background of corruption conducted by Regional Heads of Mayors. The KPK Annual Report (2016,2017,2018) wrote that the disclosure of many cases of corruption was often not the result of anticorruption institutions or the authorities but because of public reports. Budiman², who examined the massive corruption in the Soeharto era, found that corruption had become a routine doing and was attached to the state administrators (public servants). Furthermore, Budiman wrote that ideological rationalization took place, including the denial of responsibility and the disclosure of loyalty to superiors who encouraged suggested a religious approach to dealing with corruption. Meanwhile, Azra³ corruption in Indonesia. He proposed the application of Good Governance to prevent corruption. Good Governance, according to Azra, is in line with Islamic teachings. Islam forbids overdoing it, both in life as well as in everyday attitudes. Excessive desire for wealth encourages the accumulation of illegitimate (unlawful) and unwholesome (un-tayyib) assets is forbidden. In general, the definition of corruption includes three categories: abuse of public property for personal gain, harming the public interest, and violating the norms for personal gain⁴. However, there is no clear and comprehensive definition of corruption because it can occur in various forms and involve various actors. However, one popular type of corruption is bribery paid by an individual offender or by a company to a public official. Using the popular definition used by the World Bank (1997)⁵, corruption is the misuse of the public interest for personal gain. Thus, corruption occurs in various forms, such as, e.g., bribery, trafficking, embezzlement, and patronage. Refer to the definition of the World Bank, corruption can only occur if fulfilled various primary conditions, including corrupt public officials who need a power that can be misused. In areas where the state has monopoly rights such as tax collection, licensing is often abused by authorities for personal gain. These officials that have the right to apply discretion used it to collect bribes6.

Other types of corruption, for example, are extortion, influence peddling, nepotism, fraud, speed money, and embezzlement⁷. Bribery can turn into a form of extortion or coercion, which is worse than bribery itself. Extorsion cannot be tolerated and will discourage good behavior from an agent⁸. Corruption can also occur everywhere in all

² Budiman, et.Al. (2017). Rationalizing Ideologies, Social Identities, and Corruption Among Civil Servants in Indonesia During the Suharto Era, Linked references are available on JSTOR for this article : Rationalizing Ideologies, Social Identities, and Corruption Among Civil Servan. 116(1), 139–149. https://doi.org/10.1007/sl0551-012-1451-y

³ Azra, A. (2002). KORUPSI DALAM PERSPEKTIF GOOD GOVERNANCE. Jurnal Kriminologi Indonesia I Januari. P 33-34

⁴ Ades, A., & Di Tella, R. (1996). The causes and consequences of corruption: A review of recent empirical contributions. *IDS Bulletin*, 27(2), 6–11. https://doi.org/10.1111/j.1759-5436.1996.mp27002002.x

⁵ Shang Ju Wei, (1999), *Corruption in Economic Development*, World Bank Policy Research Working Paper 2048

⁶ Lambsdorff, J. G. (2002). Corruption and rent-seeking. Public Choice., p 8-10

⁷ Ayee, B. J. R. A. (2017). Corruption and the Future of the Public Service in Africa Author (s): Joseph R. A. Ayee Source : Verfassung und Recht in Übersee / Law and Politics in Africa, Asia and Latin Published by Nomos Verlagsgesellschaft mbH Stable URL : http://www.jstor.o. 35(1), p 3-6

⁸ Khalil, F., Lawarrée, J., & Yun, S. (2017). Bribery versus extortion : allowing the lesser of two evils Linked references are available on JSTOR for this article : Bribery versus extortion : allowing the lesser of two evils. 41(1), 180-181.

societies, even in different degrees and forms. Corruption can enter all social systems, feudalism, capitalism, socialism, or communism. It can also refer to state organizations, both monarchical and republic, both in war and in peace, in all sexes, and in ancient, medieval, and modern. Corruption is unlawful, not because money and benefits change hands, not because of the perpetrators' motives, but because it privatizes aspect of public life, cut off official procedures, and eliminates debate and choice⁹.

Moreover, corruption in Indonesia occurs at all levels, including at the central and local governments. Corruption behavior at the local level involves the executive and legislative, which are ironically carried out by regional heads¹⁰. In the legislation, its enforcement, and the imposition of penalties, it is also possible to be involved in corruption so that a leader in power who is corrupt is no longer sincere in upholding the law¹¹. Corruption in Indonesia has routinely penetrated daily activities and exists in the administrative structure of public servants. Ideological rationalization occurs, including the denial of responsibility, social weighting, and the disclosure of loyalty to superiors supporting widespread corruption. The essence of this rationalization is the low salaries of public officials, weak accountability, and corrupt leadership at the level of government leadership¹². The reformation and democratization process of public services in the future lies in reducing corruption, as corruption will always exist. As a result, the government must try to improve the conditions that influence political software. It includes focusing on inappropriate policy factors, less capable and less motivated personnel, poor oversight, laws, and regulations rather than always improving political hardware, for example, methods and organizational structure¹³.

