

# Dynamics of Corruption and Political Elite in Indonesia: Case Study of Harvey Moeis from the Perspective of Legal Sociology

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**Abstract:** Corruption has been an ongoing challenge in the political and legal structures of many countries, including Indonesia. This study takes a legal sociology approach to explore the dynamics of corruption and the role of political elites, with the Harvey Moeis case as the focus of analysis. Through a qualitative approach, we analyzed the background of the case, the corruption process that occurred, and the legal response to Moeis' corrupt behavior. We combine sociological legal theories with empirical findings to understand how corruption is perpetrated within political and legal power structures. The results reveal the complexity of interactions between political, economic and legal forces in facilitating and cracking down on corrupt behavior. This study provides in-depth insight into the dynamics of corruption and the role of political elites in the Indonesian context, as well as highlighting the challenges the legal system faces in member corruption. The implications of these findings are discussed in the context of effective prevention and law enforcement efforts to address corruption in society.


## 1 INTRODUCTION


Indonesia has several tin companies, one of which is PT. Timah Tbk, a tin mining company based in Indonesia that has been operating for many years. As a large and influential company in the tin mining industry, PT. Timah Tbk has a rather long and complex history related to various issues, including corruption. PT. Timah Tbk also adds to the list of irregularities within state-owned enterprises, following previous incidents at PT Jiwasraya, PT Garuda Indonesia, PT Waskita Karya, and others.<sup>4</sup>


The mega corruption at PT. Timah Tbk serves as a poor example of the governance of state-owned enterprises. As with previous corruption in state-owned enterprises (SOEs), various earlier studies

have identified the causes and impacts of corruption within SOEs. Azzahra et al. (2023, p. 57) in their findings state that the impact of BUMN corruption, namely the corruption at PT Waskita Karya, is the loss of public trust in the state. In the corruption case at PT Waskita Karya, the use of fictitious projects as a modus operandi for corruption was found.<sup>5</sup>

Structure, but also poses significant political, social, and economic challenges to the larger community. Cases like the one involving political theorist Harvey Moeis in Indonesia provide light on the intricate dynamics of corruption and the impact of political elites on the operation of the legal system and democracy. In order to comprehend the dynamics of political elite tyranny and corruption from the standpoint of legal sociology, I will use the example

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<sup>4</sup> Surbakti, ErlanggaSeptian. "Implementasi Kebijakan Pemberantasan Korupsi di Indonesia." *Jurnal Ilmu Hukum*, vol. 7, no. 1, 2019, pp. 89-102.

<sup>5</sup> Rasina Padeni Nasution, "Proyek Fiktif Sebagai Modus Korupsi Di Indonesia," *TAQNIN: Jurnal Syariah Dan Hukum* 2, no. 2 (2020): 61.

of Harvey Moeis as a case study in this chapter. Senior bureaucrat and former lawmaker Harvey Moeis rose to prominence as a result of his involvement in multiple corruption scandals that eroded public confidence in the government and the legal system.<sup>6</sup>

In the case of corruption at PT Asuransi Jiwasraya, Sagala et al. (2023, p. 108) concluded that the corruption in the state-owned life insurance company violated professional ethics, harming the state through money laundering.<sup>7</sup> Another finding regarding corruption in state-owned enterprises (BUMN) was presented by Sabrina et al. (2023), through their research on the corruption case at PT Garuda Indonesia, which stated that the corruption at PT Garuda Indonesia occurred because the principles of Good Corporate Governance had not yet been implemented within the BUMN.<sup>8</sup>

Various abuses of authority through corruption practices within state-owned enterprises (BUMN) are demonstrated by Permatasari et al., due to the relationship between corruption and the level of experience of internal auditors. The auditor's expertise factor is a fundamental issue in the loss of early detection of corruption opportunities.<sup>9</sup> Eko Putra Astaman provides his perspective in his research findings that PT. Timah Tbk, which is currently positioned as a subsidiary of a state-owned enterprise whose parent company is Mining Industry Indonesia (MIND ID), runs a tin ore production recovery improvement program that is not based on the principles of prudence and good faith, resulting in a series of criminal events indicating the lack of implementation of good corporate governance. (Good Corporate Governance).<sup>10</sup>

In the process of implementing the tin ore production recovery improvement program, there are individuals who committed disgraceful acts or violated the law with malicious intent, resulting in

financial losses for PT. Timah Tbk. This can be categorized as a State Financial Loss that is contrary to the laws and regulations of the Republic of Indonesia, including Law of the Republic of Indonesia Number 17 of 2003 concerning State Finance, Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption, Law of the Republic of Indonesia Number 19 of 2003 concerning State-Owned Enterprises, and Law of the Republic of Indonesia Number 1 of 2004 concerning State Treasury.<sup>11</sup>

For Eko Putra Astaman (2024), the state's losses due to corruption at PT Timah Tbk should prompt the Indonesian Attorney General's Office to investigate the corruption case at PT Timah Tbk because the Attorney General's Office is an extension of the state's legal authority. Furthermore, considering that the state holds the majority shares in PT. Timah Tbk,<sup>12</sup> as indicated by the composition of shares resulting from state capital participation, as stipulated in the Government Regulation of the Republic of Indonesia Number 46 of 2022 concerning State Capital Participation of the Republic of Indonesia in the Establishment of Limited Liability Companies (Persero) in the Mining Sector, the Republic of Indonesia exercises control over PT Timah Tbk through the ownership of Series A dual-colored shares, in accordance with the provisions regulated in the Articles of Association.

From several previous studies, it is emphasized that corruption in state-owned enterprises (SOEs) is not a new issue in state-owned companies. From the research results, only the study by Eko Putra Astaman (2024) has similarities with the author's research. However, Eko Putra Astaman's (2024) study differs from the author's research. The difference lies in the theoretical perspective used. Eko Astaman Putra's (2024) research employs the theory of Good

<sup>6</sup> Redaksi. "Update Baru & Kronologi Lengkap Kasus Timah yang Seret Harvey Moeis." CNBC Indonesia. Accessed April 3, 2024. <https://www.cnbcindonesia.com/market/20240330095717-17-526671/update-baru-kronologi-lengkap-kasus-timah-yang-seret-harvey-moeis>.

<sup>7</sup> Austin Hotdo Sagala et al., "Pelanggaran Etika Dalam Bumn: Studi Kasus Mega Korupsi Pt Asuransi Jiwasraya," *Kultura: Jurnal Ilmu Hukum, Sosial, Dan Humaniora* 1, no. 3 (2023): 108.

<sup>8</sup> Davina Syahlum Sabrina, Ivana Mirella Hapsari, and Dian Latifiani, "Analisa Kasus Korupsi Perusahaan Aviati Milik Bumn Pt. Garuda Indonesia (Persero), Tbk.," *MAGISTRA Law Review* 4, no. 02(2023).

<sup>9</sup> Luh Wulan Permatasari, Poppy Sofia Koeswoyo, and Cahya Irawady, "Pengaruh Kualitas Auditor Internal Dan Efektivitas Komite Audit Terhadap Korupsi Di BUMN," *Owner: Riset Dan Jurnal Akuntansi* 7, no. 3 (2023): 2653.

<sup>10</sup> Supriyadi, Widodo Ekatjahjana. "Kebijakan Hukum Pidana dalam Rangka Penanggulangan Tindak Pidana Korupsi di Indonesia." *Jurnal Hukum & Pembangunan*, vol. 45, no. 2, 2015, pp. 157-174

<sup>11</sup> Eko Astaman, "Legal Analysis of State Losses Due to Unlawful Resumption of Tin Ore Production by PT Timah Tbk," 2024.