Meanwhile, discussion on rent-seeking focuses on the interaction between the government and the private sector. The government holds a monopoly right to regulate ownership with laws, regulations, subsidies, taxes, tariffs, import quotas, or procurement of goods based on contracts to the winning bidder. These activities usually involve the distribution or re-distribution of money or income. The private sector will try to influence public decisions for their interests. It creates a market where the government offers a right or special treatment, and private companies compete to meet their needs.

Furthermore, the legislature can act to set the rules. With that approach, a circle of interests occurs that cannot be classified as corrupt because the authorities create legal laws that legalize rent-seeking. It is natural for someone to invest in rent-seeking if marginal input is less than the potential output produced¹⁴. However, rent-seeking is different from corruption. In contrast to rent-seeking, which is more open and observable, competition in corruption is carried out not transparent, closed, and clandestine.

Supported by the Nivo12 software package, the researcher can map the process, forms and identify peoples involved. This research seeks to benefit other researchers and

⁹ Lambsdorff, Op.Cit p 97

¹⁰ Kurniawan, T., & Prasojo, E. (2017). Corruptive Behavior of the Heads of Local Governments in Indonesia. 18(22), 73–87.

¹¹ Lambsdorff, Op.Cit p 98-99

¹² Budiman, Op.Cit p 143-146

¹³ Ayee, Op.Cit p 16

¹⁴ Lambsdorff, Op.Cit p 102

pave the way for further research to provide new theories or thoughts about the causes and factors that influence Regional Heads or Mayors' corruption.

2. Method

This study's sources of data come from the 2016 and 2017 annual Report of the Corruption Eradication Commission (KPK). From the criteria for case selection based on corruption cases that have received permanent legal decisions, corruption cases involving local government Regional Leaders or Mayor, corruption cases that happen around local government organizations, and cases in 2012. After the cases had been selected, it searched the related Court's ruling from the Supreme Court's website, with the keyword Supreme Court Decision Directory, with the official website https://putusan.mahkamahagung.go.id. The ruling of the Court file includes the defendant's identity, dialogue on the trial of the Court, the course of the violation, a list of evidence, and the decision of the panel of judges presiding over the hearing. From the data in the case file, there should be a compilation of how the process of collusion occurs, the cause of corruption in several cities, such as Bangkalan Regency, Karawang Regency, Madiun City, and Tegal City, which initiates the bribery, the number of bribes collected by the perpetrators, anyone involved in corruption, and other information. Also, people will find out whether the nature of corruption is closed or open. A closed corruption means without anyone knowing other than the perpetrators of bribes and the victims. While in the open type of corruption, at least the perpetrator's subordinate knows so that the form of collusion can be traced accordingly. Furthermore, the fact that each of the four cases of the Regional Head has many data but contains vast differences. These differences include the type and process of corruption, the involvement of other parties, the amount corrupted, the length of corruption time, the injured parties, and the profile of the perpetrators. To obtain a homogeneous approach, researchers used the Nvivo 12 application program. Nvivo is widely known for conducting qualitative data analysis, which allows the review to be a broad perspective and a qualitative comparison of the four.

3. Analysis and Results

3.1. The Public Choice Theory on Licencing

This theory is mostly applied to individuals and belongs to one of the Causal Theories groups. Every economic transaction always involves people who have experience and knowledge. Humans themselves are creatures of God that are uniquely different from one another. Deliberately He created every human being to have a personal consideration. Humans can move in a better direction. With the provision of knowledge, he also has a choice. Thus, there are various options for transactions based on personal considerations and understanding of each. Public Choice Theory, also known as a positive political theory or rational choice theory, promotes logical thinking about the available choices¹⁵. The Public Choice theory with economic analysis happens when the cost increases to do something, and then the public will do

¹⁵ Mashaw, J. L. (2008). Greed, chaos, and governance: Using public choice to improve public law. In *Greed, Chaos, and Governance: Using Public Choice to Improve Public Law*. P 650

it decreases. In contrast, when the cost to do something decreases, there will be more people implement it.

There is a simple application of the theory into ordinary corruption cases. The perpetrator will do a simple mathematical calculation that if [(the profit of corruption - the likelihood of being caught) x punishment] is higher than the possibility of being caught. The perpetrator will rationally choose to commit corruption. The factor of trust among actors (in this case, party politicians and local business people) is also decisive. One of the strengths of this theory is that it can relatively analyze more focus on the specific things of individual corruption. Some possible independent variables occur in bribes of tax or licensing employees for daily living expenses, small salaries, and personal enrichment intentions¹⁶. Perpetrators will see there are opportunities and centralized power¹⁷

3.2. Corruption in Bangkalan

Corruption in Bangkalan, Madura Island, involved Bangkalan Regent and a member of the Board of Directors of a private company, PT Media Karya Santosa (referred to as MKS). Starting from PT Energy. Co.Ltd., A Korean company in a cooperation contract with BP Migas (State Oil and Gas Regulator) and PT Pertamina EP (the subsidiary of state-owned Oil Company, Pertamina), was permitted to exploit the Natural Gas content in Poleng Block off the coast of Sepulu District and Tanjung Bumi district of Bangkalan. Natural gas is mainly to supply electricity generation needs in Bangkalan and Gresik. PT Pembangkit Jawa Bali operates the power plants in Gresik and Gili Timur Madura (PT PJB, a subsidiary of Electricity State Own Company, PLN. It requires gas supplies from the gas source and needs to be channeled through the gas pipes from the gas source to the power plant location. Specifically for power plants in East Gili, priority rights are given to allocating natural gas for industrial development around Java-Madura's inter-island bridge area (Suramadu). Bangkalan State Regional Company (PD SG) will utilize the priority of natural gas allocation.¹⁸

At the same time, PT MKS was also interested in buying natural gas and building a gas pipeline to Gresik and East Gili to sell it to PJB. PT MKS, on the Regent's full assistance, who facilitated a series of meetings and negotiations, a contract was between PT MKS and PT PJB regarding the sale of Natural Gas from PT MKS to PT PJB. Then, the Sale and Purchase Agreement regulates the sale of Natural Gas from the Poleng Block gas reserves by PT Pertamina EP to PT MKS to fulfill the gas needs of the Gresik Power Plant and Gili Timur Bangkalan. The distribution of profits to PD SG was 6% of the total margin of PT MKS obtained, and payment by PT PJB was also agreed. BP Migas endorse all these agreements.

For the services and support, the Regent (Bupati) received a sum of money from PT MKS every month from June 2009 to August 2014. In September 2014, even though the late Bupati was no longer in charge, the money continued until November 2014.

¹⁶ Iqbal, Z., Ahmad, H., Mushtaq, M. A., & Iqbal, S. (2015). *Causes of Corruption in Public Sector Organization : The Study of District Bahawalnagar, Punjab.* 4(6), 837–845. P 838-840

¹⁷ Gao, Y. (2011). Government Intervention, Perceived Benefit, and Bribery of Firms in Transitional China. *Journal of Business Ethics*, p 178-181

¹⁸ BP Migas is the regulator of oil and gas business, while PERTAMINA is the state own company for oil and gas and PLN is the state own company for electricity

3.2. Corruption in Karawang

Corruption in Karawang involved the Regent (Bupati), assisted by his wife, utilizing the Regent's discretionary rights to approve space permits for industrial or business purposes (SPPR). The letter issuance approval will be complicated and difficult before the applicant pays a bribe of about 1% of the investment value. Furthermore, the trial found that he also requested to hand over part of the work to his son's company. Besides, that at least eight companies had paid bribes during the district head's term. In addition to receiving bribes to issue Industrial Site approval, the Court's trial also found that the Bupati had also received a sum of money from other corruption acts. The Regent's wife's role is an intermediary in negotiations or transactions between the Regent and business people.

3.3. Corruption in Madiun

The Mayor of Madiun, as found in the Court, committed corruption in at least five ways, namely (1) taking over the winner of the tender for the construction of the Madiun Market, namely PT Lince Romalui Raya (PT LRR), capitalizing and controlling it for himself, then taking his profit, (2) collecting money from each contractor who was working on projects in Madiun City to certain percentage depending on the type of project (3) raising money from funds owned by 33 Regional Government Work Units (SKDP) at the Municipal of Madiun City (4) receiving money from the management for various permits such as department store construction permits, telecommunication tower establishment permits, permission to establish a billboard, or housing permits, (5) receiving deductions from the additional income of Echelon 2 and Echelon 3 employees throughout the City of Madiun.