<sup>12</sup> Arief, Barda Nawawi. "Masalah Penegakan Hukum dan Kebijakan Hukum Pidana Dalam Penanggulangan Kejahatan." Kencana, 2016

Corporate Governance (GCG) and focuses more on state losses and corruption crimes.<sup>13</sup>

Meanwhile, the author's research focuses on the case study of corruption at PT Timah Tbk viewed through the lens of Law Number 40 of 2007 concerning Limited Liability Companies and Law Number 19 of 2003 concerning State-Owned Enterprises to understand the implementation of Law Number 50 of 2007 concerning Limited Liability Companies and Law Number 19 of 2003 concerning State-Owned Enterprises in the internal governance of PT Timah Tbk. The examination of the governance case of PT Timah Tbk using Law Number 19 of 2003 concerning State-Owned Enterprises and Law Number 40 of 2007 concerning Limited Liability Companies as part of the legal basis for Indonesian companies is necessary because PT Timah Tbk is a company bound by these Indonesian legal bases.<sup>14</sup>

This case centers on the alleged corruption of tin trade in the Mining Business License (IUP) area of PT Timah that occurred between 2015-2022. The Attorney General's Office has named 16 suspects in this case, including Mochtar Riza Pahlevi Tabrani, the President Director of PT Timah from 2016 to 2021, and Harvey Moeis, the husband of Sandra Dewi, who is suspected to be an intermediary for PT Refined Bangka Tin. The suspects are alleged to have committed corruption in the tin trade at PT Timah's IUP. The Attorney General's Office has charged Harvey Moeis with the Money Laundering Crime (TPPU) article for allegedly receiving funds from corruption and laundering money.

The Attorney General's Office will seize all assets belonging to Harvey Moeis and those around him if there are indications of corruption funds. The value of ecological damage in this case is estimated to reach Rp271 trillion based on calculations by environmental expert from IPB, Bambang Hero Saharjo. The losses consist of three types: ecological losses amounting to Rp183.7 trillion, environmental economic losses amounting to Rp74.4 trillion, and environmental recovery costs amounting to Rp12.1 trillion. The Attorney General's Office is still calculating the potential financial losses to the state due to this corruption act.

The case is a major corruption case involving many parties and potentially harming the

country financially and ecologically. The Attorney General's Office is conducting an investigation and inquiry to uncover the intricacies of this case and legally process the suspects.

I'll go over the case's history, including the social, political, and economic elements that contribute to corruption in the political class.<sup>15</sup> I will also list the theoretical framework that was employed to examine this occurrence, along with pertinent sociological legal themes like power, inequality, and social control. By understanding the Harvey Moeis case from a legal sociology perspective, it is hoped that we can explore the root causes of corruption and the involvement of political elites and find more holistic and effective solutions in combating this phenomenon. In addition, this discussion can also provide valuable insights for policy makers, legal practitioners, and the general public in an effort to strengthen the integrity of the Indonesian legal and political system.

## 2 METHOD

This research adopts a normative juridical approach to analyze the legal framework governing the Harvey Moeis case. The research method used in this study is the statute approach, where in this case, Law No. 8 of 1995 concerning the capital market is used as the basis for analysis. This research uses primary, secondary, and tertiary legal materials, including legislation, journals, scholarly opinions, and legal cases utilized by the author.

This research uses legal sociology analysis by examining to what extent this case then changes public perception and views in understanding corruption and causes a crisis of trust in law enforcement in Indonesia as well as A detailed and in-depth study of a single case, involving an event, group, individual, or organization.

## 3 RESULT AND DISCUSSION

<sup>13</sup> Chaerudin, dkk, Strategi Pencegahan & Penegakan Hukum Tindak Pidana Korupsi, Bandung, Refika Aditama, 2009

<sup>14</sup> Eko Astaman, "Legal Analysis of State Losses Due to Unlawful Resumption of Tin Ore Production by PT Timah Tbk," 2024.