For taking over the Madiun Market development project's implementation, as mentioned in item (1), the Mayor paid a certain amount of money to the CEO of PT LRR, as the winner of the tender. He then appointed a project director, the sub-contractors, and suppliers of his daughter's company. He initially sold the project implementation to other contractors. Since stalled, it finally capitalized on the project implementation itself and made a profit from the project.

3.4. Corruption in Tegal

The Tegal City Government established a plan of Final Disposal Site (TPA) at the place of Bokong Semar area in Tegal CIty. They provided a budget of around Rp.3.53 billion for the cost of land acquisition. A notice was made to the Notaries (PPAT), subdistrict heads, and urban village heads so that the Mayor would not approve any changes in land ownership in the area to realize the plan and prevent land speculators from taking advantage. However, when the new Mayor won for the 2009-2014 period, the land acquisition was seen as an attractive business opportunity and could generate many personal benefits. Contrary to the previous Mayor, who tried to prevent the existence of land brokers' operation, he became the land broker in the new Mayor's era. The Mayor canceled the procurement plan, no longer budgeted for land acquisition, and asked his mother, who was also a businesswoman, to buy land in the Bokong Semar area. Her mother did not purchase these lands directly, but through her trusted people to avoid traces of corruption. By cooperating with local notaries and officials, they arranged the purchases with a back-date, as if the purchase occurred before the Mayor took office. With the help of a real-estate entrepreneur who had the same interests, the Mayor then facilitated various meetings and agreements on land swaps in Bokong Semar, where low-value landfill plans with the high-value state-owned land located at the good places in the center of the city. They collaborated with agrarian officials, local notaries, local governments in related locations and fraudulent appraisal teams, mark-ups for land prices in Bokong Semar, and down-grade costs on land owned by the City Government in a strategic place in the middle of the city. This manipulation caused the state to lose its valuable land assets that already been owned hundreds of years ago.

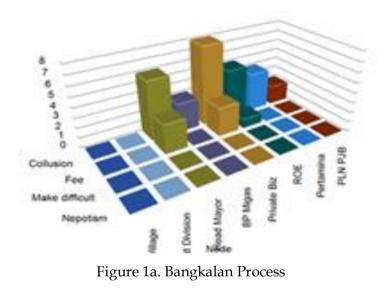
3.5. Legal Analysis of the Cases

Bribery to the Regional Head or Mayor, to obtain a preference, or to get permission is an option for the bribe. Still, the reciprocal from the Regional Head's side is also a choice, whether he will use his discretion rights for personal gain. Corruption can also be covert, as it involves many interested parties openly. Bribery or coercive corruption, so that local government service users have no other choice to try, is the worst form of fraud among all bribery types. In contrast, tribute, a repayment service to the Regional Head, is a form of continuous bribery for a long time.

Furthermore, with the Public Choice Theory, the root of corruption in corruption cases in this study is the use of the right of discretion by the Head of Local Government in granting permits and can become a political vehicle for legislators by entrusting their interests in making laws. Licensing for incumbent rulers can be used to protect them from healthy competition. Licensing is one form of government intervention in influencing the market so that the imperfect market appears. The subsequent market regulation causes the market to be inefficient and becomes an opportunity for an unfair market. Licensing, which is government agencies' authority, has been a source of income (cash-cow) from rent for politicians since before the laws exist.

There should have been a special note for corruption in Bangkalan. The object of bribery was the sale of regional natural wealth in the form of natural gas. There was collusion between the private sector, PT MKS, PD SG, and Bangkalan Regent in this corruption. Other parties related to this natural wealth business, such as Pertamina, BP Migas, and Kodeco concession holders, are only involved in the agreement's legal aspects. Corruption in the form of tribute that occurred for a long time. This corruption was a closed type, and not many people knew, even in Local Government officials, neither within PT MKS companies. Following the findings in the annual KPK report (2016, 2017, 2018), some of the corruption cases originated from community reports, and in this case, the public was not aware of corruption. According to Budiman (2017), there is an ideological rationalization that merit compensation is tolerable. In this case, Fuad Amin had contributed to the continued profitable business of PT MKS.

Meanwhile, a more in-depth qualitative analysis of four case files was challenging to do supported by new technology, such as the Nvivo12 software package. The Nvivo12 program allows researchers to get a broader perspective on images and arrange them homogeneously. The Nvivo 12 application sorts out the ruling court files and helps researchers analyze the forms of corruption that occur and the processes and perpetrators of fraud, families, agencies, and units within the Regional Government involved, and whoever has facilitated the corruption. First, we apply all possible variables to all cases so that we able to identify which variables match each case. Then to simplify the diagram, we only selected the matched variables in every case. Analysis using the Nvivo12 program produced a diagram, as shown in Figure 1a and Figure 1b. The corruption process that occurred here was collusion with the most important parties are PT MKS and the Regent of Bangkalan. This corruption took the form of a long-lasting tribute every month for the Bangkalan Regent services, resulting in a contract for the sale and distribution of natural gas to PT MKS. The contract for the purchase of natural gas from PT MKS to PT PJB has a power plant in Gresik. The parties involved in these contracts were Pertamina, PD SG, natural gas regulator, BP Migas, private sector Kodeco, and PT MKS. Even though the Regent and his apparatus were officially unrelated to these contracts, there was a significant role in the occurrence of deals where the selection of winners was not in an open tender. As shown in the picture, the leading roles were Regent and Private Company, and the fraud committed was collusion and fee (bribe, gratification, and tribute) payment to the Regent.



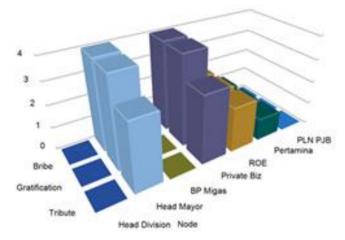


Figure 1b. Bangkalan Form

Corruption in Karawang took the form of excessive use of the discretion of the Regent of Karawang in granting permits to use space or land for business. The district head extorts permitted by making it difficult to issue SPPR if he had not paid a sum of money to the district head. In Figure 2a and Figure 2b, analyzed using the Nvivo 12 program, it appears that this corruption was open, and many parties had given bribes. Hence, it is no longer a secret that facilitation payments are needed to obtain land use permits for business. In the Court, seven companies had bribed the Regent, and many related parties and the Regent's wife were also a Regional Government official and Regional Secretary. As shown in the picture, there were three dominant parties: the Regent, his wife, and private company.

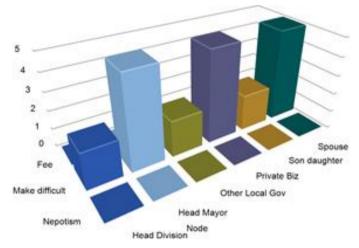


Figure 2a. Karawang Process

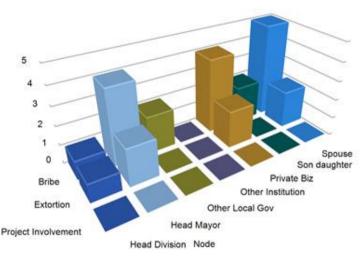


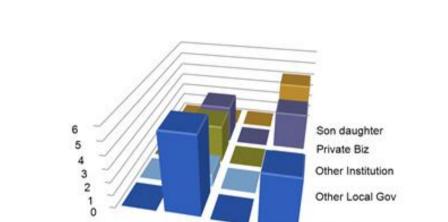
Figure 2b. Karawang Form

Corruption in Madiun took over the form of taking over the winning bidder project and levies on all Local Government civil projects and taxes on the Local Government units themselves and collection on employee salaries. This research focuses on the form of corruption by taking over the project. In <u>Figure 3a</u> and <u>Figure 3b</u>, the study used the Nvivo 12 program. There was a mark-up action on the project's value so that the Regent who took over the project work received a financial benefit. The Regent also

Other Local Gov

Head Mayor

Project Involvement



had arranged so that his own company and his daughter's companies participated in implementing the project.



Mark up

Bribe

Levy

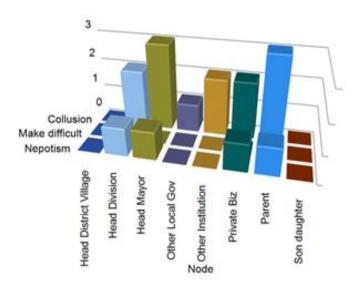


Figure 3b. Madiun Form

Corruption in Tegal took the form of utilizing the land swap program for the Mayor's benefit. Figure 4a and Figure 4b. are the result of research using the Nvivo 12 program on this corruption case. The pictures explain the series of acts of violation of the law committed by the Mayor so that the swap's engineering could run smoothly. First, the Mayor asked his mother to make land purchases planned for the Final Disposal Site. Second, the purchase was by manipulating the purchase date to occur before the scheduled swap plan. Third, enter into collusion with entrepreneurs who need land in a strategic place that will be the land swap's object. Fourth, mark-up prices for landfill land reduce costs for property that is the destination of the land swap. The

implementation of this corruption involved many local government officials, notaries, appraisal teams, and individuals related to the land buying and selling process.