<sup>15</sup> Jannah, L. M., Sipahutar, M. Y., & Hariyati, D. (2020). Public information disclosure: mapping the understanding of multiple actors in corruption- Prone Indonesian provinces. *Policy & Governance Review*, 4(3), 167.

### 3.1 The Dynamics of Corruption

The dynamics of corruption is a highly complex and influential phenomenon that affects various aspects of life, such as the economy, politics, society, and law. The dynamics of corruption in Indonesia are divided into two perspectives: cultural and structural:

- a. The cultural perspective illustrates how corruption is carried out consciously, thus done without remorse and repeatedly. Patterns present in society include: economic disparity, poor bureaucratic services, weak law enforcement, and minimal anti-corruption education and training from an early age.
- b. From a structural perspective, future corruption cases will involve perpetrators connected to power and related to the organizational structure of institutions. The perpetrator has power, and within the structure, there are several people. Those individuals connected to the power structures will be processed through legal channels as long as the evidence is strong.<sup>16</sup>

The dynamics of corruption in Indonesia can also be viewed from a historical political perspective, as seen in the case study by Harvey Moeis, who employs the theory of political elites, which explains the classification of elites into two categories: the governing elite and the non-governing elite.<sup>17</sup>

### 3.2 Elite Politics

Political elites are individuals or groups who hold executive and legislative political positions elected through elections and chosen in a democratic political process. Local political elites are individuals who hold executive and legislative political positions elected through elections and chosen in a local democratic political process.<sup>18</sup>

The connection between political elites and the Harvey Moeis case from the perspective of legal sociology can be seen through various aspects, including:

- a. Corruption and political elites: The case of Harvey Moeis shows how political

elites can be involved in corruption and cause the loss of the embodiment of law and justice. Suspect Harvey Moeis, who is the husband of actress Sandra Dewi, is considered merely an extension representing PT RBT in the corruption case of tin commodities in the Mining Business License (IUP) area of PT Timah Tbk from 2015-2022.

- b. Role of Helena Lim: The Attorney General's Office stated that Harvey Moeis received money from private companies involved in accommodating illegal mining activities in the IUP area of PT Timah Tbk through PT QSE, and the party from PT QSE facilitating the flow of funds was Helena Lim, the manager.
- c. Money Laundering Article: The Director of Investigation of the Attorney General's Office for Special Crimes, Kuntadi, stated that Harvey Moeis instructed smelter owners to release profits for himself or other suspects who had been previously detained, under the pretext of CSR funds to suspect HM through PT QSE facilitated by Helena Lim.
- d. Money Laundering Article: The Director of Investigation of the Attorney General's Office for Special Crimes, Kuntadi, stated that Harvey Moeis instructed smelter owners to release profits for himself or other suspects who had been previously detained, under the pretext of CSR funds to suspect HM through PT QSE facilitated by Helena Lim.
- e. Connection with PT RBT: Harvey Moeis is said to have instructed the smelter owners to release profits for himself or other previously detained suspects, under the pretext of CSR funds to suspect HM through PT QSE facilitated by Helena Lim.

In the perspective of legal sociology, the Harvey Moeis case demonstrates how political elites can engage in corruption and cause the loss of the embodiment of law and justice. This is due to the

<sup>16</sup> Azyumardi Azra, *Korupsi Dalam Perspektif Good Governance*, Jurnal Kriminologi Indonesia, Vol. 2, No. 1 (2002), hlm. 31

<sup>17</sup> Muladi dan Barda Nawawi Arief, *Teori-Teori dan Kebijakan Pidana*, (Bandung: Alumni, 1992), hlm 89.