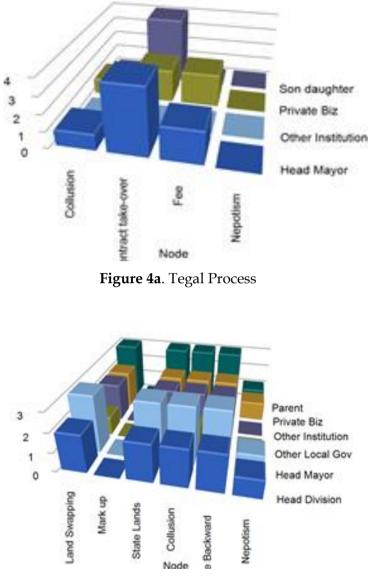


Figure 4b. Tegal Form

The summary above shows that corruption in Karawang is an open corruption. The Regional Head charged each project and would accelerate the capture of corruptors. In contrast to that, a close corruption, appeared in Bangkalan, took a long time to be revealed. Figure 5 shows the correlation between the openness of the case and the time to be revealed. Y-axis is the number of people involved representing the corruption's openness, while the X-axis is the duration of corruption before it being caught by KPK. As shown in the trend line, the higher the corruption case's openness, the shorter the case being caught.

	Bangkalan	Karawang	Madiun	Tegal
The Perpetrators	Bupati (Regent)	Bupati (Regent)	Mayor	Mayor
Corruption Objects	Natural Gas Sources	spatial utilization or land use permit	 Market Development Projects Local Government's work units Employee salaries 	Land swap
Corruption Process	Monthly tribute Gratuity	Illegal retribution	 Taking over the Market project Projects Retribution Unit income retribution Employee income retribution 	Mark-up price
Institutions involved	PT MKS	<i>Company,</i> <i>Tatar Bumi,</i> Regional Secretary, Bappeda or Regional development agency, Mayor. Private company staff, personal	 Local Government Unit External Agencies (in case of corruption taking over the project) 	 Notary Subdistrict head, an urban village head Local Government Unit Company
Relatives involved		Wife	1.Children 2.Other relatives	1.Mother
Corruption period – being caught	Mei 2006 – Des 2014, 90 months	April 2013 – July 2014, 15 months	December 2009- November 2016, 83 months	March 2011- February 2015, 47 months

All findings at all four cases in this study can bu summarized in the <u>Table 1</u>. All the four cases can be categorized into six variables as listed at the most left column.

Table 1. Summary of findings

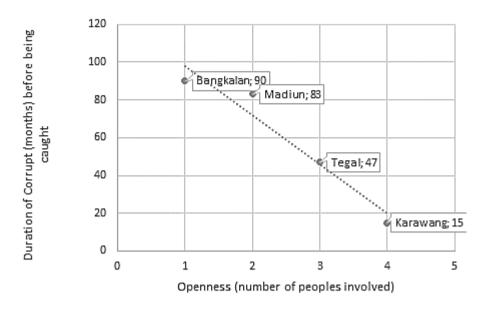


Figure 5 : Diagram of openness vs corruption time ellapsing

4. Conclusion

There is a link between corruption form with the environmental conditions in which the head of the region rules. In Bangkalan Madura, there are natural gas natural resources, so the corruption that occurred was the business of mining sales and natural gas sales. Karawang is an industrial area, so corruption is an abuse of discretionary authority from the Regional Head to grant permits to use space for business purposes. Madiun City is low in natural resource mining, not in industrial areas, so corruption occurred in Local Government projects. While in Tegal City, with several good land locations for doing business attracted by the real estate developer, corruption took place inland swapping agreement.

Due to their different natures of each location, the involvement of the Head of Local Government's sub-ordinates varies among each location. Our study finds that the Head of Regional Government that can minimize his subordinates' participation will yield for being easily caught. The more open the act of corruption is, the more open the authorities' opportunity to reveal the cases.

The paper contributes previous studies on corruption committed by the Head of Local Government from a different perspective to exploring the ruling of Courts. However, at this point, the authors believe that further in depth-quantitative and qualitative studies on a larger scale and includes interview investigation to the actors of the cases would provide more sharp result and new insights on the relationship between the number of peoples involved and the period before the case revealed.

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