<sup>18</sup> Sudarto, *Hukum dan Hukum Pidana*, (Bandung: Alumni, 1977), hlm. 161.

wealth and capability required to operate within the political and legal systems. This case also illustrates how political elites can use the legal system to their advantage, as well as how those in power can disregard law and justice for their own benefit.<sup>19</sup>

### 3.3 Analysis of the Legal Framework

Analysis of the legal framework governing the Harvey Moeis case reveals the presence of several relevant laws and regulations, including the Anti-Corruption Law "Law (UU) Number 31 of 1999 concerning the Eradication of Corruption Crimes: Anyone who unlawfully enriches themselves or others or a corporation in a manner that can harm the state finances or the state economy shall be punished with life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp. 200,000,000.00 (two hundred million rupiah) and at most Rp. 1,000,000,000.00 (one billion rupiah) and related regulations governing the field of government and state financial management.<sup>20</sup>

Although the existing legal framework provides a strong foundation for handling corruption cases like the Harvey Moeis case, there are still weaknesses in implementation and law enforcement. Some of the identified obstacles include:

- a. Actions that have not been answered clearly: Most of the suspects in this case still face questions that have not been answered clearly, making the handling process longer and more complicated.
- b. Strategy, in-depth investigation, and confrontation: The handling of corruption cases requires strategy, in-depth investigation, and confrontation from the individuals who have been examined.
- c. Number of witnesses and suspects: In this case, there are 148 witnesses who have been examined by the Attorney General's Office, and 16 suspects have been identified.
- d. Fictitious cooperation agreements: The suspects in this case are alleged to have

been involved in fictitious cooperation agreements with PT Timah Tbk, which were used as a basis to create shell companies to extract tin ore in the Bangka Belitung region.

- e. State losses: As a result of this corruption scandal, the state is estimated to have lost up to Rp271 trillion.<sup>21</sup>

### 3.4 Evaluation of Court Final Decisions

The court ruling related to the Harvey Moeis case is still in the process of calculating the financial losses to the state, so no information is available regarding the outcome. This case is one of 15 cases of tin mining corruption at the Mining Business License (IUP) location of PT Timah Tbk, which caused state losses of around Rp 271 trillion. Harvey Moeis has been named a suspect in the alleged corruption of tin commodity trade in the IUP area of PT Timah Tbk and has been detained for the next 20 days at the Salemba Detention Center, a branch of the South Jakarta District Attorney's Office.<sup>22</sup>

Analysis of the court's decision regarding the Harvey Moeis case shows variation in the assessment of the legal violations committed. Some rulings acknowledge the existence of corruption and impose strict penalties, while others reveal weaknesses in the judicial process or political interference. The evaluation of the court's decision highlights the challenges in maintaining judicial independence and upholding justice without external pressure. In addition, this indicates the need for an improvement in the capacity and integrity of the judiciary in handling corruption cases involving political elites.

### 3.5 Policy Implications

From the analysis results, several policy implications have emerged that can be taken to improve law enforcement and combat corruption, including the expansion of anti-corruption agency authority, increased transparency and accountability, and improvements in the judicial process.<sup>23</sup>

<sup>19</sup> Nasution, Rasina Padani. "Proyek Fiktif Sebagai Modus Korupsi Di Indonesia." *TAQNIN: Jurnal Syariah Dan Hukum* 2, no. 2 (2020).

<sup>20</sup> Muladi dan Barda Nawawi Arief. "Bunga Rampai Kebijakan Hukum Pidana." Alumni, 2010.

<sup>21</sup> Azzahra, Nurmia, Virginia Alanus, and Luhur Athallah. "Dampak Korupsi Pt Waskita Karya (Persero) Tbk Terhadap Keberlangsungan Bumh Dan Masyarakat

Indonesia." *Kultura: Jurnal Ilmu Hukum, Sosial, Dan Humaniora* 1, no. 3 (2023): 56–64.

<sup>22</sup> <https://nasional.sindonews.com/read/1348979/13/harvey-moeis-suami-sandra-dewi-langsung-ditahan-di-rutan-salemba-1711555407> (accessed on September 9, 2024).

<sup>23</sup> Elwi Daniel, *Korupsi: Konsep, Tindak Pidana dan Pemberantasannya*, Jakarta: PT.Raja Grafindo Persada, 2012.

The implications of this policy highlight the need for reforms in the legal and political systems to address the root causes of corruption and the involvement of political elites. These measures must be taken comprehensively and closely monitored to ensure their success in combating corruption.<sup>24</sup>

### 3.6 The Correlation of Politics, Economy, and Law in Case a Quo

What we can learn from this case is how the Harvey Moeis case connects three major fields: Economics, Politics, and of course, Law. All three are then affected, such as in the economic aspect, which certainly harms the state's finances, and the involvement of actors, rogue politicians, and political mafias who manipulate policies and authorities by violating the law. therefore, the three are interconnected and will be affected by the occurrence of the criminal act.

### 3.7 To Overcome These Various Obstacles, the following Measures Have Been and Are Being Implemented.

- a. Redesigning public services, especially in areas directly related to daily community service activities. The goal is to make it easier for the general public to receive professional, quality, timely public services without being burdened by extra fees or illegal charges. Priority steps are aimed at: (a) Improving the Public Service System; (b) Enhancing the Performance of Public Service Apparatus; (c) Improvement of Public Service Institutions' Performance; and (d) Enhancement of Supervision over Public Services, with priority activities as attached in the matrix.
- b. Strengthening transparency, oversight, and sanctions on government activities related to the economy and human resources. The goal is to enhance the Government's accountability in managing state resources and human resources, as well as to provide access to information and various matters that offer broader opportunities for the public to participate in the economic field. Priority steps are aimed at: (a) Improvement

of the State Financial Management System; (b) Improvement of the Government Procurement System; and (c) Improvement of the State Apparatus Human Resource Management System, with priority activities.

- c. Enhancing the empowerment of supporting devices in prevention corruption. The goal is to uphold the principle of the "rule of law," strengthen the legal culture, and empower the community in the process of eradicating corruption. Priority measures are aimed at: (a) Increasing Public Awareness and Participation; and (b) Improving Supporting Legal Materials.
- d. It seems that imprisoning corruptors is not a deterrent or the most effective way to eradicate corruption. Moreover, in practice, correctional facilities become places that are no different from places outside the correctional facilities as long as corrupt convicts can pay a certain amount of money to receive services and facilities that are no different from the services and facilities outside the correctional facilities. Therefore, the term "prison with luxurious facilities and services" has emerged. Given the current conditions, it is necessary to consider other ways to make people feel ashamed and think twice before committing corruption. One of the ways that can be done is to have a provision for announcing decisions that have obtained permanent legal force on corruption cases through the media. This provision is not only to provide information to the public but also serves as a moral sanction for the perpetrators of corruption crimes. In addition, it is also necessary to impose the sanction of revocation of rights on defendants in corruption cases. This is very important to provide a lesson that public office holders are individuals of high morality and integrity.
- e. The enforcement of law in the context of eradicating corruption must be carried out in a coordinated and integrated manner with a single goal, which is to eradicate corruption. Law enforcement human resources must come from selected individuals and possess high integrity. It is time to put an end to sectoral or institutional egos among law

<sup>24</sup> Friedman, Lawrence M. "Crime and Punishment in American History." Basic Books, 1993.

enforcement agencies. The state also needs to consider how to ensure that the welfare level for law enforcement officers is good, not lacking, and becomes clean law enforcement officers. How can it be clean if the broom used for cleaning is a dirty broom.

## 4 CONCLUSION

In the case study of Harvey Moeis, it is clear how the political elite play a significant role in the dynamics of corruption. Through the perspective of legal sociology, we can understand how social and legal factors influence corruption practices. The importance of appropriate interventions in the legal and political systems is also emphasized to reduce corruption and enhance the accountability of political elites.

This severely affects many aspects, not just the law, but also the trust and stigma of the community, which will greatly change towards justice and government integrity. Not only law enforcers but also government officials will come under scrutiny, and rightly so.

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